

Case number: NAIH / 2020/4228

Subject: Rejection of the application

The National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...]

Applicant (address: [...]), represented by [...]

[...] (hereinafter referred to as the Applicant) by letter dated 11 May 2020 and sent by post to the

By application lodged at the Registry of the Authority on 21 May 2020, the applicant was established in [...],

hereinafter referred to as "Requested") on 22 May 2020

in its proceedings

## DECISION

The Authority shall reject the application.

There is no administrative remedy against this decision, but from the date of notification

within 30 days of the application to the Metropolitan Court in an administrative lawsuit

can be challenged. The application must be submitted to the Authority electronically, which is the case

forward it to the court together with his documents. Those who do not benefit from full personal exemption

The fee for the court review procedure is HUF 30,000, subject to the right to record material fees

fall. Legal representation is mandatory in proceedings before the Metropolitan Court.

## EXPLANATORY STATEMENT

### I. Procedure and clarification of the facts

In its application received by the Authority on 21 May 2020, the Applicant submitted that a

You are running the [...] blog at [...] as a requested internet content provider. E

has been published and is currently available as part of a content service (at [...] a

"The drone video of the advertising companies enriched with government propaganda [...] moved to the luxury villa of Buda",

the video appendix of which is, among other things, owned by the Applicant,

[...] Publishes a drone survey of the road property, its location and internal areas (hereinafter:

drone video), expressly indicating that the property depicted is the property of the Applicant. THE

the drone video is basically the invisible parts of the real estate owned by the Applicant,

the inner courtyard, the garden, its design, the interior of the garden, the outdoor garden furniture and the building other, not visible from public areas, covered with tall trees to preserve intimacy presents its surfaces in high resolution.

Regulation (EU) 2016/679 of the European Parliament and of the Council on natural persons a protection of personal data and the protection of such data

repealing Regulation (EC) No 95/46 (hereinafter referred to as the Regulation)

According to Article 4 (1), "personal data" means identified or identifiable natural data any information about the person ("data subject"); identifiable natural person who directly or indirectly, in particular by means of an identifier such as a name, number, location data, online identification or physical, physiological, genetic, one or more factors relating to his intellectual, economic, cultural or social identity identifiable by.

In the opinion of the Applicant, the parts of the property that are not visible from the public area, their design, location, construction; appearing in the recordings as a whole, the Applicant

Any part of the property owned by the

Information that can be clearly linked to the applicant, ie complies with the Regulation

The concept of "personal data".

It considers the lawfulness of the data processing listed in Article 6 (1) of the Regulation

none of the underlying conditions<sup>1</sup> are present, so the personal data that make up the content of the drone video handling is illegal. Consequently, the Applicant is not entitled to this personal data collecting, recording, organizing, segmenting, storing, using, transmitting, distribution or otherwise make available, or Article 4 (2) of the Regulation.

to perform other data processing operations<sup>2</sup> as defined in Still, the drone video is currently available on the [...] blog at the web address specified above.

He attached a copy of the Applicant's application to the Applicant through his legal representative dated 17 February 2020 concerning what it considers to be unlawful data processing

referring to Article 21 (1) of the Regulation<sup>3</sup> because the Applicant

In the present case, there is no compelling legitimate reason in the present case which is

justifies data management. In addition, Article 17 (1) (c) and (d) of the Regulation<sup>4</sup>

invoked the Applicant to provide personal data about the Applicant, ie

delete the drone video, its entire contents immediately, and Article 17 (2) of the Regulation

in addition to the deletion, also called on the

Article 6 of the Regulation - Lawfulness of data processing

1. The processing of personal data shall be lawful only if and to the extent that at least one of the following conditions is met:

(a) the data subject has consented 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 one of the parties is a party or of a contract necessary to take action at the request of the data subject;

(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) a task carried out in the public interest or in the exercise of official authority vested in the controller necessary for its implementation;

(f) processing is necessary for the protection of the legitimate interests of the controller or of a third party, unless those interests are met

the interests or fundamental rights and freedoms of the data subject which protect personal data take precedence especially if the child concerned.

Point (f) of the first subparagraph shall not apply to the processing of data by public authorities in the performance of their tasks.

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Article 4 (2) of the Regulation - Definitions

"Processing" means any operation on a personal data or data file, whether automated or not; or

a set of operations such as collecting, recording, organizing, segmenting, storing, transforming or altering, querying, viewing, use, communication through transmission, distribution or otherwise making available, coordination or interconnection,

restriction, deletion or destruction;

### 3 Article 21 of the Regulation - Right to object

1. The data subject shall have the right at any time to object to the processing of his or her personal data in accordance with Article 6 (1).

against profiling based on those provisions, including profiling based on those provisions. In this personal data may not be further processed by the controller unless the controller demonstrates that the processing is justified by compelling legitimate reasons which take precedence over the interests, rights and freedoms of the data subject, or relating to the filing, enforcement or defense of legal claims.

