R9.D1

ASSESSMENT REPORT ON THE EXISTING PERSONAL DATA PROTECTION SYSTEM WITHIN THE LAW ENFORCEMENT AGENCIES (JUDICIARY, PPO AND THE OMBUDSMAN) IN THE REPUBLIC OF MACEDONIA WITH RECOMMENDATIONS FOR ITS STRENGTHENING

(ACTIVITY 9.1)
DRAFT 2.0

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JUDICIARY

PROJECT INFORMATION

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1. Introduction

The purpose of the mission is to further improve the overall (legal and institutional) framework for data protection of the Judiciary in Macedonia in line with the best EU practices in order to ensure that data protection rights and standards are effectively applicable through:

1. aligning the national regulations to the reformed EU data protection acquis and best practices;
2. enhancing the cooperation with the DPDP;
3. strengthening the mechanisms for personal data protections;
4. developing and implementing data protection strategy;
5. Implementing relevant privacy standards.

2. Methodology

In accordance with ToR A 9.1 the expert was expected to carry out – in close cooperation with the project and the Beneficiary – an assessment about the existing personal data protection system of the Judiciary. Relevant information have been collected from the following sources:

- personal meeting and discussion with Ms. Renata Georgievska, DPO and judge of a basic court
- personal meeting and consultation with Ms. Lidija Tanevska, DPO of the Supreme Court
- legal regulations: (https://www.akademika.com.mk/v1/en/)
    - The Law on Courts
    - The Law on Movement of Court Cases
    - Guide - By-law
    - The Law on Personal Data Protection

- research work.
  Main sources:
  - http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%209370%202004%20INIT
  - https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=536554&SecMode=1&DocId=527282&Usage=2
  - http://dzlp.mk/sites/default/files/u972/20111130%20ENG%20Final%20Assessment%20Report%20int%20expert.pdf
  - http://www.oecd-ilibrary.org/docserver/download/5kmk183hpdxx.pdf?expires=1474453529&id=id&accname=guest&checksum=32C3ACFBC8C0B1074C22B95EB52F1D05
  - https://dzlp.mk/sites/default/files/u972/20111130%20ENG%20Final%20Assessment%20Report%20int%20expert.pdf
  - file:///C:/Users/vialto/Downloads/CER95_11EN.pdf
  - https://e-justice.europa.eu/content_member_state_case_law-13-hu-en.do?member=1
  - https://www.coe.int/t/dghl/standardsetting/cdcj/co-operation_projects/criminal_justice_reform_kazakhstan/Press-Release-18-01-2016/EN_CoE%20%20Kazakhstan%20Report_11%2001%202016.pdf

3. Overview of the Judiciary in Macedonia

Macedonia was a constituent republic of the Socialist Federal Republic of Yugoslavia. The Republic of Macedonia elected its first independent National Assembly in November 1990 and a referendum of independence was held on September 1991. The independence of the republic was declared and on 17 November 1991 a Constitution was adopted.
According to the Constitution the courts exercise the judicial power of the state. The judiciary system shas been going under a continous reform procedure but presently there are 28 first instance courts, 4 second instance courts, one Administrative Court and one Appeal Administrative Court (the Constitutional Court has no competency in the judicial system). The Judicial Council decides on the election and discharge of the judges meanwhile the Judicial Academy works independently and is responsible for the initial and the regular training of the judges.
The Law on Courts is a so-called system law which can be accepted or modified only with a 2/3 majority vote of the National Assembly
The Constitution guarantees the free access of public information as well as the right to protect personal data. Databases containing personal data can only be established, maintained and run on the basis of a law or a written consent given by the data subject.
In June 2002 the government adopted a Declaration for accelerated deveelopment of an information society and digital economy (Official Gazette of the Republic of Macedonai , Nr. 48/02)

3.1. Data protection issues of the Judiciary

3.1.1. Regulatory:

A. Law on Personal Data Protection ("Official Gazette of the Republic of Macedonia" nos. 7/2005, 103/2008, 124/2008, 124/2010, 135/2011,43/2014, 153/2015 and 99/2016)

- Article 4a of the Data Protection Law allows exemptions from the general scope of the privacy rules as follow:
  The provisions referred to in Article 6, 7, 11, 12, 13, 14, 16, 22 and from 27 to 36 of this Law shall not be applied on processing the personal data performed exclusively for the purpose of literature and art expressing and professional journalism in accordance with the ethical rules of this profession.
  The provisions of this Law shall not be applied to processing of personal data carried out for the purpose of professional journalism, only in the case when the public interest prevails over the private interest of the subject of personal data.
- Article 7.
  Personal data processing that refers to criminal acts, pronounced sentences, alternative measures and security measures for committed criminal acts may be performed by pursuant to law.

- Article 7a.
  The processing of the personal data contained in judicial decisions shall be conducted under the conditions determined by law and in the manner prescribed by the regulations adopted on the basis of that Law.

B. Law on Courts (Official Gazette of the Republic of Macedonia Nos nos. 58/2006, 62/2006, 35/2008 and 150/2010).

- Art. 3. states that the goals and functions of the judicial power shall include protection, respect and promotion of human rights and fundamental freedoms.
- Art 10 par.1. sets the obligation to guarantee publicity and transparency of the court procedure.
- Article 17.: No one, without being authorized thereof, shall be permitted to hold, conceal or open a court writ or another court communication not addressed to him/her.
- Article 20.:
  (1) On request of the court, in the exercise of its competence, the state bodies and other legal entities shall be obliged to submit all the necessary data, acts or documents at their disposal and required for the procedure, without any postponement.
  (2) The court shall be obliged to protect the classified information with a certain degree of secrecy defined in accordance with the law, obtained from other state bodies or legal entities against unauthorized disclosure.
  - Art. 42.:
  (3) After the election, the lay judges shall mandatorily attend a specialized training organized by the Academy for Judges and Public Prosecutors.
  (4) Upon completion of the training referred to in paragraph (3) of this Article, the lay judges shall take an exam for the completed training.
  (7) The content, duration and delivery of the training referred to in paragraph (3) of this Article shall be defined by a specialized program for training of lay judges by the Academy for Judges and Public Prosecutors.
  - Art. 45 a (3): The Judicial Council of the Republic of Macedonia, when conducting the psychological test and the integrity test, shall be obliged to take into account the protection of the personal data, reputation and dignity of the candidate in accordance with the law.
  - Article 46 (1): A person who has completed the initial training in the Academy for Judges and Public Prosecutors can be elected judge to a basic court.
  - Article 75 (1): Unprofessional and neglectful exercise of the judicial office shall include insufficient professionalism or negligence of the judge that affect the work quality and efficiency, that is: …..
  - Article 82. (2): In order to carry out the activities of the judicial administration, the Ministry of Justice shall communicate with the president of the relevant court.
  - Article 83. (1): The scope of work of the judicial administration shall include provision of general conditions for exercising the judicial power, and in particular drafting laws and other regulations in the field of organization and work of the courts and the procedure before the courts, adoption of a Court Rulebook, responsibility for continuous training of the judges and the judicial service, provision of material, financial, safety, spatial and other conditions for operation of the courts, carrying out activities related to international legal assistance, enforcement of sentences imposed for crimes, collection of statistical and other data about the work of the courts, supervision over the efficient performance of the works in the court and implementation of the Court Rulebook, supervision of the implementation of the regulations on court deposits and guarantees, reviewing the complaints from the citizens about the work of the courts

pertaining to delay of the court procedure or the work of the judicial services, as well as other administrative tasks and activities defined by law.
(2) For the purpose of reviewing the complaints of the citizens about the work of the courts pertaining to delay of the court procedure, the Minister of Justice shall form a commission composed of two representatives from the Ministry of Justice and one representative selected by the Supreme Court of the Republic of Macedonia, for which a report shall be prepared.

