

Minutes of the meeting of the Digital Freedom Committee
15:00, 2 June 2020
Subject: digital freedom during the state of danger

Participants:

- **Ministry of Justice:**
 - Dr. Judit Varga, Minister of Justice
 - Dr. László Péter Salgó, chairman of the Committee, deputy state secretary responsible for the coordination of draft legislation and for legislation in public law
- **Ministry of Human Capacities:**
 - Bálint Szabó, head of the State Health Care Supply Centre's department maintaining and operating the electronic health care service space
- **Ministry of Innovation and Technology:**
 - Dr. Balázs Bartóki-Gönczi, expert
 - Dávid Kocsis
- **Cabinet Office of the Prime Minister:**
 - Anikó Kárdási, head of unit
- **Ministry of the Interior:**
 - Dr. Edit Csikós, legal officer
 - Dr. Attila Tóth, head of unit
- **National Media and Infocommunications Authority:**
 - Dr. Levente Nyakas, head of the Media Science Institute
- **Office of the Ombudsman for Fundamental Rights:**
 - Dr. Gergely Szabó
- **National Authority for Data Protection and Freedom of Information:**
 - István Csajági, deputy head of department
- **Hungarian Competition Authority:**
 - Csaba Rigó, chairman
 - Dr. Andrea Zenisek, office manager
 - Dr. Márk Pánczél, office manager
- **National Council for Infocommunications and Information Technology:**
 - Dr. Ádám Németh, legal expert
 - Ferenc Vágújhelyi, chairman

Meeting minutes:

1. Judit Varga, Minister of Justice opens the meeting by welcoming the participants and recounts the main objectives of the Committee, i.e. transparency, the rule of law, the freedom of opinion, and political neutrality. These are basic principles that the Committee must aim to promote in the current state of danger, as well.

The Minister of Justice notes the recent establishment of Facebook's "Supervisory Board". In her opinion, the future activity of this body raises questions concerning the rule of law because it seems to create a "pseudo law" in the digital space. It will be obligatory for Facebook to comply with the Supervisory Board's decisions, which means that the board will decide on legal consequences. The Ministry of Justice has formulated questions about the establishment of the

Supervisory Board, for example regarding the selection of its members, and has sent those questions to Gabriella Cseh, Facebook's regional public policy director.

The Ministry of Justice has compiled a working document titled "Guide to Online Platforms", which is intended to help Hungarian citizens to gain useful and wide-ranging knowledge about the handling of their personal data when they use digital platforms. The document also describes the available protection mechanisms and legal remedies. According to the Minister, the guide will be sent to the participants of the meeting by the end of the week. **She asks the participants to review the guide and send any remark or proposal to the Ministry of Justice by 10 June.** The Ministry has also compiled further information materials about Facebook's Supervisory Board and the legal remedies that users may resort to in case their posts are removed.

2. Committee chairman Dr. László Péter Salgó:

Following the opening address by the Minister of Justice, the chairman of the Committee explains the two topics and the purpose of the meeting.

Firstly, the Committee must take into consideration the special situation that has arisen due to the COVID-19 pandemic. Hungary has declared a state of danger in order to combat the spread of the COVID-19 virus. Thus the Committee must monitor the legislation and the application of the law connected to the state of danger. The review of the latter area is primarily based on the experiences of and feedback from entities that apply the law.

Secondly, regardless of the state of danger, the Committee must continue its work along the initial objectives and principles. Hence the compilation of the work document titled "Guide to Online Platforms".

Regarding legislation during the state of danger, the Committee chairman calls the participants' attention to the "Virus Radar" and "Home Quarantine" applications. Mobile applications similar to the "Virus Radar" have been developed in several countries. These are contact tracing apps that use the unique Bluetooth IDs of devices to identify contact persons. The "Home Quarantine" application primarily supports the work of police, allowing them to check compliance (without physical presence) with the rules of an obligatory home quarantine ordered pursuant to the relevant government decree¹. **The Committee chairman asks the experts of the Ministry of Interior to provide information to the Ministry of Justice about the operation of the "Home Quarantine" app, and also about any remarks or complaints received since its launch.**

The Committee Chairman emphasises the increased importance of providing Hungarian citizens with up-to-date information during the state of danger. As the delineation of the epidemic situation from a "public hazard" had not been unified in terms of legal practices, the Criminal Code was amended to refine the criminal category of scare-mongering. The experts invited to the

¹ Government Decree 81/2020 (1 April) on extraordinary measures relating to the state of danger declared for the protection of health and lives and for the restoration of national economy

meeting are unaware of any complaint about online service providers sharing with the public unauthoritative information, i.e. fake news.

Besides the government, digital platforms such as Facebook and Google also consider it important to provide ample and up-to-date information on the COVID-19 virus to their users. The participants of the meeting are not aware of any complaint or ongoing investigation concerning the activities of Facebook or Google during the state of danger.

The Committee chairman calls upon the participants to make remarks or formulate their positions about the agenda items.

Ferenc Vágújhelyi, chairman of the National Council for Infocommunications and Information Technology: it can be proven beyond doubt that users of digital services have, in several cases, not declared their consent to the handling of their personal data, or they did not make any declaration at all. For example, Google's cooperation with Mastercard means that Google can learn about transactions when a user buys a Google product outside the online space, with a bank card.

A program or knowledge base should be created to specifically examine cases when users have not consented to the handling of their data. Then the National Authority for Data Protection and Freedom of Information or the European Data Protection Board could be involved, because this is a global issue that affects all consumers and necessitates an EU-level resolution scheme instead of action by individual Member States.

Concerning the "Home Quarantine" application, Mr. Vágújhelyi points out that the app does not lead to data abuse because it stores biometric data. Only the person in home quarantine can identify themselves. The usage of the app is voluntary, and the quarantined person consents to the data handling. Speaking about the "Virus Radar", Mr. Vágújhelyi emphasises that the app is based on Bluetooth IDs instead of the tracking of users' locations.

Csaba Rigó, chairman of the Hungarian Competition Authority: the Authority has recently conducted market research examining digital comparison tools.. The research results may be shared with the Justice Ministry by 10 June 2020 so that they can be used for the Guide on online platforms. briefly refers to the competition supervision proceedings initiated and conducted in accordance with the Authority's Digital Consumer Strategy, including the Facebook and Viber cases, and mentions the interim measure ordered by the Hungarian Competition Authority in connection with the AskBongo service. The chairman points out that unfair commercial practices do not equal fake news. Regarding excessive pricing during the state of danger, he notes that the European Competition Network had issued a joint communication that would allow Member States' competition authorities to be lenient towards a cooperation among businesses that serve the security of supply, but actively tackle cartels and abuses of dominant positions concerning excessive pricing of indispensable products.

Following the section about legislation and the application of law during the state of danger, **Dr. László Péter Salgó** proposes to discuss the handling of personal data in the digital space in times of regular legal order. He notes that this issue will be discussed in the near future with

experts of the National Authority for Data Protection and Freedom of Information, and the National Council for Infocommunications and Information Technology.

Before concluding the meeting, the chairman of the Committee recounts the requests of the Ministry of Justice. **The Ministry would appreciate if the entities represented at the meeting could report, by 10 June 2020, any complaint or remark received about the “Virus Radar” and “Home Quarantine” applications.** Also, the chairman of the Committee asks the officers present to **report any complaint or ongoing official procedure regarding the handling of personal data by large tech companies.**

The chairman of the Committee thanks for the participation and remarks, and closes the meeting.