



Privacy in Hungary

Background Report in Draft Form

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Table of Contents

Political History and the Introduction of Privacy Policies and Laws.....3
Cultural Values, Attitudes and Public Opinion on Privacy.....6
E-Commerce and the Internet Diffusion.....12
Conclusions.....14
References.....16

Privacy in Hungary

Political History and the Introduction of Privacy Policies and Laws

The history of communist rule in Hungary has had a major impact on its privacy legislation (Ipsos 2005). Following the Second World War, the Republic of Hungary became part of the Soviet dominated Eastern European block and its government and economy were under communist rule (UNESCO 2002). The 1950's are characterised as the most severe political oppression in Hungary, with Orwellian police-state control (Ipsos 2005). A revolution in 1956, fuelled by nationalist opposition, pushed the government to announce a withdrawal from the Warsaw Pact, which prompted military intervention by Moscow. The movement to dissolve the Warsaw Pact helped to break down some of the stringent communist control, moving Hungary towards a multiparty democracy and a market-oriented economy (UNESCO 2002). This led to an increase in consumer goods production and more leniency for public opinions and world views to be discussed in private (Ipsos 2005). However, freedom continued to be limited and material and economic living conditions did not improve, creating escalated dissatisfaction by the public in the 1970s. After a long process of political opposition, new political parties formed in 1987-88. Constitutional reform occurred in 1989 after negotiations took place between the ruling party and the opposition, resulting in the slow transition to democratic policy and the rule of law. Reforms to the Constitution included the rights to the protection of personal data and the ability to freely obtain information of public concern (Ipsos 2005).

Privacy is protected under Article 59 of the Hungarian Constitution, which states in part that “everyone has the right to the good standing of his reputation, the privacy of his home and

the protection of secrecy in private affairs and personal data” (Privacy International 2003). Draft data protection legislation was first approved by the Communist government in 1989, and the present bill was sent to Parliament in 1990. With all of the political and economic changes taking place at the time, the newly elected government of 1989 was unable to deal with the privacy legislation (Tóth 1992). In 1991, the Supreme Court ruled that the use of a universal personal identification number for the National Population Register violated the constitutional right of privacy. This was an important step in privacy legislation, which also led to the analysis of the definition of data protection and emphasized the right of individuals to determine the disclosure of information. To preserve the information already collected in the Population Register, a new interim Act was passed on domicile registration to legalise the collection of data (Tóth 1992).

After a complex political process the current laws protecting personal data came into effect in 1993 (Ipsos 2005). The *Protection of Personal Data and Disclosure of Data of Public Interest*, which is largely based on Canadian privacy legislation and similar to other European Data Protection Acts, was passed in 1992. This Act covers the collection and use of personal information in the public and private sectors and combines data protection and freedom of information, with information self-determination as the basic principal (Privacy International 2003). The Act sets out provisions for the collection, handling, request and transfer of personal information and provides legal remedies for violations (ibid). Additionally, the Act gives the public the right to know public interest information, to inspect official documents, to maintain the transparency of the state and the non-transparency of citizens (Majtényi 2001). The Act also prohibits the use of all-purpose ID numbers or codes (Privacy International 2003).

In 1995 these laws were strengthened with the election of a Parliamentary Commissioner for Data Protection and Freedom of Information (Druker 1998). The Commissioner oversees the

implementation of the Act, acts as an ombudsman for data protection and freedom of information, investigates complaints, maintains the Data Protection Register and provides opinions on draft legislation (Privacy International 2003). The Commission is active in reviewing cases on personal information, conducting approximately 900 examinations per year (ibid). Hungary was the first country of the former Soviet Union bloc to develop a data protection act overseen by a commissioner in the European model (Bennett and Raab 1996).

In the European community, Hungary is a member of the Council of Europe and has signed and ratified the Convention for the *Protection of Individuals with Regard to Automatic Processing of Personal Data*, which sets out fair information collections practices. Hungary has also adopted the Organization for Economic Cooperation and Development (OECD) Guidelines *on the Protection of Personal Privacy and Transborder Flows of Personal Data*, developed in 1980, which are similar to the practices set out in the European convention (Cockfield 2004). In addition, Hungary has signed and ratified the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (Privacy International 2003).

After the fall of the USSR in 1991, Hungary developed closer political and economic relations with Western Europe and applied to become a member of the European Union. The EU are considered leaders in developing laws protecting consumer rights to privacy. In order to become a member of the European Union, it is mandatory that member countries recognize data protection as a basic human right and legislate data protection (Tóth 1992). The European Union *Data Protection Directive* came into effect in 1998 and requires that personal data can only be transferred to countries that provide adequate levels of protection (Cockfield 2004). Thus, Hungarian data protection legislation was modified to be consistent with the European Directive. The Hungarian *Protection of Personal Data Act* was amended in 1999 to create a distinction

between 'data handling' and 'data processing' to comply with the EU Directive. In 2000, the European Commission approved all transfers of personal data to Hungary and in 2002, Hungary officially became a member of the European Union. Some further revisions to the Hungarian Act are anticipated (Privacy International 2003).