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### Article 17 - Right of cancellation ("right to be forgotten")

1. The data subject shall have the right, at the request of the controller, to delete personal data concerning him or her without undue delay,

the controller is obliged to delete the personal data of the data subject without undue delay if the following

for one of the following reasons:

(c) the data subject objects to the data controller pursuant to Article 21 (1) and there is no overriding legitimate reason to or the data subject objects to the processing pursuant to Article 21 (2);

(d) personal data have been processed unlawfully;

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### Article 17 - Right of cancellation ("right to be forgotten")

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to take all necessary steps, including technical measures, to

in order to inform the data controllers other data controllers that the Applicant

requested links to the personal data in question, i.e. the drone video, or e

deletion of a copy or duplicate of personal data at the same time for 15 days

provide detailed information on the measures taken in accordance with Article 17 (2).

in order to fulfill its obligations under paragraph 1.

In view of the above, the Applicant requested the Authority to:

a.) oblige the Applicant to provide personal data concerning the Applicant, ie

delete the drone video, its entire contents immediately;

b.) also oblige the Applicant to take all expected steps, including technical measures, in order to inform the Applicant

other data controllers handling personal data that the Applicant has requested orally

links to rotating personal data, i.e. drone video, or such personal data

delete a copy or duplicate;

c.) also oblige the Applicant to provide detailed information within 15 days that

what measures it has taken to comply with its obligations under point (b);

d.) CL of 2016 on general administrative order. Act (hereinafter: Act)

Pursuant to Section 129 (1), bind the Applicant to the Applicant in the present proceedings

all procedural costs incurred in connection with the participation and representation of the

to wear.

The Applicant 's (2020 request issued by the Applicant in the annex, referred to above).

in his substantive reply dated 19 February 2006), the personal data of the Applicant

in the legitimate interest within the meaning of Article 6 (1) (f) of the Regulation. He considers that the legitimate interest, like

everything else in the debate on public affairs and the use of public money,

with regard to personal data which are not essential for the conduct of public debate - public opinion

the legitimate interest of all and its members in the free and informed discussion of public affairs,

and freedom of the press and expression of opinion for the Applicant as a media service provider

his legitimate interest in information, which is also protected by his freedom.

In its view, the disclosure is, by definition, the personal data concerned for journalistic purposes

Article 85 of the Regulation<sup>6</sup>, ie personal data

The right to protection under the Regulation is obliged by the Member States, including Hungary

2. If the controller has disclosed personal data and is required to delete it pursuant to paragraph 1, the available

technology and implementation costs, taking into account the

measures in order to inform the controllers that they have been orally requested by the data subject

deleting links to rotating personal data or a copy or duplicate of such personal data.

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Article 85 of the Regulation

Processing of personal data and the right to freedom of expression and information

1. Member States shall harmonize in law the right to the protection of personal data under this Regulation

the right to liberty and security of information, including the protection of personal data for journalistic, scientific, artistic or for the purpose of literary expression.

2. The processing of personal data for the purposes of journalism or scientific, artistic or literary expression

Member States shall provide for exceptions or derogations from Annex II. Chapter III (Principles); Chapter IV (rights of the data subject); Chapter (The Data Controller

and the processor), Chapter V on the transfer of personal data to third countries or to international organizations

transmission), Annex VI Chapter VII (independent supervisory authorities); Chapter IX (Cooperation and Coherence) and Chapter IX Chapter I

special cases of data processing) if these exceptions or derogations are necessary to

reconciled with the right to freedom of expression and information.

Member States shall notify the Commission of the legal provisions adopted pursuant to paragraph 2, and

they shall notify those provisions to the Commission without delay of any subsequent amendment affecting them.

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reconciled with the right to freedom of expression and information. To do this, a

Article 85 (2) of the Regulation for these data processing operations

essentially a general derogation from all the substantive rules of the Regulation

without prejudice to the remedies available to those concerned

rights.

The obligation to coordinate and the possibility of derogating from national law

of course, it also follows that the Decree does not override the domestic constitutional court

in the case of the European Court of Human Rights and the case law of the European Court of Human Rights principles laid down in connection with the delimitation of the private sector.

