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Verkehr mit ausl. Datenschutzbehörden einschl. EDPS
Pseudonymisierung von Gerichtsentscheidungen - österreichische Praxis
(Depersonalization of court decisions - Austrian practice, National Center for
Personal Data Protection of the Republic of Moldova - NCPDP)

per E-Mail: dinu.codreanu@datepersonale.md

Re: letter of the NCPDP of October 2014

Dear Mr CODREANU,

Thank you for forwarding the abovementioned letter of your Director, Mr RĂDUCAN, to us.

On behalf of Dr. JELINEK we would like to answer your questions as follows:

1. In your country, are courts decisions published online by all judicial instances?

The Federal Legal Information System (in German: Rechtsinformationssystem des Bundes – RIS) is used to publish decisions of the courts (criminal, civil, constitutional and administrative courts) as well as the decisions of certain specialised administrative authorities (among them, the Data Protection Authority). Commonly, no decisions of courts of first instance are being published. Some courts however, i.e. the supreme courts, operate their own homepages, publish their decisions and issue related media releases there as well.

2. Are the court decisions depersonalized or published in their entirety, with the name, surname, domicile address etc. of the parties?

Generally all decisions are published in a pseudonymised version only. This rule can be subject to certain exceptions (e.g.: if the persons concerned are generally known to the public).

3. Is it possible to search the online database of court decisions by name and surname of the parties?

No.

4. Are there cases when the published court decisions include the name, surname of a sexually abused person including minors, data that would constitute state secret, health/medical data, medical secret data, religious or political views?

This would be permitted only if the pseudonymisation of the text makes it impossible for the public to recognize individuals.

5. What is the time limit for storing these court decisions and are they being erased after a certain period of time?

See question 4. There is no time limit.

6. If a party to the trial would require depersonalizing personal data from a decision, would the court be required to remove the personal data?

Yes.

7. Are annulled judgments displayed online? In what cases they are removed?

Commonly, only final decisions, which are not subject to further appeal, are published. Otherwise the outcome of further proceedings should be published as well.

8. Do journalists, scientists, lawyers in your country have online access to all court decisions without being depersonalised? From your perspective, would it be compatible with the principles of personal data protection to grant online access to court decisions that were not depersonalised to these professional categories, invoking the right of access to information?

There is no privileged access to decisions for the media or other special interest groups. But this does not imply restrictions for journalists to report directly on the outcome after public hearings.

9. In the context of the General Data Protection Regulation 679/2016, the publication of un-depersonalised judgements would be considered an offence?

It is deemed possible that this is an infringement of provisions of the GDPR. But from our legal point of view it is unclear whether the publication of court decisions is an administrative task or a judicial matter under Art 55 (3) GDPR and therefore, subsequently, under our jurisdiction or not. This question is currently pending before a court (see our [Report 2016 \[in German\]](#), page 18 f).

10. Does your national legal framework permits/obliges the publication of court decisions in integral or depersonalised form?

Austrian law permits the publication of pseudonymised (anonymised) decisions (see Art. 4 (5) GDPR) only. See for example § 20 of the Federal Act on the Organisation of the Federal Administrative Court (Federal Administrative Court Act – BVwGG):

„Publication

§ 20. Rulings and orders that are not merely of a procedural nature shall be published in anonymised form in the federal legal information system (RIS).”

11. Are you aware/do you have any experience with similar cases involving publication of court judgements?

See question 9.

12. Has your authority issued any sanctions in relation to the courts? If so, how did the court react to or execute the sanction?

The Austrian DPA currently doesn't have the power to impose any sanctions (fines) and will not have such a power vis-a-vis any public authority under the GDPR (see Art 83 (7) GDPR).

13. There is a private database that would publicly contain information about judges, with their resumes, the administrative penalties imposed, and systemising any media information about them (on the model - www.magistrat.md)?

There is no such official database and the DPA has also no knowledge of any private one.

10. October 2017

On behalf of Dr. Andrea Jelinek, Head of the Austrian Data Protection Authority:
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