- Article 84.:
(1) The Minister of Justice shall adopt a Court Rulebook, upon previous opinion from the general session of the Supreme Court of the Republic of Macedonia.
(2) The Court Rulebook shall regulate the internal organization of the courts, the manner of operation of the courts, the keeping of case records, as well as the keeping of entry books and other books, the treatment of the documents, forms, the work related to the international legal assistance and acting upon complaints, the calling up and assignment of lay judges, the assignment of regular court translators, interpreters and experts, the keeping of statistics and records and professional development of the personnel, the rules on special marks of the vehicles of the court, the information system of the court, the audiovisual recording of a hearing, as well as other issues significant to the work of the courts.
(3) The Ministry of Justice shall supervise the application of the Court Rulebook.
- Article 88. (1): The president of the court shall represent the court, organize the work and take measures for well-timed and duly execution of court's activities.
(2) The president of the court shall ensure the application of the Court Rulebook.
- Article 94. (1): The judges, lay judges, higher court counselors, independent court counselors, court counselors, professional associates, court trainees, court experts, interpreters, translators and other persons participating in the procedure and apart of it shall be obliged to keep the classified information with an appropriate degree of secrecy defined by law from unauthorized disclosure, no matter how they have acknowledged it.
(2) The obligation to keep a classified information from unauthorized disclosure shall last in accordance with the law.
- Article 95. (1) The president of the court may release the judge or the other persons referred to in Article 94 paragraph (1) of this Law from the obligation to keep classified information with an appropriate degree of secrecy determined by law.
(2) Decision on release from the obligation to keep classified information with appropriate degree of protection regarding the president of the court of lower instance shall be adopted by the president of the immediately higher court, and regarding the president of the Supreme Court of the Republic of Macedonia, the general session of that court, in accordance with the law.
- Article 97. :
(1) The president of the court, a person responsible for public relations, shall give information to the public via the mass media about the work of

the court, as well as information about the course of the procedure in a particular case.
(2) A public relations office shall be mandatorily established in the courts.
(3) The president of the court and the judge referred to in paragraph (1) of this Article shall give information to the public by taking into account not to demean the image, honor and dignity of the person and not to cause damage to the independence and autonomy of the court.
(4) The data about the number of the case, the judge, date, hour and court room where the hearing is to be held shall be published on a daily basis in every court, in a public and visible place.
(5) At least once a year, every court shall inform the public about the results of the work of the court and the judges.
(6) The parties and the other participants in the ongoing procedure cannot give information and assessment about the course, conduct and outcome of the procedure if the court has prohibited to give such information.
- Article 99. :
(1) Information technology center shall be established in the Supreme Court of the Republic of Macedonia containing a database for the Court Information System.
(2) The courts shall have information technology services, as separate organizational units.
(3) The courts shall be obliged to publish the adopted decisions on their web site within a period of two days as of the day of their preparation and signing, in the manner defined by law.
(4) The president of the court or a judge appointed by him/her shall manage the center, that is, the information technology service.
(5) The Ministry of Justice shall ensure implementation, maintenance and operation of the information technology system on a single methodological and technical base.
(6) A single information technology center containing a database of all judicial bodies shall be implemented in the Ministry of Justice.
(7) The Minister of Justice shall by an act define the manner of operation of the information technology system in the courts referred to in paragraphs (1) and (5) of this Article.
- Article 100.: The court service shall be composed of the court servants, the persons employed in the courts carrying out technical and auxiliary activities and the court police.
- Article 103.: The court servants, within the framework of their responsibility, shall be obliged to provide the citizens efficient and lawful exercise of their constitutional freedoms, rights and interests in the procedures before the courts.

C. **The Law on movement of court cases** (Official Gazette of RM No. 171)

Announcement of court judgment on the website of the court
- Article 10. :
(1) The competent court servant is obliged to publish the **enforceable court judgment** within two days from the day of its admission on the website of the court with the name and surname of the parties, i.e. the title of the legal entity, in the course of which the address of residence is

anonymized, i.e. the residence or the seat of the parties, the personal number of the citizen or the personal number of the object of enrolment and the personal data of the witnesses in the procedure.
(2) The competent judicial servant is obliged to publish the **non-enforceable court judgment** within two days from the day of its admission on the website of the court with complete anonymization of the personal data of the participants in the procedure, except the name and the surname of the judges, the public prosecutors, the state attorneys and the legal representatives of the parties.
(3) In cases when the public is excluded in accordance to the Constitution of the Republic of Macedonia, the law and the ratified international agreements, the court judgments are not announced in the website of the court.
(4) The announced criminal court judgments on the website of the court are erased after the expiration of the deadline for erasing of the sentence, in accordance to the provisions of the Criminal Code, and the other court judgments are erased after the expiration of the five years from the day of their announcement.
(5) The software solution for announcement of the court judgments on the website of the court contains a possibility for their printing, with no option for altering, coping and processing of the text of the announced document.
- Article 11.:
(1) The Information technology center in the Supreme Court of the Republic of Macedonia runs a data base of enforceable and non-enforceable court judgments with integral texts without anonymization of data of the parties and other participants in the procedure.
(2) Access to the database of court judgments referred in paragraph (1) of this article in the frame of the automated court case management information system with a single user name and password is allowed to the judges, the public prosecutors, the Judicial Council of the Republic of Macedonia, the Council of the Public Prosecutors in the Republic of Macedonia, as well as the state bodies, institutions and persons who will prove their legitimate aim for access to the database of court judgments, through a submission of request to the President of the Supreme Court of the Republic of Macedonia.
(3) The President of the Supreme Court of the Republic of Macedonia decides on the request referred to paragraph (2) of this article within 7 days from the day of admission of the request.
(4) The manner for determining of the levels and the access to the court judgments referred in this article is stipulated with an act of the President of the Supreme Court of the Republic of Macedonia.
(5) The object referred in paragraph (2) of this article to whom the request for access to the database of court judgments would be approved is obliged to act in accordance with the regulation for personal data protection.