Based on all this, the Applicant as data controller publishes articles and personal data

the fulfillment of the requests submitted by the data subjects in connection with the published content, both a

Freedom of expression and the right to information are enshrined in the Hungarian legal system

by harmonizing the content and the right to personal data.

In his opinion, the Applicant is one of the personal data in the article

aerial view of a villa owned by the applicant as a personal data of the Applicant a

protests against the disclosure of "not visible from the public

their design, location, construction; appearing in the recordings as a whole, the

Any part of the property owned by the data subject that is not otherwise public

visible information that can be clearly linked to the Data Subject ", ie in line with the Regulation

the concept of personal data.

He states that "however, it is clear from the article (nor is it mentioned in your letter

disputed finding) that the property in question, such as [...] Kft. and [...] Kft., ie two

The article presented the headquarters of a company with a turnover of nearly HUF 80 billion

published video. The fact that real estate happens to be not for companies but for companies as well

Owned by the applicant, the property register is accessible to anyone and

information that can be queried. In the present case, its publication was justified and lawful by the fact that

in the knowledge of this information, the success of the companies (and at the same time the Applicant 's) can be linked personal enrichment) with the presumably very significant value of the real estate. If

for the property would be owned by another person unrelated to the companies and the circle of owners

owner, consider the presentation of a potentially only leased property is obviously much less

would tell about the financial situation of the Applicant, [...] Kft. and [...] Kft. And a decisive one

by winning public procurements, the group of companies, which is enriched at a rare speed in Hungarian business,

and information about the financial situation of their owner is difficult to question

in the public debate. "

In its view, since the property in question is not intended for private use, it was made of it

- the size of the building and site, which does not otherwise inherit any human activity,

Google, which does not carry any other information other than an indication of its order

In the case of satellite imagery accessible on a map, the effect is solely due to the movement of the camera

due to the viability and freshness of the recording - the content of the recording in his opinion

it could only be classified as personal data under a very, very broad interpretation, since

No conclusions other than those of the ownership as set out in Article 1 may be drawn

neither to the Applicant nor to anyone else.

In addition to the above, the Applicant - although he did not acknowledge that the drone video is personal to the Applicant

would have carried out the data controller investigation requested by the Applicant.

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This is based primarily on Article 21 of the Regulation, which deals with the processing of data in the legitimate interest

(1), according to which personal data may be further processed after the protest if

the controller demonstrates that the processing is justified by compelling legitimate reasons

which take precedence over the interests, rights and freedoms of the data subject.

In his view, the existence of this condition is the following, partly public knowledge, partly published

proved by Article and video recording alone, and partly by public credit companies, respectively

the facts proved by the land register prove:

" the)

[...] Kft. and [...] Kft. play an extremely important, almost exclusive role in

government media messages to the electorate

and media content providers that publish government paid content, and

in the financing of other enterprises, so the Hungarian political system is an unavoidable factor

and the functioning of the public,



b)

[...] Kft. and [...] Kft. in the scope of their activities under point a) in recent years

received a total of approximately HUF 90 billion in publicly funded orders,

c)

the combined annual sales of [...] Kft. and [...] Kft. in connection with the above from 2014

From a few hundred million to HUF 80 billion by 2018, their combined after-tax profit from a few million

increased to nearly HUF 11 billion,

d)

the circumstances under (a) to (c) together prove that the information relates

It is of paramount interest that [...] Kft. and [...] Kft., as well as the Applicant owning them,

public information about the financial situation of the public and the state that facilitates this

decisions on basic information about the financial position of the companies and the Applicant

in your possession,

e)

the property in the video, located at Budapest [...], in nature Budapest, [...]

the sole owner according to the real estate register is the Applicant; the legal nature of the property a

according to the title deed: "taken out a dwelling house, yard and other building and commercial unit and catering

establishment

unit and service unit "; the address of the property is the same as the registered office of [...] Kft. and [...] Kft.,

f)

the published video does not capture any human activity, the building and the site

does not carry any information other than the size and order of the

g)

the circumstances under (e) to (f) together prove that the Applicant is personal

the data rights have not been substantially infringed by the publication of the recording, the data subject

the recording does not in any way show his private life, which is not in dispute,

h)

on the basis of the conclusions under points (d) and (g), publication shall take precedence

the publication of the recording shall contain the information contained in the article and the

supplementing the image of real estate as a public space as an illustration was essential

necessary (and substantiate the coercive force of the reason for the data processing) because the recording was

capable of having an exceptionally good location and exclusivity as regards communication

to adequately convey outstanding circumstances to the public.

