TRANSPARENCY AND PRIVACY IN COURT DECISIONS

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All terms used in the text in the male gender refer to the persons of both sexes.

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Foreword

The access to information in the possession of public authorities represents one of the foundations of an open and democratic society based on the rule of law. In terms of court decisions, the access to such information represents a mechanism for the realization of the procedural rights of participants in court proceedings, as well as for the achievement of transparency of the work of courts, which can considerably improve the public confidence in the judiciary.

However, despite the fact that court decisions undoubtedly represent the information the public should have access to, in many jurisdictions, including Serbia, the rules of personal data protection, which also refer to the protection of personal data contained in court decisions, have been established.

The relationship between these two rights - the right of the public to know and the right to privacy – is not always easy to define. Bearing in mind the specific practical problems that are created in Serbia in connection with ensuring public access to court decisions, Partners for Democratic Change Serbia (Partners Serbia) in April 2015 started working on the Transparency and Privacy in Court Decisionsproject (hereinafter referred to as the project), with the support of USAID's Judicial Reform and Government Accountability Project (JRGA). The goal of the project is to improve public access to court decisions while respecting privacy protection standards.

This publication contains a review of activities and results achieved within the project. Within itsinitial activity, judgments of 44 courts of all instances in Serbia were analyzed, as was the comparative practice of international documents, with the aim of determining the existing practice in Serbia and the region regarding personal data protectionin the process of making court decisions available to the public. The analysis is presented in the second part of this publication. After the analysis, Partners Serbiaset up an expert group in charge of drafting Model Rules on the Standards of Anonymizationof Data Contained in Court Decisions (Model Rules).Relying on the results of the analysis, the expert group made up of representatives of the Association of Judges of Serbia, Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, Serbian Bar Association, Association of Serbian Judicial Assistants, Independent Association of Journalists of Serbia, Belgrade Center for Security Policy and a representative of the academic community, drafted the working version of the Model Rules, which served as a basis for organizing an expert public debate. Within this process, four panel discussions were organized, where representatives of courts, public prosecutors' offices, independent institutions, media, legal profession and civil society, presentedtheir comments on the Draft Model Rules.At the end of this process, on the basis of comments received during the public debate, the expert group drafted the final version of the Model Rules. The process of development of the Model Rules is presented in the third, and the text of the Model Rules

in the fourth part of the publication. Finally, brief advice for a successful implementation of anonymizationhas been developed and presented in the last part of this publication.

Partners Serbia would like to expressitsgratitude to the courts whose work was analyzed in the project. Without their participation in the project, the analysis would be stripped ofa very important component relating to the practice of making court decisions available to the public.

We would also like to thank the Commissioner for Information of Public Importance and Personal Data Protection for consultations and information provided, which made this analysis more comprehensive and thorough.

We would alsolike to thank Marina Mijatović from the Law Scanner association, who wrote the chaptersanalyzing the case law of the European Court of Human Rights and comparative review of the standards of anonymization of data contained in court decisions in the countries of the region.

We also express our gratitude to the researchers, who, acting in the period between April and September 2015, thoroughlyreviewed the 87 obtained court decisions and 17 internal documents in which the courts regulated the rules of anonymization of data contained in court decisions.

In addition to this, Partners Serbia expressesits deep gratitude to the organizations that delegated their representatives to the expert group, as well as to the expert group members themselves - Renata Pavešković, Miodrag Plazinić, Jugoslav Tintor, Nina Nicović, Senka Vlatković Odavić, Dunja Tasić and Dejan Milenković–for their dedication to the drafting of the Model Rules in the period of six months.

We would alsolike to express our gratitude to all participants in the panel discussionsheld in Niš, Kragujevac, Novi Sad and Belgrade, whose suggestions and observations improved the text of the Model Rules.

We hope that the results of this project will be conducive to the harmonization of the data anonymization practice in court decisions in Serbia. This need has been recognized in the Action Plan for Chapter 23, which, for the second quarter of 2016, envisions activities aimed at establishing clear rules of anonymization of court decisions before publication, relying on the rules of the European Court of Human Rights (Activity 1.3.9.2). In this regard, we hope that the rules in this field will be established on the basis of the Model Rules, bearing in mind thatstakeholder representatives participated in its development.

Blažo Nedić
Partners for Democratic Change Serbia

Analysis: "Anonymization of Data Contained in Court Decisions in Serbia"

II

The analysis presented in this publication is a result of research conducted within the project between April and September 2015. The research methodology is presented at the beginning of the analysis, and it is followed by the: notion and methods of anonymization, relevant case law of the European Court of Human Rights, data anonymizationpractice in the countries of the region, relevant national legal framework, practice of the Commissioner for the Information of Public Importance and Personal Data Protection, court activities aimed at adopting internal documents on theanonymizationof data contained incourt decisions and practice of courts in connection with the anonymization of data contained in court decisionswhen the decisions are presented to the public.

1. Research Methodology

In the first phase of the research, an analysis was made of the national and international legal frameworks governing the rules and standards of anonymization of data contained in court decisions, as well as of the practical implementation of the rules. In this respect, the following was analyzed:

- The relevant legal framework of the Republic of Serbia;
- The relevant case law of the European Court of Human Rights;
- The relevant practice of the Commissioner for Information of Public Importance and Personal Data Protection and the Ministry of Justice;
- The practice of anonymization of court decisions in the countries in the region (Croatia, Montenegro and Bosnia and Herzegovina);
- The relevant opinions of the Article 29Data ProtectionWorking Party.[1]

The researchers then analyzed:

- The existence and contents of internal documents which the courts in Serbia use to regulate the field of anonymization of data contained in court decisions;
- The manner in which the courts in Serbia address the issue of anonymization of data contained in court decisions, when court decisions are made available to the public.

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1 The Working Party is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46 / EC and Article 14 of Directive 97/66 / EC

The objective of this phase of the research was to determine:

- Whether the courts in Serbia have developed procedures and rules of anonymization of data contained in court decisions,
- Whether the rules are harmonized throughout the country,
- Whether the courts apply the rules and procedures of anonymization (if they have been developed).

For the purpose of collecting this information, the researchers created a research sample made up of 46 courts:

- 20 basic courts in: Sombor, Vrbas, Zrenjanin, Senta, Novi Sad, Šid, Belgrade (Second Basic Court), Obrenovac, Sjenica, Gornji Milanovac, Ub, Jagodina, Trstenik, Kuršumlija, Požarevac, Bor, Aleksinac, Lebane, Knjaževac, Bujanovac;
- 10 higher courts in: Subotica, Sremska Mitrovica, Pančevo, Belgrade, Smederevo, Kruševac, Negotin, Leskovac, Užice, Novi Pazar;
- 10 misdemeanor courts in: Vršac, Bačka Palanka, Ruma, Belgrade, Lazarevac, Loznica, Požega, Paraćin, Prokuplje, Pirot;
- Four appellate courts in: Belgrade, Niš, Novi Sad and Kragujevac;
- Administrative Court;
- Supreme court of Cassation.

Information was collected on the basis of requests for a free access to information of public importance or through the inspection of internal documents and case law posted on the web-sites of the courts from the sample. In the development of requests addressed to the courts of general jurisdiction (basic and higher courts), the researchers took as the starting point the information available on the Serbian Court Portal, requesting from each of the courts to send them two judgments - one relating to a criminal case and one relating to a litigation or non-contentious case. Since the information on the work of misdemeanor courts was not available on the Portal, the requests sent to these courts referred to the latestmisdemeanor judgments, which, according to available information, represent the most frequent casesprosecuted at our courts. Sample requests sent to one basic, one higher and one misdemeanor court are provided in the appendix.

The collected responseswere processed using the analysis and classificationof the contents as the main research methods.

As for internal documents regulating anonymization of data contained in court decisions, the courts were classified into three categories; those that hadadopted these internal documents, those that hadnot adopted such documentsbutimplementedthe relevantdocument of another

court, and those that hadnot regulated the anonymization of data contained in court decisions.

As regards the practice of making court decisions available to the public, the researchers classified the courts into those that hadanonymized at least some of the information contained in court decisions, and thosethat hadmade court decisions fully available to the public.

The practice of the courts that had anonymized certain data contained in court decisions was further classified depending on whether theyhad published the data on the:

- Parties to the case, with the additional classification of action undertaken in respect of anonymization: name and family name, address, date of birth, data onthe parents, citizen's unique identification number, data on the level of education, social status, assets and the marriage and family statuses;
- Judge;
- Court reporter;
- Proxies of the parties;
- Witnesses;
- Experts, and
- Data on the location of the event.
- The research team was comprised of: Uroš Mišljenović, Ana Toskić, Blažo Nedić, Marina Mijatović, Hristina Todorović, Marija Vlajković, Sanja Evtimov, Sofia Kovačević and Nastasija Stojanović.