D. Guide - By-law (Official Gazette of RM No. 171 / No. 01-887/5 from 04th of April 2011)

Article 4.: Anonymisation of personal data in Articles 2 and 3 of this Guideline is done by replacing or exclusion of data in judicial decisions as follows:
1. anonymization of a name and surname
a). Full name is anonymized by replacing with the initials of the initial capital letters which are being added point;
Example: Peter Petrovski is replaced by: P. P.
b). If in the same court decision has more people with the same initials anonymisation is done as follows:
- In the first person's name is replaced with a initial point and last name initial is replaced by a point and added ordinal number 1;

- In the second, third or other persons, the name is replaced with a initial point and last name initial is replaced by a point and added to the next sequence number.
Example: Krste Krstevski Kire Kochovski Koco Kostovski replaced with C. K. 1 K. K. 2 and C. K. 3
2. anonymization the name of legal entities
- The name of the legal entity (company) is anonymized so that the name of the company is replaced with initial capital letter with added point and add capitals with point that mark the legal form of the company. If the text of the court decision stated public company or other legal entity to anonymize data for the legal form of the entity.
Example: "Skopje" LLC is replaced by S. LLC
Public Enterprise "Water and Sanitation" is replaced by a public company VK
3. anonymisation of names of state administration bodies, administrative organizations and institutions as well as local government units
- The title of state administration bodies, administrative organizations and institutions as well as local government units is anonymized so that the words of which consist name is replaced with a single word that represents the legal form of the entity. If the name contains words with quotes, words are replaced by the initials of initial capitals who add a point, and quotation marks omitted.
Example: Ministry of Justice is replaced by the Ministry,
SSO is replaced by the Institute,
"Goce Delchev" was replaced by GD School
4. anonymization of address and place of birth
- The names of countries, cities and places of birth are anonymized in a manner that the name of the city is replaced by initial capital letters which are being added point. The remaining part of the address as the street and the number is omitted. In case in the same court judgment have the same initial letters of countries, towns or places every new starting points are added ordinal number starting from 1.
Example: ul. "Dimitrie Cuposki" no. 9, Skopje, Republic of Macedonia is replaced by S.R.M.
St. "522" no. 1, Demir Hisar, Macedonia is replaced by D.H.R.M.
5. anonymization of the e-mail address and web pages
a). address email and web pages are anonymized with their replacement by three points.
Example: e-mail: pertre_petrevski@live.com be replaced by e-mail: www.pravda.gov.mk are replaced by www ...
6. anonymization of the unique personal identification number, identity card number, passport, driving license and other personal documents and the number of insurance policy, the number of vehicle registration mark and date of birth
- The only personal identification number, identity card number, passport, driving license and other personal documents and the number of insurance policy, the number of registration mark of the vehicle and the date of birth are anonymized by their replacement with three points.
Example: Number of Identity Card 98765 is replaced with the ID card number ...
Vehicle license tag number SK-2584 OC is replaced by the registration mark of the vehicle ...
Date of Birth 1.1.2035 was replaced with a date of birth ...

3.1.2. Practical issues:

- Each court has a press officer nominated by the President of the Court, whose duty is to provide reliable information to the press.

- Each court is responsible for its data protection regime and has its own DPO.
- Publicity of the press is regulated in the by-law and procedural law. The DPDP is aware if numerous citizen complaints.
- Pre–trial publicity : court lists of hearings are public but contain only the case number and the time of the hearing (following the recommendation of the DPDP)
- Anonymization of judgements: the names of judges and legal representatives shall not be anonymised.
- Before making a recording (voice or image) at the trial the journalist is obliged to ask a preliminary single permission from the President of the Supreme Court. The presiding judge has further rights and possibilities to control the recording.
- The representatives of the courts are not aware of any privacy problem or data protection complaint in relation with the court procedure but there is a pressing need of financial support and technological development in order to cope with the privacy expectations.
- Need to educate the court staff (not only the judges).
- If the involved person (suspected etc.) is a public figure, information might be provided about him (this is the practice but the issue is not regulated *in concreto meaning the regulation is too general and does not give more detailed rules*).
- Good cooperation with the DPDP (in particular in the last two years): the 2o14 joint project (with the support of the US Embassy) aiming modernisation of the courts was declared as very successful. As a result of conducted inspections certain violations were identified in terms of implementation of the regulations on personal data protection:

  1. Declaration of confidentiality personally signed by the employees and personal data protection was not provided as well as not providing competences for the processing of personal data for employees (authorized) in the courts;
  2. The procedure for granting user privileges to authorized persons to process personal data was not implemented;
  3. The procedure for the right of access and rectification of personal data for the data subjects was not implemented as well as not implementing a special form on the right of access and correction of personal data;
  4. The full documentation describing the technical and organizational measures to ensure confidentiality and protection of personal data was not implemented;
  5. The rules of informing employees about the personal data protection were not implemented before they start work and their actual duties and responsibilities for the personal data protection, and not implementation of the annual Training plan for the employees;
  6. The documents which contained personal data, which deadline for storage has expired under Court Rules and regulations for archival material were not destroyed;
  7. Decision of agreements with processors that do not contain provisions on the personal data protection, for example processor (company for Information Technology Engineering NEOCOM AD Skopje) that performs maintenance of hardware and system software for the operation of AKMIS system;
  8. Statements of secrecy and protection of personal data signed personally and authorization for processing of personal data for the representatives of processors was not secured;
  9. Application of appropriate technical measures for secrecy and personal data protection in the access to all personal computers, the information system as a whole and to individual applications, AKMIS was not secured;

10. The rules of procedure for access to the premises in which the servers are situated, and no establishment of keeping records of persons who have access to the premises was not implemented;
11. The proper procedure for security on the Internet (prohibition of using the Internet, able to use the Internet with bans on certain web - sites, a way to use the official e - mail, prohibiting the use of private e - mail to business purposes and other issues was not implemented);
12. Full records or logs that will generate a special software application (AKMIS) in the account for viewing and operations of personal data by authorized persons was not implemented;
13. Full record of any authorized access of authorized personnel and administrators to the database which uses special software application or program for managing the movement of court cases (AKMIS) was not established;
14. The implementation of measures for protecting cryptographic security copies, checking their functionality for keeping them out of the premises where the servers are located, and not ensuring the application of appropriate measures for the manner of their storage was not secured;
15. Mechanisms for performing periodic audits to monitor compliance of the regulations on personal data protection and the adopted documents on technical and organizational measures were not established.
These factual violations found after the completion of inspections have gradually been eliminated, and within the financial and human resources of the courts. Therefore, these inspections were aimed at building a real and functional system of personal data protection in the courts by its nature to satisfy the requirements for adequacy under the regulations on personal data protection.