Cultural Values, Attitudes and Public Opinion on Privacy

The value of privacy is not yet prevalent in Hungarian culture because of the legacy of the former communist system. Citizens were socialized in a system of oppression without democracy or the right to privacy, where volumes of personal information were kept on citizens (Ipsos 2005). Many citizens did feel they lacked privacy under communist rule and feared giving personal information to authorities. Freedom House, an advocate for American-style leadership, have indicated that Hungary is currently a free country where political rights and civil liberties are respected, with fair elections, political competition and autonomy for citizens. However, some deficiencies still remain with civil liberties, the rule of law, and free economic activity (EarthTrends 2003: 3). In the Policy IV Indices, which contain information about authority and government regime of countries, Hungary ranked as a highly democratic country, with fully competitive political participation, institutional constraints on power, and the guarantee of civil liberties (ibid: 4). Yet, privacy violations continue to be prevalent in many organizations including police, tax authorities, commercial companies, the press and universities (Ipsos 2005). Privacy is not the highest priority for a country with serious economic problems, left from an ineffective system. The greatest concerns for Hungarians are their material circumstances and crime, while the environment, science and technology development and family lag behind (Ibid).

The Hungarian language does not have a single word that represents the English term 'privacy'. Despite this, there are some concepts that can be shared. The equivalent phrase to the word privacy translates literally to 'the protection of personal data', and for a single word, 'data protection', sometimes followed by the type of data being referred (Ipsos 2005). In some cases the English word is used. The concept of privacy is spreading in Hungary, with laws, institutions, petitions, civil associations, and the media dedicated to this end. As previously outlined, privacy is a new right in this recently democratized country.

Due to the history of authoritarian rule in Hungary, public opinion research in general is a relatively new phenomenon (Bennett and Raab 1996). Public opinion research on privacy in Hungary is virtually non-existent (Ipsos 2005). Most research is related to some other topic that has implications for privacy only as a by product, such as political party preference, politicians, political issues, democracy, internet use, education, social inequality, national identity and most extensively on attitudes to trust (ibid).

As a result of the political past, there is a low trust in government, political and social systems. The least trusted institutions include the government, parliament, the political parties and labour unions, while the most trusted include the Constitutional Court, the president, and the parliamentary commission that oversees civil liberties (Ipsos 2005; Gallup 2004). Hungarian citizens continue to perceive corruption in government as widespread presenting an obstacle to democracy. The introduction of free speech and travel have led to citizens being more satisfied with their personal and country situation from 1993 – 1998. However, social justice, morality and material conditions are still unfavourable (ibid). A Tarki Social Research public opinion poll showed that 51% of individuals believe the political changes that have taken place brought more harms than benefits, and only 54% believed the changing socio-political system was a

worthwhile move (ibid). While civil liberties are valued, material factors are of greater concern for Hungarians.

There is one Hungarian investigation dedicated to examining public opinion on information privacy in Hungary, *Information Privacy in Hungary*, which was conducted by Iván Székely under the Hungarian Institute for Public Opinion Research in 1989, for the State Office for Population Registering (ÁNH). To date, this remains the single study that directly addresses public opinion on privacy in particular in Hungary. The investigation was conducted in October of 1989, during a time of rapid change, with a representative sample of 1000 individuals of varying location, age, education, and sex nationwide. Contrary to the belief that the public were not concerned with privacy, this study found the majority of the public having an opinion about the registration of personal data, and the various aspects of information privacy and autonomy (Székely 1991). Sixty-one percent of respondents believed that when an administrative body would like personal information, they should have to request the data directly from them. Respondents appeared to have a considerable mistrust of information authorities and one fifth of respondents were definitely upset by some aspect of data provision (ibid). This was likely due to the concentration of information authority within state power at this time, within the institutional system of the former single-party state along with its companies and personnel departments. Despite this distrust, the majority of respondents provided data obediently, even if they were opposed to its collection. For example, 87 percent of respondents always supplied personal data required by administrative bodies (ibid: 43).