2. Notion and Importance of Personal Data Anonymization

The notion of anonymization is presented at the beginning of this chapter, followed by some contemporary debates about the importance of anonymization. After that, certain issuesare raised - what is personal data and to what kind of data anonymization refers – whilethe methods, techniques and procedures of anonymization are presented at the end of the chapter.
Anonymizationis an act of processing personal data contained in a document or a set of data, as a result of which the person to whom the data relates ceases to be identifiable.Anonymization is carried out in such a way that prevents the reidentification of persons whose data is anonymized, even if certain measures are undertaken, such as cross-referencing or linking the data with the information available from other sources.[2]

Debates on the importance and effects of data anonymizationare held nowadays with the participation of representatives of the scientific community, experts on privacy, data protection

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2 Article 29 Data Protection Working Party, Opinion 05/2014 on Anonymization Techniques, 2014. Available at: http://ec.europa.eu/justice/data-protection/article-29/documents/opinion-recommendation/files/2014/wp216_en.pdf. This working group was established in accordance with Article 29 of Directive 95/46 / EC.

compliance officers at institutions and companies, representatives of state authorities and other stakeholders. Experts who point to the problems relating to anonymization mainly point to the issues they perceive as its inherent shortcomings, which are exhibited at an increasing pace in the information society. In the hands of skillful players, the development of new technologies can be used for the reidentification of persons whose data was "anonymized," both in large sets of data, and in individual documents.Paul Ohm says that the main reason for the failure of anonymization as a method of privacy protection is the fact that thevalid paradigm - protect privacy by removing personal data (identifiers) – has become outdated. In the known cases of invasion of privacy of US citizens, information such as ZIP code, date of birth, even movie reviews on specialized websites, has been used to identify the relevant persons, despite the assurances of institutions and companies possessing such data that they have adequately protected the privacy of their clients, or that it is impossible to identify persons on the basis of this type of data.[3] Nowadays, the cross-referencing of data and information from several registers is used as the main method ofreidentification, and this is favored by an ever-increasing volume of information available on the Internet, as well as the increasing ease of searching such contents.

Paul Ohm also believes that the usefulness and privacy of data are necessarily interlinked, in sucha way that "data can either be useful or perfectly anonymousbut never both." Therefore, any regulation aimed at ensuring data protection necessarily helps to lower the usefulness of data. "No useful database can ever be perfectly anonymous, and as the utility of data increases, the privacy decreases."[4]

Despite the aforementioned positions, Ontario (Canada)Information and Privacy Commissioner Ann Cavoukian believes that the "fear of reidentification is greatly overblown." In her view, compromised data cases can lead to the wrong conclusion that de-identification is not the appropriate mechanism of privacy protection: "De-identification remains a crucial tool in the protection of privacy. If proper de-identification techniques and re-identification risk measurement procedures are used, re-identification remains a relatively difficult task." In addition to this, Commissioner Cavoukian believes that the privacy or usefulness of data is not a zero sumdilemma: "De-identification of personal data may be employed in a manner that simultaneously minimizes the risk of re-identification, while maintaining a high level of data quality."Not denying the necessity of caution in data anonymization, Commissioner Cavoukian observes two potentially harmful effects of the excessive fear of inefficient anonymization. First, the subjects who possessinformation may be less committed to data anonymizationbefore

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3 This type of information was used to reidentify clients and users of the America Online and Netflix companies. See: http://money.cnn.com/galleries/2010/technology/1012/gallery.5_data_breaches/and: http://www.cnet.com/news/aol-netflix-and-the-end-of-open-access-to-research-data/

4 Paul Ohm, Broken Promises of Privacy: Responding to the Surprising Failure of Anonymization, available at: http://www.uclalawreview.org/pdf/57-6-3.pdf.

presenting them to third parties as a result of the exaggerated expectation that their work on the anonymization of the data may be futile. Secondly, the subjects who possess information may refrain from providing information to a third party, even if the information in the documents were anonymized, in fear that the process of anonymization could be compromised.5 In the first case, the detrimental effect that may occur is the excessive disclosure of personal data. In the second case, the detrimental effect that may occur is a reduced public insight into the actions of public authorities.

Since anonymization represents an action of personal data processing, the entity implementing anonymization represents the operator in terms of the regulations that govern personal data protection. This applies in particular to the existence of a legal basis for data processing. Under Directive 94/46/EC (Recital 26), in the process of anonymizationaccount should be taken of all the means *likely reasonably to be used*for the purpose of reidentifying persons whose data is anonymized, which are available to a third party and the controller depending on the current level of technological developments.6 Similar standards of anonymization are established in by ISO 29100.7In view of the rapid technological development, and the evolution of tools that can be used to bypassanonymization and their accessibility to a wide range of users, it is necessary constantly to harmonize procedures and techniques of anonymization and assess risks that canthreaten the main objectives and purpose of anonymization.

In this respect, even when data is removed from a document, it is important to be aware of whetherthis is done in the only available document or in a copy. If data contained in a copy of a document is anonymized, the person could still be reidentifiable. Observing the definitions of anonymizationreferred to in the Directive and Article 29Data Protection Working Group opinions, the process which begins with the copying of a document containing personal data and is followed by the removal or modification of data in the copy, cannot be referred to as anonymization.

However, this analysis refers to anonymization in the narrow sense of the word, where court decisions are made available to a third party (the public). We opted for such narrowingin view of the legitimate interests (and duty) of the court to keep in its possession the personal data contained in court decisions as well as the need to increase the transparency of court work. Therefore, for the purpose of this analysis, the following definition of the anonymization of

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5 Ann Cavoukian, Ph.D. and Khaled El Emam, Ph.D., Dispelling the Myths Surrounding De-identification: Anonymization Remains a Strong Tool for Protecting Privacy, available at: https://www.ipc.on.ca/english/resources/discussion-papers/discussion-papers-operative part of the judgment/?id=1084

6 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31995L0046&from=EN

7 ISO/IEC 29100:2011, available at: http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=45123

data contained in court decisions will be used:

The anonymization of data contained in court decisions refers to the replacement or omission of personal data that representsan integral part of court decisions, after which a third party that came into the possession of the court decision would not be able to identify the person to whom the data refer.[8]

For the process of anonymizationof data contained in court decisions, it is essential to make a balance between two legitimate rights and interests: the right of the public to know and the right to privacy. Therefore, data anonymization in any decision must be approached contextually, keeping in mind that each court decision refers to a specific case. Having said this, we certainly do not suggest that no rules ofanonymization are needed, on the contrary. In the process of anonymization of court decisions, it is necessary to identify the information that may represent personal data, which, on its own or together with other information from the court decision and other sources, can make a person identifiable. Since anonymization refers to the modification or removal of data which make a person identifiable, it is important to address the meaning of the term *personal data*.

2.1 The Notion of Personal Data

The Law on Personal Data Protection defines personal data as any information "relating to a natural person, regardless of the form of its presentation or the medium used (paper, tape, film, electronic media etc.), regardless on whose order, on whose behalf or for whose account such information is stored, regardless of the date of its creation or the place of its storage, regardless of the way in which such information is learned (directly, by listening, watching etc., or indirectly, by accessing a document containing the information etc.) and regardless of any other characteristic of such information."[9]

A particular piece of information is regarded as personal data if it refers to a person's identity, his characteristics, properties or behavior. Such a definition of personal data is important because of the many concerns that may arise. The adopted standpoint in the domestic and international practiceis that personal data is considered to be information associated with a person on the basis of which, directly or through cross-referencing with other information, this person can be identified, or, on the basis of which (information) the person becomes iden-

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8 This working definition has been developed on the basis of Directive 94/46 / EC, opinions presented in Article 29 Data Protection Working Party, Opinion 05/2014 on Anonymization Techniques, 2014 and Rules on the Anonymization of Personal Data, adopted by the Commissioner for Information of Public importance and Personal Data Protection, available at: http://www.poverenik.rs/yu/o-nama/-akti-o-radu-sluzbe-/aktuelni-akti/1706-pravilnik-o-anonimizaciji-podataka-o-licnosti.html

9 Law on Personal Data Protection, Article 3, Official Gazette of the RS, no. 97/2008, 104/2009 - oth. Law 68/2012 – CC decision and 107/2012

tifiable (Personally Identifiable Information - PII).The possibility of identifying an individual no longer refers only to the possibility of finding out his name. Under the Data Protection Directive, *personal data shall mean any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.*[10] The Directive prescribes guidelines for EU member states that have internally adopted less accurate and "technologically neutral" definitions of personal data, which might encompass different meanings and contents over time.[11] Based on this definition, Article 29 Data Protection Working Party - has provided its Opinion on the Concept of Personal Data[12] (hereinafter referred to as: *Opinion*), which offers useful guidelines to practitioners and courts. Among other things, the Opinion lists the conditions that the data must meet in order to be deemed personal:

Data relates to an individual if it refers to the identity, characteristics or behavior of an individual or if such information is used to determine or influence the way in which that person is treated or evaluated... In order to consider that the data "relate" to an individual, a "content" element OR a "purpose" element OR a "result" element should be present.[13]

According to the Opinion, in order to determine what is considered to be personal data and what is not, the following questions have to be responded:[14]

I *Is it information?*

Any type of information can be regarded as personal data - objective (e.g. weight) and subjective (including opinions and assessments) – and even information that is neither true nor proven. Information content can also be broadly defined so as to include *information about individuals regardless of their roles or positions (consumer, patient, employee, customer, etc.).*[15] This explanation is extremely important because the implementation of data protection standards cannot be limited to specific circumstances and spheres of life. Furthermore, information format is also broadly defined and includes alphabetical, numerical, graphic, photographic or acoustic formats (including audio and video recordings). Biometric information (such as fingerprints, retina or face structure, etc.) is also considered to be personal data. As an

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10 Article 2. (a) Data Protection Directive

11 See The New Privacy Environment: European Union Leads the New Way on Personal Data Protection, available at: http://blog.varonis.com/the-new-privacy-environment-european-union-leads-the-way-on-personal-data-protection/,

12 Opinion 4/2007 on the Concept of Personal Data. Available at: http://ec.europa.eu/justice/data-protection/article-29/documents/opinion-recommendation/files/2007/wp136_en.pdf.