- DPDP in the frame of its competences gives opinion on documents for personal data protection, for the video surveillance documents and conducts supervision of the video surveillance (only the entrance and not the public area)
- Greatest problem mentioned is the publicity of non–appealable judgements (so even judgments made on the first instance can be made public with partial anonymization)
- Law on the Archive Materials is applicable for the public as well as for the private sector.

4. European case-law on publishing court decisions

4.1. Council of Europe

The European Court of Human Rights has over the years developed substantive case law concerning the public character of court proceedings and the publication of court decisions. Already in 1983, the Court declared (Pretto and Others v. Italy) that the public character of proceedings before the judicial bodies referred to in Article 6 § 1 protects litigants against the administration of justice in secret with no public scrutiny. It is also one of the means whereby confidence in the courts, superior and inferior, can be maintained. This principle of public character of proceedings has been confirmed in the subsequent case-law of the Court (for example Axen v. Germany, 8 December 1983, § 25; Ryakib Biryukov v. Russia,17 January 2008, §30; Fazliyski v. Bulgaria, 16 April 2013, § 64). In Pretto and Others v Italy the Court recognised that whilst the member States of the Council of Europe all subscribe to this principle of publicity, their legislative systems and judicial practice reveal some diversity as to its scope and manner of implementation, as regards both the holding of hearings and the "pronouncement" of judgments (§ 22). The Court pointed out that many member States of the Council of Europe have a long-standing tradition of recourse to other means, besides reading out aloud, for making public the decisionsof all or some of their courts, and especially of their courts of cassation, for example deposit in a registry accessible to the public and this is something that the authors of the Convention could not have overlooked (§ 26). The Court therefore has not felt bound to adopt a literal interpretation stating that in each case the form of publicity to be given to the "judgment" under the domestic law of the espondent State must be assessed in the light of the special features of the proceedings in question and by reference to the object and purpose of Article 6 § 1 (§ 26).

4.2. Hungary:

Act CLXI of 2011 on the organisation and administration of courts provides that from 1 January 2012 the Curia (Hungary's supreme court), the five regional courts of appeal and the administrative and labour courts (the latter only where an administrative decision under review in an administrative case was issued in first-instance proceedings, and the court's decision is not subject to ordinary appeal) are required to publish the decision on the merits of the case in digital form in the collection of Hungarian court decisions. At present, the collection of Hungarian court decisions is accessible on the website of the register of anonymous decisions http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara). (In the past, the Supreme Court and the five regional courts of appeal were required under Act XC of 2005 on the freedom of electronic information to publish all their decisions on merit from 1 July 2007.)
Decisions given in the following proceedings are an exception, and therefore do not have to be published in the collection of court decisions:

- court decisions given in order-for-payment, enforcement, company-court, bankruptcy and winding-up proceedings, as well as proceedings involving registers kept by the court;
- decisions given in matrimonial proceedings, proceedings aimed at determining paternity and origin, proceedings on the termination of parental responsibility as well as guardianship proceedings may not be published if either party so requests;

- decisions given in proceedings involving alleged sex offences may not be published without the victim's consent.

Moreover, the Curia is required to publish judicial uniformity decisions, judicial judgments of principle and judicial decisions of principle. These are also available on the website of the register of anonymous decisions (link: http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara).
The decision and the name of the president of the court that gave the decision must be published in the collection of court decisions within 30 days of the decision being recorded in writing.
The description of the published decision must include the name of the court and of the legislative area, the year in which the decision was given, the reference number, as well as the provisions on the basis of which the decision was given by the court.
As a rule, all the parties' personal data must be deleted from the decisions ('anonymous decision'), and the parties must be identified according to the role played by them in the proceedings. However, the following information must not be deleted:

- the name of a body performing state or local governmental functions, or any other public functions laid down in legislation and - unless otherwise provided by law - the first name and surname or names (collectively known as 'name') and position of a person acting in that capacity, where the person in question was involved in the proceedings by virtue of his or her public function;
- the name of the lawyer acting as authorised representative or defending counsel;
- the name of the natural person losing the case as defendant, as well as the name and registered address of legal persons or bodies without legal personality, if the decision was given in proceedings in which there is a right by law to assert claims of public interest;
- the name and registered address of business organisations or foundations, as well as the name of their representative;
- data accessible on grounds of public interest.

There are no specific titles, because the search engine gives all relevant data of the results. In the results list, there is an identification number referring to data that is also highlighted in the results list (court, type of procedure).
(The detailed rules for indicating decisions published in the collection of court decisions are laid down in Decree No 29/2007 of 31 May 2007 of the Minister for Justice and Law Enforcement.)
Case-law is available in .rtf format.
Further proceedings

	Curia	Other courts
Is information available as to appeals?	No	No
• whether a case is still in progress?	No	No
• the result of appeals?	No	No
• the irrevocability of the decision?	Yes	Yes
• further proceedings before another Hungarian court (Constitutional Court…)? the European Court of Justice? the Court of Human Rights?	No No No	No No No

Publication rules

	at national level?	at court level?
Are there binding rules for	Yes	Yes

the publication of case-law?		

	Curia	Other courts
Is all case-law published or only a selection?	All case-law	Only a selection
If a selection is made what are the criteria applied?		The five courts of appeal publish all decisions on merit. All decisions of lower courts directly connected to these decisions are also to be published. Furthermore, the presidents of the courts can decide whether they intend to publish other decisions on merit. As of 1 July 2007.

Access to the database is free of charge.

4.3. Belgium:

Available websites: http://jure.juridat.just.fgov.be/JuridatSearchCombined/
Presentation of decisions, summaries
In general, decisions are introduced by a list of keywords or 'abstract', followed by a summary of the most important points of law and references to the law or to earlier judgments.
Example: List of keywords or 'abstract': Sporting competitions – Football matches - Safety - Offence – Administrative penalty – Action before the police court – Rights of the defence – Failure to observe - Objection – Rejection of the application – Reopening of the proceedings – Role of the judge
Summary: The judge must order reopening of the proceedings before dismissing, in full or in part, an application based on an objection that the parties did not raise before him or her, such as failure to observe the rights of the defence in proceedings to impose an administrative penalty under the Law of 21 December 1998 on safety at football matches (1) (2). (1) See Cass., 26 December 1986, RG 5176, Pas., 1987, No 258; Cass., 3 April 1998, RG C.97.0087.F, Pas., 1998, No 191 and Cass., 17 May 2002, RG C.01.0330.F, Pas., 2002, No 303. (2) Article 26(1) and (2) of the Act of 21 December 1998, as in force before its amendment by the Act of 25 April 2007.
Courts whose case-law is covered

- Supreme Court
- Ordinary courts
- Specialised courts

Monitoring of ongoing proceedings

	Supreme Court	Other courts
Is information provided on: The existence of an action?	Yes	Yes
The fact that the case is still pending	Yes	No
The outcome of an action	Yes	No
The irrevocable and final nature of a judgment	No	No

The fact that proceedings may take place before Another court (e.g. Constitutional Court)? The European Court of Justice? The European Court of Human Rights?	Yes Yes Yes/No	Yes/No Yes/No Yes/No

Publication rules

	At national level?	For judgments of some courts?
Are there mandatory rules concerning publication of court judgments?	No	No

There are non-binding rules of conduct.

