



Attention of [REDACTED]  
[REDACTED]

Dear [REDACTED],

In relation to the investigative procedure concerning data processing by [REDACTED] (hereinafter: controller) under the above case number, the Nemzeti Adatvédelmi és Információszabadság Hatóság (Hungarian National Authority for Data Protection and Freedom of Information, hereinafter: Authority) informs you (hereinafter: Complainant) as follows.

The antecedents of the case: on 11 March 2019, the Complainant lodged a complaint by e-mail with the Romanian data protection authority concerning an unsuccessful unsubscription from a newsletter and unrequested e-mails with the direct purpose of acquiring business. As this involved the transborder processing of personal data procedure number IMI-71148 was launched in accordance with Article 56(1) of GDPR with a view to identifying the lead supervisory authority, in which NAIH as the authority competent according to the registered offices of the controller identified itself as the lead supervisory authority and conducted the investigation accordingly.

The investigation: according to the documents available to the Authority, the Complainant lodged a complaint, which was received by the Authority on 5 August 2019 and served as the starting point of the investigation, in which the Complainant presented that he lodged the complaint with the controller on 3 December 2018 stating that he was unable to unsubscribe from the newsletter because the relevant link did not function and he alleged that despite his request, he continued to receive weekly newsletters from the controller.

However, additional information was necessary to establish the data protection aspects of the investigation, in particular, to clarify whether the Complainant requested the erasure of his personal data from the controller, or he only tried to unsubscribe from the newsletter unsuccessfully. Hence, the Authority sent questions to the Complainant on 5 December 2019 with a 10-day period open for responding:

1. *Did you send a written request concerning your complaint addressed to the controller? If your answer is yes, we request you to send a copy of your correspondence with the controller to the Authority.*
2. *You were unable to unsubscribe from the newsletter or did you request the controller to erase your personal data? If you requested erasure, which of your personal data were covered by the request?*

The Authority did not receive an answer to its questions from the Complainant.

Pursuant to Section 16/B of Act CVIII of 2001 concerning electronic commercial services and certain issues of services related to the information society, the investigation of the complaint related to sending newsletters and the unsuccessful unsubscription from the newsletter is within the powers of the Nemzeti Média- és Hírközlési Hatóság (NMHH - Hungarian National Authority for Media and Telecommunications), thus the Authority has no power to take action in this respect.

In addition to the above, the information made available to the Authority did not substantiate that the Complainant continued to receive newsletters after 30 days following the submission of the unsubscription request because the date of sending the newsletters cannot be seen in the

documents submitted by the Complainant. The investigation was unable to establish whether the Complainant submitted a request to erase his personal data because he only presented his intention to unsubscribe in the enclosed e-mail. As it was not substantiated that the Complainant also submitted a request according to Chapter III of GDPR, the competence of the Authority cannot be established as with respect to the unsubscription itself it has no jurisdiction according to the rules of Hungarian law.

In view of the above, the Authority informs you that based on the available data the Authority is not competent to take action as the only point that could be established on the basis of the complaint was that the request concerned his unsubscription; for this reason the Authority regards the procedure concerning [REDACTED] as closed.

Budapest, „ ” July 2020

Yours sincerely,

[REDACTED]  
President  
Honorary university professor