Case number: NAIH/2020/838/2
Antecedent: NAIH/2019/7972

Re: Decision partially sustaining the complaint

The Nemzeti Adatvédelmi és Információszabadság Hatóság (Hungarian National Authority for Data Protection and Freedom of Information, hereinafter: **Authority**) brings the following decisions in the data protection procedure of the Authority launched upon the petition submitted by the […] and [...] complainants (hereinafter jointly referred to as **Complainants**) through […] representing them against **Mediarey Hungary Services Zártkörűen Működő Részvénytársaság** (address: 1061 Budapest, Andrássy út 12, Trade Registry number: 01-10-140295; hereinafter: **Obligee**) concerning the unlawful processing of data in relation to the printed and electronic versions of Forbes Magazin (hereinafter: Forbes) published by the Obligee and its inadequate guarantee of the exercise of the rights of the Complainants as data subjects:

I. The Authority

IN ITS DECISION

1. **Partially sustains** the petition of the Complainants

1.1. and **establishes** that the Obligee inadequately carried out the assessment of interests in relation to the printed and on-line versions of the publication containing the 50 richest Hungarians published in January 2019 **(Processing 1)** and the printed and on-line versions of the Forbes publication containing the largest family undertakings published in September 2019 **(Processing 2)** and failed to inform the Complainants in advance of its own legitimate interests and those of a third party (the public) and the results of comparing them with the interests of the Complainants, and it infringed Article 6(1)(f) of the General Data Protection Regulation.

1.2. Further, the Authority **establishes** that through failing to provide appropriate information in relation to Processing 1 and Processing 2 to the Complainants about all the essential circumstances of processing and the Complainants' right to object to the processing of their personal data, and furthermore, in spite of the information coming to its knowledge following the objection, it failed to demonstrate that the processing was justified by legitimate reasons of compelling force overriding the interests, rights and freedoms of the Complainants and it failed to provide information on the possibilities of enforcing the rights of the Complainants in its answers to the Complainants' requests aimed at exercising their rights as data subjects, the Obligee infringed Article 5(1)(a), Article 5(2), Article 12(1) and (4), Article 14 and Article 21(1) and (4) of the General Data Protection Regulation.

1.3. The Authority **condemns** the Obligee on the grounds of unlawful data processing, and at the same time **instructs** Obligee

1.3.1 to fully meet its obligations to inform the Complainants related to data processing, including the interest taken into account in the course of interest assessments on the part of both the Obligee and the Complainants, and the result of the interest assessment, the information on the right to object and information concerning the possibilities of the enforcement of rights within 15 days from the decision becoming final.

1.3.2 if the Obligee intends to use legitimate interest as the legal basis for envisaged future data processing, it shall carry out interest assessment in accordance with

the legal regulations and the provisions of this decision, including the second individual interest assessment following objection.

1.3.3 Obligee shall modify its practices related to providing information in advance in accordance with the legal regulations in force and the provisions of this decision.

2. The **Authority rejects** the part of the petition, in which the Complainants request the Authority to order the Obligee to meet the requests of the Complainants aimed at objecting to processing and erasure of their personal data, and to prohibit the Obligee to process the personal data of the Complainants with final force.

3. The Authority **levies a data protection fine of**

HUF 2,500,000, i.e. two million five hundred thousand forints
on account of the infringements

according to Section I.

Procedural costs did not arise in the course of the procedure of the Authority, hence the Authority did not provide for who should bear them.

The data protection fine shall be paid to the targeted forint account for the collection of centralised revenues of the Authority (10032000-01040425-00000000 Centralised collection account IBAN: HU83 1003 2000 0104 0425 0000 0000) within 15 days from the expiry of the period open for initiating a review by the court, or if a review was initiated, following the decision of the court.
Upon transfer of the amount, reference should be made to the number NAIH/2020/838/2 BÍRS.

If the Obligee fails to pay the fine when due, it shall pay a penalty for delay. The rate of the penalty for delay is the legal interest rate corresponding to the central bank base rate quoted on the first day of the calendar half year affected by the delay.

The Obligee shall verify the performance of the obligations required under Section 1.3.1 of the decision by submitting the substantiating evidence in writing within 30 days from the disclosure of the decision to the Authority.

The Obligee shall verify the measures it has taken in order to meet the obligations set forth in Section 1.3.3 of the decision in writing by submitting the substantiating evidence to the Authority within 30 days from the communication of the decision.

In the event of failure to pay the fine and the penalty for delay and to meet the obligations set forth, the Authority shall launch enforcement of the decision.

There is no legal remedy against this decision through the administrative route, but it can be attacked in an administrative lawsuit with a petition addressed to the Fővárosi Törvényszék (Budapest Tribunal) within 30 days from its communication. The petition is to be submitted to the Authority electronically, which it shall forward to the court together with the documents of the case. The request to hold a hearing must be indicated in the petition. For those who are not subject to full personal exemption from levies, the levy on the review procedure by the court is HUF 30,000; the lawsuit is subject to the right of prenotation of duties. Legal representation is mandatory in a procedure in front of the Budapest Tribunal.

II. With regard to the part of the petition aimed at the establishment of infringement concerning data processing prior to 25 May 2018, the Authority **terminates** the data protection procedure

IN ITS WARRANT

because the General Data Protection Regulation is not applicable to this period.

There shall be no administrative legal remedy against this warrant, but it can be attacked in an administrative lawsuit with a petition addressed to the Fővárosi Törvényszék (Budapest Tribunal) within 30 days from its notification. The petition is to be submitted to the Authority electronically, which it shall forward to the court together with the documents of the case. The petition must indicate if there is a request for holding a hearing. For those who are not subject to full personal exemption from levies, the levy for the court review procedure is HUF 30,000; the lawsuit is subject to the right of prenotation of duties. Legal representation is mandatory in a procedure in front of the Budapest Tribunal.

III. Because of exceeding the period open for administering the case, the Authority

IN ITS WARRANT

provides for the payment of HUF 10,000, that is, ten thousand forints to the Complainants by bank transfer or postal money order, at their discretion.

There is no independent legal remedy against this warrant, it can be attacked only in a petition for legal remedy against the decision brought on the merits of the case.

JUSTIFICATION

I. The facts of the case

I.1. <u>The period studied in the course of the procedure</u>

The Authority conducted this data protection procedure in relation to the data processing activities of the Obligee after 25 May 2018, in particular in relation to the processing of the Complainants' personal data (name, family name, assets) and inadequate ensuring of the exercise of the data subject's rights. Data processing prior to 25 May 2018 was carried out before the effective date of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(hereinafter: General Data Protection Regulation), hence the rules of the General Data Protection Regulation are not applicable to them, a petition requesting data protection procedure from the Authority cannot be submitted and the Authority has no competence to examine compliance with the provisions of the General Data Protection Regulation with regard to these processing actions within the framework of this data protection procedure.

The Authority regards the submission sent to it by mail and received on 31 October 2019 as the petition aimed at launching the data protection procedure of the Authority and considered the petition and statement received after that in the course of the procedure. The submission sent to the Authority exclusively by e-mail in February 2019 does not qualify as a petition pursuant to Section 35(2) of Act CL of 2016 on General Administrative Procedures (hereinafter: Administrative Procedures Act), it can only be interpreted as a petition aimed at conducting an investigative procedure, thus the Authority did not take that submission into account in the course of the current data protection procedure by the Authority.

In relation to the data processing operations related to the Forbes publications and the failure to provide information to the data subjects, the Complainants initiated the conduct of an investigative procedure, but there are overlaps in the subject matter of the petitions by the Complainants to initiate an investigative procedure and to conduct a data protection procedure by the Authority. In view of the fact that without investigating them, the Authority would not have been able to bring a well-founded decision in this procedure, the Authority investigated and evaluated the data processing operations and activities related to Processing 1 and Processing 2 (including preliminary information) in the course of this data protection procedure.

I.2. Data disclosed in relation to the Complainants in the publications studied in the course of the procedure

For the reasons presented in Section I.1, the Authority examined the data processing activities related to the following publications and lists in the course of this procedure:

- the printed and on-line versions of the January 2019 issue of Forbes containing the 50 richest Hungarians **(Processing 1).** [The on-line version is accessible through the link *https://forbes.hu/extra/50-leggazdagabb-magyar-2018/#/* .]
- the printed and on-line versions of the September 2019 issue of Forbes containing the largest family undertakings **(Processing 2).** [The on-line version is accessible through the link *https://forbes.hu/extra/csaladi-lista-2019/#/* and the concrete entry is accessible here *[…]* .]

In the case of Processing 1, the following content was displayed:

- The name ([…]) and age ([…]) of the Complainants, the amount of their estimated assets ([…]) and the basis of the estimated assets ([…]) were displayed in the printed version. The entry contained the following description:
  […]
- The online version showed the names of the Complainants, the estimated amount of their assets and their modified portraits (with a painting-like effect). Only this can be read about the activities of the company group held by the Complainants: *[…]*

In the case of Processing 2, the following content was published:

- The printed version showed the family name ([…] family) the name ([…]) of the company group in which they hold interests, the estimated value of the company group ([…]), the registered office of the company group ([…]), the year of foundation of the company group ([…]) and the number of generations with interests in the company group ([…]). The entry contained the following description:
  […]
- The on-line version showed the name of the family, the name of the company group, in which they held interests, its estimated value, its registered office, the year of foundation and the number of generations with interest in it, as well as a modified portrait (with a painting-like effect) of […]. The on-line version has a shorter description, the entry contains no more than this:
  […]

Although the printed publications include the phrases "[…] family" and the "[…]", but neither the printed, nor the online versions of the publications name any family members other than the Complainants and do not refer to them either directly or indirectly.

The data processed and published by the Obligee in relation to Processing 1 and Processing 2 are not among the special categories of personal data according to Article 9 of the General Data Protection Regulation (personal data revealing racial or ethnic origin, political opinions, religious or

philosophical beliefs or trade union membership, genetic and biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation).

Some of the data disclosed in the publications (both in the printed and the online version) are company data constituting part of the certified trade registry open to the public, while they are also displayed in the website presenting the activities of the undertaking held by the Complainants *[…].* The full names of the Complainants and on that basis the information about the undertakings in which they hold interests, the undertakings in which they are members (owners), the undertakings in which they hold managerial positions can be searched among the data of the Trade Registry accessible to the public. The annexes to the annual reports of the undertakings in which they hold interests also qualify as company data, which contains the investments of the individual companies, as well as their amounts. The original photos used for the painting-like portraits of the Complainants can also be found in the website of the company group, in which the Complainants hold interests at the link *[…]*.

Over and above the data constituting part of the certified public trade registry and/or the data in the reports and website of the undertaking in which the Complainants hold interests, the estimated assets of the Complainants stemming from the activities carried out in the undertaking in the case of Processing 1 and the estimated value of […] in the case of Processing 2 were displayed.

Although the (estimated) value of the company group held by the Complainants and the (estimated) amount of the assets of the Complainants are not part of the Trade Registry, they are not data accessible on public interest grounds, at the same time, the publications do not present the amount of the personal assets (e.g. inherited, received as a gift, obtained via marriage, etc.) of the Complainants to the readers, but estimate the value of the company group or the amount of the assets collected as a result of the business activities, concerning which the Obligee drew its conclusions from publicly available company data, information, company reports and the communications of the company group itself. The Obligee collected these data from public sources for making the estimates, evaluated them on the basis of a specific method and published them as its opinion.

I.3. Correspondence between the Complainants and the Obligee

In relation to Processing 1 and Processing 2, correspondence between the Complainants and the Obligee took place on several occasions. The Authority studied and evaluated this correspondence detailed under Section III.4. of the decision in relation to the exercise of the rights of data subjects in the context of the Obligee's obligation to provide information in advance, the interest assessment carried out by the Obligee and the compliance of the answers given to the requests of the Complainants aimed at the exercise of their rights as data subjects with the relevant provisions of the General Data Protection Regulation.

I.4. The course of the procedure, the statements of the Complainants and the Obligee made in the course of the procedure

On 7 February 2019, the Authority received a submission by e-mail, in which the Complainants objected to data processing related to the following publications containing the richest Hungarians and the largest family undertakings published by the Obligee in printed and electronic versions:

- the printed and on-line versions of the January 2019 issue of Forbes containing the 50 richest Hungarians (Processing 1);
- the printed and online versions of the 2017 issue of Forbes, containing the 33 richest Hungarians (online version: *https://forbes.hu/extra/33-leggazdagabb-magyar-2017/*);

- the printed and online versions of the 2017 issue of Forbes containing the 25 largest family undertakings (online version: *https://forbes.hu/uzlet/a-csanyi-csalad-csucsra-ert-ime-magyarorszag-legnagyobb-csaladi-cegbirodalmai/*).

According to the submission, in the case of Processing 1, the company data of business organisations held by Hungary's market-leading major entrepreneurs and their family members and assumed or genuine personal data related to the Complainants or their family members concerning their personal financial situations and income levels, most of which stem from uncertain sources.

According to the submission, the Complainants objected to the disclosure of their personal data in the publications and furthermore, requested the Obligee to erase all the data related to their persons, but the Obligee failed to answer the requests aimed at exercising their rights as data subjects, instead it expressed its opinion stating that meeting their request was unnecessary in an e-mail of a personal note sent to [...] on 28 August 2018.

In view of all this, the Complainants initiated the investigative procedure of the Authority on account of the unlawfulness of processing and the failure to provide information in advance, as well as the launching of a data protection procedure by the Authority on account of the inadequate ensuring of the exercise of the data subjects' rights (disregarding the rights of the data subjects to erase and to object).

The Authority informed the Complainants in its letter No. NAIH/2019/1860/4 addressed to the Office dated 27 September 2019 that their submission could be interpreted as a petition aimed at conducting an investigative procedure on the basis of Act CXII of 2011 on the Right to Informational Self-Determination and the Freedom of Information (hereinafter: Privacy Act), in view of Section 35(2) of the Administrative Procedures Act, according to which a petition to conduct a procedure by an authority can be submitted in writing or verbally; the hard copy sent by mail or the electronic document submitted via the official gateway qualify as written form. Beyond presenting the conditions of a petition aimed at conducting a data protection procedure by the Authority, the Authority asked questions with regard to the investigative procedure to clarify the facts of the case from the Complainants.

In a letter sent by e-mail and by mail received by the Authority on 31 October 2019, the Complainants explained that they requested an investigative procedure because of the data processing operations related to their names, assets and family name ("[...] family") (thus in particular: building of a database, listing, disclosure to the public) and the failure to provide information in advance, as well as initiating a data protection procedure by the Authority because of the unlawful processing of their personal data and unlawful rejection and disregard of their objection and request for erasure, in their view.