13 Ibid, page 10.

14 Ana Toskić, Protection of Personal Data in the Employment Relations, University of Belgrade Law School, 2015, p. 29.

15 Ibid, 6.

illustration, the Opinion offers the example of a child's drawing, which can be considered to be personal data when it is a result of psychiatric testing and which provides information about the child (his health) or about his family.[16]

II *Does the information refer to a person?*

According to the Opinion, in order to be regarded as personal data, information does not need to affect individual privacy. This is determined on the basis of the *content, purpose and result* of the information, where the three elements are considered as alternative conditions (and not cumulative ones).[17] The easiest criterion for assessing whether information constitutes personal data is the analysis of its content - if the information refers to an individual, it is considered to be personal data. Wheninformation has been or might be used for evaluatingor influencing a particular person, the element of purpose is fulfilled.In this case, this information will be considered to be personal data. According to the Opinion, in order to assess whether certain information constitutes personal data, specific characteristics and circumstances of each individual case must be taken into account.[18] Finally, even if the elements of content and purpose do not exist, information can be regarded as personal data if it can have an influence on a particular person, i.e. if this person is treated differently as a result of processing of this information. The Opinion also explains that information does not have to focus on one individual in order to be considered his/her personal data; rather than that, it can fulfill different requirements (content, purpose, result) towards different persons and represent personal data in relation to each of them.[19] Therefore, each case and each information segment needs to be evaluated separately, according to its specific features.

III *Has that person been identified or is he identifiable?*

Information will be regarded as personal data not only if it directly identifies a specific person, but also if it makes thus person identifiable. This does not mean that information must lead to somebody's name - it is enough if we can distinguish one person from another on the basis of such information. In this regard, the Opinion explicitly states that IP addresses represent

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16 Ibid, 8.

17 Ibid. 11.

18 Ibid, 10.

19 For a detailed explanation of this possibility, the case of a Police Academy candidate is illustrative. She was disqualified because a member of her family had been convicted. See: Politika, Upozorenje Šabića KPA zbog bezbednosnih provera,available at: http://www.politika.rs/rubrike/Drustvo/Upozorenje-Sabica-KPA-zbog-bezbednosnih-provera.lt.html, as well as: Politika, Ombudsman upozorio MUP zbog bezbednosnih provera, available at:http://www.politika.rs/rubrike/Drustvo/Ombudsman-upozorio-MUP-zbog-bezbednosnih-provera.lt.html. In this case, data collected during security checks directly referred to a family member, rather than to the candidate. However, the fact that the processing of this data resulted in consequences for the candidate represents a sufficient condition for qualifying this information in the same way as the data on the candidate.

personal data. On the other hand, indirect identification implies that a person has not been identified or is not identifiableon the basis of a specific piece of information, but that such information in combination with some other information (available to the data processor) will or mightpoint to a specific person.This is important for assessing the conduct of the media in the publication of data on individuals. Also, identification can be performed out using different means. More specifically, this refers to *all means that may reasonably be expected to be used by the processor or any other person*,[20] taking into account all relevant factors such as: the costs of identification, intended purpose, structure of processing, priority of data control, interest of individuals and risk from technical and organizational mistakes. Anonymous and encrypted data, and data under a pseudonym, can be regarded as personal data if they can be used for identification purposes.

IV *Is the person a natural person?*

The Directive applies to living natural persons. However, the issues of general definition of natural persons in civil law and the treatment of data pertaining to deceased persons, unborn children and legal persons are also relevant for this discussion. The Opinion states that information relating to dead persons is not considered as personal data, since the dead are no longer natural persons, according to the rules of civil law. However, if these data disclose information about other individuals, they should be regarded as personal data. Likewise, these principles do not apply to medical staff, who have the obligationof confidentiality even after the patient's death. Furthermore, while each member state regulates the issue of data pertaining to unborn children in accordance with the provisions of civil law (e.g. the moment of establishment of a person's legal capacity), according to the Opinion, data on legal persons are considered to be personal data when they refer to an individual.[21]

The definition of the term *personal data*is particularly important in the publication of judgments, wherean inadequate definition of this term can result in two harmful consequences. Firstly, if the term*personal data* is interpreted too narrowly and certain personal data contained in a court decision are not anonymized, the third party (public) mayidentify the person. If a court anonymized personal data in this way,it would violate the Law on Personal Data Protection (processing personal data without legal authority - Article 8), and the reputation of the person whose data was inadequately protected could be seriously undermined. This particularly refers to a situation that can happen if a court decision mentions particularly sensitive data pertaining to a person whose identity is not adequately protected. Under the Law on Personal Data Protection, particularly sensitive data are the data relating to ethnicity, race, gender, language, religion, political party affiliation, trade union membership, health status,

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20 Ibid. 15.

21 Different opinion about personal data, available at:http://www.linklaters.com/Insights/Publication1403Newsletter/PublicationIssue20081001/Pages/PublicationIssueItem3513.aspx#sthash.LtWZLvz0.dpuf

receipt of social support, victims of violence, criminal record and sexual life.[22]

On the other hand, if the term*personal data* is interpreted too broadly, the publicmight not fully exercise its right to inspect the document in the possession of public authorities. When anonymization is implemented, one has to bear in mind its dual purpose; to remove the possibility of identifying a person, while keeping the original meaning and purpose of other information provided in the document, as well as to ensure that the document can be easily read and that it can be understood contextually. A court that,in addition to personal data, omitted or altered some other information (which is not protected under the law), or implemented anonymizationin such a way as to render a court decision incomprehensible, would not comply with the Law on Free Access to Information of Public Importance.

2.2. Methods of Anonymization

Two mainanonymizationmethods have been mentioned so far –replacement and omission of data. These methods have their techniques and procedures.

Data is usually omitted using two techniques:
a) Electronically–by making an intervention in an electronic copy of the document
b) Manually–by making an intervention in a hardcopy of the document.

If a computer is used for the omission of data, the omitted data are usually blacked out, or replaced by dots or lines in a row. If the intervention is manual, some of the widespread techniquesinclude masking by correction fluid or opaque black marker.

As a rule, data replacement is implementedelectronically. Some of the most frequent techniquesare:

Generalization. In this way,personal data are replaced bysymbols that keep a direct connection to the data as a whole, but in such a manner as to express the characteristics of several persons and prevent the direct identification of the person to whom the data pertains. The best-known method is the replacement of one's full name by initials or replacement of the entire date of birth by the year or decade of birth. For example:

Name and family name:	Date of birth:	Place of residence:
Ivan Momčilović	03.05.1928	Kragujevac
Marija Stjepanović	12.10.1974	Sjenica
Boris Stajić	29.07.1990	Crna Trava

22 Law on Personal Data Protection, Article 16.

The document before anonymization through the replacement of data (generalization)

Name and family name:	**Date of birth:**	**Place of residence:**
I.M.	1928 (alternatively: 192*)	K
M.S.	1974 (alternatively: 197*)	S.
B.S.	1990 (alternatively: 199*)	C.T.

The document after anonymization through the replacement of data (generalization)

Encryption. In this way, personal data is replaced bycodes that have no direct connection to the data as a whole. A unique code is assigned to each person. For example:

Name and family name before anonymization through datareplacement (encryption)	Name and family name after anonymization through data replacement(encryption)
Ivan Momčilović	A.A.
Marija Stjepanović	B.B.
Boris Stajić	C.C.

When the encryption technique is applied, each person in a court decision has to be given a code at the outset, a list of codes has to be established and codes should be used systematically throughout the document. The encryptionprocedure is carried out through the replacement of the name and family name with a suitable (unique) code from the list of codes.

The advantage of omission over replacement is that is relatively easy to implement. In addition to this, omission is more reliable in making the person unidentifiable (prevents reidentification). The disadvantage of this approach is that it is impossible to establish the existence of more than one person in the text, since the data pertaining to them are anonymized in the same way. Conversely, the advantage of data replacement over omission is that documents remain largely understandable and easier for contextual reading, so it is possible to determine the role of each person whose data is anonymized, as well as their interpersonal relationships. The drawback of this approach is that it requires more time and meticulousness on the part of officers in charge ofanonymization, butthe risk still exists that the person may be reidentifiedif the data is cross-referenced to the personal data available in public registers, media, on the Internet or elsewhere.

Different methods, techniques and procedures can be simultaneously used in the anonymization of data. For instance, the following text:

Ivan Momčilović, born May 3, 1928in Kragujevac, citizen's unique identification number: 0305928111111, ...

can be anonymized by encrypting the name and family name, generalizing the date of birth, and electronically omitting the citizen's unique identification number. Specifically, the anonymized document would look as follows:

A.A, born 192*, in K. citizen's unique identification number: [redacted] ...

The publication will later present in more detail how the courts covered by this research anonymize data in their decisions. Briefly, the courts in Serbia that do anonymize data, typically omitthem manually – by intervening in the hardcopy of the document. However, before we show what the courts do, we have to look at the relevant case law of the European Court of Human Rights, some challenges experienced in this field by the countries of the region, and the relevant legal framework of the Republic of Serbia.