However, after examining the request for cancellation under Article 17 of the Regulation, it will not be granted

because the communication of the recording falls within the scope of Article 17 (3) (a) (7), ie the

publication exercise of the right to freedom of expression and information

necessary for the reasons already set out in point 3. "

Based on all this, the Applicant informed the Applicant that the requested recordings from the article

does not delete.

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Regulation - Article 17 Right of cancellation ("right to be forgotten")

3. Paragraphs 1 and 2 shall not apply if the processing is necessary:

(a) for the purpose of exercising the right to freedom of expression and information;

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II. Applicable legal provisions

Pursuant to Article 2 (1) of the Regulation, the Regulation applies to personal data

partially or fully automated and their personal use

non-automated processing of data which is the subject of a register

which are part of a registration system or which are intended to be part of a registration system.

Infotv. Pursuant to Section 2 (2), the Decree is contained in the provisions indicated therein

shall apply mutatis mutandis.

Article 4 (2) of the Regulation states that the processing of personal data is either

any operation on automated or non - automated data files, or

a set of operations such as collecting, recording, organizing, segmenting, storing, or transforming

change, query, view, use, transmit, distribute or otherwise

harmonization or interconnection, restriction, deletion,

Pursuant to Article 6 (1) (f) of the Regulation, the processing of personal data shall only take place if:

and lawful in so far as at least one of the following is fulfilled: [...] (f) the processing is carried out in accordance with

necessary for the legitimate interests of the controller or of a third party, unless

the interests or fundamental rights of the data subject take precedence over those interests; and

freedoms which require the protection of personal data, in particular where the data subject is a data subject

child.

Pursuant to Article 12 (3) of the Regulation, the controller shall, without undue delay, but

in any case, it shall inform the data subject within one month of receipt of the request

a 15-22. on the action taken in response to a request under Article. If necessary, taking into account the

the complexity of the application and the number of applications, this deadline shall be a further two months

extendable. The extension of the deadline by the data controller shall be the reasons for the delay

within one month of receipt of the request.

If the person concerned submitted the application electronically, the information shall be provided as far as possible

shall be provided by electronic means, unless otherwise requested by the data subject.

Under Article 17 (1) of the Regulation, the data subject has the right to request the controller

delete personal data concerning them without undue delay and the data controller

shall be required to provide the personal data of the data subject without undue delay

delete if any of the following reasons exist: (a) personal data are no longer required; and

for the purpose for which they were collected or otherwise treated; (c) the data subject has been notified in accordance with

Article 21 (1).

protests against the processing of his data and there is no overriding legitimate reason for

or the data subject objects to the processing pursuant to Article 21 (2); d)

personal data have been processed unlawfully; e) personal data to the controller

deleted in order to fulfill a legal obligation under applicable Union or Member State law;

Pursuant to Article 17 (3) (a) of the Regulation, paragraphs 1 and 2 shall not apply,

where processing is necessary: (a) for freedom of expression; and

for the purpose of exercising the right of access:.

Article 77 (1) of the Regulation provides for other administrative or judicial remedies

without prejudice to this, any person concerned shall have the right to lodge a complaint with a supervisory authority,

in particular, the place of habitual residence, the place of employment or the place of the alleged infringement

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in the Member State of residence if the data subject considers that the personal data concerning him or her

breach of this Regulation.

Article 85 (1) of the Regulation emphasizes that Member States shall harmonize the

the right to the protection of personal data under this Regulation

the right to liberty and security of information, including the right to personal data for journalistic purposes,

or for scientific, artistic or literary expression.

Pursuant to Article 85 (2) of the Regulation, personal data may be used for journalistic purposes or

for the purpose of scientific, artistic or literary expression

Member States shall provide for exceptions or derogations from Annex II. Chapter III (Principles); Chapter I

rights concerned), Annex IV Chapter V (the controller and the processor), Chapter V (the personal data

third countries or international organizations), Chapter

(independent supervisory authorities), Annex VII. Chapter IX (Cooperation and Coherence) and Chapter IX Chapter

(special cases of data processing) if these exceptions or derogations are necessary in order to:

the right to the protection of personal data can be reconciled with the expression of opinion

freedom of movement and information.