	Supreme Court	Other courts
Is the full text published or selected parts?	Selected parts	Selected parts
If selected parts are published, what are the criteria?	Societal and legal interest	Societal and legal interest

4.4. Czech Republic:

Case law is accessible to the public on the website of the Ministry of Justice http://www.justice.cz/, (reference 'Judikatura' (case law)). Each of the following courts maintains a database of its own case law:

- the Constitutional Court (*Ústavní soud*)
- the Supreme Court (*Nejvyšší soud*)
- the Supreme Administrative Court (SAC) (*Nejvyšší správní soud*).

Summaries of all decisions made by the SAC are published, in anonymised form, on the SAC's website. Some of the SAC's decisions, as well as some made by lower administrative courts and selected by the plenum of all SAC judges according to the importance of the decisions, are treated in greater detail.
Judgments are made available on the websites of the relevant supreme courts. Case law is available in html format.
Further proceedings

	Supreme Court	Other courts
Is information available as to: appeals?	No	Yes (http://www.justice.cz/, reference InfoSoud)
whether a case is still in progress?	No	Yes (InfoSoud)
the result of appeals?	No	Yes (InfoSoud)
the irrevocability of the decision?	No	No
on further proceedings before: another domestic court (e.g. Constitutional Court)? the European Court of Justice? the European Court of Human Rights?	No No No	No No No

Publication rules

	at national level?	at court level?
Are there binding rules for the publication of case law	Yes	Yes

	Supreme Court	Other courts
Is full case law published or only a selection?	Fully anonymised	Fully anonymised
If a selection is done what criteria are applied?		Protection of personal data

Access to the database is free of charge.

4.5. France:

Websites available:
Global official portal: Legifrance

- Judicial Case Law
- Administrative Case Law
- Constitutional Case Law

Websites for the courts:

- Court of Cassation
- State Council
- Constitutional Council
- Audit Office

Website for the Ministry of Justice

In general, decisions begin with a list of keywords or an 'abstract' followed by a summary (résumé) of the most important points of law and references to statutes or to previous decisions. Example: For the Court of Cassation, in addition to identification references, documents contain elements of analysis. The summary, drafted by a magistrate of the court that gave the decision, is a résumé of the legal question addressed. The title, created from the decision's summary, is a succession of keywords presented in order of importance. The keywords used are taken from the Court of Cassation's nomenclature, as provided in the annual published tables of the Court's Bulletin, available under the heading 'Titrage'. They can be accessed by clicking titrage in the judicial case-law advanced search form such as „Court of Cassation, Civil chamber 2, Public session of Thursday 18 December 2008, Appeal no. 07-20238, Appeal from the decision of: Appeal Court of Basse-Terre of 23 April 2007"
Case-law is available in the following formats: (e.g. PDF, html and XML)? XML for decisions of the supreme courts, otherwise html.

Tracking of proceedings in progress:

	Supreme court	Other courts
Is information provided on: The existence of an appeal?	Yes for the Constitutional Council Being implemented for the Court of Cassation Reserved to the	No

	parties for the State Council	
The fact that the case is still pending	No	No
The result of an appeal	Yes	No
Whether a decision is irrevocable and definitive	Yes	Yes
The fact that the proceedings may be pursued in Another court (Constitutional Court)? The European Court of Justice? The European Court of Human Rights?	No Yes Yes	Yes Yes Yes

Publication rules

	At a national level?	For decisions of certain courts?
Are there any binding rules on the publication of court decisions?	Yes	No

Court of Cassation

According to Art. R433-3 of the French Code of Judicial Organisation, the documentation and analysis service has a database containing, under the same nomenclature:

- firstly, the decisions and opinions of the Court of Cassation and of the courts or court commissions attached to it, published or not in the monthly bulletins referenced in the provisoions and
- secondly, the decisions of particular interest given by other judicial courts.

For that purpose, judicial decisions of particular interest are sent to the service, under the conditions fixed by an order of the French minister of justice, by the chief justices of the appeal courts or directly by the presiding justices or the judges presiding over the first level courts. The database is accessible to the public under the conditions applicable to the public service for legal publishing on the Internet.

The documentation and analysis service has a separate database containing all the decisions pronounced by the appeal courts and the judicial decisions made by the chief justices of these courts or their delegates. The conditions under which these orders and decisions are sent to the service and used by the service are fixed by a minister of justice order.

The documentation and analysis service produces two monthly bulletins, one for the civil chambers, the other for the criminal chamber, which refer to the decisions and opinions that are to be published by decision of the presiding judge of the court that pronounced them. The service produces schedules.

State Council

According to Article L10 of the Code of Administrative Justices judgments are public. They include the name of the judges that pronounce them.

	Supreme court	Other courts
Is the entire text published, or a selected part?	Entire text of all decisions in the online databases. Selection of entire decisions on paper (Court of Cassation and State Council) and résumés for another selection of decisions.	Publication of grounds for a selection of decisions of the appeal courts
If a selection is published, what	Court’s choice	Court’s choice

are the criteria?		

4.6. Poland:

Presentation of decisions / Headlines

	Supreme courts	Other courts
Case law presented with headlines	• Constitutional Tribunal (Trybunał Konstytucyjny) • Supreme Administrative Court (Naczelny Sąd Administracyjny) • Supreme Court (Sąd Najwyższy) (the judgements of four chambers): ○ Criminal Law Chamber, ○ Civil Law Chamber, ○ Labour Law, Social Security and Public Affaires Chamber ○ Military Chamber	No

Example of headline/s
Constitutional Tribunal – Community's subvention in the activities of a non-public nursery school.