3. Case Law of the European Court of Human Rights

This chapter presents the case law of the European Court of Human Rights that pertains to the states' obligation to provide access tothe work of the ECHR to the general public (includingits reasoned judgments), and the way in which this Court has so far treated the issue of access to personal data in judgments.

Article 6

Right to a fair trial

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

European Convention for the Protection of Human Rights and Fundamental Freedoms[23]

23 European Convention for the Protection of Human Rights and Fundamental Freedoms, available at: http://www.sostelefon.org.rs/zakoni/14.%20Evropska%20konvencija%20za%20zastitu%20ljudskih%20prava%20i%20osnovnih.pdf

The right to a fair trial is one of the fundamental principles of any democratic society within the meaning of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Republic of Serbia ratified the Convention on March 3, 2004 and it has since been in force. However, despite the passage of more than 10 years since it entry into force, Serbia continues to encounter difficulties in the interpretation and implementation of its contents. One of the issues to which Serbia has still not provided a response is the way in which the domestic courts will make it possible to the general public to get an insight into their work, including reasonedjudgments.

The obligation of national courts to make their work as transparent as possible and to allow citizens and the general public to get an insight into their work is reflected, *inter alia*, in the obligation to publish reasoned judgments. The European Court of Human Rights made this an obligation a few decades ago, and some of the older judgments of this court that address this matter include: ***Axen v. Germany*** of December 8, 1983, and ***Sutter v. Switzerland*** of February 22, 1984. Thus, in paragraph 25 of the judgment in the ***Axen v. Germany***case (and a similarwording can also be found in the ***Sutter v. Switzerland***judgment), the European Court stressed the following:

The public character of proceedings before the judicial bodies referred to in Article 6 para. 1 of the Convention 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. By rendering the administration of justice visible, publicity contributes to the achievement of the aim of Article 6 para. 1 of the Convention, namely a fair trial, the guarantee of which is one of the fundamental principles of any democratic society, within the meaning of the Convention

In paragraphs 30 and 31 of the same judgment, the European Court of Human Rights, *inter alia*, states the following:

The terms used in the second sentence of Article 6 para. 1 of the Convention, "judgment shall be pronounced publicly" might suggest that a reading out aloud of the judgmentis required. Admittedly the French text employs the participle "rendu", whereas the corresponding English version is "pronounced."

However, 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 decisions of all or some of their courts, and especially of their courts of cassation, for example, deposit in a registry accessible to the public. The Court considers that in each case the form of publicity to be given to the "judgment" under the domestic law of the respondent 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 para. 1 of the Convention.

Reviewing these two specific cases, the European Court of Human Rights found that there was no violation of Article 6 § 1 of the Convention, stating first that in the ***Axen v. Germany*** case, the public "pronouncement" of the decision of the Supreme Court had been unnecessary, since the decisions of lower-instance courts had been pronounced publicly. In the ***Sutter v. Switzerland*** case, the court stressed that the public "pronouncement" of a judgment given by the Military Court of Cassation had not been necessary as the access of the public to the judgment was secured by other means, that is by asking for a copy of the judgment from the Court's registry and by its subsequent publication in an officialcollection of judgments.

A similar question was raised in the ***Werner v. Austria*** case, in the judgment of November 24, 1997, in which the European Court of Human Rights referred to its positionspresented in the two previously mentioned decisions, but in this specific case observed that there was a significant difference, which is why it found a breach of his right to a fair trial referred to in Article 6 § 1 of the Convention. The Court, in paragraphs 57, 58 and 60 of the judgment alsostated the following:

A third party can be given leave, under Article 82 of the Code of Criminal Procedure, to inspect the files and obtain copies of the judgments they contain if he shows a legitimate interest. Such leave is, however, granted only at the discretion of the relevant court, so that the full texts of the judgments are not made available to everyone.

In Austria, the possibility of obtaining the full texts of judgmentsdecision from the court registry in fact exists only in respect of judgments of the Supreme Court, the Administrative Court and the Constitutional Court, and not in respect of the judgments and decisions of courts of appeal or first instance.

That being so, in view of the fact that no judicialdecisionin the two sets of proceedings complained of was pronounced publicly and that publicitywas not sufficiently ensured by other means, the Court concludes that there has been a breach of Article 6 § 1 of the Convention in this respect.

Unlikethe previous decisions of the European Court of Human Rights, where the inappropriate publication of national court judgments was among the issues to which the Court had to respond, in the January 17, 2008 judgment in the ***Biryukov v.Russia*** case this was the mainissue on whichthe applicant had addressed the court. The applicant claimed that the reasoned judgment in his case had not been pronounced publicly, while the respondent pointed out that the operative part of the judgment had been pronounced publicly at the hearing in the applicant's presence and that a copy of the reasoned judgment had been served on him.

In the reasoning ofthe judgment, the Court first emphasized that the Contracting States enjoyed considerable freedom in the choice of the appropriate means to ensure that their judicial

systems comply with Article 6 of the Convention. The Court referred to a previous decisions and said that:

the requirement of the public pronouncement of judgments was satisfied where the full text of the decision deposited in the court registry was available to everyone; or where the lower court held public hearings and the lower court's judgment was pronounced in open court; or where anyone who established an interest could obtain the full text of judgments of the court, the most important judgments of which were subsequently published in an official collection.

Finding in this specific case that only the operative part of the judgment had been published (both in the first and in the second instance) and that copies copy of the reasoned judgment had been served only on the parties and their attorneys; that a reasoned judgment, after being deposited in the court registry, was not available to everyone; that national courts had referred to a particular article of the applicable law on which the judgment was based, without providing a detailed explanationwhy and how the specific provision of the law was applied, the European Court of Human Rights concluded that the reasons for the judgment had remained inaccessible to the public, as well as that the referral of the domestic court only to the specific article of the law that was applied in this case represented an obstacle for the properunderstanding of the judgmentby those citizens who do not have knowledge of the law. Therefore, the court found that the respondent had failed to act in accordance with the requirements of Article 6 § 1 of the Convention.

After the judgment in the ***Biryukov v. Russia*** case, several other applicants referred to the European Court of Human Rights for the same reason, so in the January 15, 2015 judgment in the ***Malmberg and Others v. Russia*** case, the court yet again found a breach of the right to a fair trial for the same reasons as in the previous case. What makes the statement of facts inthe latter ECHR judgment differentis the assertion that Russia hadmeanwhile adopted the Federal Law on Access to Information on the Functioning of Courts in the Russian Federation, which came into force on July 1, 2010, and provided for the publication of domestic courts' judgments on the Internet. However, despite the adoption of the new Federal Law, the court found that there was a violation of the right to a fair trial, because the specific cases referred to the period before the legislation entered into force, when there was no obligation to publish domestic courts' judgments.

In view of the contents of previous decisions, one may observe that the European Court of Human Rights maintains that member states enjoy broad freedom in deciding on the manner in which the transparency of domestic courts will be ensured, including the publication of their judgments. This, however, does not mean that domestic courts have the right not to make their decisions available to the public–to law experts and laymen alike. It is a fact that any citizen can get into a situation where he has to seek justice at the court, and that, therefore,he has the legitimate interest to learn about the way in which a national court has previously resolved

a similar issue and about the reasons for such a judgment. All this leads to the protection of the principle of the rule of law, legal certainty ensured through the actionsof the courts, equal action of courts in similar legal situations and safetywhich the judiciary of a certain state has the obligation to provide.

Despite imposing the obligationon the national courts to make the reasoned judgments available to the public in the manner they consider to be the most appropriate while still in accordance with Article 6 § 1 of the Convention, the European Court of Human Rights generally did not deal with theprotection of personal data in the publication of court decisions.

In the existing case law of the court, a number of judgments can be found in which the applicants requested from the Court to establish the violation of their right to the respect of private and family life guaranteed by Article 8 of the Convention, just because local state authorities had published their personal data without a great necessity or their previous consent.

One of such cases is the ***Z. v. Finland***case, judgment of February 25, 1997, in which the applicant (who was HIV positive, like her husband) requested that the European Court of Human Rights establish a violation of Article 8 of the Convention because: 1) there were binding orders to physicians to testify in criminal proceedings against her husband, 2) her medical records were seized and incorporated in the investigative files, 3) a decision was made to make the disputed documents from the year 2002 available to the public, and 4) her identity and health condition were made public in the Appellate Court judgment.

In paragraphs 95, 96, 99 and 113 of its judgment, the Court took into account that the protection of personal data, rather than just medical data, is of fundamental importance for the enjoyment of a person's private and family life, as guaranteed by Article 8 of the Convention. Respecting the confidentiality of health data is a vital principle in the legal systems of all the Contracting Parties tothe Convention. It is crucial not only to respect the sense of privacy of a patient, but also to preserve hisconfidence in the medical profession and in the health services in general. The Court, *inter alia*, stressed that:

The disclosure of data about a person's HIV infection may dramatically affect his or her private and family life, as well as social and employment situation, by exposing him or her to opprobrium and the risk of ostracism. For this reason,it may also discourage persons from seeking diagnosis or treatment and thus undermine any preventive efforts by the community to contain the pandemic. The interests in protecting the confidentiality of such information will therefore weigh heavily in the balance indetermining whether the interference was proportionate to the legitimate aim pursued. Such interference cannot be compatible with Article 8 of the Convention, unlessit is justified by an overriding requirement in the public interest.