The Complainants informed the Authority of the following:

- Staff members of the editorial board of Forbes contacted […] also in earlier years with a view to presenting them in Forbes to reconcile the contents related to company group […] characteristically leaving only a few days to review the calculations made available to […] without providing any kind of information on data protection. Accordingly, the Complainants were notified that Forbes wished to present them in their next compilation on 28 August 2018.
- With regard to the Forbes publications, the Complainants object to displaying their assets and in relation to this, their name and family name ([…] family). The Privacy Statement linked to the Forbes publications accessible in the Forbes website *(https://forbes.hu/documents/altalanos_adatkezelesi_tajekoztato_Forbeshu.pdf)* does not exactly reveal on what legal basis (on the basis of what legitimate interest) are the data processed, for what purpose, for how long, or whether the Obligee forwards the data to

another recipient, or whether it makes use of a processor whereby the Obligee infringes its obligation to provide information according to Article 14 of the General Data Protection Regulation. This information has not been made available to the Complainants to this day, the Obligee provided the minimum of information only on its calculation model (and the detailed sources of the data).

- With regard to Processing 1, the Complainants object to the display of their assets, names and family name ([…] family). The Complainants understand that "media materials containing other similar lists" mean the publications published earlier by Forbes about the 33 richest Hungarians and the 25 largest family undertakings and the 2019 Forbes publication on the largest family undertakings published in the meantime (Processing 2). With regard to these publications, the Complainants also object to having their assets, names and family names displayed (their data being processed).

In view of the above, the Complainants request an investigative procedure concerning the Forbes publications concerning the largest family undertakings and the richest Hungarians and the related processing operations and the failure to provide information to the Complainants based on Section 52(1) of the Privacy Act, and a data protection procedure by the Authority on the grounds of the unlawful processing of their personal data and the unlawful rejection and disregard of their objection and request for erasure based on Section 60(1)-(2) of the Privacy Act and Article 77(1) of the General Data Protection Regulation.

In relation to the Obligee's practice of data processing, the Complainants made the following statements:

- After the submission of the Complainants' complaint of 29 January 2019 to the Authority, the Forbes journalist posed the question to […] in an e-mail sent on 19 July 2019 whether […] continues to be in Hungarian and family ownership in view of the fact that the editorial board of Forbes was working on the list of the most valuable family undertakings and the 100 largest Hungarian companies in relation to which it has again become necessary to process the data of the Complainants according to the position of the Obligee. The Complainants maintained their earlier position in relation to the envisaged processing and in their answer sent through an attorney-at-law on 19 July 2019, they called the attention of the Obligee to the fact that because of what they had presented earlier, they did not wish to appear in the Forbes publications. In addition, they informed the Obligee that […] was 100% in foreign ownership and this is true also for a major part of the activities of […] (in view of the fact that […] was also going to be transferred to foreign ownership over the next month). They also underlined that they disclosed this information when asked by the journalist and they expressly requested the Obligee not to disclose this information to any third person and not to make it public, in view of the fact that this would not only cause business damage to the group, but could give rise to innuendo also in relation to the assets and financial situation of the […] family and its members, which could lead to unlawful data processing.
- After this, on 22 August 2019 (i.e. after the due date of one month according to Article 12(3) of the General Data Protection Regulation), the Obligee sent an e-mail informing the Complainants that "*based on the American methodology and our methodology published for our lists in recent years handled transparently […] continues to meet our definition, thus it will be categorised as a family undertaking. Once the ownership change is registered, it will be taken into account*". The Obligee also mentioned that as a result of the ownership change in the case of […], it no longer complies with their definition of family undertakings, thus it will not be presented as such. The Obligee also underlined that according to their position […] qualifies as a public actor, which justifies the processing of his personal data by the Obligee as described above. None of the e-mails or communications received from the Obligee contained information about legal remedy.

- After this, the Complainants learned that similarly to earlier years, the Obligee presented them in the Forbes 2019 list of largest family undertakings in both its printed and electronic versions (Processing 2). For […] the list mentions "[…] family" specifying a circle of data subjects that is hard to delineate. Instead of naming specific persons, the Obligee indicates a circle of data subjects that can be interpreted in a wider sense giving rise to conjecture, whereby the Obligee infringes the principle of data minimisation. All this is not changed by the fact that beyond this circle, the publications only identify the Complainants by name, because it cannot be clear for the average reader exactly which members of the […] family may be related to the assets presented in the publication.
- The data processing practice of the Obligee is not transparent for the Complainants (and all the data subjects) as it does not present the "American methodology" applied by it, nor the definition of "family undertakings" and it fails to present these methods of calculation even briefly, consequently the basis on which the Obligee processes personal data cannot be checked. Using these methods, the Obligee essentially creates new personal data (estimates concerning assets and financial situation) on the one hand, while the uncertain calculation methods give rise to the possibility of profiling as they are used for the evaluation of certain personal characteristics (particularly, economic position) linked to natural persons, which may have a legal impact on the data subjects or they may have been substantially affected as the publication of the financial situation of the data subjects may have an impact on the business reliability, reputation and private life of the data subjects, and these impacts are characteristically long term and may have a substantial influence on the circumstances of the data subjects. In this regard, the Obligee also infringes its obligation to provide information according to Article 14(2)(g) of the General Data Protection Regulation and it also fails to ensure the data subject's rights related to profiling. In their view, the Complainants do not qualify as public actors as they have a lesser need to tolerate and they are able to tolerate less disturbing intervention in their private life than persons who qualify as public actors as a result of their profession or activities in public life. In relation to this, the Complainants underlined that the Obligee took up contact expressly with […] (i.e. a person, who had not earlier been referred to by the Obligee as having the status of a public actor).
- The Obligee failed to change its data processing practice, it failed to answer the requests of the Complainants in time, it failed to inform the Complainants of the possibilities of legal remedy and it failed to indicate the information for the data subjects required by Article 14 of the General Data Protection Regulation related to the processing of the data of the richest Hungarian individuals and families (family undertakings) in the Privacy Statement accessible in the Forbes website or any other platform. There may be some social interest linked to the use of public company data and the data qualified by company law as accessible on grounds of public interest with a view to informing the public; however, the controller may not disregard the preliminary information of the data subjects and the facilitation of the exercise of data subject rights (including, for instance responding to data subjects' requests on time and providing information on the possibilities of legal remedy) even in the case of otherwise lawful processing.
- According to the position taken by the Complainants, the following also substantiate that the data processing practice of the Obligee disregards the requirements of the General Data Protection Regulation:
    - Following the Complainants' letter of 17 August 2018 submitted by their legal representative and received by the Obligee on 23 August 2018, (in which the Complainants objected to the processing of their personal data and their inclusion in the lists containing the 33 richest Hungarians published by the Obligee in 2017 and the 25 largest family undertakings also published in 2017 for the first time, and in relation to this, they wished to exercise their right to erasure, the Obligee offered a review of the methodology of the lists generated by them, its e-mail of 28 August 2018 using a personal tone, but it still failed to provide the information concerning the

processing of the data of the data subjects in accordance with Article 14 of the General Data Protection Regulation, it failed to provide information to the Complainants about their rights and possibilities of legal remedy in accordance with the General Data Protection Regulation and Section 23(3) of the Privacy Act by the due date according to Article 12(3) of the General Data Protection Regulation and it failed to facilitate the exercise of their data protection rights although that would have been its obligation according to the relevant legal regulations even in the case of otherwise lawful processing.

- Through their legal representative, the Complainants expressly and once again objected to the unlawful data processing by the Obligee in an e-mail dated 19 July 2019, in view of the fact that the Obligee contacted them on account of including them in yet another publication. The Obligee responded to this only on 22 August 2019, yet again failing to provide information on possibilities of legal remedy, or any data processing related information.
- The Obligee failed to render its data processing operations transparent and it failed to provide clear information on the processing carried out by them even after lodging the Complainants' complaint and their multiple objections. The Privacy Statement accessible in the Forbes website refers to "taking up contact" or "content editing" only in general without covering the information according to Articles 13-14 of the General Data Protection Regulation (including, in particular, the accurate range and source of the data processed by the Obligee, the legal basis of processing, the legitimate interest of the controller, the duration of processing, the processors eventually used by the Obligee and the recipients of data forwarding).
- Furthermore, the Obligee failed to provide information on its legitimate interest related to processing, although this would have been an obligation of the Obligee, irrespective of the fact that it has conducted its processing operations using company data and data accessible on public interest grounds.
- The Obligee regularly refers to […] as a public actor, which, however, does not exempt the controller from lawful processing, informing the data subjects and facilitating the exercise of the rights of data subjects.
- Although in its earlier correspondence, the Obligee offered to present its methodology, but regularly left a very short period of time for this, and failed to provide the information related to the processing of personal data, thus the Complainants were not in a position to reassure themselves on the correctness of the methodology of the Obligee and in this context, the lawfulness of the processing of their data.
- Although the Obligee expressly named the Complainants in some of its earlier publications, , it has characteristically used the phrase "[…] family" in their summaries related to family undertakings which may give rise to conjecture in relation to other members of the family.

- According to the Complainants, the Obligee's data processing practice infringes the principles of lawfulness, fair procedure, transparency and accountability, in view of the fact that it conducts processing in an untransparent manner without any intention to facilitate the exercise of the rights of data subjects rejecting the lawful data protection requests of the Complainants by reference to their alleged status as public actors. According to the Complainants, this behaviour poses a severe threat. Forbes is one of the best known business and public life magazines of the world, it has an outstanding influence on the Hungarian and the foreign media markets, outstanding public attention is paid to the evaluation of its behaviour and it may serve as an example for the media market, the press or other actors of public life, hence it is expected to demonstrate exemplary behaviour with regard to supporting and facilitating the exercise of rights, the lawful organisation of processing and the provision of transparent information about it. As a result of the global significance and publicity of the Forbes Magazine and the related publications, the

negligent behaviour of the Obligee may have a detrimental influence on public opinion, as well as business life, posing an outstanding threat for its actors.

- In view of the above, the Complainants, while maintaining their earlier requests, confirmed the following:
  - In relation to Processing 2, they object to the presentation of their assets, names and family name ([…] family) of the Complainants.
  - They base the initiation of the data protection procedure by the Authority on the above arguments on the unlawful rejection and disregard of the Complainants' requests aimed at exercising their right to object and erase (delayed and deficient information on processing and on the possibilities of legal remedy) and the allegedly unlawful data processing by the Obligee.
  - Levying a data protection fine on the Obligee seems to be warranted, in view of the fact that the Obligee fully disregarded the rights of the data subjects and failed to provide information on the data processing conducted by it even in its Privacy Statement, thus it violated the principles of data processing and its obligations related to data subject rights at an elementary level, in spite of the fact that as an outstanding actor of the Hungarian and foreign media market, an exemplary behaviour in the field of data protection would be expected from it.
- The Complainants requested the Authority to order the Obligee to respect the Complainants' rights to object and to erase, and to meet its obligation to provide information (including the preparation of the interest assessment test by the Obligee related to the relevant processing and its disclosure at least as a summary and information on eventual data forwarding and their recipients).
- Furthermore, the Complainants requested the Authority to examine the submission sent on 31 October 2019, taking into account the information presented in the submission of February 2019.

Based on the complaint, the data protection procedure by the Authority was launched pursuant to Article 57(1)(f) of the General Data Protection Regulation and Section 60 (1) of the Privacy Act under number NAIH/2019/7972.

During the examination of the submission of the Authority established that the request aimed at the initiation of a data protection procedure by the Authority was deficient as it did not include a specific request concerning a decision for remedying the infringement indicated; also, the submission did not clearly reveal whether the Complainants (as data subjects) requested the investigative procedure with respect to themselves, or in general. In view of this in its warrant No. NAIH/2019/7972/2 of 26 November 2019, the Authority called upon the Complainants to make up for deficiencies.

In an e-mail received by the Authority on 5 December 2019 and in a letter sent by mail received on 9 December 2019, the Complainants made up for the deficiencies of their request and provided the following information to the Authority:

- The Complainants request the Authority to order the Obligee to meet the Complainants' request to exercise their rights to object and to erase pursuant to Article 58(2)(c) of the General Data Protection Regulation. In this context the Complainants request the Authority to order the Obligee as described above with respect to the Forbes publications concerning the largest family undertakings and the richest Hungarians, which are accessible electronically but not yet published in print.
- The Complainants request the Authority to prohibit the Obligee to process the personal data of the Complainants with final force pursuant to Article 58(2)(f) of the General Data Protection Regulation. In this respect the Complainants again request the Authority to order the Obligee not to process (display or publish) the personal data of the Complainants in the

Forbes publications concerning the largest family undertakings and the richest Hungarians, which are accessible electronically but not yet published in print, as well as its future publications.

- The Complainants request the initiation of an investigative procedure of the processing operations related to the Forbes publications and the failure to provide information to the data subjects only with respect to themselves, not in general.
- The Complainants do not request the levying of a data protection fine on the Obligee, in view of the fact that they are not asking for punishing the Obligee, but for rendering the Obligee's practice of data processing lawful, including in particular appropriate information to the data subjects about the handling of their personal data in the course of data processing operations by the journalists and the appropriate facilitation of the exercise of the data subjects' rights and furthermore, supporting the exercise of these data subject rights.

In its warrant No. NAIH/2019/7972/4 dated 18 December 2019, the Authority notified the Obligee about launching its data protection procedure and with reference to Section 63 of the Administrative Procedures Act called upon it to make a statement with a view to clarifying the facts of the case. Based on the acknowledgement of receipt returned to the Authority, the warrant was received on 2 January 2020.

The Obligee in response to the call of the Authority provided the requested information in its letter dated 11 January 2020, received by the Authority on 16 January 2020.

The Obligee made the following statement concerning the purpose and legal basis of data processing and its legal position:

- The Obligee processes the data of the Complainants for the purpose of exercising its rights stemming from the freedom of the press and to fulfil the informative activities of the press in a democratic society as stipulated in Article 10(1) of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Contents (hereinafter: Press Act). The Obligee sets forth the richest natural persons and families of Hungary based on databases accessible to the public in every calendar year. The purpose of this is to let Hungarian society know the persons having the greatest economic influence because economic influence itself gives certain persons a substantial role in public life, which is frequently concomitant with other social and political influence. Presenting such power concentration to the society and setting forth the changes taking place in it year after year are within the provision of information for the public interest.
- According to the Obligee, its processing operations are lawful pursuant to Article 6(1)(e) and (f) of the General Data Protection Regulation. The Obligee argued for its position as follows:
    - The Obligee's activities are in the public interest. Economic journalism is a legitimate activity in the public interest and within this, the compilation and archiving of the richest persons having the largest (or much larger than the average) social influence based on publicly available data according to a reliable methodology are activities serving the public interest. The Obligee compiled the list of the richest persons exclusively on the basis of databases accessible to the public. These registries (land registry, company database generated on the basis of trade court data and the communications of the companies themselves to the public) and the personal data included in them are accessible to the public, so that economic life be transparent and the citizens could learn of it. Journalism adds the added value to the public databases by helping to interpret and summarise the gigantic quantity of information accessible to the public for lay citizens. The Complainants are significant […] in Hungary, they have carried out investments such as […], or […], […] and […] currently under way. The companies held by the Complainants

substantially shape […] and it is a legitimate demand on the part of citizens to learn who the owner is behind these investments.