	Explanation
The ruling of 2008-12-18, number K 19/07	Type of decision (judgement/ decision/...), date and file reference number of case.
Community subvention in the activities of a non-public nursery school.	Headline
Z.U. 2008 / 10A / 182	Published in the official collection of the Constitutional Tribunal's jurisdiction, issued by the Office of Tribunal
Dz. U. 2008.235.1618 of 2008-12-30	Published in the official journal
	Links to the judgement in MS WORD and PDF formats

Supreme Administrative Court

	2009-04-07 Judgement is irrevocable
Date of receipt	2007-09-10
Name of the court	Supreme Administrative Court (Naczelny Sąd Administracyjny)
Names of judges	Janusz Zubrzycki Marek Kołaczek Tomasz Kolanowski
Symbol with a description:	6110 VAT

Key words:	Taxation procedure VAT
Other related cases:	I SA/Lu 454/05 - Wyrok WSA w Lublinie z 2007-05-09 I FZ 201/06 - Postanowienie NSA z 2006-07-17
Against:	Director of Fiscal Chamber
Content:	Appealed judgement has been annulled, and case has been transferred to the district administrative court for re-examination
Reference to the law:	Dz.U. 2005 nr 8 poz 60 art. 70 par. 1, art. 108 par. 2 pkt 2 lit a, art. 116 par. 1, art. 118 par. 1, art. 127, art. 151, art. 152, art. 187, art. 188, art. 191 Act of 29 August 1997 on taxation procedure (ustawa z dnia 29 sierpnia 1997 r. Ordynacja podatkowa) Dz.U. 2002 nr 153 poz 1270 art. 141 par. 4, art. 145 par. 1 pkt 1 lit. a, art. 151 Act of 30 August 2002 concerning the procedure of administrative courts (ustawa z dnia 30 sierpnia 2002 r. Prawo o postępowaniu przed sądami administracyjnymi) Dz.U. 1934 nr 93 poz 836 art. 1, art. 2, art. 4, art. 20. Regulation of President of Republic of Poland of 24 October 1934 on the composition of a proceeding (rozporządzenie Prezydenta Rzeczypospolitej z dnia 24 października 1934 r. Prawo o postępowaniu układowem).

Formats

- Constitutional Tribunal (Trybunał Konstytucyjny)– DOC, PDF
- Supreme Administrative Court (Naczelny Sąd Administracyjny) – HTML
- Supreme Court (Sąd Najwyższy) – PDF

Further proceedings

	Supreme Courts	Other courts
– Is information available on appeal?	Yes, by a constitutional tribunal. All supreme court judgements are the result of an appeal.	Data not available
– Is the case still pending?	Yes, in the constitutional tribunal. Supreme Court appeal will be made depending on contents of the judgement.	Data not available
– The result of appeals?	Yes	Data not available
– Is the decision irrevocable?	Yes, at the constitutional tribunal Yes, where the case was brought in the Supreme Administrative Court Decision will be made depending on contents of the judgement.	Data not available
Were there earlier proceedings before another internal court: – Constitutional Court? – An external court: – European Court of Justice?	No	Data not available

– Court of Human Rights?		

There are provincial administrative courts (first instance) as well as the Supreme Administrative Court (second instance) for which judgements are available on the website. There is also a link between the relevant judgements.
Publication rules
There are binding rules for the publication of case law in Poland. They apply to:

- The Constitutional Tribunal (Trybunał Konstytucyjny), for which full case law is published
- The Supreme Administrative Court (Naczelny Sąd Administracyjny) , for which full case law is published
- The Supreme Court (Sąd Najwyższy), for which only selected case law is published

The publishing responsibilities of the Supreme Court (Sąd Najwyższy) are set out in Article 7 of the Act on the Supreme Court (23rd November 2002) (ustawa z dnia 23 listopada 2002 r. o Sądzie Najwyższym). According to the book of instructions of the Supreme Court, the press spokesperson and judge's assistants are in charge of the publication service.
Case law publication of the Constitutional Tribunal (Trybunał Konstytucyjny) is envisaged in Article 190 of the Polish Constitution.
A full version of a judgement is published on the website as soon as the judges have signed the justification.
Article 42 of the Act on the Organisation of Administrative Courts (Prawo o ustroju sądów administracyjnych) also imposes an obligation to publish on the President of Supreme Administrative Court (Prezes Naczelnego Sądu Administracyjnego). More detailed rules are specified by the Ordinance of the President of the Supreme Administrative Court, with a requirement to establish a central database of judgements and Information in administrative court cases, and on providing access to these judgements on the website.

4.7. England and Wales:

Much of the case law from courts in the England and Wales jurisdiction of the UK is accessible to the public. All Supreme Court cases and all substantive Civil Court of Appeal judgments are reported. All Administrative Court judgments, and a selection of High Court judgments that are of particular legal or public interest, are published. Judgments of the criminal division of the Court of Appeal are published if they are of legal or public interest. Decisions from family and some criminal cases may be anonymised. Decisions of the First-tier Tribunal and the Upper Tribunal are published when they are of legal or public interest.
Once a judgment is given, it is usually published between 24 hours and 2 weeks afterwards. If the judgment is given in writing, it is usually published on the same day.
Legal databases
House of Lords judgements: archive. The House of Lords was the UK's highest Court of Appeal until 30 July 2009. All judgments of the Law Lords from 14 November 1996 to 30 July 2009 are available on the Parliament website.
Parliamentary Archives. Access to House of Lords judgments prior to 1996 can be arranged through the Parliamentary Archives. The Archives holds appeal cases and other records of the House of Lords acting in its judicial capacity, dating from 1621
Supreme Court website. From 1 October 2009, the Supreme Court of the United Kingdom assumed jurisdiction on points of law for all civil law cases in the UK and all criminal cases in England and Wales and Northern Ireland. All judgments are available from the Supreme Court website.

he Incorporated Council of Law Reporting (ICLR) is a legal charity that was set up in 1865. They publish law reports of the judicial decisions of the Superior and Appellate Courts in England and Wales. Most of their products are only provided by subscription but they do also produce a free case search facility.

BAILII, the British and Irish Legal Information Institute provides free online access to a very comprehensive set of British and Irish primary legal materials including case law. The search facility allows users to search s for cases in specific courts or across multiple jurisdictions.

Through the Open Law Project, BAILII is also identifying leading cases from the past and making these freely and openly available on the internet to support legal education.

BAILII has recently collaborated with ICLR and now provides links to the ICR summaries of judgments (where one exits) with an option to purchase the authorised case report from ICLR in PDF format.

The different collections which are available through the BAILLI website e.g England and Wales Court of Appeal (Civil Division) Decisions or England and Wales Court of Appeal (Criminal Division) Decisions or England and Wales High Court (Chancery Division) Decisions.

4.8. Republic of Croatia:

'SuPra' contains all the decisions of the Supreme Court since 1 January 1990. In addition to those decisions, it contains the most significant decisions of the other courts in the Republic of Croatia.

A more recent database of case law, entitled 'SupraNova', contains the decisions of municipal courts, county courts, commercial courts, the High Commercial Court, the High Misdemeanour Court and the Supreme Court of the Republic of Croatia.

The following information is accessible for each decision: the name of the court that adopted the decision, the name of the department, the type of case, the date of the decision and the date of publication, together with the full text in doc, pdf and html format. All decisions that have been adopted since 1 January 2004 have the relevant index information as well as the full text.

The legal positions are published for particularly important and interesting decisions.

The full text that is published for the general public differs from the original text in order to protect the privacy of the parties to the proceedings. This is done by expunging all information on the identity of natural and legal persons in accordance with the Rules on ensuring anonymity of court decisions and Instructions on how to ensure anonymity of court decisions of the President of the Supreme Court of the Republic of Croatia.