A heightened data-protection consciousness was demonstrated by sixteen percent of the sample. This group showed higher sensitivity to privacy in personal life, increased sensitivity to their personal data, increased distrust of data processing and of computerized data processing

(ibid). These people had more definite opinions, greater knowledge about the topic, wanted to know more about the fate of their personal data, demanded greater information autonomy and were highly aware of the need for data protection. This particular group had no special social characteristics or political allegiance, making this sensitivity a unique dimension (ibid). Bennett and Raab argue that this sub-group reflects the nature of Hungarian culture at the time of the survey (Bennett and Raab 1996). Information privacy and data protection were not yet available to the Hungarian public, meaning that these individuals gained their consciousness about these issues from family, religious and cultural traditions, rather than other variables. This high awareness of privacy is a new development in Hungary at the time and may have resulted from the political history of state surveillance (ibid: 60).

In the Hungarian report, respondents cited the most sensitive personal data as family life, financial position and medical history, while the least sensitive data were national origin, educational level and occupation (Székely 1991). Socio-demographic variables were shown to play a role in these sensitivities, with young people being the most apprehensive and those over 60 less insistent on privacy (Bennett and Raab 1996). Székely attributed this to the older generation being more used to giving away their personal information to receive care. He also speculated that young people were most sensitive because their information was more frequently in demand. Those less educated were also not as sensitive to privacy, likely because they have less privacy at home, disclose personal data at a lower frequency, and lack knowledge about how information is processed and used (ibid).

Generally, the State Office for Population Registering (ÁNH) was regarded by Hungarians as positive, although those surveyed did not want its activities extended, or personal data to be sold. Three quarters of the respondents believed that legal regulation of their rights and

responsibilities with regard to personal data was necessary (Székely 1991). Subsequently, the universal personal identification number for the National Population register was abolished. Székely predicted that information privacy issues would be of growing importance in Hungary and had a strong desire to continue this research and make international comparisons to evaluate changes for the future. However, this research appears not to have continued, and no comprehensive picture of current public thoughts on privacy can be made (Ipsos 2005)

It is quite apparent that the political situation within Hungary at this time was highly influential on public opinions on privacy issues. Along with the political transformations, a Hungarian Watergate scandal had just taken place, information power was being restructured, human rights were being newly established, Privacy and FOI bills were pending, and the government was set to sign the data protection convention as a new member of the Council of Europe (Székely 1991). Since this time, many more political scandals have occurred and secret surveillance continues to take place, receiving much media coverage. Spying is suspected on politicians, environmental activists, and ethnic minorities as well as activities online. Some politicians are believed to be spies working for secret agencies (Privacy International 2003). In 2003, closed circuit television (CCTV) was deployed by public authorities primarily in Budapest (ibid). It is mandatory to inform citizens about the installation and use of video surveillance cameras by notices on the walls of the buildings, however, authorities did not comply with this. These cameras now monitor almost every street and block of the downtown area. Furthermore, internet service providers (ISPs) regularly install black boxes on networks to intercept communications without warrants (ibid). These surveillance practices continue to raise public concern and lower trust in government authorities.

In 2002, the government asked Parliament to pass legislation authorizing the opening of secret police files from the communist era, after it became known that the Prime Minister had been a counter-intelligence officer in the secret police during that time (Privacy International 2003). Transparency International, a non-governmental organization combating corruption in government worldwide, indicates that Hungary is moderately corrupt, with some abuse in the public office for private gain, based on surveys of public perceptions of residents and business people (EarthTrends 2002: 4). Supporting these claims, a report by the Open Society Institute (OSI) outlines the problem of corruption in post-communist Hungary, particularly in the healthcare, traffic police, customs and central state administration (Pócs 2003). Although Hungary is perceived as one of the least corrupt post-communist countries by international standards, scandals by ministers in public contracts, court decisions, political party funding, and government advertising continue to be noted. Openness and accountability continue to be restricted and it becomes evident that Hungarians continue to have many reasons not to trust their government (ibid). Increasing privacy legislation suggests a public desire to protect personal information in a country in transition to democracy.

In Hungary, the Data Protection and Freedom of Information Law is believed to be working well, with the Data Protection Commissioner, or ombudsman, having great public power and a very good reputation (Druker 1998). The Commissioners' success is partly due to the effective media strategy, to use the press to communicate with the public when information access has been denied. During Dr. László Majtényi's six years as Commissioner, he responded actively to requests, with over 90 percent of public complaint cases accepted, despite the fact that his recommendations were not binding (ibid). Despite the Commissioners' emphasis on freedom of information, most cases the Commissioner investigates pertain to data protection, with only 10

percent of the 1000 complains each year concerning freedom of information. The freedom of information cases tend to be high-profile, receiving the greatest social attention, making their significance outstrip their share of cases (Majtényi 2001). This use of the Commissioner by the public for data protection gives some indication of their response to privacy issues. Hungarians are more sensitive to violations of their privacy than to secrecy over data of public interest. This may be in part due to old cultural traditions, in which Hungarians believe in the aphorism “My house is my castle” (ibid: 11).