- Data processing carried out by the Obligee is necessary to enforce the legitimate interests of the Obligee. Forbes is the Hungarian publication of an international media undertaking. Forbes is published globally and its lists include the richest people and largest companies of the world or a given country. The best known media product of the Forbes brand is the preparation of such lists, which are also compiled in a number of European countries subject to the General Data Protection Regulation. It is a legitimate interest of the Obligee to be able to publish its media products all over the world, whose best known characteristic is that it lists the richest people in a transparent and reliable manner.

- Hungary's Fundamental Law equally recognizes the right to the protection of personal data and the accessibility of data in the public interest [Article VI(3)], the freedom of the press and the diversity of the press [Article IX(2)] and declares that Hungary's economy is based on the freedom of enterprise [Article M(1)].

- As put by Constitutional Court Decision 7/2014. (III. 7.) *"[the] freedom of the press - which includes the freedom of all types of media - is an institution of the freedom of speech. The press is first and foremost the instrument of expressing an opinion, forming an opinion and obtaining information is indispensable for formulating an opinion, even though its activities are increasingly complex and diverse."* (Justification [40]). This role of the press is particularly important for formulating opinions on public life because "*[the] social and political debates to a substantial extent consist in the actors of public life or the participants of public debates - characteristically through the press - criticising one another's ideas, political performance and in relation to that one another's personality. It is the constitutional mission of the press to check those exercising public powers, an organic part of which is the presentation of the activities of persons and institutions shaping public affairs"* (Justification [48]).

- As interpreted by the Constitutional Court, the central role of the media in forming democratic public opinion does not lead to "*not having legal regulations applicable to the information activity of the press [...], but when acting and interpreting these, action must always be taken not to prevent or hinder the performance of the constitutional mission of the press, the disclosure of information in the public interest*" {Constitutional Court Decision 3/2015. (II. 2.), Justification [25]}. According to Constitutional Court Decision 28/2014. (IX. 29.) "*So long as information is not an abuse of the exercise of the freedom of the press in the context of the protection of human dignity, reference to an infringement of personality rights rarely provides good grounds for restricting the exercise of the freedom of the press."* (Justification [42]). This interpretation was consistently upheld also in Constitutional Court Decisions 16/2016. (X. 20.) and 17/2016. (X. 20.) in favour of the freedom of the press.

- The adoption of the General Data Protection Regulation and its transposition into national law does not result in data protection of information enjoying absolute priority against other constitutional values, such as the freedom of expression and the freedom of the press. Article 85(1) and Recital (153) of the General Data Protection Regulation also show that Member States reconcile the freedom of expression and the right to be informed with data protection.

- Section 2 of the opinion [WP 227] of the Article 29 Working Party of the European Data Protection Commissioners published on 26 November 2014 formulates the requirement of interest assessment, according to which data protection rights must be interpreted (also) with regard to the right to express an opinion. Paragraph 93 of the judgment of the Court of Justice of the European Union brought in the case of Tele2Sverige AB [C-203/2015.] promulgated on 21 December 2016 contains the following: *"Accordingly, the importance both of the right to privacy guaranteed in Article 7 of the Charter and of the right to protection of personal data guaranteed in Article 8 of the Charter as derived from the*

court's case law (see to that effect: judgment of 6 October 2015, Schrems, C-362/14, EU:C:2015:650, paragraph 39 and the case law cited) must be taken into consideration in interpreting Article 15(1) of Directive 2002/58/EC. The same is true of the right to freedom of expression in the light of the particular importance accorded to that freedom in any democratic society. That fundamental right guaranteed in Article 11 of the Charter, constitutes one of the essential foundations of a pluralist democratic society and is one of the values on which under Article 2 TEU the Union is founded (see to that effect: judgments of 12 June 2003, Schmidberger, C-112/00, EU:C:2003:333, paragraph 79; and of 6 September 2011, Patriciello, C-163/10, EU:C:2011:543, paragraph 31)."

- In view of the fact that Hungary is a market economy, the mission of the press cannot be strictly interpreted, so that the public cannot be provided with information in relation to the operation and ownership background of private undertakings held by private individuals at any level. Naturally, this activity also has its limits: the protection of business secrets, the protection of human dignity, etc.; at the same time, business journalism is a legitimate activity. The Obligee does not process and does not publish any personal data that would constitute a disproportionate violation of privacy. The personal data processed and disclosed by the Obligee (of minimal extent) are closely related to business activity. Essentially, the Obligee processes data related to the ownership background of the company (name). The estimates related to the magnitude of the assets are based exclusively on public data linked to the activities of the undertaking, thus the compilation does not cover the real property, private assets of private individuals (e.g. assets obtained through inheritance, by marriage, lottery prizes). Similarly, the Obligee does not process and does not disclose data that would mean severe intervention in privacy. (E.g. a compilation that would forecast changes in the business on the basis of the health data of entrepreneurs would be obviously unlawful.)
- […] is active not only in economic life. He is […], which is one of Hungary's most significant representative organisations. Filling a position like this is taking on public office, the economic interests of a person in this position are closely related to this public office. The […] undertakings held by him significantly determine the development of Hungarian […]. He obtained this prominent position thanks to his undertakings held currently or held previously by the family. These facts together turn the approximate magnitude of his wealth and that of his family members involved in economic activities into topics of general interest for the public, based on information publicly accessible..

In its response, the Obligee made the following statement with regard to the Complainants' requests at exercising their rights as data subjects and the answers to those requests:

- In their letter sent to the Obligee on 24 august 2018, the Complainants called upon the Obligee to erase their personal data and not to store them in the future. In response to this, the editor-in-chief of Forbes informed […] about the interest assessment carried out in the course of data processing at a personal meeting held on 27 August 2018, which he confirmed in writing in a letter sent to […] the next day.
- After 25 May 2018 [i.e. the day when the General Data Protection Regulation became applicable], the journalists of the Obligee sought the Complainants on four occasions in order to inform them that they were included in the Forbes issues about to be published. On each occasions they sent them the lists, the methodology of compiling the lists, as well as the estimate of the Complainants' assets made on the basis of the methodology. On each occasion they requested feedback from them and rectification of the data, if needed. The journalists of the Obligee sent these letters on 28 August 2018, 13 December 2018, 19 July 2019 and 8 November 2019.
- In his response sent on 29 August 2018, […] requested not to publish any information on him, his family and their financial position in the publications entitled 33 Richest Hungarians

and 25 Largest Family Undertakings. Following interest assessment, the Obligee did not meet this request.

- The Obligee's journalist contacted the Complainants also on 13 December 2018 to which he did not receive any answer.
- The Obligee sent the next letter on 19 July 2019 to […]. In his answer the legal representative of the Complainants informed the Obligee that the Complainants did not wish to be included in the list, and that the undertakings attributed to the Complainants were in fact "in foreign ownership". In response to this, the Obligee informed the Complainants that according to the established methodology of the Obligee, as long as the change in ownership is not registered in the Trade Registry, it will regard the undertakings of the Complainants as family undertakings. It was also remindful of the criteria in the interest assessment and declared in accordance with these that it would continue to present the Complainants in the list.
- During the period under study, the Obligee sent its last letter to the Complainants on 8 November 2019 to which the Complainants failed to answer.
- Articles 12 and 14 of the General Data Protection Regulation guarantee numerous rights to the Complainants, the enforcement of which against an editorial board performing journalistic activities would levy disproportionate burden on the latter. It is no accident that with a view to ensuring the mission of the press, the General Data Protection Regulation allows derogations in national law. As the Hungarian legislator failed to develop the set of guarantees, which would enable the press to carry out its tasks free of disproportionate burden, the task of resolving this conflict of fundamental rights has to be carried out by the agencies applying the law. According to the Obligee, an interpretation of the law on the basis of which members of the press would have to produce personalised data protection information to all the natural persons presented in their articles prior to the publication of these articles would be unrealistic and severely restricting the freedom of the press. Such an interpretation of the law would render it impossible for the press to play its role in a democratic society.

Beyond sending the statement and the documents substantiating it, the Obligee informed the Authority that a court procedure was in progress between partially different parties under case number […] […]. In this litigation, the petitioners alleged that the Obligee processed their personal data contrary to the provisions of the General Data Protection Regulation. In view of the fact that in this procedure, the court is going to make the decision about whether or not the list compiled by the Obligee qualifies as lawful data processing, the Obligee requested the Authority to suspend the procedure based on Section 48(1)(a) of the Administrative Procedures Act and Section 53(3)(a) of the Privacy Act.

II. Legal provisions applied

Pursuant to Article 2(1) of the General Data Protection Regulation, this Regulation applies to the processing of personal data wholly or partly by automated means, and to the processing of personal data by non-automated means, which form part of a filing system or are intended to form part of a filing system.

Pursuant to Section 2(2) of the Privacy Act, the General Data Protection Regulation shall apply to data processing subject to this Regulation with the additional rules specified therein.

Pursuant to Article 4(1) of the General Data Protection Regulation, "personal data" means any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one, who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an on-line identifier or to one or

more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Pursuant to Article 4(2) of the General Data Protection Regulation, “processing” means any operational set of operations, which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Pursuant to Article 4(4) of the General Data Protection Regulation “profiling” means any form of automated processing of personal data, consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning the natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.

Pursuant to Article 4(6) of the General Data Protection Regulation, “filing system” means any structured set of personal data, which are accessible according to specific criteria whether centralised, decentralised or dispersed on a functional or geographical basis.

Pursuant to Article 4(7) of the General Data Protection Regulation, “controller” means the natural or legal person, public authority, agency or other body, which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

Pursuant to Article 5(1)(a) of the General Data Protection Regulation, personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject (“lawfulness, fairness and transparency”).

Pursuant to Article 5(1)(b) of the General Data Protection Regulation, personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (“purpose limitation”).

Pursuant to Article 5(1)(c) of the General Data Protection Regulation, personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (“data minimisation”).

Pursuant to Article 5(1)(d) of the General Data Protection Regulation, personal data shall be accurate and where necessary kept up-to-date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (“accuracy”).

Pursuant to Article 5(1)(e) of the General Data Protection Regulation, personal data shall be kept in a form, which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of appropriate, technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject (“storage limitation”).

Pursuant to Article 5(2) of the General Data Protection Regulation, the controller shall be responsible for and be able to demonstrate compliance with paragraph (1) (“accountability”).

Pursuant to Article 6(1) of the General Data Protection Regulation, the processing of personal data shall be lawful only if and to the extent that at least one of the following applies:

a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
b) processing is necessary for the performance of a contract to which the data subject is party, or in order to take steps at the request of the data subject prior to entering into a contract;
c) processing is necessary for compliance with a legal obligation to which the controller is subject;
d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
f) processing is necessary for the purposes of the legitimate interest pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject, which require protection of personal data, in particular where the data subject is a child.

Pursuant to Recital (47) of the General Data Protection Regulation the existence of legitimate interest would need careful assessment, including whether a data subject can reasonably expect at the time and in the context of the collection of the personal data that processing for that purpose may take place. The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are processed in circumstances where data subjects do not reasonably expect further processing. [...] The processing of personal data strictly necessary for the purposes of preventing fraud also constitutes a legitimate interest of the data controller concerned. The processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest.

Article 12 of the General Data Protection Regulation specifies the obligations of the controller in relation to measures for the exercise of the rights of the data subject.

Pursuant to Article 12(1) of the General Data Protection Regulation the controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including where appropriate by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

Pursuant to Article 12(2) of the General Data Protection Regulation, the controller shall facilitate the exercise of data subject rights under Articles 15 to 22. In the cases referred to in Article 11(2) the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject.

Pursuant to Article 12(3) of the General Data Protection Regulation the controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic means, the information shall be provided by electronic means, where possible, unless otherwise requested by the data subject.

Pursuant to Article 12(4) of the General Data Protection Regulation, if the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

Pursuant to Article 12(5) of the General Data Protection Regulation, the information provided under Articles 13 and 14 and any communication and any actions taken under Article 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either charge a reasonable fee taking into account the administrative costs of providing the information or communication, or taking the action requested, or refused to act on the request. The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

Article 14 of the General Data Protection Regulation sets forth a minimum information that the controller has to provide to the data subject, if the personal data have not been obtained from the data subject. Accordingly:

[Article 14] (1): Where personal data have not been obtained from the data subject, the controller shall provide the data subject with the following information:

a) the identity and the contact details of the controller and, where applicable, of the controller's representative;
b) the contact details of the data protection officer, where applicable;
c) the purposes of the processing for which the personal data are intended, as well as the legal basis for the processing;
d) the categories of personal data concerned;
e) the recipients of categories of recipients of the personal data, if any;
f) where applicable that the controller intends to transfer personal data to a recipient to a third country or international organisation, and the existence or absence of an adequacy decision by the Commission, or in the case of transfers refer to in Article 46 or 47 or the second subparagraph of Article 49(1), reference to the appropriate or suitable safeguards and the means to obtain a copy of them, or where they have been made available.

[Article 14] (2): In addition to the information referred to in paragraph (1), the controller shall provide the data subject with the following information necessary to ensure fair and transparent processing in respect of the data subject:

a) the period for which the personal data will be stored, or if not possible, the criteria used to determine that period;
b) where the processing is based on point (f) of Article 6(1), the legitimate interest pursued by the controller or by a third party;
c) the existence of the right to request from the controller access to and rectification or erasure of personal data, or restriction of processing concerning the data subject, or to object to processing, as well as the right to data portability;
d) where processing is based on point (a) of Article 6(1) or point (a) of Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
e) the right to lodge a complaint with a supervisory authority;
f) from which source the personal data originate and, if applicable, whether it came from publicly accessible sources; and
g) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4), and at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

[Article 14] (3): The controller shall provide information referred to in paragraphs (1) and (2):

a) within a reasonable period after obtaining the personal data, but at the latest within one month having regard to the specific circumstances in which the personal data are processed;
b) if the personal data are to be used for communication with the data subject, at the latest at the time of the first
c) communication to that data subject; or
d) if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed.

[Article 14] (4): Where the controller intends to further process the personal data for a purpose other than that for which the personal data were obtained, the controller shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information as referred to in paragraph (2).

[Article 14] (5): Paragraphs (1) to (4) shall not apply where and insofar as:
a) the data subject already has the information;
b) the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes, subject to the conditions and safeguards referred to in Article 89(1) or insofar as the obligation referred to in paragraph (1) of this article is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interest, including making the information publicly available;
c) obtaining or disclosure is expressly laid down by Union or Member State law, to which the controller is subject and which provides appropriate measures to protect the data subject's legitimate interests; or
d) where the personal data must remain confidential, subject to an obligation of professional secrecy, regulated by Union or Member State law, including a statutory obligation of secrecy.

Pursuant to Article 16 of the General Data Protection Regulation, the data subject has the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.

Pursuant to Article 17(1) of the General Data Protection Regulation, the data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay, where one of the following grounds applies:
a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2) and where there is no other legal ground for the processing.
c) the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing or the data subject objects to the processing pursuant to Article 21(2);
d) the personal data have been unlawfully processed;
e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law, to which the controller is subject;
f) the personal data have been collected in relation to the offer of information society services, referred to in Article 8(1).