In view of the highly intimate and sensitive nature of information concerning a person's HIV

status, any State measures compelling communication or disclosure of such information without the consent of the patient call for the most careful scrutiny on the part of the Court, as do the safeguards designed to secure an effective protection.

As to the issues regarding access by the public to personal data, the Court recognizes that a margin of appreciation should be left to the competent national authoritiesin striking a fair balance between the interest of publicity of court proceedings, on the one hand, and the interests of a party or a third person in maintaining the confidentiality of such data, on the other hand. The scope of this margin will depend on such factors as the nature and seriousness of the interests at stake and the gravity of the interference.

In considering whether there were sufficient reasons to justify the disclosure of the applicant's identity and HIV infection in the text of the Court of Appeal's judgment made available to the press, the Court first noted that, under the relevant Finnish law, the Court of Appeal had the discretion, firstly, toomit mentioning any names in the judgment permitting the identification of the applicant, and, secondly, to keep the full reasoning confidential for a certain period and instead publish an abridged version of the reasoning, the operative part and an indication of the law which it had applied.

Irrespective of whether the applicant had expressly requested the Court of Appeal to omit disclosing of her identity and medical condition, the court was informed by a lawyer about her wishes that the confidentiality order be extended beyond ten years. It evidently followed from this that she would be opposed to the disclosure of the information in question to the public. In these circumstances, the court did not find that the impugned publication had been supported by any cogent reasons. Accordingly, the publication of the information concerned gave rise to a violation of the applicant's right to respect for her private and family life, as guaranteed by Article 8 of the Convention"

Unlike the previous case, in which the European Court of Human Rights dealt with the applicant's right not to have her personal data published, in the case of ***B. and P. v. The United Kingdom***,judgment of April 2, 2001, the Court reviewed the violation of the applicants' right to a public hearing and publication of the judgment, as guaranteed by Article 6 § 1 of the Convention. The applicants requested from local courtsto make hearings and pronouncement of the judgment open to the public, although the case referred to their underage children, while the state in its defense pointed out that the purpose of the presumption that a hearingon children should be held in camera is, *inter alia*, to protect the private life of the children and to encourage the parties and witnesses to give full and truthful testimonies. Explaining its decision, the court stated, *inter alia*, the following:

Considering the applications, the European Court of Human Rights first recalled its long-standingcase law that the form of publicity given under the domestic law to a judgment

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 Convention.

The Court further recalled that, in view of the type of issues requiring to be examined in cases concerning the residence of children, the domestic authorities were justified in conducting these proceedings in chambers in order to protect the privacy of the children and the parties and to avoid prejudicingthe interests of justice. The Court agreed with the Government that to pronounce the judgment in publicwould, to a large extent, frustrate these aims.

The Court notes that anyone who can establish an interest may consult or obtain a copy of the full text of the orders and/or judgments of first-instance courts in child residence cases, and that the judgments of the Court of Appeal and of first-instance courts in cases of "special interest" are routinely published, enabling the public to study the manner in which the courts generally approach such cases and the principles applied in deciding them.

Therefore, having regard to the nature of the proceedings and the form of the publicity applied by the national law, the Court considers that a literal interpretation of Article 6 § 1 of the Convention concerning the pronouncement of judgments would not only be unnecessary for the purpose of public scrutiny, but might even frustrate the primary aim of Article 6 § 1 of the Convention - to secure a fair hearing.

The Court thus concludes that the Convention did not require making available to the general public the residence judgments in the present cases, and that there has been no violation of Article 6 § 1 of the Convention in this respect.

In view of the previously mentionedpositionswhich the European Court of Human Rights presented injudgments issued over the last few decades, one may conclude that national courts have the absolute obligation of to enable public access to their decisions. National courts enjoy a broad autonomy in looking for the appropriate ways for carrying out this obligation, but they must ensure that the method of publication of their judgments is in accordance with Article 6 § 1 of the Convention.

On the other hand, the European Court of Human Rights has not generally reviewed whether the national courts are obliged to anonymize every decision they publish. The aforementioned judgments of the court indicate that the protection of personal data is more of an exception than a rule. This means that the national courts could publish a judgment containing all the personal data of the parties to the proceedings, except in situations where, as a result of particularly justified reasons, the interest of an individual for protecting his personal data overrides the interest of the public to learn about the case to which the judgment refers.

This does not meanthat member states are not entitled to adopt special laws that would pro-

tect personal data and impose the obligation on the national courts to protect the personal data of the parties, witnesses or third parties appearing in the proceedings. On the contrary, such a possibility is available to the member states and the assumption is that the European Court of Human Rights would not sanction member statesthat decide to take this step. However, in such situations personal data protection should be rather restrictiveso as to avoid situationsin which the anonymization of the data that can in any way be linked to the parties or other participants to the proceedings would make the very essence or meaning of the published judgment pointless.

4. Comparative Analysis of Data Anonymization Standards and Practice in Court Decisions in the Countriesof the Region

This chapter refers to the findings of a comparative analysis of the standards of anonymization of data contained in court decisions in the countries of the region, showingthe examples of good and bad practice in neighboring countries and presenting some of the specific features of the local practice that may be relevant for this research.24

4.1. Croatia

The Supreme Court of the Republic of Croatia adopted its Rules of Anonymization of Court Decisions on December 31, 2003, regulating the method of anonymization – replacement and omission of data in the court decisions published on the web pages of the Croatian Supreme Court. Under the Rules, integral decisions of the court will be published on the web page of the Supreme Court of the Republic of Croatia, and certain personal data pertaining to the parties and their attorneys and representatives will be replaced or omitted.

Therefore, under the Rules on Anonymization:

- In the decisions in the civil, commercial and administrative cases,anonymization will apply on the data on the: 1) party (natural persons, legal persons, and natural personsrepresentinga legal personas a commercial company); 2) proxy of the party who appears in the proceedings as an attorney, notary public or another natural person; 3) legal representative of the party; 4) witness; 5) relative, friend, neighbor, etc. of the party; 6) official person working at a state authority, institution, or legal person – company, who has the official duty to participate in the proceedings - expert, court interpreter, social worker, psychologist, pedagogist, special needs educationalist, physician, etc.
- In the decisions in criminal and misdemeanor proceedings,anonymization will apply on

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24 In this chapter, the terms „anonymization of judgments " and „anonymization of decisions " will be used to present the terms used by courts in their internal documents. The expressions „anonymization of data contained in judgments" and „anonymization of data contained in court decisions " are the terms of the author.

the data on: 1) all persons listed underthe previous bullet point; 2) party to the proceedingsthat appears as a state authority, city and local authority, institution, public enterprise, association, trade union; 3) natural person who is a representative or member of a representative body referred to in the previousitem.

- Data on a public enterprise that has monopoly such as the Croatian Electric Power Company, roads, water supply, telecommunications, post office, railway, forest and *INA*[oil and gas company],are not be anonymized.

As for the method of data anonymization, the Rules envision the anonymization ofthe name and family name of a natural person, name and seat of a legal person, state, city and local authority, institution, public enterprise, association, trade union; address; date and place of birth; citizen's unique identification number; the numbers of ID card, passport,driver's license and other personal documents, insurance policy number, vehicle registration number; e-mail address, URL/web address.

Under the Rules, anonymization is carried out by omitting or replacing data by initials and dots, in accordance with the Guidelines on the Methods of Anonymization of Court Decisions, which were adopted together with the Rules and which constitute their integral part.

The following data contained in court decisions are not to be anonymized: data on judicial bodies in charge of taking action in the proceedings - name of the court, marking of the case file, members of the panel, court reporters, representatives of the state prosecution and administrative bodies (police administration).

On the dateof adoption of the Rules on the Anonymization of Court Decisions, the Croatian Supreme Court also adopted the Guidelines on the Method of Anonymization of Court Decisions which regulate the method of replacement of omission of data in court decisions, and provide concrete examples of anonymization.

On the Croatian Supreme Court website, in the *Case Law* section, one can viewjudgments of Croatian courts of different instances and see how each of them anonymizes personal data. Viewing random samples, one can observe that courts follow the Croatian Supreme Court Rules of Anonymization of Court Decisions, and that anonymization is carried out in accordance with the Guidelines on the Method of Anonymization of Court Decisions. However, one cannot conclude with certainty that all Croatian courts, regardless of the instance, publish all their decisions on their websites.What can be observed is that the websites of some courts, especially those of lower instance, do not even have a case law section where one couldview reasoned decisions of that court (for example, the Municipal Court of Varaždin does not have a case law section where it would post its decisions, but some decisions of the very same Varaždin Municipal Court can be found on the website of the Croatian Supreme Court). When another court's decision is posted on the Supreme Court website, it is difficult to determine

whether anonymizationhas been carried out by the lower instance court or the Croatian Supreme Court.

4.2. Bosnia and Hercegovina[25]

On the basis of the March 20, 2012 Rules on Granting Access to Information Under the Control of the Court and on Court Cooperation with the Community, the Chief Judge of the Court of Bosnia and Herzegovinaon March 21, 2012 adopted the Guidelines on the Methods of Anonymization of Court Decisions, Audio and Video Recordings of Hearings and Other Informative Contents, which entered into force on the same date.