Recital 65 of the Regulation [...] However, further retention of personal data

it is considered lawful if it is the right to freedom of expression and information

compliance with a legal obligation or a task in the public interest

or the exercise of official authority vested in the controller, or

in the public interest in the field of public health, for the purpose of archiving in the public interest, scientific and

for historical research or statistical purposes or for the submission of legal claims,

necessary to enforce or protect

Recital 153 of the Regulation emphasizes that the law of the Member States should

expression of opinion and information, including journalistic, scientific, artistic and

rules on freedom of expression - protection of personal data

under this Regulation. It is appropriate that the use of personal data only

treatment for journalistic, scientific, artistic or literary purposes

subject to or exempt from the requirements of certain provisions of this Regulation

if this is necessary to ensure the right to the protection of personal data

reconciled with the right to freedom of expression and information as enshrined in

Article 11 of the Charter provides. This applies in particular to the processing of personal data in the audiovisual field,

and in news archives and press libraries. Consequently, the

Member States shall determine the balance between these fundamental rights by adopting legislative measures

exceptions and derogations necessary for balance. Member States may provide for exceptions and

derogations are accepted from the general principles, the rights of the data subject, the controller and the processor, the

personal data to third countries or international organizations

independent supervisory authorities, cooperation and uniform application,

or for individual data processing situations. If these exceptions or derogations a

different Member States, the law of the Member State applicable to the controller shall apply. THE

the right to freedom of expression exists in all democratic societies

In order to take account of the importance of

journalism, should be interpreted broadly.

Infotv. Pursuant to Section 3 (6), public data in the public interest fall under the notion of data of public interest

does not include any information the disclosure, disclosure or disclosure of which is not permitted

making it available in the public interest

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Infotv. According to Section 38 (2), the task of the Authority is to protect personal data,

and the right of access to data in the public interest and in the public interest

the tasks and powers of the Authority are set out in Article 57 of the Regulation.

Article 58 (1), Article 58 (1) and (3) and Infotv. Section 38 (2) - (4)

in detail.

Section 60 (1) and (2) of the Information Act stipulates the right to the protection of personal data

the Authority shall, at the request of the data subject,

initiate proceedings and may initiate ex officio data protection authority proceedings. The data protection authority procedure

Article 77 (1) and Article 22 (b) of the Regulation

may be submitted in a specific case.

Unless otherwise provided in the Regulation, the data protection authority proceedings initiated upon request shall be

Ákr. shall apply with the exceptions specified in the Information Act.

Infotv. Section 61 (1) (a) sets out in the data protection authority proceedings

In its decision, the Authority shall a) process the data processing specified in Section 2 (2) and (4)

may apply the legal consequences set out in the Regulation in connection with such operations.

Ákr. Under Section 17, the authority has the powers and competencies at all stages of the proceedings

ex officio. If you notice a deficiency in any of them and your doubts can be established beyond a reasonable doubt

competent authority shall refer the matter, failing which the application shall be rejected,

or terminate the proceedings.

The Ákr. Pursuant to Section 46 (1) (a), the authority shall reject the application if the procedure

there is no statutory condition for initiating proceedings, and this law is different

has no legal effect.

Pursuant to Section 47 (1) (a) of the Act, the authority shall terminate the proceedings if the application

should have been rejected, but the reason for that was after the initiation of the procedure authority.

The Ákr. Pursuant to § 112, § 16 (1) and § 114 (1)

there is an administrative remedy against him.

CIV of 2010 on Freedom of the Press and Basic Rules of Media Content. Section 10 of the Act

everyone has the right to be properly informed by local, national and

European public affairs and for the citizens of Hungary and the members of the Hungarian nation

significant events. The job of the media system as a whole is to be authentic, fast, accurate

information on these matters and events.

III. Decision on the request for deletion of the Applicant's personal data

The Authority § 17, its powers at all stages of the proceedings

investigates. Infotv. According to Section 38 (2), the Authority is responsible for personal data

and the right of access to data in the public interest and in the public interest

Article 57 (1) of the Regulation.

Article 58 (1) to (3) and Infotv. Section 38 (2) - (4).

Consequently, the Authority enforces the rights of the individual and their possible limitations

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has no jurisdiction over the matter, it can only decide on the deletion of personal data

me.

The right of cancellation enshrined in Article 17 of the Regulation ('the right to be forgotten') - other

rights - not absolute, so in the case of adequate guarantees, there may be restrictions

to subject. An unfounded or excessive request may be refused or the EU or

national law may also limit oblivion. However, it is also defined in the General Regulation

certain cases where the obligation to delete does not apply: further data processing

considered lawful if it respects the fundamental rights and freedoms of others

required to exercise (...). One of these is freedom of expression and

right to information.