Pursuant to Article 17(2) of the General Data Protection Regulation, where the controller has made the personal data public and is obliged pursuant to paragraph (1) to erase the personal data, the controller taking account of the available technology and the cost of implementation shall take reasonable steps, including technical measures, to inform controllers, which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or cop or replication of, those personal data.

Pursuant to Article 17(3) of the General Data Protection Regulation, paragraphs (1) and (2) shall not apply to the extent that processing is necessary:

a) for exercising the right of freedom of expression and information;
b) for compliance with a legal obligation, which requires professing by Union or Member State law, to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
c) for reasons of public interest in the area of public health in accordance with point (h) and (i) of Article 9(2), as well as Article 9(3);
d) for achieving purposes in the public interest, scientific or historical research purposes, or statistical purposes, in accordance with Article 89(1) insofar as the right referred to in paragraph (1) is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
e) for the establishment, exercise or defence of legal claims.

Pursuant to Article 21(1) of the General Data Protection Regulation the data subject shall have the right to object on grounds relating to his or her particular situation at any time to processing of personal data concerning him or her, which is based on point (e) or (f) of Article 6(1) including profiling based on those provisions. In this case, the controller may not continue the processing of the personal data, except if the controller demonstrates that processing is justified by legitimate reasons of compelling force, which override the interests, rights and freedoms of the data subjects, or which relate to the establishment, exercise or defence of legal claims.

Pursuant to Article 21(2) of the General Data Protection Regulation, when personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing.

Pursuant to Article 21(3) of the General Data Protection Regulation, when the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.

Pursuant to Article 21 (4) of the General Data Protection Regulation, at latest at the time of the first communication with the data subject, the right referred to in paragraphs (1) and (2) shall be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information.

Pursuant to Article 77(1) of the General Data Protection Regulation, without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority, in particular in the Member State of his or her habitual residence, place of work or place of the alleged infringement, if the data subject considers that the processing of personal data relating to him or her infringes this Regulation.

Pursuant to Section 38(2) of the Privacy Act, the Authority shall be responsible for monitoring and promoting the enforcement of rights to the protection of personal data and access to data of public interest and data accessible on public interest grounds, as well as promoting the free movement of personal data within the European Union. The tasks and powers of the Authority are detailed in Article 57(1), Article 58(1)-(3) of the General Data Protection Regulation and Article 38(2)-(4) of the Privacy Act.

Pursuant to Section 60(1) and (2) of the Privacy Act, to ensure that the right to the protection of personal data is enforced, the Authority shall commence an Authority procedure for data protection at the application of the data subject and may commence an Authority procedure for data protection ex officio. An application for commencing an Authority procedure for data protection may be submitted in the cases under Article 77(1) of the General Data Protection Regulation and Section 22(b) of this act.

Unless otherwise provided for in the General Data Protection Regulation, the provisions of the Administrative Procedures Act shall apply to the Authority procedure for data protection launched by application with the differences specified in the Privacy Act.

Pursuant to Section 61(1)(a) of the Privacy Act, in its decision adopted in Authority procedures for data protection, the Authority may apply the legal consequences specified in Article 58(2) of the General Data Protection Regulation concerning the data processing operations specified in Sections 2 (2) of the Privacy Act. Accordingly, acting within its corrective powers, the Authority:

a) issues warnings to a controller or processor that the intended processing operations are likely to infringe provisions of this Regulation;
b) issues reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation;
c) orders the controller or the processor to comply with the data subject's request to exercise his or her rights pursuant to this Regulation;
d) orders the controller or processor to bring processing operations into compliance with the provisions of this Regulation, where appropriate, in a specified manner and within a specific period;
e) orders the controller to communicate a personal data breach to the data subject;
f) imposes a temporary or definitive limitation, including a ban on processing;
g) orders the rectification or erasure of personal data or restriction of processing pursuant to Articles 16, 17 and 18, and the notification of such actions to recipients to whom the personal data have been disclosed pursuant to Article 17(2) and Article 19;
h) withdraws a certification or orders the certification body to withdraw a certification issued pursuant to Articles 42 and 43, or orders the certification body not to issue certification, if the requirements for the certification are no longer met;
i) imposes an administrative fine pursuant to Article 83, in addition to or instead of measures referred to in this paragraph depending on the circumstances of each individual case; and
j) orders the suspension of data flows to a recipient in a third country or to an international organisation.

Pursuant to Article 83(1)of the General Data Protection Regulation, each supervisory authority shall ensure that the imposition of administrative fines pursuant to this article in respect of infringements of this Regulation referred to in paragraphs (4), (5) and (6) shall in each individual case be effective, proportionate and dissuasive.

Pursuant to Article 83(2) of the General Data Protection Regulation, administrative fines shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, measures referred to in points (a) to (h) and (j) of Article 58(2). When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:

a) the nature, gravity and duration of the infringement taking into account the nature, scope or purpose of the processing concerned, as well as the number of data subjects affected and the level of damage suffered by them;
b) the intentional or negligent character of the infringement;
c) any action taken by the controller or processor to mitigate the damage suffered by data subjects;

d) the degree of responsibility of the controller or processor taking into account technical and organisational measures implemented by them pursuant to Articles 25 and 32;
e) any relevant previous infringements by the controller or the processor;
f) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
g) the categories of personal data affected by the infringement;
h) the manner in which the infringement became known to the supervisory authority, in particular whether, and if so, to what extent the controller or processor notified the infringement;
i) where measures referred to in Article 58(2) have previously been ordered against the controller or processor concerned with regard to the same subject matter compliance with those measures;
j) adherence to approved codes of conduct pursuant to Article 40 or approved certification mechanisms pursuant to Article 42; and
k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.

Pursuant Article 83(5) of the General Data Protection Regulation, infringements of the following provisions shall, in accordance with paragraph (2), be subject to administrative fines up to EUR 20,000,000, or in the case of an undertaking up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher:
a) the basic principles for processing, including conditions for consent, pursuant to Articles 5, 6, 7 and 9;
b) the data subjects' rights pursuant to Articles 12 to 22.

Pursuant to Article 83(7) of the General Data Protection Regulation, without prejudice to the corrective powers of supervisory authorities pursuant to Article 58(2), each Member State may lay down the rules on whether and to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.

Pursuant to Section 61(1)(bg) of the Privacy Act, in its decision adopted in Authority procedures for data protection, the Authority may impose a fine.

Pursuant to Section 75/A of the Privacy Act, the Authority shall exercise its powers specified in Article 83(2) to (6) of the General Data Protection Regulation according to the principle of proportionality, in particular by primarily issuing, in compliance with Article 58 of the General Data Protection Regulation, a warning to the controller or processor for the purpose of remedying the infringement when the provisions laid down by law or a binding legal act of the European Union on the processing of personal data are first infringed.

Pursuant to Section 17 of the Administrative Procedures Act, the Authority shall examine its powers and competency ex officio in every phase of the procedure. If the Authority notes the absence of either, and the authority having competence in the case can be established excluding any doubt, the case shall be transferred; in the absence of this, the petition shall be rejected and the procedure shall be terminated.

Pursuant to Section 47(1)(a) of the Administrative Procedures Act, the Authority shall terminate the procedure, if the petition should have been rejected, but the reasons for this came to the knowledge of the Authority only after launching the procedure.

Pursuant to Section VI(1) of the Fundamental Law, everyone shall have the right to have his or her privacy, family life, home, contacts and reputation respected. The freedom of expression and the exercise of the right of assembly may not involve the violation of the privacy, family life and home of others.

Pursuant to Sections 1-2 of Act LIII of 2018 on the Protection of Privacy (hereinafter: Privacy Protection Act) everyone shall have the right to have his or her privacy, family life, home and contacts (hereinafter: right to privacy) respected. The right to privacy is part of the right to the free unfolding of personality, pursuant to which the individual shall have freedom to responsibly and independently develop his life to create and safeguard family, home and human relationships. […] This right may only be limited to enforce some other fundamental right or to protect a constitutional value to the absolutely needed extent, proportionately to the purpose to be achieved, while respecting the essential content of the right to privacy and human dignity. The substance of the right to privacy is that others should not be able to infringe it, in spite of the will of the individual, with exceptions specified in a separate act. When exercising the right to privacy, everyone shall respect the rights of others.

Pursuant to Section 8(1)-(2) of the Privacy Protection Act, the purpose of the right to respect privacy is in particular the protection of the right to bear a name, personal data, private secrets, photo and sound recordings, honour and reputation. Misuse of personal data, secrets, photos, sound recordings that the individual wishes to safeguard particularly in relation to private life, or a violation of honour and reputation may constitute infringements of the right to respect privacy.

Pursuant to Section 9(1)-(3) of the Privacy Protection Act, everyone shall have the right to the increased protection of family life as the medium of privacy. The right to respect family life shall be due to the individual and his or her family member jointly. The unauthorised violation or disturbance of the family life of others, or an unauthorized intervention in the family life of others constitute infringements of the right to respecting family life.

Pursuant to Section VI(3) of the Fundamental Law, everyone shall have the right to the protection of his or her personal data and to accessing and disseminating data in the public interest.

Pursuant to Section 1 of the Privacy Act, the purpose of this Act is to lay down in the areas falling within its scope, the fundamental rules for data processing in order to ensure that natural person's right to privacy is respected by controllers and to achieve the transparency of public affairs through the enforcement of the right to access and disseminate data of public interest and data accessible on public interest grounds.

Pursuant to Section 3 point 6 of the Privacy Act, data accessible on public interest grounds means any data, other than data of public interest, the disclosure, availability or accessibility of which is prescribed by an Act for the benefit of the general public.

Pursuant to Section 26(2) of the Privacy Act, personal data accessible on public interest grounds shall be disseminated in compliance with the principle of data processing, limited to the intended purpose.

The Preamble to Act V of 2006 on Company Transparency, the Trade Court Procedure and Final Settlement (hereinafter: Company Transparency Act) declares that its purpose is to determine the order of company foundation and registration in accordance with the regulations of the European Union by establishing a modern legal framework, and to ensure the full accessibility of the data of the public Trade Registry directly or electronically in order to protect the constitutional rights of entrepreneurs, the security of economic transactions, creditor's interests or other public interests.

Pursuant to Section 10(1) of the Company Transparency Act, the Trade Registry consists of the list of companies and annexes verifying data in the list of companies, as well as other documents, the submission of which is required by law to protect public interests, the safety of transactions and creditors' interests (hereinafter jointly: company documents).

Pursuant to Section 10(2) of the Company Transparency Act, the existing and erased data of the list of companies and the company documents, including the electronically submitted company

documents or those transformed into electronic documents, shall be fully accessible to the public. **Following the successful completion of the tax registration procedure according to the Act on the** Rules of Taxation, the already submitted, but not yet evaluated registration application and its annexes shall also be fully accessible with the provision that the company registry shall refer to the fact that the evaluation of the registration (change registration) application is in progress. Pursuant to the provisions of this Act, the documents of the supervisory procedure for compliance shall be accessible to the public.

Pursuant to Section 24(1) points (b), (f) and (h) of the Company Transparency Act, the list of companies shall for each company contain the name of the company, its registered capital, the name of its senior officer or of the person authorised to represent the company, its tax identification number, in the case of a natural person, his or her place of residence, date of birth, the mother's name at birth, in the case of a legal entity, its registered office and Trade Registry number or registration number, the office of the persons authorised to represent the company, the date of the generation of this legal relationship in the event of representation for a specific period of time, the date of the termination of the legal relationship, or if the termination of the legal relationship took place prior to the date indicated in the Trade Registry, the actual date of termination and also the fact that the signature specimen of the company representative attested by public notary or countersigned by an attorney-at-law or solicitor (both members of the Bar Association).

Pursuant to Section 27(3) points (a) and (e) of the Company Transparency Act, over and above the data specified in Sections 24-26, the list of companies shall in the case of limited liability companies include

a) the names of the members, in the case of natural persons, place of residence, date of birth, mother's name at birth, in the case of a legal entity, its registered office and Trade Registry number or registration number and if the voting rights of a member exceed 50 percent, or if the member has an influence of a qualified majority, also this fact.
a) in case of a jointly held business quota, the names of the shareholders, in the case of natural persons, the place of residence, date of birth, mother's name at birth, in the case of legal entities, their registered office, trade registry number or registration number.

Pursuant to Section 27(4) points (bc) and (bd) of the Company Transparency Act, over and above the data specified in Sections 24-26, the list of companies shall in the case of a private company limited by shares include

bc) in the case of a shareholder's voting rights exceeds 50 percent, or if the shareholder has an influence of a qualified majority, the name of the shareholder; in the case of natural person, the place of residence, date of birth, mother's name at birth, in the case of a legal entity, its registered office and Trade Registry number or registration number.
bd) in case of a single shareholder public company, the name, the tax identification number of the shareholder, in the case of natural persons, the place of residence, date of birth, mother's name at birth, in the case of legal entities, their registered office, trade registry number or registration number.

Pursuant to Section IX.(1), (2) and (4) of the Fundamental Law, everyone shall have the right to the freedom of expression. Hungary recognises and protects the freedom and diversity of the press and guarantees the conditions of free information needed for the development of a democratic public opinion. The exercise of the freedom of expression may not be directed at violating the human dignity of others.

Pursuant to Article 85(1) of the General Data Protection Regulation, Member States shall by law reconcile the right to the protection of personal data, pursuant to this Regulation with the right to freedom of express and information, including processing for journalistic purposes and the purposes of academic, artistic or literary expression.

Pursuant to Article 85(2) of the General Data Protection Regulation, for processing carried out for journalistic purposes or the purpose of academic, artistic or literary expression, Member States shall provide for exemptions or derogations from Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries or international organisations), Chapter VI (independent supervisory authorities), Chapter VII (cooperation and consistency) and Chapter IX (specific data processing situations), if they are necessary to reconcile the right to the protection of personal data with the freedom of expression and information.

Pursuant to Recital (65) of the General Data Protection Regulation, […] the further retention of the personal data should be lawful where it is necessary for exercising the right of freedom of expression and information, for compliance with a legal obligation, for the performance of a task carried out in the public interest, or in the exercise of official authority vested in the controller, on the grounds of public interest in the area of public health, for achieving purposes in the public interest, scientific or historical research purposes or statistical purposes or for the establishment, exercise or defence of legal claims.

Pursuant to Recital (153) of the General Data Protection Regulation, Member States law should reconcile the rules governing freedom of expression and information, including journalistic, academic, artistic and/or literary expression with the right to the protection of personal data pursuant to this Regulation. The processing of personal data solely for journalistic purposes, or for the purposes of academic, artistic or literary expression should be subject to derogations or exemptions from certain provisions of this Regulation, if necessary to reconcile the right to the protection of personal data with the right to freedom of expression and information as enshrined in Article 11 of the Charter. This should apply in particular to the processing of personal data in the audiovisual field and in news archives and press libraries. Therefore, Member States should adopt legislative measures, which lay down the exemptions and derogations necessary for the purpose of balancing those fundamental rights. Member States should adopt such exemptions and derogations on general principles, the rights of the data subject, the controller and the processor, the transfer of personal data to third countries or international organisations, the independent supervisory authorities, cooperation and consistency and specific data processing situations. Where such exemptions or derogations differ from one Member State to another, the law of the Member State to which the controller is subject should apply. In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism broadly.