Under the Guidelines, anonymization refers to the replacement or omission of data in court decisions, audio and video recordings of hearings and other informative contentsreferred to in the March 20, 2012 Rules. The solutions provided in these Guidelines are nearly identical to the solutions prescribed by the Croatian Supreme Court in its Rules onthe Anonymization of Court Decisions.

Under the Guidelines,the following data is to be anonymized: names and family names of natural persons; names of companies, public enterprises and other legal persons; names of state, city and local authorities, institutions and agencies; address and place of birth, e-mail and web address, citizen's unique identification number; the number of ID card, passport, driver's license and other personal documents, insurance policy number, vehicle registration number and date of birth. All this is accompanied by the examples of anonymization, and cases when the data are replaced by initials, words, or dots.

In addition to judgmentsin war crimes, organized crime, corruption and other criminal cases, on the website of the Court of Bosnia and Herzegovina one can also find judgments in other criminal cases, but the Anonymization Guidelines are not fully observed. It is therefore possible to find judgments in which all of personal data are anonymized as well as a completely opposite practice; some judgments contain all data on the defendants, including, e.g., even the names of examined witnesses. It is difficult to conclude with certainty in which judgments the Court of Bosnia and Herzegovina has decided to anonymize personal data, and in which not; but it is indisputably inconsistent in the application of rules from the Anonymization Guidelines.

On the website of the Court of Bosnia and Herzegovina one can also find the court newsletter containing sentences from somedecisions (without the names of the parties or other personal

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25 See also: Amra Mehmedić, Edin Hodžić, Emina Ćerimović, Anonimizacija sudskih i tužilačkih akata u BiH – analiza propisa, politika i praksi, available at: http://www.analitika.ba/bs/publikacije/anonymization-sudskih-i-tuzilackih-akata-u-bih-nemoguci-kompromis-izmedu-zastite-licnih

data), presentation of the statement of facts and a brief explanation of the grounds for the court's decision. The situation on the website of the Prosecutors' Office of Bosnia and Herzegovina is similar; no charging documents whatsoever can be found on this website, which means that this data is not available to the public in any way.

As for war crimes or corruption cases, one has to say that due to their legal nature, and especially level of danger to the society, the overriding interest is that of the public to be aware of the specific case, facts established during the proceedings, and the verdict. Therefore, the prevailing view is that it is necessary to publish the names of (convicted) persons who committed war crimes or crimes of corruption, which is conducive to the individualization of guilt and elimination of collective responsibility. Thus, for example, if a bribed physician is convicted and his name is published in the judgment without the anonymization of personal data, this will help eliminate the beliefthat the entire health care sector is corrupt, and will consequently restore the public trust in the health care system. Finally, the responsibility should also be borne by the perpetrator the criminal offense, with all the consequences of such responsibility (including the publication of his personal data).

One can assume that not even the European Court of Human Rights would bring this stand into questionor believe that the publication of personal data in judgments relating to criminal offenses with a high level of danger to the society would violate any of the human rights of the convicted person. In its judgments thus far, the Court has clearly expressed the view that member states enjoy a so-called "wide margin of appreciation" in deciding on the publication of personal data (includingin court decisions) and that the ECHR would intervene only if there existed particularly justified reasons for protecting the identity of an individualcompared to the interest of the public to be aware of the specific case. It seems that in the case of criminal offenses with this level of danger to the society, the interest of the public would overridethe interests of the individual whose data was published, and that the state, if it were to defend itself before the court, would have very strong arguments defending its position not to anonymize personal data.

4.3. Montenegro

In Montenegro, under the Law on Personal Data Protection, the courts must apply the Rules on the Anonymization of Data in Court Decisions,adopted by the chief judge of each of the courts, when they post information on their websites.

The Chief Judge of the Supreme Court of Montenegro on April 19, 2011 issued the Rules on the Anonymization of Data in Court Decisions, which has been in force since May 1, 2011

The Rules regulate the method of anonymization – replacement and omission of data in court decisions that are posted on the website, where the data on the parties, their representatives

or proxies,on the basis of which they can be identified, are replaced or omitted.

Thus, under the rules of anonymization:

- In civil and commercialmatters,the anonymization of data contained in court decisionsapplies on the: 1) parties (natural and legal persons and participants that arerecognized as parties under a special law); 2) parties' proxies (attorneys, interns and other natural persons); 3) legal and statutory representatives, shareholders, company members and related persons, managing board members, representatives of employees, etc.; 4) interveners, bankruptcy creditors and bankruptcy debtors; 5) executive creditors and executive debtors; 6) proponents and their opponents; 7) testators, heirs, witnesses, relatives, close persons and neighbors of the parties; 8) court experts, court interpreters, social workers, psychologists, pedagogists, special needs educationalists, physicians and other persons who participate in the proceedings within their official capacity;
- In criminal matters,the anonymization of data contained in court decisions applies on the: 1) suspect, accused, defendant, convicted person, subsidiary prosecutor, private prosecutor, injured party, defense counsel, proxy, legal representative, witness, friend, neighbor of the party; 2) court experts, court interpreters, social workers, psychologists, pedagogists, special needs educationalists, physicians and other persons who participate in the proceedings in their official capacity;
- In the administrative matters, the anonymization of data contained in court decisions applies on the: 1) plaintiff, respondent, first instance authority, interested partyin the administrative proceedings and in the administrative dispute, party in whose favor the law was violated when the lawsuit is filed by the public prosecutor or another competent authority, person requesting an extraordinary review of a court decision, person requesting a retrial, participants in a public tender; 2) proxies, legal representatives, witnesses, 3) expert witnesses, court interpreters, social workers, psychologists, pedagogists, special needs educationalists, physicians and other persons who participate in the administrative and administrative legal proceedings within their official capacity.

Under the Rules, in the reasonings of all court decisions anonymization should be applied onevidence that represents an official or business secret.

As for the data that is to be anonymized, this is: the name and family name of a natural person; name and seat of a legal person, institution, association, trade union,etc.; address (place of temporary or permanent residence, seat); date and place of birth; citizen's unique identification number; tax identification number; number of the ID card, passport, driver's license and other identity documents, as well as the vehicle registration number; e-mail and web address.

The Rules go on todefine the methods of anonymization and contain examples of the methods and cases in which data is replaced by initials, words, or dots.

Data on judicial authorities who have the statutory responsibility for taking actions, such as the: name of the court, case number, case file marking, numbers and dates of decisions, composition of the court (names of the president and members of the panel), court reporter, names of other judicial authorities anddata on the identities of their representatives (public prosecutors and their deputies), data on authorities and persons who perform police duties, etc. are not to be anonymized in the court decisions. Likewise, court decisions are not anonymized when a decision has been made to publish the original text in the media, in accordance with legal provisions.

Unlike Croatia, and Bosnia and Herzegovina, Montenegro has established a special Internet portal: www.sudovi.me which was officially launched on October 28, 2011 This portal publishes the data on courts, judges, information bulletins, trial schedules, reports on the work of courts and decisions of courts of different instances. Thus, it is possible to find a large number of Montenegrin court decisions from the lowest to the highest instance, most of which consistentlyanonymized and summarized on the single Internet portal for all of the country. The portal makes it possible to searchjudgments by the type of case, department or year as well as by other search criteria, including the type, number, keywords, etc. One can also observe decisions in which the Data Anonymization Ruleshave been violated,because the decisions of certain courts have not been anonymized before publication, while in others, data that should not be anonymized have been concealed. However, even despite these minor flaws, it can be concluded with certainty that Montenegro has offered the best solution both for the publication of judgments of national courts, and for a uniform system of personal data anonymization.26

5. Data Anonymization in Court Decisions in the Republic of Serbia

This chapter begins with an overview of the legal framework and definition/specification of the balance between the public right to access to court decisions and the right to privacy of the participants in the proceedings. The practice of the Commissioner for Information of Public Importance and Personal Data Protection in three relevant cases has also been presented. This is followed by an analysis of internal court documents regulating this area, laying a special emphasis on the rules of data anonymization depending on the type of the case, as well as the types of data which these documents protect from disclosure. The court practicein making court decisions available to the public is presented afterwards, and a special stress is laid on the type of anonymized data, methods, techniques and procedures of data anonymization used by the courts, and perceived problems that may compromise data anonymity.

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26 See also: Andrea Božić, Objavljivanje sudskih odluka u Crnoj Gori, available at: http://www.hraction.org/wp-content/uploads/OBJAVLJIVANJE_SUDSKIH_ODLUKA_U_CG.pdf

5.1. Legal Framework in the Field of Anonymization of Data Contained in Court Decisions in Serbia

Informing the public about the work of courts has multifold importance in democratic societies. First of all, the public nature of court work involves a set of guarantees and rights that represent an element of the right to a fair trial and a prerequisite for the realization of the procedural rights of litigants in civil proceedings, or the defendant in criminal proceedings. On the other hand, the public nature of court work is a necessary aspect of the general transparency of work of public officials, because it allows the participants, interested partiesand the general public, to get an insight into the course and dynamics of the case, helps to preserve the integrity of the courts and judges, reduces the opportunity for corruption, and increases the public trust and confidence in courts in general.[27]

The public nature of court proceedings in most modern legal systems is achieved by applying several mechanisms: by publishing information bulletins on court proceedings, by posting the time, place and subject-matter of a trial in a visible place outside the room where the trial will be held or in another appropriate manner; by ensuring the public nature of court proceedings, i.e. allowing all adult citizens and media representatives to attend trials and hearings, making it possible to take photographs of, record and publicly show the building and course of the court proceedings, by notifying the interested parties and the media on the course of proceedings, by publishing court decisions, legal opinions, and launching the webpages of courts.[28]In terms of informing the participants in the proceedingsand ensuring an insight into the contents and quality of court work (rather than just quantity, i.e. the amount and speed of resolution of cases), the most important elements of the publicity of court work are certainly the publicity of the proceedings, as well as thepublication of court decisions and making them available to the public.