The rules adopted on the publication of court decisions state that:

1. the courts themselves are to select the most significant decisions to make public, and
2. the decisions of lower courts that are referred to by the Supreme Court of the Republic of Croatia are to be published, in accordance with Article 396a of the Civil Procedure Act

The High Administrative Court of the Republic of Croatia currently has two departments (the Pension-Invalidity-Health Department and the Financial-Labour Law and Property Law Department) and the Council for the Assessment of the Legality of General Acts.

The Service for Monitoring and Examining the Case Law of each of those departments chooses, together with the Head of Department concerned, the relevant decisions to have emerged from the work of those departments over the month. At the end of the year the Heads of Department and the Service for Monitoring and Examining Case Law meet to choose the most important decisions to have been adopted in the Court's work, which are prepared for the bulletin which the High Administrative Court of the Republic of Croatia issues regularly every year.

The legal positions of the decisions which the bulletin contains are also published on the website of the High Administrative Court of the Republic of Croatia under the relevant heading.

All the decisions of the Council for the Assessment of the Legality of General Acts are published on the website of the High Administrative Court of the Republic of Croatia.

5. Recommendations

A. INTRODUCING SPECIAL PROVISIONS ON THE REGULATION OF PROCESSING CRIMINAL RECORDS

Art. 7a first par. of the Data Protection Law does not regulates separately processing of personal data in relation to a court procedure, but gives guidance how should be conducted under conditions stipulated with the Law and in a manner prescribe with the rules on the basis of the Law.

Processing of personal data relating to criminal convictions and offences shall be carried out with greater care since they merit higher protection.

This special category of personal data needs some **additional protection explicitly provided in the Data Protection Law** (similarly to the provisions of Article 10. of the Regulation (EU) 2016/679 of the European Parliament and of the Council).

Another alternative way could be to **subcategorize criminal personal data as special/sensitive data** just as it is regulated in the Hungarian Privacy Act (Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information):

Section 3 Point 3. b):: 'special data' mean …. or criminal record.

4. 'criminal personal data' shall mean personal data relating to the data subject or that pertain to any criminal offense committed by the data subject and that is obtained by organizations authorized to conduct criminal proceedings or investigations or by penal institutions during or prior to criminal proceedings in connection with crime or criminal proceedings.

B. CRIMINAL DATA STORED IN THE ARCHIVES

Special attention shall be paid to the processing of criminal data stored in the archives.

According to European standards archives containing personal data shall be disclosed for access by anyone following a given period of protection (the average length of the protection period in Europe is thirty years) after the year of the data subject's decease. If the year of death is unknown, protection period shall be more (about ninety years) from the birth of the subject, and when neither the date of birth nor of death is known, it shall be about sixty years from the creation of the record held by the archives.

The archives shall also be open for access before the expiry of the protection period, if

a) research can be carried out through an anonymized copy, or

b) the subject, or after his death any heir or relative of his/her, has consented to the research upon the request of the researcher, or

c) research is required for scientific purposes and the researcher complies with the specific requirement (approved research plan, authorization/supporting statement of a scientific institute etc.)

d) additional approvement of the DPDP/other authorized bodies might be required.

Since the court documents - judgments - after a given period are normally transferred and stored in National Public Archives, in the course of using archival holdings the enforcement of

fundamental constitutional rights guaranteeing free access to data of public interest and freedom of scientific research shall be realized together with the protection of fundamental constitutional rights related to personality and to personal data. It means that when the law requires anonymized copy but the circumstances clearly prove that the requester has the intention to connect and publish the name of the criminal with the content of the judgement the request shall not be fulfilled.

C. PUBLICITY OF THE COURTS

Just as the European Court of Human Rights (ECHR) states publicity is one of the main requirement of the right to fair trial, no matter in which case, in which procedure, at which level. It does not only protect the parties from „secret ways", „secret judgments" but also strengthens the public confidence. Publicity of the court decisions is to serve the transparency of the judiciary, to improve the quality of the decisions and clearness of the legal norms. However, on the other side the privacy rights of the data subjects shall be respected. Publicity of the courtroom does not mean automatically that the press is entitled to open the case to the public with mentioning the names of the parties taking no regard of their consent.

According to the Law on Courts the president of the court or a person responsible for public relations shall give information to the public via the mass media about the work of the court, as well as information about the course of the procedure in a particular case. A public relations office shall be mandatorily established in the courts.

The president of the court and the PR judge shall give information to the public by taking into account not to demean the image, honour and dignity of the person and not to cause damage to the independence and autonomy of the court. However, the practice shows that representatives of the press often violate the privacy rights of the plaintiffs especially in the case of public figures.

Since the data subjects do not seem to seek remedy at the court in a case of a serious privacy injury ***ex officio* investigations** should be initiated by the DPDP. For the sake of prevention and awareness raising consultations in a form of **roundtables** shall be organised by the DPDP with the participation of the representatives of the press as well as of the courts.

Detailed recommendations on the behaviour of the press shall be launched and published by the DPDP.

D. ANONYMIZATION OF JUDGMENTS

Where issues of privacy and protection of personal data may arise in computerised legal information systems, they shall be regulated by domestic law in accordance with the principles laid down by the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention No. 108, European Treaty series) and its subsidiary texts. COUNCIL OF EUROPE COMMITTEE OF MINISTERS RECOMMENDATION No. R (95) 11 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING THE SELECTION, PROCESSING, PRESENTATION AND ARCHIVING OF COURT DECISIONS IN LEGAL INFORMATION RETRIEVAL SYSTEMS (Adopted by the Committee of Ministers on 11 September 1995 at the 543rd meeting of the Ministers' Deputies)

The publication practice of the court judgments – including the ECHR itself – varies from country to county throughout Europe. The ECHR operates on the principle that published decisions are not anonymized, except when a motivated request by the data subject (usually the plaintiff`) is granted by the Court. Quite remarkably, the Court's bylaws contain no criteria whatsoever forweighing the two interests at hand in concrete cases. A relevant questionnaire sent out by the Council of the European Union was answered by fifteen EU member states in 2oo4 with the following results[1]

- In eleven countries anonymity is the rule for publishing court decisions, while in four it is the exception
- Member states in which anonymization is the rule, perform anonymization in all cases, not just at the request of the data subject.
- Most member states have the same level of protection regardless of the medium of publication.
- The same principles may have a bigger impact with stricter data protection rules when applied to publication in electronic form, especially on the internet.
- There was hardly any experience with automated anonymization.

The practice of anonzmising is also interpreted differently across the European countries.
According to the Article 29 Working Party 2014 Opinion[2] on anonymization techniques if personal data can be inked to an individual, directly or indirectly, by the data controller or anyone else using reasonable means the data remains personal data. The Opinion very specifically warns data controllers that pseudonymization is not an anonymization technique because it is simply too weak to reduce or prevent linkability between the original identity of a data subject, and is accordingly a useful security measure. Replacing the initials of the name of the data subject is clearly not a proper method of anonymization since the natural person is still likely to be identified indirectly.