Pursuant to Section 4(3) of the Freedom of the Press Act, the exercise of the freedom of the press may not entail a crime or a call to commit a crime, it may not violate public morals, and it may not infringe the personality rights of others.

Pursuant to Section 10 of the Freedom of the Press Act, everyone shall have a right to be appropriately informed of the affairs of local, national and European public life and of events of significance for the citizens of Hungary and the members of the Hungarian nation. The entirety of the media system is responsible for providing credible, rapid and accurate information on these affairs and events.

Pursuant to Section 13 of the Freedom of the Press Act, linear media services providing information shall provide balanced information on the local, national and European events in the public interest, as well as those of significance for the citizens of Hungary and members of the Hungarian nation, and of the disputed issues in their informative or news programmes. The detailed rules of this obligation are stipulated by the Act in accordance with the requirements of proportionality and ensuring a democratic public opinion.

Pursuant to Section 2:44 (1)-(3) of Act V of 2013 on the Civil Code (hereinafter: Civil Code) concerning the protection of the personality rights of public actors, the exercise of fundamental

rights ensuring the free discussion of public affairs may limit the protection of the personality rights of the public actor to a necessary and proportionate extent without infringing human dignity; this, however, may not violate his or her privacy, family life and home. A public actor shall have protection against communication or behaviour outside the scope of the free discussion of public affairs identical to that due to a non-public actor. Activities or data concerning the private or family life of the public actor do not qualify as public affairs.

Article 8 of the Charter of the European Convention on Human Rights states that everyone has the right to the protection of personal data concerning him or her and everyone has the right to respect for his or her private and family life, home and communication. An authority may intervene in the exercise of this right only in cases specified by law when it is necessary in a democratic society in the interest of national security, public safety or the economic wellbeing of the country, to prevent disturbances or criminal acts, to protect public health and morals, or to protect the rights and freedoms of others.

Pursuant to Article 10(1) of the Charter of the European Convention on Human Rights, everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

III. The decision of the Authority

III.1. The person of the controller

According to the definitions provided in the General Data Protection Regulation, any information relating to an identified or identifiable natural person qualifies as personal data; any operation, which is performed on personal data qualifies as processing, while the natural or legal person, public authority, agency or other body, which alone or jointly with others determines the purposes and means of the processing of personal data qualifies as controller.

With regard to the processing under study, the full name, family name and the data concerning the economic situation of the Complainants qualify as personal data pursuant to Article 4(1) of the General Data Protection Regulation, while the publisher of the press product collecting, processing, listing and publishing the data qualifies as controller pursuant to article 4(7) of the General Data Protection Regulation in respect of both the content and publications whether published on-line or in a printed form, and the personal data disclosed in them in view of the fact that the publisher of the press product determines the purpose of the (re)use of the personal data and their publication.

Pursuant to Article 2(1) of the General Data Protection Regulation, Processing 1 and Processing 2 are subject to the scope of the General Data Protection Regulation, consequently the rules of the General Data Protection Regulation shall apply to these instances of processing.

In view of the above, the Obligee as the Hungarian publisher of Forbes qualifies as controller with respect to the processing objected to.

III.2. The persons of the Complainants

The Complainants as well as the Obligee refer to the Complainants' capacity as public actors or the lack thereof on several occasions both pro and contra in their statements in the course of the procedures.

In its Decision 3145/2018. (V. 7.), the Constitutional Court underlined that as a result of the

changed social relations, particularly the spreading of telecommunications, an expansion in the circle of public actors could be observed, thus persons who had earlier not been covered by the concept of public actors also have a possibility to actively shape debates in public life. These persons are termed as exceptional public actors. *{3145/2018 (V. 7.) Constitutional Court Decision Justification [46]}*

The freedom of expression protects first and foremost the expression of opinion related to the criticism of public powers, but as interpreted by the Constitutional Court, a range of issues in public life is wider than political speech, or the criticism of the activities of persons exercising public power. Accordingly, a debate in public life embraces not only the entirety of the operation of the state and local governments and the institutions of public power, but also issues of the social responsibility of businesses and issues of public life appearing in increasing numbers in the business world (such as environment protection, energy efficiency, work and labour safety and transport safety issues). *{3145/2018 (V. 7.) Constitutional Court Decision Justification [31]-[32]}*

According to the decision of the Constitutional Court, the following criteria should be considered when deciding on the capacity of being a public actor:

- whether the public disclosure expressing an opinion reflects a position expressed in a debate of public interest,
- whether the public disclosure concerns public appearance,
- whether the public disclosure is a statement of facts or a value judgement,
- whether the public disclosure violates the human dignity or reputation (honour) of the data subject.

Whether someone is a public actor is tied to the fact of public appearance concomitant with the discussion of issues in public life, which should be assessed individually based on specific criteria: the mode and circumstances of the publication of the disclosure, the subject matter and context of the opinion (e.g. the type of the medium, the apropos of the disclosure, its content, style, purpose and topicality or the reactions to it) as stated by the Constitutional Court.

The enforcement of the freedom of expression can only be verified in the cases, in which the participants become more active shapers of public opinion than others based on their own decision, undertaking evaluations and criticism in front of the public concerned. Because of this, they have to exercise greater tolerance with respect to the expressions of opinion, which affect or qualify them, or attack them in their person within the range of discussing public affairs. *{3145/2018 (V. 7.) Constitutional Court Decision Justification [48]}*

Although the foundation of an undertaking or company group is voluntary, this in itself does not mean that the owners and senior officers of the undertaking or company group would become public actors and the fact in itself that somebody is rich is not necessarily a sufficient condition for restricting privacy, that is just one component of being influential.

At the same time, the fact that the company group held by the Complainants has for years been carrying out such […], which substantially determine the development of the Hungarian […] cannot be disregarded in the Complainants' case and because of this, they are in the focus of public interest. The Complainants had to calculate with the fact that in the case of a successful company group generating great wealth, they would become active shapers of the world of business as a segment of public life, accepting the concomitant evaluations and criticism for which they have to have greater tolerance. This is even more emphatic in the case of […], who also carries out public activities in the […] profession.

In the present case, it can be established that of the elements of content of the disclosures under study, the names of the Complainants, their position as managing directors and owners must be regarded as data accessible on public interest grounds because of the following:

- Pursuant to Section 10(2) of the Company Transparency Act, the existing and erased data of the list of companies are fully accessible to the public. Thus, the data in the company documents, including the personal data, which the data subjects provide in the course of registration in the Trade Registry in accordance with the purpose of the Trade Registry in the knowledge of full disclosure are accessible to anyone. The existing and erased data of the list of companies and the personal data in the company documents are data accessible on public interest grounds, qualifying both as personal data and as data accessible on public interest grounds.
- Section 24(1) of the Company Transparency Act and, in the case of limited liability companies and private companies limited by shares held by the Complainants, Section 27(3)-(4) of the Company Transparency Act provides for the mandatory content of the list of companies. The legal regulations referred to stipulate that the list of companies contain for every company, among others, the name of the senior officer of the company, and of the person authorised to represent the company, the positions of those authorised to represent the company, and in the case of limited liability companies, the names, the members and in the case of jointly owned business quotas, the names of the shareholders, and in the case of private companies limited by shares, if the voting rights of the shareholder exceed 50 percent, or the shareholder has a qualified majority influence, or in the case of a single person public company, among others, the name of the shareholder.
- According to the preamble of the Company Transparency Act, the accessibility of data in the list of companies also serves purposes in the public interest and the legislator deemed that this interest overrides the interests of data subjects.

III.3. The lawfulness of data processing

The subject matter of this case is not a general analysis of economic journalism for data protection and, although the Authority makes general statements on account of the nature and circumstances of the case, it should be underlined that the Authority examined the processings related to the specific publications issued by the Obligee (“products”) in this procedure.

Pursuant to the provisions of the General Data Protection Regulation, a number of requirements must be met if processing is to be lawful.

Article 5 of the General Data Protection Regulation contains the main principles, which must be taken into account when processing personal data and asserted throughout processing. These principles include, inter alia, the principles of lawfulness, fair procedure and transparency, purpose limitation, data minimisation, accuracy and storage limitation [Article 5(1)(a)-(e)]. It follows from the principle of accountability [Article 5(2)] that the controller is responsible for compliance with the principles of data protection and, in addition, the controller must be able to demonstrate compliance with them. Accordingly, the controller must be able to demonstrate the purpose for which he processes personal data and also why the processing of personal data are indispensably necessary for this data processing purpose; moreover the controller must take all reasonable measures in order to immediately erase or rectify personal data that are inaccurate for the purposes of processing, and controller has to document and keep records of the processing, so that its lawfulness can be verified subsequently.

The controller must have the legal grounds aligned with Article 6 of the General Data Protection Regulation for lawful processing and it must be able to demonstrate that he has processed personal data based on the consent of the data subject, or in accordance with a legal regulation, or that the processing was necessary for the enforcement of the legitimate interests of the controller or a third party, and that the processing proportionately restricted the right of the data subject to the protection of his or her personal data.

There is no doubt that the names and the data related to the financial position of the Complainants qualify as their personal data, but in view of their activities related to the company they hold, their data in the trade registry are data accessible on public interest grounds, together with the company data according Section 10(1) of the Company Transparency Act.

Naturally, the quality of the data in question as company data does not mean that the data of the Trade Registry could be used in any circle: they can be used while respecting the principle of purpose limitation based on the appropriate legal grounds and to guarantee the right to informational self-determination, while appropriately ensuring the rights of the data subject.

According to the statement of the Obligee, the purpose of processing was the exercise of rights arising from the freedom of the press and fulfilment of the mission of the press to provide information in a democratic society. Furthermore, the purpose of the lists compiled by the Obligee is to let Hungarian society know the persons having the greatest economic influence because economic influence itself provides certain persons with substantial role in public life, which is frequently concomitant with other social and political influence.

The Obligee uses the terms “[…] family”, or “[…]” in the publications several times in relation to the Complainants as members of the family participating in economic activity. According to the position taken by the Authority, it follows from the context of the publications that the word “family” should be interpreted as a synonym to family undertaking, and although there is no legal definition of a family undertaking in Hungary, according to the interpretation in the profession, business organisations, whose majority control is concentrated in the hands of a family or families, family members with common lineage, so that control is enforced through the strategic and/or operative activities and decisions of at least two owners and/or senior officer family members qualify as family undertakings or business organisations under the control of a family, irrespective of their size and profits.

Although in the case of Processing 2, it was stated that generations […] of the family had interests in business/economic activities, the Obligee did not name any family members other than the Complainants whether directly or indirectly. Based on information in the Trade Registry, it is unambiguous which members of the […] family (the Complainants only) belong to this group of persons.

Consequently, the position of the Complainants, according to which the “[…] family” defines a group of data subjects difficult to delineate and indicates a group of data subjects interpreted more broadly giving rise to conjecture. Given the context of the publications, the phrase “[…] family” cannot be understood as to include a broad group of data subjects as neither the printed, nor the online versions of the lists contain direct or indirect references to any other person. It follows that natural persons other than the Complainants cannot be regarded as data subjects of Processing 1 and Processing 2.

It should also be taken into account that the Forbes magazine is a press product containing articles and compilations on economic and business topics, thus according to the Authority, disclosure and dissemination of data and information stemming from registries accessible to anyone and from the public disclosures and reports of the companies themselves does not infringe the principle of purpose limitation.

It should also be underlined that the estimation of assets stemming from economic activities and of the value of a company group using a specific method is unambiguously subject to the freedom of expression. The Obligee collected data from various public sources to make the estimates and then evaluated these data based on a specific methodology.

In the case of Processing 1, the following methodological description can be found in both the printed and the on-line versions:

"Company evaluation was based on the methodology of our American parent. Wherever possible, we calculated on an EBITDA basis, and took the Trade Registry data into account. In accordance with international company evaluation practice, we applied industry multipliers. We used the list of Aswath Damodaran, a professor at New York University, as our point of departure, but together with experts in company evaluation and our sister papers in the region we tailored the multipliers to the region, and to the Hungarian market, where this was necessary. We added the cash available to the company to the value obtained in this way and deducted credits (in the case of the larger holdings, we always based our calculations on the consolidated report).

In the case of real estate, asset management or financial undertakings, we studied the assets accumulated in the companies (the value of real property, assets and investments) and took all the liabilities into account in accordance with the methodology of the American Forbes.

We deducted taxes from the dividends, and wherever we could, we assessed the financing requirements of the other interests of billionaires and deducted that too from the dividends, and we included a part of the dividends of past years. We always worked from data accessible to the public.

We always based our calculations on the most recent accessible data for most not public companies, this means the annual reports submitted for the business year from 1 January 2018 to 31 December 2018, In the case of shares, we calculated with the most receive data. The closing of the asset estimation: 10 December 2019

Bisnode PartnerControl assisted us in collecting the data. We got help in the evaluation of companies from the M&A experts of consulting firms.

In the case of Processing 2, the following methodological description can be found in the printed and the on-line versions:

"We considered the undertakings where the owners and the senior managers are blood relatives as family undertakings (i.e. companies owned by spouses were not taken into account, if other relatives were not members of the management team). The companies were evaluated based on the American Forbes methodology. Wherever possible, we calculated on an EBITDA basis, as this is the best suited to demonstrate the cash generating capabilities of the companies. We used industry multipliers and the liabilities of the company were deducted from the value obtained this way and we added the cash.

In all cases, we worked from information accessible to the public; where possible, we used consolidated data, where they were not available, we ourselves consolidated the results based on accessible information. The collections of Bisnode PartnerControl helped our work, while the staff members of Concorde MB Partners advised us on company evaluation."

A methodology description similar to the above can be found in all the similar publications of Forbes (both in the printed and on-line versions). In addition, based on the statements and the documents attached to them, it can be established that the Obligee sent the asset or value estimate produced in relation to the Complainants and the company group based on the methodology to the Complainants in every case at the time of compiling the current lists, but before the issuing the publications, and in each case they requested them to provide feedback and if necessary, rectification of the data. The journalists of the Obligee sent these e-mails to which the description of the methodology was also attached in each case on 28 August 2018, 13 December 2018, 19 July 2019 and 8 November 2019, respectively to the Complainants. (The first two of the e-mails were sent to […], the third to […] and the fourth to […] and […].)

Consequently, the allegation of the Complainants that they were not in a position to reassure themselves of the correctness of the Obligee's methodology, and that the Obligee did not even briefly summarise the modes of calculation cannot be upheld.