The right to freedom of expression is one of the fundamental values of a democratic state governed by the rule of law, both the Charter of Fundamental Rights of the European Union and the European Union

The Treaty on the Functioning of the European Union recognizes this. This right guarantees that the individual's thoughts and opinions

freely articulate and explain, thus contributing to different views and ideas

free flow. Freedom of expression includes access to information

right, ie the freedom to receive and impart information. It is based on the individual

generally entitled to any data within the limits provided by modern technology

to obtain, transmit or disclose. This right thus covers, inter alia,

freedom of the internet, freedom of the press and the protection of the public interest and the public interest

the right to access and disseminate data, ie freedom of information.

The unlimited possibility of deleting the information on which those rights and freedoms are based

would obviously empty, violate these rights. The right to forget, and

between freedom of expression and the exercise of the right to information

a balance must be struck. Ensuring this is primarily a matter for national authorities and courts

falls.<sup>8</sup>

The conceptual element of personal data is, among other things, that the data and information are based on

the natural person is identified or identifiable. Conceptual elements of personal data

on the protection of individuals with regard to the processing of personal data and on the

Directive 95/46 / EC of the European Parliament and of the Council on the free movement of such data

hereinafter referred to as 'the Directive'), the personal data of natural persons

Working Party on the Protection of Electronic Data Processing (currently the European Data Protection Supervisor)

Opinion 4/2007 of the European Data Protection Supervisor. [The opinion is natural

on the protection of individuals with regard to the processing of personal data and on the protection of such data

European Parliament and of the Council on the free movement of persons and repealing Regulation (EC) No 95/46



Article 94 (2) of Regulation 2016/679 of the European Parliament and of the Council (General Data Protection Regulation, GDPR)

According to the professional opinion expressed in the opinion, the  
a natural person can be considered "identified" if they are separated within a group of persons  
from all other members of the group. A natural person is "identifiable" when doing so  
possible. Identifiability is therefore a threshold condition that determines whether  
whether the information qualifies as personal data.<sup>9</sup>

Data is considered personal data if it is identified or identifiable as natural  
apply to the person concerned. To determine whether a natural person  
identifiable means any reasonable means to the controller or other person, e.g.

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Explanation of the GDPR 186-187. page - Wolters Kluwer Hungary (Budapest 2008)

Pfv.IV.20.954 / 2018/6. Judgment no

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the sign - you must take into account the help of the natural person directly  
or indirectly identifiable.

In the Authority 's view, the inclusion complained of by the Applicant is in particular due to the fact that

The property included in the drone video is not the residence of the Applicant, only the built environment, the  
plot, its location, and the building on it are visible, and are not included in the recording, so

neither the Applicant nor any other natural person can be identified on it, or independently

from the fact that the recording was not made of public space - nothing can be deducted from the property either a

Affecting (adversely) the applicant or any other person, judgment, right or legitimate interest

other conclusion, it cannot be classified as personal data to be protected by the Authority.

Other allegations of the article containing the impugned drone video, thus owned by the Applicant

business and governmental relations of companies, the volume of their activities,

the magnitude of their effectiveness was not objected to by the Applicant. Nor did he object to the name of the property shown in connection with the purchase of the property shown on the drone video the fact of acquisition, as the registered office of the companies owned by it reference, the size or location of the site to the Applicant in the same writing disclosed.

The Constitutional Court has already stated in several decisions that in practice<sup>10</sup> a freedom of expression is a highly protected constitutional value. The Democrat it is a fundamental requirement in the rule of law that all citizens of society be free to express his thoughts, to become free to form a public opinion. Social and political, that is, without the freedom and diversity of public debate, there is no free public opinion and there is no democratic rule of law {7/2014. (III. 7.) AB, Justification [39]}. The

The Constitutional Court has already emphasized in its early practice that free expression of opinion a key guarantee for the establishment and maintenance of a democratic public opinion, which is also a indispensable source of a society based on pluralism. It is a historical experience that “Whenever the freedom of expression was restricted, the social justice, human creativity, diminished human potential the possibility of unfolding. The detrimental consequences are not only for the individual but also for society has also manifested itself in the development of mankind led to a dead end. Free expression of ideas, views, no matter how unpopular or special free expression of the existence of a society capable of development and of a truly alive life basic condition”[30/1992. (V. 26.) AB, ABH 1992, 167, 170–171].