However, different legal systems offer different legal solutions for the dissemination of the court decisions (disseminated/partly/not, freely/upon a fee, in paper copy/internet, anonymised/partly anonymised etc.) but the aim is always the same that is to share information on the judicial practice in general. A privacy friendly solution shall not enshorten the useful information that's why a careful selection of the text is necessary.

A court decision is final when no regular means of appealing it are available any longer. It is still clear that publishing of the non-final, thus still appealable judgments serves no way the principal of transparency of the judicial practice. The still challengeable decision might be corrected or changed by the appellate court. It means an unnecessary burden of work and also unnecessary risk to the privacy of the affected parties.

Thus it is strongly recommended for the legislation to modify the relevant provisions of the regulation (namely Art. 10 (2) of the Law on movement of court cases) and limit the scope of publication exclusively to final, also non-appealable decisions.

Although a similar approach is followed by a few European countries, from data protection point of view it is more than desirable that even final decisions are published

[1]https://dzlp.mk/sites/default/files/u972/20111130%20ENG%20Final%20Assessment%20Report%20int%20expert.pdf Pp.11.
[2]http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion recommendation/files/2014/wp216_en.pdf

with exclusion of the names of parties. It serves little the principle of transparency of the judiciary but has always a strong and negative effect on the privacy of the data subject. Thus it is strongly recommended for the legislator to modify the relevant regulation Art. 10 (1) of the Law on movement of court cases whereas the names of the parties should be replaced by initials or other neutral.

The European practice provides positive examples whereas parties are identified with terms indicating their role in the proceedings (such as plaintiff, defendant, suspect etc.) and other names must be replaced to the extent possible by terms indicating their role, "the plaintiff's daughter", "the defendant's accountant", "the suspect's mother" etc. In all cases, replacements or omissions are placed between square brackets to indicate that a change has been made.

Anonymization is not an automatic process. The person who is engaged with carrying out the anonymization shall be aware of the basis and content of the document, should have an understanding of the text and should be well educated of the pertaining laws and practices[3].

- Only the data shall be omitted that is protected by law. Deleting more data could actually conflict with the public's right for information.
- The context should be preserved, otherwise the text will not make any sense. A good way of doing this is to use general acronyms instead of names.
- It shall be noted where the deletion of the text was carried out. Deletion of text without marking the fact of the deletion can be actually falsification of the original text.
- The anonymized text should follow the original text also in proportion. The length of the deleted text (a letter/ a word/a page) is also an important source of information that should not be concealed.
- In case of electronic document, the file properties may contain protected data as well. Let's check these or consult an IT expert if unsure.
- The deleted text should be indeed deleted and not concealed, e.g. in hard copy versions concealing with a marker is not satisfactory since the original text may be retrieved by professionals or by determined non-professionals. In case of electronic documents, encryption of the protected text is not satisfactory either, since the original content may be still accessed in possession of a password/code or in possession of some software cracking skills.

E. PUBLIC FIGURES

In connection with publicity of the court procedures special rules apply in the case of the so-called „public figures". The European Court of Human Rights issued several rulings upholding the right of the media to report on public figures and limiting their right to privacy stating that there is thus a zone of interaction of a person with others, even in a public context, which may fall within the scope of private life but the ECHR also reiterates that, in certain circumstances, even where a person is known to the general public, he may rely on a "legitimate expectation" of protection of and respect for his or her private life.

Referring to Article 4a of the Data Protection Law there is a justifiable exception from the strict rules of privacy that is when the public interest prevails over the private interest of the data subject the journalists are entitled to process and publish personal data.

To provide an appropriate legal basis for publishing personal data of public figures some specific rules shall be adopted which allow that the name of the person undertaking tasks within the scope of responsibilities and the authority of the body undertaking

[3] **https://www.privacy-europe.com/blog/anonymization-best-practices/**

public duties, as well as their scope of responsibilities, scope of work, executoive mandate and other personal data relevant to their responsibilities qualify as data public on grounds of public interest. Only these data of the given public figures may be disseminated in compliance with the classical data protection principle of purpose limitation.

When making information available to the public, the other personal data processing principles must also be taken into account, including the principle of proportionality. This means that no excessive personal data should be publicised insofar as there is no legal basis for the publication of such information.
A decision whether the names of parties in court proceedings should be made available to the public as information of public importance should be based on the public interest test that is balancing the interests between the right of the public to know and the protection of the right to privacy.[4] The public interest test involves three steps:

1. Identify the relevant public interest considerations in favour of disclosure
2. Identify the relevant public interest considerations against disclosure
3. Determine the weight of the public interest considerations in favour of and against disclosure and where the balance between those interests lies.

However, since the balance of the two informational rights is a very sensitive issue it is more than advisable to regulate the relevant provisions in the same Law as well as to mandate with the supervision of the harmonisation of the two rights a single supervisory body (you may find similar legal solutions in many European countries: in Hungary, in Estonia, in Germany, in Ireland, in Slovenia, in Malta, in Spain or in the UK). Since now the regulation is different in the Republic of Macedonia the short term goal could only be to achieve closer cooperation of the two bodies namely the DPDP and the Commission for the Protection of the Right to Free Access to Information of Public Character (established by the Law on Access to Information).

F. INTERNAL RULES OF ADMINISTRATION

The adoption of specific written internal rules in connection with detailed record/document management and rules of administration would be highly recommended covering details like the application administrator's duty and responsibility, rules on access to documents, rules of organizational and personal responsibilities on document management and creating form of archives, liability of the application administrator, liability of mailroom staff, liability of the central archives' administrators, lending files from archives, disposing of files, rules on scrapping files and disposal committee, extermination or putting files into the records.

G. PRIVACY EDUCATION OF JUDGES AND THE COURT STAFF

The law obliges the judges to take part in a compulsory initial training organised by the Academy for Judges and Public Prosecutors before being elected to a judge. **It would be highly recommended to integrate updated information concerning the privacy regulations (both on a national as well as of European level) in the curricula which shall be developed in close cooperation with the DPDP.**

[4] see the opinion of the Serbian DPA at.: http://www.poverenik.rs/en/2011-05-24-08-28-59/1780-anonimizacija-presuda.html

The **lay judges** have similar obligations in regard to participating at compulsory trainings thus the knowledge and information on privacy regulations could be easily delivered to them within the framework of such trainings.

The **personal scope of the training should be extended to all actors of the judiciary (including the court staff) dealing directly or indirectly with the administration of personal data protection issues.**

The updated information shall be delivered to the participants not only at initial trainings but also at trainings organised regularly (e.g. in 5 years terms).

H. Closer cooperation with the DPDP

On the fields of education, awareness raising, consultations the judiciary and the DPDP could cooperate more closely with each other.

I. Data security

Basic requirement that each court shall be equipped with reliable and safe IT infrastructure operated by trained IT experts.