E-Commerce and the Internet Diffusion

Information and communication technology development relates to privacy. Many commercial changes were introduced after the collapse of communism. Hungary has an underdeveloped communication network as telecommunications were a state monopoly until 1989. In 1990 the previously joined telecommunications, postal services and broadcasting were split into three entities, and the Telecommunications Act came into effect in 1993. This Act led to accelerated reforms and liberalise services in the telecommunications structure of Hungary (UNESCO 2002). The government has created a Commissioner for ICT within the office of the Prime Minister, which established the Information Society National Action Plan. This includes the Szechenyi Plan that facilitates many programs dedicated to developing the information society and economy in Hungary (ibid). The government is committed to using information technology for the operation of its legislative institutions and the central and local agencies of public administration. Included in this plan are up-to-date information processing methods involving improved telecommunications connections with EU member countries, public

education, research and culture, improved economic activities, and legal measures to protect information processing systems (such as the data protection legislation mentioned above) (ibid).

Credit cards were introduced in Hungary in the early 1990's, and grew rapidly, reaching 6.5 million in a population of 10 million in 2004 (Ipsos 2005; NBH 2004). However, in 1999, Hungary was still a cash oriented society, with 85 percent of the public relying on bank cards to draw cash. Comparatively, foreign visitors use bank cards to pay for goods and services, while Hungarians mostly use bank cards for cash and sometimes to pay for small transactions (Ipsos 2005).

Computer ownership is still growing in Hungary. In 2004, 32% of the adult population in Hungary had access to computers in their homes, 92% of these were PC's (Ipsos 2005; Angelusz et al. 2004). Computer diffusion is limited mainly because many people cannot afford to buy them. Thus inequality of access results, with more computer ownership in Budapest or Western Hungary where the economic situation is better, with higher income, higher education and greater numbers of youth (Ipsos 2005; WIP Report 2003).

In 2003, of those over 14 years of age, 25% had internet access, with 13% in their homes (ibid). Home internet use is becoming the primary method of access, with school and work following closely. Reports in the media blame the low levels of internet penetration on high prices for access and the Hungarian telecommunications company for the high rates (ibid). Cognitive and cultural barriers also exist, with many people also believing they do not need the technology, do not have a PC, or are not interested in using it. There is a strong relationship with internet use and age, with the younger generation more apt to use. Inequality of use is also experienced with education, place of residence, age, gender and ethnicity as strong determinants

(Ipsos 2005; WIP 2003; Angeluzs et al. 2004). Most internet users have a general sense of trust in the technology, with few users and non-users seeing it as a threat to their privacy.

E-commerce is in its infancy in Hungary, with only 14% of Internet users (3% of the population) having ever used the Internet for shopping and net banking is only performed by 11-15% of users (ibid). There are merely 600 Hungarian companies online without the availability of e-shopping, due to a lack of public interest. However, there is a general trust in terms of commercial uses of personal data, in that more than half of Hungarians are willing to let companies gather and process their information (Ipsos 2005). Maintaining this trust will be the key to the success of e-commerce. The majority of the Hungarian public currently believe that threats to privacy are minor to their everyday security (ibid). Their distrust and cynicism lies in the socio-political system, rather than systems of commerce.

Conclusions

Historical experiences of authoritarian rule play a large role in shaping privacy concerns of the present time in Hungary. Being a newly democratized nation, new democratic values of privacy will take time to grow. The former FOI commissioner, Dr. László Majtényi, claims that Hungarians are on the move from a totalitarian to a constitutional state founded on principals of liberty, where equal representation must be given to freedom of information and informational self-determination founded on the notion of inviolable privacy (Majtényi 2001: 4). The introduction of privacy laws and increasing media coverage of incidences of the mishandling of personal information by authorities, banks and employers are raising public awareness on the issue of privacy in Hungary. The continuation of political corruption and state surveillance results in low trust in government and concern for civil liberties. Although the public value civil

liberties, currently, the greatest public concerns are financial, employment and crime problems, which outweigh privacy issues. E-commerce is also slowly developing, with low internet diffusion due to the costs of computers and services, as well as cognitive and cultural barriers. Because of these reasons there is not interest or funding to support research on privacy. There is not currently sufficient public opinion data to paint a comprehensive picture of public thought on privacy. More research is needed to assess the continued impact of the political system, as well as socio-demographic characteristics and culture that played a role in the earlier study on public opinions towards privacy. The legacy of the communist past appears to be the greatest influence on privacy concerns of the present.

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