According to the consistent practice of the Constitutional Court, freedom of expression is twofold has a certificate {7/2014. (III. 7.) AB decision, Justification [23]}. The expression of opinion

The constitutional limits on their freedom should therefore be determined in such a way as to give them an opinion in addition to the individual right of the declarant to form or freely shape public opinion your interest should also be taken into account {3001/2018. (I. 10.) AB decision, Justification [20]}

According to the interpretation of the Constitutional Court that has been consistently followed for more than two decades, a freedom of expression demands priority protection “when public affairs and persons exercising public power, performing public duties or taking part in public life affects its activities. [...] Indispensable to the existence and development of a democratic society element [is] the debate over public affairs, which presupposes different political views and opinions

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Decision 3145/2018 (V.7.) AB of the Constitutional Court

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criticism of the functioning of public power”[36/1994. (VI. 24.) AB, ABH 1994, 219, 228; see also 57/2001. (XII. 5.) AB decision, ABH 2001, 484, 494.]

In view of this, in the practice of the Constitutional Court, public statements of a political nature are typically considers freedom of expression to be the innermost protection of freedom of expression {e.g.

5/2015. (II. 25.) AB, Reason [28]}. In these cases, the expression of opinion

the constitutional standard of freedom must be enforced with special rigor, that is

such speeches enjoy stronger protection and are restricted only to the strictest extent

can get a certificate {7/2014. (III. 7.) AB, Reason [45]}.

Accordingly, the ECtHR also emphasizes the practice of expressing opinions

freedom primarily protects opinions related to public affairs. With this

In this context, the long-standing practice of the court that the state (public authority)

political expressions are particularly protected because it is a

freedom is one of the cornerstones of a democratic society. The ECtHR added that it is

such expression of opinion is both for social progress and for the development of the individual

basic condition. *Handyside v. The United Kingdom* (5493/72), 7 December 1976, p.

In view of the restrictive aspects of political expression

should be interpreted [*Dichand and Others v. Austria* (29271/95), 26 February 2002, pp. 37-38. paragraph;

*Cholakov v. Bulgaria* (20147/06), 1 October 2013, paragraphs 29].

Aspects appearing in the cited decisions of the Constitutional Court also in the practice of the ECtHR prevail. The ECtHR has pointed out in several judgments that it is protected by Article 10 of the ECHR

Freedom of expression applies not only to debates of a political nature but also to legal protection also extends to the freedom to discuss all other issues affecting society

[Thorgeirson v. Iceland (13778/88), 25 June 1992, § 61]. The political

The special protection of freedom of expression should therefore apply in all cases where the dispute is in dispute expression of opinion on an issue affecting a social or local community, public affairs during the discussion. [e.g. Bladet Tromsø v. Norway [GC] (21980/93), May 1999 20, 58–60. paragraph 73; Klein v. Slovakia (72208/01), 31 October 2006, pp. 47-48. paragraph; Cihan Öztürk v. Turkey (17095/03), 9 June 2009, pp. 27-28. paragraph; Karsai v. Hungary (5380/07), 1 December 2005, para. 35] In these cases a

the persons involved in the dispute become public figures because of the contentability of the public affairs.

[35] The Constitutional Court therefore, in line with the case law of the ECtHR, acknowledged in practice that “all public dialogue can have a need for public debate and protection of fundamental rights in public disputes ”{14/2017. (VI. 30.) AB decision, Rationale [27]}.

(...) based on the case law of the Constitutional Court and the ECtHR, therefore freedom of expression it does not depend on the status of the person concerned, ie it does not in itself decide selection of the applicable constitutional standard. In fact, in some cases, the personal quality is crucial. The Constitutional Court therefore emphasizes some in its decisions [e.g. 1/2015 (I. 6.) AB decision] to the public authorities and the public figure

In the case of politicians, their status typically indicates that their activities, criticisms of their personalities are part of the debate over public affairs. However, even these individuals

In this case, too, the examination of whether the specific criticism is in fact a matter of public policy, or related to the free debate on issues of public interest

if the investigation is warranted, whether public disclosure violates human dignity.

The courts seised must therefore first examine whether the person involved in the proceedings is whether the communication is in any way related to a public dispute (see Explanatory Memorandum, paragraph 39 et seq.). And in the event that it can be established that the communication under investigation is public affairs or public life is different and stakeholders in this public debate

(Recital [44 et seq.]), regardless of whether they are involved

a person exercising public power or a person of another status, in accordance with Article IX of the Basic Law. Article 1 (1) on the basis of which he has an increased obligation to tolerate criticism and criticism of him

against. This tolerance obligation is partly in line with the content of the communication (statement of facts, value judgment) (Justification [Paragraph 52 et seq.])

(...) [77] 2.2. In examining the personal capacity of the litigants, the court of first instance a

attaches crucial importance to the fact that the petitioner is "one of the best-known

is his most significant media figure and is therefore considered a public figure ". Also for the defendant

found him to be a prominent and well-known media figure with a social judgment

it depends primarily on your work and lifestyle.