The Obligee also indicated Article 6(1)(e) and (f) of the General Data Protection Regulation as the legal basis of processing. The Obligee justified this by stating its position, namely that the activity carried out by the Obligee, i.e. economic journalism and within this, the regular listing of the richest persons who also have the largest (or greater than average) influence in society based on data accessible to the public and the evaluation and interpretation of the data based on a specific methodology are activities in the service of the public interest; on the other hand, processing is necessary for the enforcement of the legitimate interests of the Obligee and of a third party (the publication of the lists as the best-known media products of the Forbes brand and the right of the public to be informed). The Obligee also referred to the fact that the companies held by the Complainants substantially form the […], thus it is a legitimate demand on the part of citizens to be able to learn who the person behind the investments is.

Furthermore, the Obligee referred to Hungary's Fundamental Law, which in addition to the right to the protection of personal data also protects the transparency of data in the public interest, as well as the freedom and diversity of the press; to Section 10 of the Freedom of the Press Act, Article 85 and Recital (153) of the General Data Protection Regulation and decisions brought by the Constitutional Court in cases expressly related to data processing by the press and the exercise of the freedom of the press, or the freedom of expression.

Hungary's Fundamental Law names the right to the protection of personal data, the freedom of the press and the freedom of expression among the fundamental rights, thus the enforcement of the freedom of the press and the freedom of expression as constitutional fundamental rights must be implemented together with the protection of the constitutional fundamental right linked to the protection of personal data.

In its decision on issues of media law 165/2011. (XII. 20.) AB, the Constitutional Court summarised its approach to the foundations of the freedom of speech and of the press, and beside the freedom of expression, it underlined the importance of forming democratic public opinion by the citizens. In its decision, the Constitutional Court stated that "*the freedom of expression equally serves the fulfilment of individual autonomy and the possibility of creating and maintaining democratic public opinion on the part of the community. [...] The press is the institution of the freedom of speech. Thus, freedom of the press, if it serves the free expression of speech, communication and opinion, its protection has double determination: in addition to the subjective legal nature, it served the creation and maintenance of democratic public opinion on the part of the community. [...] By exercising the right to the freedom of the press, the holder of the fundamental right is an active former of democratic public opinion. In this capacity, the press controls the activities of the actors and institutions of public life, the process of decision-making and provides information on these to the political community, the democratic public (the »watchdog« role).*"

In case C-73/07 referred to the court for a preliminary ruling in case *Tietosuojavaltuutettu v. Satakunnan Markkinapörssi Oy and Satamedia Oy* CJEU dealt with the notion of journalistic activity pursuant to Article 9 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data - which was replaced by Article 85 of the General Data Protection Regulation - and in its judgment of 16 December 2008 declared the following:

- *"In order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary first to interpret notions relating to that freedom, such as journalism broadly. Secondly, and in order to achieve a balance between the two fundamental rights, the protection of the fundamental right to privacy requires that the derogations and limitation in relation to the protection of data [...] must apply only insofar as is strictly necessary."* [CJEU, C-73/07. case, Judgment *paragraph* 56.]
- *"The exemptions and derogations provided in for Article 9 of the directive apply not only to media undertakings, but also to every person engaged in journalism."* [CJEU, C-73/07. case Judgment *paragraph* 58.]

- *"The fact that the publication of data within the public domain is done for profit-making purposes does not prima facie precludes such publication being considered as an activity undertaken solely for journalistic purposes. [...] A degree of commercial success may even be essential to professional journalistic activity."* [CJEU, C-73/07. case, Judgment *paragraph* 59.]
- *"[...] Activities relating to data from documents, which are in the public domain under national legislation may be classified as journalistic activities, if their object is the disclosure to the public of information, opinion or ideas, irrespective of the medium which is used to transmit them. They are not limited to media undertakings and may be undertaken for profit-making purposes."* [CJEU, C-73/07. case, Judgment *paragraph* 61.]

CJEU repeated the statements in its judgment brought in case C-345/17 for a preliminary ruling in the case *Sergej Buivids v. Datu valsts inspekcija* of 14 February 2019:

- *"The Court has already held that in order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism broadly (see to that effect: Judgment of 16 December 2008 Satakunnan Markkinapörssi and Satamedia, C-73/07, EU:C:2008:727, paragraph 56.)"* [CJEU, C-345/17. case, Judgment *paragraph* 51.]
- *"Thus, it is apparent from the legislative history of Directive 95/46/EC that the exemptions and derogations provided for in Article 9 of the Directive apply not only to media undertakings, but also to every person engaged in journalism (see to that effect: Judgment of 16 December 2008 Satakunnan Markkinapörssi and Satamedia, C-73/07, EU:C:2008:727, paragraph 58.)"* [CJEU, C-345/17. case, Judgment *paragraph* 52.]
- *"The case-law of the Court reveals that "journalistic activities" are the activities, whose purpose is to make information, opinions or ideas accessible to the public, irrespective of the mode of disclosure (see in that sense: Judgment of 16 December 2008 Satakunnan Markkinapörssi and Satamedia, C-73/07, EU:C:2008:727, paragraph 61.)"* [CJEU, C-345/17. case, Judgment *paragraph* 53.]

Recital (153) of the General Data Protection Regulation also declares that in order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism broadly.

The processing of (personal) data stemming from databases in the public domain, the communications and reports of business organisations themselves, activities related to the evaluation of the collected data based on a specific methodology and newly generated data stemming from value estimation are linked to the journalistic activity of the Obligee. The fact that the publication of these data is (also) tied to the purpose of making a profit does not exclude the possibility of regarding it as an activity pursued for the purposes of journalism.

The European Court of Human Rights (hereinafter: ECHR) has a wealth of experience in the development of specific measures applicable to the possibility of restricting expressions of opinions made in the course of discussing public affairs. ECHR's practice made it unambiguous that the increased protection of opinions expressed in relation to public affairs is not limited to political discussions taken stricto sensu and politicians. The right to express an opinion guaranteed by the European Convention on Human Rights protects beyond party political debates also the freedom to discuss other issues related to the community with particular force *(ECHR: Thorgeirson v. Iceland, application number: 13778/88, paragraph 64., 1992., decision in merit and on satisfaction)*. On the other hand, ECHR invokes the argument of outstanding significance of discussing public affairs not only in the cases when the disputed expression refers to politicians or official persons, but if the given issue of public interest (also) affects private individuals. In the latter case, the threshold of tolerance of private individuals must also be raised *(ECHR: Bladet Tromsø and Stensaas v. Norway, application number: 21980/93, paragraph 1999., decision in merit and on satisfaction)*.

From the viewpoint of applying specific measures what has a decisive role is not in itself the status of the person concerned, but whether or not the opinion is related to public affairs. What is of significance in relation to the free expression of opinion in relation to public affairs is not whether the person affected by the given report is himself a professional public actor or not, but concerning what issue the speaker expressed his opinion and whether the communication at issue contributes to the discussion of public life.

Although the role of the Complainants in business life, and the position of […] […] and the related fact-finding articles and reports may truly be linked to discussions in public life, the question arises whether this holds also in the case of the rich list published by the Obligee.

The "Markkinapörssi case" already referred to was also examined by ECHR {*Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [Grand Chamber], 931/13. case, 27 June 2017.}, in which decision the Court recalled the criteria of case-law, which must serve as guidelines for the national authorities and ECHR itself, when considering the freedom of expression and the right to respecting privacy. When it is a matter of political speech or debate concerning a case in the public interest, there is little possibility for restricting the right to learn and disclose information, "and this is a fundamental right in a democratic society".

The derogation from the data protection rules for the purpose of journalism enables journalists to have access to personal data to collect and process them with a view to pursuing their journalistic activities; however, ECHR pointed out that the fact in itself that some information is in the public domain does not necessarily excludes it from the protection of Article 8 of the European Convention on Human Rights and the companies as professional actors of the media industry must be aware that the exemption applicable only to journalistic activities cannot be unconditionally applied to the large-scale collection and disclosure of data. When weighing the rights protected by Articles 8 and 10 of the European Convention on Human Rights against one another ECHR pointed out that free access to official documents (taxation information) could really facilitate the democratic debate on issues in the public interest, but at the same time stated that the disclosure of raw data without any analysis on a large scale was not in the public interest. The data on taxation could enable curious members of the public to categorise individuals based on their economic situation and they could satisfy the desire of the public for information concerning the private lives of others; this, however, cannot be regarded as facilitation of the debate on issues of public interest.

The practice of ECHR was transferred by CJEU in the "Buivids case" already referred to into EU law. *"In that connection it is apparent from that case law that in order to balance the right to privacy and the right to freedom of expression, the European Court of Human Rights has laid down a number of relevant criteria, which must be taken into account, inter alia, contribution to a debate of public interest, the degree of notoriety of the person affected, the subject of the news report, the prior conduct of the person concerned, the content, form and consequences of the publication and the manner and circumstances in which the information was obtained and its veracity (see to that effect: Judgment of the ECHR of 27 June 2017, Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland, CE:ECHR:2017:0627JUD000093113, 165. §). Similarly the possibility for the controller to adopt measures to mitigate the extent of the interference with the right to privacy must be taken into account."* [CJEU, C-345/17. case, Judgment paragraph 66.]

In its DecisionIV/316/2018 clearing judgment Pfv.IV.20.884/2017/7 of the Curia null and void and in its Decision IV/316/2019 declaring judgment Pfv.IV.21.398/2017/4 of the Curia null and void, the Constitutional Court declared that (IV/1368/2018???). "*as a result of the particular protection of the private and family life, home and relationships of the individual as set forth in Section VI. (1) of the Fundamental Law, close relatives of public actors and non-public actors should also be given particular protection. […] Curiosity and hunger for rumour of the public in itself does not lay the foundations for regarding an issue as being in the public interest. The right of a non-public actor to privacy can be constitutionally restricted in the interest of the freedom of expression in a case of*

outstanding public interest, also with respect to family relationships of the public actors, if informing the public is absolutely necessary and the data made public is a specific part of the private life of the non-public actor constituting an adequate part related to the case in the public interest." {Constitutional Court Decision IV/1368/2018, Justification [61]; Constitutional Court Decision IV/316/2019, Justification [54]}

Considering the above, the Authority has taken the position that absolutely no circumstance indicates that the compilation of rich lists would be a "watchdog" type activity, and would relate to specific public debates. These lists are regularly (annually) published, not related to specific events, but to who became richer and to what extent over a given period, irrespective of the source of that wealth, as the lists are compiled on the basis of a specific methodology and not on the basis of who or which undertaking benefited from state subsidies, thus the compilations include persons and undertakings that have not benefited from state subsidies. While economic journalism could truly have a "mission", the "rich list" as product is not primarily related to direct debates in public life, but satisfy "hunger for rumour", this is not a case of fact-finding or investigative journalism (characterising the "watchdog" type of journalism), what we have here is that the Obligee estimates the value of undertakings or in the case of persons, the magnitude of the assets stemming from the activities of the undertaking based on information in the public domain according to its own methodology and then ranks undertakings and persons based on the estimated value or assets.

Reference to economic journalism as an activity in the public interest cannot be accepted as the legal basis of processing for either Processing 1 or Processing 2. The reason for this is that the legal basis according to Article 6(1)(e) of the General Data Protection Regulation may be linked to a processing activity related to a public duty qualified as such by legal regulation. Although economic journalism is an activity in the public interest, but it is not a public duty (in the terminology of the General Data Protection Regulation: task carried out in the public interest) as the journalist cannot be regarded as a person performing a public duty [cf. Section 459(1) point 12 of act C of 2012 on the Penal Code].

In the case of Processing 1 and Processing 2 or similar "rich lists", the Obligee does not carry out a public duty as these lists - on account of their nature and because it is not their goal - do not provide a thorough view of any dubious or allegedly dubious transaction.

Journalistic activity is not included among the legal grounds according to Article 6(1)(e) by the General Data Protection Regulation either. This is supported by the fact that Article 17(3)(b) exactly follows the terms used in Article 6(1)(e) [or rather the EU legislator essentially combined the legal grounds according to Article 6(1)(c) and (e), which are in any case close to one another in Article 17(3)(b)]. It is, however, not this point but Article 17(3)(a) that contains the possibility to waive the erasure of data in relation to the right of freedom of expression.

It follows from all this that Processing 1 and Processing 2, the similar "rich lists" and in general all the processing related to economic journalism not based on consent may be carried out on the legal basis of legitimate interest according to Article 6(1)(f) of the General Data Protection Regulation.

In its statements, the Obligee referred also to the legal grounds of legitimate interest.

Pursuant to Recital (47) of the General Data Protection Regulation, if the legal basis of processing is legitimate interest, an assessment of interest must be carried out in advance to determine, inter alia, the legitimate interest, the impact on the data subject, whether processing is necessary and proportionate, and it has to be considered whether the legitimate interest overrides the rights of the data subject.

This means that processing based on legitimate interest may be carried out only, if the controller carries out the interest assessment test in advance and as a result of the test, the legitimate

interest of the controller or a third party overrides the disadvantages that may be suffered by the data subject in relation to the processing.

The interest assessment test is a three-step process, in the course of which it is necessary to identify the legitimate interest of the controller, the interest of the data subject constituting the counterpoint of weighing, and the fundamental rights concerned, and finally, based on the weighing, it is necessary to establish whether the personal data can be processed. Based on all this, the reference to Article 8(1)(f) of the General Data Protection Regulation can be appropriate and thus the processing can be lawful, if the conclusion of the interest assessment test is that the legitimate interest of the controller or of a third party overrides the legitimate interest of the data subject, his right to the protection of personal data and the restriction of the rights of the data subject is proportionate to the legitimate interest of the controller or a third party enforced through this restriction.

In the course of this interest assessment, the controller has to consider, inter alia, whether the data subject is a public actor (if so, this reinforces the interest of the controller in processing), and whether the journalistic activity at issue is of an investigative nature (this would again reinforce the interest in processing), or it only serves the satisfaction of a hunger for rumour (in this case the interest in protecting personal data is stronger). Also the interest assessment is successful, if the given article is about subsidies paid from public funds and otherwise contains data accessible on public interest grounds (e.g. company data).

Based on the principle of accountability, the interest assessment test has to be appropriately documented and the data subjects have to be properly informed pursuant to the General Data Protection Regulation about the legitimate interest of the controller, irrespective of whether the personal data are collected from the data subjects [Article 13(1)(d)], or they were not obtained from the data subjects [Article 14(2)(b)].

In its statements, the Obligee expounded its position and arguments, but the existence of the legitimate interests of its own and of a third party (the public) and thereby for restricting the rights and interests of the Complainants, this however does not meet the requirements related to interest assessment according to Recital (47) of the General Data Protection Regulation. The Obligee carried out the interest assessment improperly, and - as detailed in Section III.4 of the Decision - failed to provide appropriate preliminary information in relation to this to the Complainants and inform the Complainants of its position only in its responses sent to the legal representative of the Complainants.

In relation to the interest assessment, it should be underlined that to what extent and from what point of view data processing may have a detrimental impact on a data subject cannot be generalised, because data subjects and their circumstances are different in every case, hence this is a subjective value judgment, which means that the same processing, which one data subject may regard as acceptable in a case can be regarded as detrimental by another data subject in a different case.