However, in ensuring access of the public to court proceedings and information contained in court decisions, it is necessary to strike a balance between demands for transparency on the one hand, and protection of privacy of the participants in the proceedings, on the other. Moreover, the restriction of public access, and,primarily, the publication ofinformation presented during court proceedings (in this case criminal), is also aimed atobserving the presumption of innocence of the defendant.

The legal framework of the Republic of Serbia makes it possible to strike a balance between

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27 On the importance of the right to a free access to information of public importance, see D. Milenković, PhD, Priručnik za primenu Zakona o slobodnom pristupu informacijama od javnog značaja, the Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, 2010, available at http://www.poverenik.rs/images/stories/dokumentacija-nova/vodic/prirucnikzaprimenuzakonacir.pdf, page 23.

28 http://www.osnovnisudkv.rs/home/index.php/lat/javnostrada-meni1

these conflicting interests during court proceedings, while precise guidelines and rules that would guide the courts in enabling public access to their decisions have not been established yet. This chapter will focus on two aspects of publicity of court work–the public access to court proceedings and court decisions – and willpresent the basic legal framework regulatingthe public nature of court proceedings, mechanisms for realizingthe rights of the public to be informed about the course of the proceedings and court decisions, and limitations that exist in this field in terms of protecting the privacy ofpersons.

5.1.1. Public Nature of Court Proceedings

The public nature of court proceedings represents an element of the right to a fair trial guaranteed by the European Convention for Human Rights and the Constitution of the Republic of Serbia, as well as relevant (mainly procedural) legislation of our country. By ensuring the public nature of a trial, the parties to the dispute are protectedfrom a secret administration of justice, which imposes controlon the work of the courts and maintains the public trust that the courts will base their work and judgments on democratic principles.[29]Therefore, the ultimate goal of the provisions on the public nature of the trial is the public control of the work of the courts that can affect their independence, which is how the rule of law is protected.

In the chapter on the case law of the European Court of Human Rights, Article 6 (1) of the European Convention on Human Rights was presented.[30]The rights guaranteed by Article 6 (1) apply to both civil and criminal proceedings, although, as we will see, the national legislation distinguishes between civil and criminal proceedings in the regulation of their public nature (particularly in the case of exceptions, i.e. the possibility for excluding the public). With regard to the possibility of applying Article 6 in misdemeanor proceedings, the European Court of Human Rights has concluded that the criteria for the validity of guarantees referred to in Article 6 cannot be only the classification of a particular offense as a crime in a national legal system. In connection with this, in the ***Engel and Others v the Netherlands*** case, judgment of 8 June 1976, the Court pointed out that if member statesapplied their own discretion and classifiedan offense (act or failure to act)as a misdemeanor, rather than as a criminal offense, or prosecuted the perpetrator of a 'combined' offense in misdemeanor rather than in criminal

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29 Axen v. FR Germany, 8. December 1983, para. 25

30 The Law on Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol no. 11, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol 4 to the Convention for the Protection of Human Rights andFundamental Freedoms securing certain rights and freedoms which are not included in the Convention and the First Protocol thereto, Protocol. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms Protocol. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances, Official Gazette of SCG - International Treaties, no. 9/2003.

proceedings, the effect of the provisions of Article 6 and Article 7[31]of the Convention would also be subordinated to the sovereign will of member states.[32]

The notion of public hearing referred to in Article 6 covers four different rights: the right to a hearing and physical presence of the parties (litigant, i.e. defendant), the right to effective participation in the proceedings, right to publicity and right to publish court decisions.[33]Hence, the public nature of the hearing guaranteed by Article 6 (1) refers to the parties and the general public (public nature), and, therefore,makes it possible to exclude the public (i.e. restricted public access).[34]

Article 32 of the Serbian Constitution, dedicated to the right to a fair trial, guaranteesthat everyone shall have the right to a public hearing before an independent and impartial tribunal established by the law within reasonable time, which shall pronounce judgment on their rights and obligations, grounds for suspicion resulting in initiated procedure and accusations brought against them. Further, Article 142 of the Constitution, which lays down the principles of the judiciary in Serbia, in paragraph 3 provides that court hearings are public, and that they can be restricted only in accordance with the Constitution.

The Civil Procedure Code[35]and the Criminal Procedure Code[36]elaborate constitutional provisions, defining the public access to court proceedings as a right of all persons who have turned 16 to attend the procedural actions undertaken in court proceedings.[37]These persons are entitled to be informed of the course and outcome of court proceedings, except when the public is excluded under the law in certain phases or certain types of court proceedings. However, although the existing legal solution limits the access to proceedings to persons older than 16, many courts maintain that only adults may attend court proceedings.[38]

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31 Article 7 of the of the European Convention on Human Rights stipulates that sanctions can only be imposed under law i.e., that „[No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offense was committed."

32 See also N. Mole and C. Harby, The right to a fair trial, A guide to the implementation of Article 6 of the European Convention on Human Rights, Council of Europe, Belgrade, 2007, p. 33

33 D. Vitkauskas and G. Dikov, Protecting the right to a fair trial under the European Convention on Human Rights, Council of Europe, Strasbourg, 2012, available at: http://www.coe.org.rs/REPOSITORY/166_pravo-na-pravicno-sudjenje.pdf, p. 60.

34 More on Article 6 of the ECHR and the case law of the European Court of Human Rights in respect of the public access to court decisions and the protection of privacy is presented in Chapter 4 of this publication

35 Civil Procedure Code, Official Gazette of the RS, no. 72/2011, 49/2013, 49/2013 –CCdecision, 74/2013 –CC decision and 55/2014.

36 Criminal Procedure Code, Official Gazette of the RS, no. 72/2011, 101/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014

37 Article 321 Civil Procedure Code, and Article 362 Criminal Procedure Code.

38 See: http://www.ks.os.sud.rs/sr_lat/javnost-rada.html, http://www.zr.os.sud.rs/lat/javnost_rada.html, http://www.bg.ap.sud.rs/lt/articles/sluzba-za-odnose-sa-javnoscu/javnost-u-radu-suda, http://www.osnovnisudkv.rs/home/index.php/lat/javnostrada-meni1

Regarding the restriction of the public access to court proceedings, the Constitution of the Republic of Serbia stipulates that the public may be excluded from court proceedings only in order to protect the interests of national security, public order and morality in a democratic society, as well as to protect the interests of minors or privacy of participants in the proceedings, in accordance with the law. Therefore, all relevant laws further regulate this issue in accordance with the Constitution

The Civil Procedure Code and Criminal Procedure Code state that the court may exclude the public from all of or one part of the main hearing, in order to: protect the interests of national security, public order and morality, interests of minors, and privacy of participants in the proceedings. However, these laws do not regulate the grounds for the exclusion of the public consistently.Article 322 of theCivil Procedure Code defines the basis for the exclusion of the public which is not provided for in the Criminal Procedure Code: "The court may also exclude the public if the measures for maintaining order stipulated by the law cannot ensure the unimpeded holding of the proceedings." Conversely, the exclusion of the public because of other justified interests in a democratic society, provided for in Article 363 of the Criminal Procedure Code, is not mentioned in the Civil Procedure Code.

In criminal proceedings, the public isexcluded in the investigation, until the indictment becomes final. The Criminal Procedure Code stipulates that the panel may exclude the public from the opening of the session to the end of the trial, *ex officio* or at the request of a party or the defense attorney, but always after they state their positions on the matter. In civil proceedings, the court may exclude the public when the measures for maintaining order cannot ensure the unimpeded course of the proceedings.[39]

Under the Civil Procedure Code and the Criminal Procedure Code, the exclusion of the public does not apply to the parties, defense counsel, injured party and hisproxy and representative of the prosecutor, and the court may allow certain officials, researchers, experts and public figures to attend the trial from which the public is excluded, while at the defendant's request, this can also be allowed to his spouse, close relatives and the person with whom he lives in a common law marriage or another permanent relationship. The court willcaution persons attending a trial from which the public has been excluded that they are required to maintain the confidentiality of everything they learn at the hearing and indicate to them that the disclosure of secrets represents a criminal offense.

The court decides on the exclusion of the public in a decision that must be explained and published. A separate appeal is not allowed against this decision; it can be challenged only in an appeal against the court decision on the merits of the case. An unlawful exclusion of the public represents an absolute substantive violation of the proceedings, which means that its

39 http://www.bg.ap.sud.rs/cr/articles/sluzba-za-odnose-sa-javnoscu/javnost-u-radu-suda/javnost-je-iskljucena.html

consequence in the appellate proceedings may be the abolition of the decision on the merits.