[78] The Court of Appeal, in line with the reasoning set out in the judgment of the Court of First Instance, also

does not attach decisive importance to whether the petitioner is a person exercising public authority,

or a public figure, but assessed that the widespread media

criticism of the petitioner's activities as a known person has attracted widespread public interest,

provokes public debate.

[79] On the basis of the above, the Constitutional Court has held that the courts have

The constitutional aspects presented in paragraphs [51] have been essentially expressed.

Indeed, what is crucial is that the petitioner is a well-known one

a person who has produced programs with a significant national audience

presents important social issues, thereby significantly influencing an area of public life

discussing issues. In examining his personal quality, it should therefore be emphasized that

voluntary media activity of the company, and thus the voluntary transformation of public life.

to tolerate critical remarks more than average. This is how it becomes concrete

individual public actor, which is not the same as the key public actor (public authority)

licensed persons, politicians in public office).

Summarizing the above, about the Applicant's real estate investment and development / renovation

information notice to the Applicant in accordance with Article 17 (3) (a) of the Regulation

sound data management.

Of course, there are several legal issues surrounding the use of drones, among others

a number of data protection issues also need to be clarified. Comprehensive legislation is still not

was born in Hungary, so the Authority with data processing with drones

on 14 November 2014, summarized in a recommendation the various purposes (public,

commercial and private) drone use

at the same time reiterated its proposal for legislation.

The recommendation emphasized that "(...) the use of drones alone is not data protection

problem, but can be said to be atypical with drone-mounted accessories

data handling. The main difference from the data management so far is that it is still as intended

use can also be a very strong intrusion into a person's privacy as a device

is able to collect data indiscriminately on everything that comes into its view that

horizons are unusually wide compared to previous experiences with similar technologies

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and can be changed very quickly. The drone, in the absence of regulations governing it, is untraceable and

unavoidable (as opposed to a helicopter - mounted camera or a fixed security guard

camera system), capable of tracking moving persons or objects without

stakeholders would notice. With this new technology, the data controller can be easily enabled

it can become covert surveillance, as the transport device (the drone) that allows observation is quite

it can be small in size, difficult or not at all noticeable and fast, in many cases unnoticed

able to move. It can be seen that from sports and model airplanes, balloons and

drones from other flying devices compared to those that could be potentially attached to them  
its functions and properties are very different, which is why it can be stated that the drone  
brings new features in terms of technology compared to older technologies. Implemented by the drone  
in addition, data management takes place in a fully automatic system, making it difficult on the fly, or  
it is impossible to change it. There is also an important difference in the fact that one by one  
the amount of data and types of data that can be recorded in flight are different from the original purpose,  
thus making this new technology suitable for even inventory data collection. By the drone  
the data processing carried out takes place in the air or is the subject of data which the  
taken from air, hitherto unusual altitudes, positions, and which are collected by the data subject  
most of the time he doesn't even notice it, but even if he finds out about it, he doesn't know with whom the data subject's rights  
opposite, you can practice. It can be stated that this new technology is not being used properly  
provides an opportunity for large-scale violations of individuals 'privacy and technology  
The mere existence of the  
it is able to collect personal data from the air over long distances, so it can also count in areas  
citizens with the most intimate effects on their privacy, where they have not  
expected such intervention. "

#### ARC. Other issues

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a), its jurisdiction is  
covers the whole country.

The Ákr. § 112 and § 116 (1) and § 114 (1), respectively  
there is an administrative remedy against him.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a  
hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to A Kp. Section 27 (1)

according to the court, legal representation is mandatory in litigation within the jurisdiction of the court. A Kp. Section 39 (6)

the submission of the application for the entry into force of the administrative act

has no suspensive effect.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

CCXXII of 2015 on the general rules of public administration and trust services. Act (a

hereinafter referred to as the Customer's legal representative pursuant to Section 9 (1) (b) of the E-Administration Act

obliged to communicate electronically.

Contrary to the decision of the Authority, the time and place of filing the application shall be determined by the Kp. Section 39

(1)

defined in paragraph Information on the possibility of requesting a hearing a

Kp. It is based on § 77 (1) - (2). The rate of the fee for an administrative lawsuit is based on the fees

1990 XCIII. Act (hereinafter: Itv.) 45 / A. § (1). The fee

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from the advance payment of the Itv. Section 59 (1) and Section 62 (1) (h) exempt

initiating proceedings.

Budapest, June 10, 2020

Dr. Attila Péterfalvi

President

c. professor

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