The freedom of information and the right to informational self-determination must therefore be enforced respecting each other, thus it has to be considered whether the publicity of the data disproportionately violates the right to privacy. In the present case, it can be established that the processing carried out by the Obligee and the content of the public communications based on them were not related to the private or family lives of the Complainants, but to the activities of the undertaking they had interests in and to the economic results derived from that. It can be clearly established that the data processed within this range and the communications had to deal with results achieved by the Complainants in economic and business life and not to their family or private lives.

In view of the fact that the compilations were based on the personal data of the Complainants accessible to anyone on public interest grounds, on the estimated amount of the assets arising from economic activities and the estimated value of the company group and beyond these, they did not contain additional personal data, moreover the contents of the entries were based on the reports and public communications of the company group, the processing does not exceed the necessary and proportionate extent and archiving the lists is compatible with the original purpose of processing, the Authority established that the Obligee did not infringe the principles of purpose limitation, data minimisation, accuracy and limited storage according to Article 5(1)(b), (c), (d) and (e) of the General Data Protection Regulation with regard to either Processing 1 or Processing 2.

Based on the principle of accountability, controllers have to carry out processing operations throughout the entire process of data processing, so as to be able to demonstrate compliance with the data protection rules. The principle of accountability is enforced not only generally interpreted at the level of the process, but also in relation to every specific processing activity, the processing of the personal data of any specific data subject.

According to the Authority, the legitimate interest indicated by the Obligee is acceptable for both Processing 1 and Processing 2; however, the Obligee by not carrying out the interest assessment appropriately and by failing to inform the Complainants of the legitimate interest of the public and of the result of comparing these interests with those of the Complainants in advance, infringed Article 6(1)(f) of the General Data Protection Regulation, as well as the principle of accountability according to Article 5(2) with regard to both Processing 1 and Processing 2.

III.4. The rights of the data subjects and the restrictions of exercising these rights

In their petition received by the Authority, the Complainants requested that the Authority order the Obligee to meet the requests of the Complainants aimed at the exercise of their rights as data subjects, thus to respect and meet their rights to object and to erase and to meet its obligation to provide information.

The duality detailed above - according to which certain personal data are also company data accessible data on public interest grounds - naturally cannot mean that because of this circumstance the data subject would fully lose their right to self-determination with regard to these data and that the accessibility of the personal data to the public would be concomitant with fully losing the right to privacy without restriction.

Article 12 of the General Data Protection Regulation sets forth the obligations of the controller related to measures concerning the exercise of the rights of the data subjects (including the right to being informed to object and to erase).

Based on the statements and the available documents, several instances of correspondence took place between the Complainants (or rather their legal representative) and the Obligee (or rather its journalists) during the period under study.

- For the first time, the Complainants contacted the Obligee through a letter dated 17 August 2018 submitted through their legal representative and received by the Obligee on 23 August 2018 concerning the Forbes 2017 list of the 33 Richest Hungarians and the list of the 25 Largest Family Undertakings also published in 2017. In this letter, for reasons related to their own situation (respecting their private life and their family life, the protection of their peace and recognition by society) the Complainants objected to the processing of their personal data (including, in particular, the data related to their personal assets and financial situation) by the Obligee in accordance with Article 21(1) of the General Data Protection Regulation and called upon the Obligee not to include them in the lists mentioned or similar lists or compilations and that Forbes should not publish any data or statements of fact about their personal wealth, their financial situation and in relation to their

persons and that they do not carry out any other data processing operation in relation to their personal data, because according to the position taken by the Complainants, the publication of lists containing the 33 Richest Hungarians and the 25 Largest Family Undertakings or similar lists cannot be regarded as legitimate reasons of compelling force indicated by the General Data Protection Regulation as exceptions and the publishing of such a publication and the related interests of the Obligee cannot override the interests, rights and freedoms of the Complainants. Furthermore, the Complainants referring to Article 17(1)(c) and (d) of the General Data Protection Regulation, the Complainants called upon the Obligee to erase all the personal data processed by the Obligee or its employees without undue delay.

- The Obligee referred to the conversation conducted on the preceding day with […] in an e-mail of a personal note dated 28 August 2018 to […]. The letter reveals that at this meeting […] brought up a "personal and moving event", which requires the Obligee to make rational considerations and follow its most important values (including the maintenance of the independence of the editorial board, the search for compromise and the intention to help). Having considered the circumstances, the Obligee argued that being present in the lists was not decisive from the viewpoint of the safety of the family. The Obligee supported this by stating that on the one hand, presumably criminals get their information not only from newspapers and the Complainants have long been included in the lists published by the Obligee and others, […] is […] and wishes to remain so and although the Obligee understands that […] desires to immediately and fully disappear from public scrutiny, this depends not only on the intentions of […] with the many years of public actions, his records of being a large-scale entrepreneur, investments in progress and […]. Taking these circumstances (also) into account, the Obligee deemed that there was no reason for not including the Complainants in the list and although the legal arguments were also evaluated, according to the Obligee the arguments spoke for the status of […] as a public actor.
- Also on 28 August 2008 in another e-mail, the Obligee sent to […] its value estimate based on the 2017 company data of […] and requested feedback on the data.
- After this, on 29 August 2018, the Obligee sent an e-mail to […], asking whether any modification in relation to the estimate was necessary and informed […] that the list was to be sent to the printers the next day.
- In his e-mail sent on 29 August 2018 […] did not provide feedback on the value estimates, but repeatedly requested the Obligee not to disclose any information on him, his family and their financial situation in the lists compiled by the Obligee.
- On 13 December 2018, the Obligee contacted […] and informed him that they would again compile the list of the richest Hungarians, which would include the Complainants. The description of the methodology of editing the list was attached to the letter together with the estimate based on the methodology. In order to provide accurate data, the Obligee requested the Complainants to provide feedback on the estimate.
- The Obligee sent the next letter on 19 July 2019, this time to […]. The Obligee informed […] that Forbes was working on the list of the most valuable family undertakings and the 100 Largest Hungarian Companies and asked in relation to this whether […] continues to be in Hungarian and family ownership.
- In their response sent on 19 July 2019 through their legal representative, the Complainants informed the Obligee that the members of the […] family and […] and […] do not wish to be included in the Forbes lists, and that […] has been living abroad for a long time and […] no longer has any holding in the company group; […] is 100% in foreign ownership and […] and through it the Hungarian activity will soon be transferred to 100% foreign ownership.
- In its response sent on 22 August 2019, the Obligee informed the Complainants that […] continues to comply with the definition of a family undertaking based on the applied methodology published with the lists, thus it will be categorised among the family

undertakings, if however the change in ownership is registered that will be taken into account. The entry being prepared will point out that there was a change in ownership in the case of […], hence it is no longer included in the compilation as it no longer corresponds to the Forbes definition of a family undertaking. In its letter, the Obligee was remindful of the position of […] […] and the fact that the companies directed by him substantially contribute to the development of […], their activities are spectacular and known in a wide range.

- Last time, the Obligee sent a last letter to the Complainants during the period under study was on 8 November 2019, in which it informed them that Forbes was again compiling the list of the wealthiest Hungarians which, according to their estimate, includes them as well. The description of the methodology used to edit the list was attached to the letter together with the table containing the details of the calculation. With a view to providing accurate data, the Obligee requested that the Complainants provide feedback on the calculation.

Articles 13-14 of the General Data Protection Regulation set forth a minimum of the data processing circumstances, of which the controller has to notify the data subjects, depending on whether the personal data were collected from the data subjects or not. In view of the fact that the Obligee collected the data used for compiling the lists not directly from the Complainants, but used information available in various public databases, reports and the public communications of [...], the obligation of the Obligee to provide information in advance is governed by the provisions of Article 14 of the General Data Protection Regulation.

Of the publications studied in the course of the procedure (Processing 1 and Processing 2) it can be stated that as they are periodically published on the one hand, and based on the methodology used, the Obligee can exactly determine whom it wishes to present in the current list or publication (which means practically profiling), an obligation of the Obligee according to the General Data Protection Regulation is to provide information in advance to this relatively narrow range of persons covering the circumstances of processing according to Article 14(1)-(2) of the General Data Protection Regulation, paying particular attention to

- the purpose and legal basis of data processing,
- the categories of personal data concerned,
- in the case of data processing based on Article 6(1)(f) of the General Data Protection Regulation, the legitimate interest of the controller or a third party,
- the rights due to the data subject (rectification, erasure, restriction of processing, objection),
- the right of the data subject to lodge a complaint,
- the source of the personal data and whether the data stem from sources accessible to the public,
- to the significance of profiling and its possible consequences to the data subjects.

Although it can be established that the Obligee (through its journalists) always contacted the Complainants prior to the publication of the lists, and informed them that the Obligee wished to include them in the given list, and sent them a short description of the methodology applied, as well as the excel table containing the value or asset estimates made based on the methodology, and enabled the Complainants to make observations and if necessary, to rectify the data, the Obligee did not meet the requirement of providing information in advance appropriately because it failed to provide information on the purpose and legal basis of processing, the legitimate interest of the controller or a third party and the results of the interest assessment, the expected consequences of profiling, all the rights due to the Complainants as data subjects and the Complainants' right to lodge a complaint.

As the information provided by the Obligee in advance to the Complainants was inadequate, the Authority establishes that the Obligee infringed Article 14 of the General Data Protection Regulation.

Pursuant to Recital (60) of the General Data Protection Regulation, the principle of transparent and fair data processing requires that the data subject receive information on the fact and purposes of processing and all information necessary for ensuring fair and transparent processing, taking into account the specific circumstances and context of processing the personal data.

Guideline WP 260 concerning transparency facilitating the application and interpretation of the General Data Protection Regulation, which was adopted by the Data Protection Working Party established on the basis of Article 29 of Directive 95/46/EC, the legal predecessor of the European Data Protection Body (hereinafter: EDPB), which EDPB continued to uphold even after the entry into force of the General Data Protection Regulation sets forth in the Annex on the information to be made available to data subjects pursuant to Articles 13 and 14 of the General Data Protection Regulation that "*[...] the information provided to data subjects must make it clear that upon request, they can receive information on the interest assessment test. This is indispensable for efficient transparency, if the data subjects have doubts concerning whether the interest assessment test was fair or if they wish to lodge a complaint with the supervisory authority."*

As the Obligee met this requirement inadequately, the Authority established that the Obligee infringed the principle of transparency according to Article 5(1)(a) of the General Data Protection Regulation with regard to both Processing 1 and Processing 2.

In the event that the processing is in the public interest, or it is done on the basis of the legitimate interest of the controller or a third party, the data subjects may object to the processing of their personal data based on Article 21 of the General Data Protection Regulation. In this case, the controller may not continue the processing of the personal data, except if the controller demonstrates that processing is justified by legitimate reasons of compelling force, which override the interests, rights and freedoms of the data subjects, or which relate to the establishment, exercise or defence of legal claims.

Pursuant to Article 21 (4) of the General Data Protection Regulation, the controller has explicitly to bring the right to object to the attention of the data subject at the latest at the time of the first communication with the data subject and this information has to be presented clearly and separately from any other information.

In view of the fact that in the course of the first communication with the Complainants in relation to Processing 1 and Processing 2 the Obligee failed to bring the right to object to the attention of the Complainants and this information was not presented clearly and separately from any other information, the Obligee failed to meet its obligation according to Article 21(4) of the General Data Protection Regulation.

This is of significance because pursuant to Article 21(1) of the General Data Protection Regulation, the Complainant may object to the processing of his or her personal data based on Article 6(1)(e) and (f) of the General Data Protection Regulation, but he can exercise this right only if properly informed. In this case, the result of the objection is not automatic, it depends on the process of assessing interests, the controller has to demonstrate after such a request is received that the legitimate interest of compelling force arising on the controller side override the rights and freedoms of the data subject.

If the data subject objects to processing - for instance the publication of an article containing his personal data - the controller may not continue the processing of the personal data, except if the controller demonstrates that processing is warranted by legitimate reasons of compelling force overriding the interests, rights and freedoms of the data subject. The controller must carry out this assessment taking into account the interests and rights of the data subject exercising his right to object in each case.

In general, the Authority notes that in order, however, to enable the Obligee to perform the second individual interest assessment following the objection in an appropriate manner, it is expected and necessary that the data subject explains in sufficient detail why and for what reason he/she/it objects to the processing. It should be underlined that these data can be processed and used exclusively for the evaluation of the request to exercise the right to object and performing the individual interest assessment.

For reasons related to their own situation (respecting their private life and their family life, the protection of their peace and recognition by society), the Complainants objected to the processing of their personal data (including, in particular, the data related to their personal assets and financial situation) by the Obligee in accordance with Article 21(1) of the General Data Protection Regulation and in relation to this with reference to Article 17(1)(c) and (d) of the General Data Protection Regulation they requested the erasure of all their personal data processed by the Obligee.

The Obligee's statement and his e-mail sent to […] on 28 August 2018 reveal that there was a personal meeting between […] and Obligee on 27 August 2018, in the course of which - as shown by the contents of the e-mail - […] provided information on the fact that they do not wish to be included in the lists and publications compiled by the Obligee because of circumstances giving rise to concern concerning the family's safety.

It is not known to the Authority with reference to exactly what reasons related to private and family life […] requested that the Complainants are not included in the publications, it can however be established that the Obligee was aware of these circumstances (through the editor-in-chief of Forbes), but having considered this circumstance and the interests of the Obligee, it deemed that being included in the lists was not really decisive from the viewpoint of the safety of the family. Although the Obligee briefly informed […] of the reasons for this, but according to the position taken by the Authority, the Obligee did not demonstrate that the arguments brought up by it (presumably criminals obtained their information not only from newspapers, the Complainants have long been included in the lists published by the Obligee and others, the […] position of […] and his status as a public actor arising from this, his record as a large-scale entrepreneur, investments in progress) would be legitimate reasons of such compelling force, which unconditionally overrides the interests, rights and freedoms of the Complainants). With regard to the objection, the circumstances brought up by […], the reasons related to his and his family's position should have had relevance in the context of weighing opposite causes and Obligee should have carried out this individual interest assessment more thoroughly not only on the basis of rather general criteria, but puts particular emphasis on the impact of processing on the private sphere. Based on all this, the Authority establishes that as Obligee failed to demonstrate its legitimate interest of compelling force in the course of interest assessment, the Obligee infringed Article 21(1) of the General Data Protection Regulation.

Although the Obligee essentially informed the Complainants of the rejection of their objection and request for erasure, however the information provided did not extend to the possibilities of the legal remedy available to them, namely that they can lodge a complaint with the Authority and they may also make use of their right to seek legal remedy in front of the court. Pursuant to the General Data Protection Regulation, a mandatory element of content of any decision rejecting requests aimed at the exercise of the rights of data subjects is the information on the possibilities of the enforcement of rights. Although the Complainants in their objection and request for erasure indicated that in the event of the rejection of their requests "*we shall be forced to make use of the available legal instruments, including in particular claims under data protection law, personality rights and rectification by the press*", from which it can be concluded that the legal representative of the Complainants had informed them of their enforceable rights and possibilities of the enforcement of those rights, this circumstance and the fact that the general Privacy Statement accessible in the Forbes website does include the modes of the enforcement of rights does not exempt the Obligee from providing the necessary information. Based on all this, the Authority establishes that the

Obligee infringed Article 12(1) and (4) of the General Data Protection Regulation.

Pursuant to the General Data Protection Regulation, data subjects shall have the right erasure (to be forgotten), but the Regulation also specifies the exemptions when this right cannot be enforced. This includes the cases when processing is necessary for the freedom of expression and the exercise of the right to be informed [Article 17(3)(a)], or when public interest justifies the need for processing [Article 17(3)(b)-(d)], or if the processing is necessary for the establishment, enforcement and defence of legal claims [Article 17(3)(e)].
The processing of the data related to the Complainants and the company group in which the Complainants have interests (including publication) are among the exemptions in which case the right to erasure cannot be enforced (and the request to erase personal data can be rejected lawfully) pursuant to Article 17(3)(a) of the General Data Protection Regulation in view of the fact that the processing of these data is necessary to ensure the freedom of expression and the right to be informed.

In this case, therefore, Article 17(3)(a) of the General Data Protection Regulation creates the balance between the right to erasure and the freedom of expression and the exercise of the right to be informed, ensuring thereby inter alia the freedom of the press and in the case of the on-line versions of the lists, the freedom of the internet.

Although the Obligee inadequately carried out the individual interest assessment following the objection, in view of the above and what was earlier stated in the decision the Authority rejects the part of the Complainants' petition, in which the Complainants request the Authority to order the Obligee to meet the Complainants' requests aimed at objection against processing and the erasure of their personal data, and to prohibit the Obligee to process the personal data of the Complainants with final force.

III.5. <u>The request by the Obligee aimed at suspension of the procedure</u>

In its statement made to the call of the Authority, the Obligee requested the Authority to suspend the procedure with reference to Section 48(1)(a) of the Administrative Procedures Act, in view of the fact that there was a court procedure in progress under […] […] between partially different parties, in which procedure the court will bring the decision on whether or not the processing carried out by the Obligee qualifies as lawful.

The Authority waived the suspension of the procedure because of the following:

- The Complainants do not participate in the civil procedure referred to, they are not the claimants.
- Section 38(2)-(2a) provide express tasks and powers for the Authority to investigate the lawfulness of processing and to make the decision thereon; the court procedure does not qualify as a preliminary issue, decision on which would be absolutely necessary for enabling the Authority to make its decision objectively and correctly and without which the decision of the Authority would be ungrounded.
- The Administrative Procedures Act makes it clear that generally, merely based on its rules, suspension is not called for on the basis that the Authority is aware of another procedure in progress, which could have an impact on its procedure, unless a separate legal regulation enables suspension. The preliminary issue is not the same as the decision of another body may have an "impact" on the law interpretation of the Authority.
- Pursuant to Article 79(1) of the General Data Protection Regulation, without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint *with a supervisory authority pursuant to Article 77,* each data subject shall have the right to an effective judicial remedy where he or she considers that his or her rights under this regulation have been infringed as a result of the processing of his or her personal data in non-compliance with this Regulation.

- The Authority makes the decision on the eventual suspension of the procedure not upon the request of any client participating in the procedure but ex officio.

III.6. Data processing prior to 25 May 2018

The Complainants objected to the lawfulness of processing with regard to the period prior to Processing 1 (the printed and online versions of Forbes publication containing the 33 richest Hungarians published in 2017 and the printed and online versions of the Forbes publication containing the 25 largest family undertakings published in 2017).

This part of the petition concerns processing, which took place prior to 25 May 2018, which is the starting day of the applicability of the General Data Protection Regulation, hence the rules of the Regulation cannot be applied to it. In view of this, based on Section 47(1)(a) of the Administrative Procedures Act, the Authority terminates the procedure because this part of the petition does not comply with the conditions in Section 60(2) of the Privacy Act because the General Data Protection Regulation was not yet applicable in the processing period objected to. Because of this, a petition requesting the procedure of the Data Protection Authority cannot be submitted and the Authority does not even initiate the launching of the investigative or Authority procedure.

III.7. Legal consequences

The Authority partially sustains the petition of the Complainants and pursuant to Article 58(2)(b) of the General Data Protection Regulation condemns the Obligee because its activities related to Processing 1 and Processing 2 infringed Article 5(1)(a), Article 5(2), Article 6(1)(f), Article 12(1) and (4), Article 14, Article 15 and Article 21(1) and (4) of the General Data Protection Regulation.

Pursuant to Article 58(2)(c) of the General Data Protection Regulation, the Authority orders the Obligee to fully meet its obligation to obtain the Complainants, including the criteria taken into account in the course of interest assessment and the information on the results of the interest assessment (subsequently), within 15 days from the decision becoming final.

The Authority orders the Obligee pursuant to Article 58(2)(d) of the General Data Protection Regulation to transform its practice related to providing information in advance in accordance with the provisions of the legal regulation in force and this decision, and to perform out interest assessment in accordance with the legal regulations and the provisions of this decision, including the second individual interest assessment following an objection in the event that in the course of future processing activities, it intends to use legitimate interest as the legal basis.

The Authority examined ex officio whether imposing a data protection fine against the Obligee was warranted. Based on Article 83(2) of the General Data Protection Regulation and Section 75/A of the Privacy Act, the Authority considered all the relevant circumstances of the case ex officio and established that in the case of the infringements exposed in the course of this procedure, a warning in itself is not a proportionate and dissuasive sanction, hence the levying of the fine is warranted.

By levying the fine, the special preventive goal of the Authority is to encourage the Obligee to conduct its data processing activities consciously, to handle data subjects not as objects and/or impeding circumstances, but as true holders of rights and provide the information and other conditions needed for the exercise of their rights stemming from this and the control over the processing of their personal data. In general, it is necessary to make it clear to all controllers in similar situations that the processing of personal data requires particular consciousness, they must not negligently trust that the data subjects will suffer no detriment as a result of the effectively uncontrolled processing of their personal data. Such a behaviour disregards the rights of the data

subjects and as such cannot remain unsanctioned.

The Authority commenced the practice present also in the Hungarian market, according to which the various rich lists, publications listing the richest Hungarians do not always contain the name of the data subject and/or an entry on the data subject, and as a result for instance of the properly grounded objection of the data subject publish only a letter instead of the full name, and only minimal information instead of the entry presenting the activities of the data subject (e.g. the name of the given industry, the magnitude of the wealth associated with the data subject).

Another goal of the Authority by levying the fine is to encourage the Obligee to review its processing practices related to its publications listing the richest Hungarians and the largest Hungarian family undertakings. When determining the amount of the fine levied, the Authority in addition to the special preventive goal also paid attention to the general preventive goal to be achieved with the fine, with which it wishes to achieve driving the processing practice by the Obligee in the direction of full compliance, in addition to restraining the Obligee from another infringement.

When determining the necessity for levying the fine, the Authority considered the aggravating and mitigating circumstances of the infringements as follows:

The Authority regarded the fact that

- the infringements committed by the Obligee in relation to the principles and the exercise of the data subject's rights qualify as infringements punishable by the higher maximum amount of the fine (up to EUR 20,000,000 or in the case of an undertaking up to 4% of the total worldwide annual turnover of the preceding financial year) according to Article 83(5)(a) and (b) of the General Data Protection Regulation;
- the Complainants attempted to move the Obligee towards appropriate data processing, but ultimately the intervention of the authority was necessary [General Data Protection Regulation Article 83(2)(a)];
- taking all the circumstances of the case into account, the infringements established substantiate a deliberate and resolute attitude of the Obligee to data processing and to the exercise of data subject's rights that is they qualify as deliberate in nature [General Data Protection Regulation Article 83(2)(b)];
- in spite of the deficiencies of the processing activities related to the publications notified by the Complainants, a business transaction was carried out (the publications were published) and the Obligee did not take any particular measure to mitigate the damage suffered by the Complainants [General Data Protection Regulation Article 83(2)(c)];
- Obligee has outstanding responsibility for the lawfulness of processing and providing transparent information on processing because of the global name recognition and acknowledgement of Forbes and its role played in the media market [General Data Protection Regulation Article 83(2)(d)] as aggravating circumstances.

The Authority considered that the Obligee did not process personal data in the special category as a mitigating circumstance. The personal data of the Complainants in the Trade Registry are data accessible on public interest grounds and are also company data, while the data presented in relation to the asset or value estimates are to be regarded as conclusions drawn from the evaluation of the data based on a specific methodology as part of the exercise of the right to the freedom of expression [General Data Protection Regulation Article 83(2)(g)].

The Authority also took into account that the Obligee cooperated with the Authority in the course of the procedure, but as it did not go beyond compliance with legal obligations, this behaviour was not evaluated as an expressly mitigating circumstance [General Data Protection Regulation Article 83(2)(f)].

The Authority also took into account that although infringements related to the processing of personal data were not established against the Obligee earlier, it also condemn the Obligee in its decision NAIH/2020/1154/9 brought in the procedure of the Authority launched under case number NAIH/2019/8402 against the Obligee simultaneously with this decision, partially because of the infringements established in this decision and ordered the Obligee to carry out similar measures and also levied a fine against it [General Data Protection Regulation Article 83(2)(e) and (i)].

The amount of the fine higher than the relevant amount determined in decision NAIH/2020/1154/9 is justified because in spite of the fact that the Obligee was aware of the specific circumstances of the Complainants in the case constituting the subject matter of this procedure, after the objection of the Complainants, the Obligee did not carry out an individual interest assessment, the result of which would have demonstrated that the processing was warranted by legitimate reasons of compelling force overriding the Complainants' interests, rights and freedoms.

In levying the fine, the Authority also reviewed the additional criteria included in Article 83(2) of the General Data Protection Regulation, but did not take them into account because according to its consideration, they were not relevant to this case.

The Obligee's annual report on the business year 1 January 2019 - 31 December 2019 was not yet available at the date of this decision, thus the Authority took the business years 2018 and 2017 into account when determining the fine:

- Based on the report of the Obligee closing the general business year 1 January 2018 – 31 December 2018 accessible to the public, the Obligee had net sales totalling HUF 727,702,000 (seven hundred twenty-seven million seven hundred and two thousand forints) and closed the year with a pre-tax profit of HUF 115,194,000 (one hundred and fifteen million hundred and ninety-four thousand forints) taking revenues and expenditures into account.
- Based on the report of the Obligee closing the general business year 1 January 2017 – 31 December 2017 accessible to the public, the Obligee had net sales totalling HUF 681,029,000 (six hundred eighty-one million twenty-nine thousand forints) and closed the year with a pre-tax profit of HUF 156,095,000 (one hundred and fifty-six million ninety-five thousand forints) taking revenues and expenditures into account.

The amount of the fine does not reach 4% of the total worldwide annual turnover whether based on net sales revenue or pre-tax profits. Based on the above, the amount of the fine levied is proportionate to the severity of the infringement.

IV. Procedural rules

Section 38(2) and (2a) of the Privacy Act determines the powers of the Authority; its competence extends to the entire territory of the country.

Pursuant to Section 37(2) of the Administrative Procedures Act, the procedure is launched on the day following the receipt of the petition by the Authority taking action. Pursuant to Section 50(1) of the Administrative Procedures Act, unless otherwise provided by law, the period open for administering the case begins on the day of launching the procedure.

Pursuant to Section 112(1), Section 114(1) and Section 116(1) of the Administrative Procedures Act, legal remedy can be sought against the decision through administrative litigation.

The independent right to legal remedy against the warrants under Sections II and III of the operative part is based on Sections 112, 114(1), 116(1) and 116(3)(d) of the Administrative Procedures Act.

In the course of its procedure, the Authority exceeded the hundred-and-fifty day period open for administering the case under Section 60/A(1) of the Privacy Act, consequently pursuant to Section 51(b) of the Administrative Procedures Act will pay ten thousand forints to the Complainants.

* * *

Pursuant to Section 6:48(1) of the Civil Code, in the event of a cash debt the Obligee shall pay a penalty for delay at a rate corresponding to the base rate quoted by the central bank on the first day of the calendar half year affected by the delay from the first day of the delay.

The rules of administrative litigation are set forth in Act I of 2017 on Procedures in Administrative Litigation (hereinafter: Administrative Litigation Procedures Act). Pursuant to Section 12(1) of the Administrative Litigation Procedures Act, an administrative litigation against the decision of the Authority is within the jurisdiction of a tribunal and pursuant to Section 13(3)(a)(aa) the Fővárosi Törvényszék (Budapest Tribunal) has exclusive competence for the litigation. Pursuant to Section 27(1)(b) of the Administrative Litigation Procedures Act, legal representation is mandatory in lawsuits subject to the jurisdiction of a tribunal. Pursuant to Section 39(6) of the Administrative Litigation Procedures Act, the submission of the petition does not have a delaying effect on the entry into force of the decision.

Based on 29(1) of the Administrative Litigation Procedures Act and in view of this Section 604 of the Civil Procedures Act in accordance with Section 9(1)(b) of Act CCXII of 2015 on the General Rules for Electronic Administration and Fiduciary Services (hereinafter: E-administration Act), the legal representative of the client is subject to maintaining contact electronically.

Section 39(1) of the Administrative Litigation Procedures Act specifies the time and place of submitting a petition against the decision of the Authority. Information on the possibility of a request for holding a hearing is based on Section 77(1)-(2) of the Administrative Litigation Procedures Act. Section 45/A(1) of Act XCIII of 1990 on Levies (hereinafter: Levies Act) determines the magnitude of the levy on administrative litigations. Section 59(1) and Section 62(1)(h) exempts the party initiating the procedure from paying the levy in advance.

Pursuant to Section 135(1)(a) of the Administrative Procedures Act, Obligee shall pay a penalty for delay at a rate corresponding to the legal rate if he fails to meet its payment obligations when due.

If the Obligee fails to verify meeting of a prescribed obligation, the Authority shall deem that the obligation was not complied with when due. Pursuant to Section 132 of the Administrative Procedures Act, if the Obligee fails to meet its obligations incorporated in the final decision of the Authority, it can be enforced. Pursuant to Section 82(1) of the Administrative Procedures Act, the decision of the Authority becomes final with its communication. Pursuant to Section 133 of the Administrative Procedures Act, enforcement is ordered by the Authority making the decision, unless law or a government decree otherwise provides. Pursuant to Section 134 of the Administrative Procedures Act, the enforcement is carried out by the state tax authority, unless otherwise provided by law, government decree or in the case of a municipal authority, the decree of the municipality. Pursuant to Section 61(7) of the Privacy Act, the Authority carries out the execution of the decision with respect to the performance of a specific act, specific behaviour, tolerance or ceasing as incorporated in the decision of the Authority.

Budapest, 23 July 2020

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President
Honorary university professor