In certain cases, the privacy of participants in the proceedings enjoys special protection, and the exclusion of the public represents a rule, in accordance with the sensitive nature of the case or the interest of certain persons. Thus, Article 75 of the Law on Juvenile Offenders and Criminal Law Protection of Juveniles[40]stipulates that the public is excluded when a juvenile is on trial. In addition to this, the names of juveniles cannot be published under any circumstances, nor can this be done with any other information on the basis of which one could identifytherelevant person. The decision in the proceedings against a juvenile is published only with the approval of the trial panel.

Similarly, the Family Law, as a special law, excludes the public from the proceedings relating to family relations, while data from court records are considered an official secret which all parties to the proceedings must keep.[41] The need for protecting the privacy of participants in the proceedings, and the interests of juveniles isgreater in these proceedings, which is why courts must apply additional caution when issuing press releases, publishing judgments and undertaking other actions through which these interests may be threatened.

In order to implement the principle of the public nature of court proceedings, courts are required, in accordance with the Court Rules of Procedure,[42]to ensure the necessary conditions for the appropriate access of the media to topical information and court proceedings, bearing in mind the interests of the proceedings, privacy and security.

Article 241 of the Law on Misdemeanors[43]also envisions the public nature of the trial in misdemeanor proceedings. The public may be excluded throughout the trial or from one of its parts, if this is required by general interests or reasons of public morality, while the proceedings against juveniles will be held, as a rule, without the presence of the public. If it decides to exclude the public, the court is obliged to caution the persons attending the trial of their duty to maintain the confidentiality of everything they learn at the hearing, and indicate that the disclosure of a secret represents a criminal offense

5.1.2. Public Nature of Court Decisions

According to the domestic legislation, the court is required to inform *the parties* to the proceedings about its decision.[44]This is done by reading the decisionpublicly and serving iton the

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40 Law on Juvenile Perpetrators of Criminal Offenses and Criminal Law Protection of Juveniles, Official Gazette of the RS, no. 85/2005

41 Family law, Official Gazette of the RS, no. 18/2005, 72/2011 – oth.law and 6/2015, Article 206.

42 Court Rules of Procedure, Official Gazette of the RS, no.116/2008 and104/2009

43 Law on Misdemeanors, Official Gazette of the RS, no. 65/2013.

44 Art. 425 and 427 of the Criminal Procedure Code and Art. 353 of the Civil Procedure Code.

parties. When a court decision is published, the operative part of the judgmentwill always be read out publicly, and if the public was excluded from the trial, the court will have to read out the operative part of the judgment publicly and decide whether it will also publicly present the reasons for the judgment. The obligation of the court to inform the parties about its decision is also regulated by the provisions governing time frames and method of service of the judgment.[45]

With regard to enabling access to court decisions to the *general public*, the legal framework and case law provide for two mechanisms:[46]

- **The publication of court decisions on web pages, in reports and other publications of the courts;47**

The case law of the basic courts in the Republic of Serbia is not harmonized when it comes to the publication of judgments on theirweb pages. The reason for the lack of harmonizationlies in the fact that certain courts do not have portals where decisions could be published. Moreover, despite the existing possibilities for the publication of decisions, most courtsdo not do it at all. Rulings and conclusions (Basic Court in Aranđelovac) or only rulings (Basic Court in Jagodina) can be found at the portals of a small number of courts. Finally, with regard to the practice of the Appellate Courts, Administrative Court and Supreme Court of Cassation, after searching their websites it is evident that a number of decisionshas been published, but such a search cannot determine whether these are all decisions or just a certain percentage of them.

- **The disclosure of court decisions based on the access to information of public importance**

A free access to information of public importance refers to the citizens' right to access information in the possession of public officials and represents an integral part of the right to the freedom of expression.

In order to exercise the right to free access to information, under the Law on Free Access to Information of Public Importance (LFAPI)[48],two main conditions need to be met:

1. That this information is **held by a public authority**, that it has been created during or

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45 Art. 427 of the Criminal Procedure Code and Art. 354 of the Civil Procedure Code.

46 Similar solutions also exist in the legal framework of Montenegro. See: A. Bozic, Objavljivanje sudskih odluka u Crnoj Gori, available at http://www.hraction.org/wp-content/uploads/OBJAVLJIVANJE_SUDSKIH_ODLUKA_U_CG.pdf, p. 4.

47 Article 33 Law on the Organization of Courts, Official Gazette of the RS, no. 116/2008, 104/2009, 101/2010, 31/2011 – oth.law, 78/2011 – oth.law, 101/2011 and 101/2013; Article 61 Court Rules of Procedure, Official Gazette of the RS, no. 110-2009, 70-2011 and 19-2012

48 Law on Free Access to Information of Public Importance, Official Gazette of the RS, no. 20/2004, 54/2007, 104/2009 and 36/2010

in connection with the operation of the public authority and that it is contained in a document;
2. That the information refers to everything that the **public has a justified interest to know**.[49]

Practice has confirmed that these two conditions are met when insight into final court decisions is made possible on the basis of free access to information of public importance. Thus, all courts in Serbia are on the List of Public Authorities Within the Meaning of the LFAPI[50], which is kept and updated by the Commissioner for Information of Public Importance and Personal Data Protection. In addition to this, the Commissioner has confirmed that "information from final court judgments undoubtedly represent the information of public importance within the meaning of Article 2 paragraph 1 of the Law on Free Access to Information of Public Importance [...] because they have been created within the operation of the court as a public authority within the meaning of this law; they are embodied, i.e. contained in certain documents, they are in the possession of courts and refer to what the public has a justified interest to know."[51]

Also, a person who wishes to inspect a final judgment has at his disposal all the rights guaranteed to the person requesting information under Article 5 of the LFAPI:

- The right to be informed whether a public authority holds a particular piece of information or whether it is available to it;
- The right to get access to the information of public importance by being allowed, free of charge, to examine the document containing this information;
- The right to get a copy of the document containing the requested information, after paying the required fee covering the costs of copying;
- The right of the person making the request to have a copy of the document sent to his address by mail, fax, e-mail or otherwise,after paying the required fee covering the sending costs.

However, the question is whether, to what extent and in which cases the courts may restrict access to their final judgments. The Commissioner has concluded that, in the case of final judgments, the existence of a legitimate interest is assumed, hence it is difficult to imagine a situation in which the authority in possession of the information (in this case the court) could

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49 Article 2, Law on Free Access to Information of Public Importance.

50 http://www.Poverenik.rs/yu/katalog-organa.html

51 Slobodan pristup informacijama: stavovi i mišljenja Poverenika, the Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, 2013, available at: http://www.poverenik.rs/images/stories/dokumentacija-nova/prirucnik/2.publikacijastavoviimisljenja/stavoviimisljenja2.pdf p. 93.

deny this interest by protecting another, prevailing interest.[52]Nevertheless, it seems that even in the case of a request to access final court decisions, the court has the possibility to apply the so-called *three part test*, and see whether there is room for restricting or denying access to the information.

Under Article 8 of the LFAPI, the public authority may deny access to the requested information, if it answers affirmatively to the following questions:

1. Is any of the interests referred to in Articles 9, 13 and 14 of the Law opposed to the requesting party'sinterest to know?
2. Would the access to the information seriously violate the interest referred to in the previous question?
3. Does the need to protect the opposite interest override the need to protect the requesting party's interest to know, in accordance with the needs of a democratic society?[53]

Among the interests that may be opposed to the requesting party's interest to know, the LFAPI includes: life, health, safety or another important good of a person (Article 9, paragraph 1, item1); prevention or detection of a criminal offense, indictment for a criminal offense, pretrial or court proceedings, enforcement of a judgment or a punishment, holding of any other legally regulated proceedings, fair treatment and fair trial (Article 9, paragraph 1, item 2); defense of the country, national or public security, international relations (Art. 9, paragraph 1, item 3); state ability to manage the economic processes in the country, realization of justified economic interests (Article 9, paragraph 1, item 4); state, official, business and other secrets (Article 9, paragraph 1, item 5); prevention of the abuse of the right to access to information (Art.13.); right to privacy, good reputation and any other right of the person to whom the requested information directly refers (Article 14).[54]

For the purpose of this analysis,the possibility of restricting the access to information of public importance, provided for in Article 14 of LFAPI, is of particular importance, i.e. for the purpose of protection of the right to privacy, good reputation or any other right of the person to whom the requested information directly refers. A public authority may provide access even in these cases, if: the person to which the information refers has agreed to this; such information refers to a person, occurrence or event of public interest, especially in case of a public official or a political figure, and if the information is important in view of the office held by this person, or if this is a person whose behavior, especially in connection with his private life, has provided the basis for requesting such information.

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52 Ibid.

53 http://www.nsprv.org/lnformator_radu_poverenika.pdf, p. 7

54 Ibid.

Therefore, when acting in connection with requests for a free access to information, the responsible bodies (in this case the courts) have to take into account different interests and circumstances of each case. Also, in addition to acting in accordance with the LFAPI, the responsible bodiesare required simultaneously to implementthe provisions of the Law on Personal Data Protection (hereinafter: LPDP). Primarily, these provisions refer to the legal basis of data processing, since the publication of the data, or making the data publicly available, represents an action of data processing referred to in Article 3 of the LPDP. Under such circumstances, the right to the access to information and the right to privacy may represent conflicting rights. Therefore, the court must assess whether it will be possible to satisfy both rightssimultaneously and, if not, determine which right will get precedence. If both rights can be satisfied, the court may act in accordance with the provisions of Article 12 of the LPDP, which regulates the separation of information in the following way:

If the requested information of public importance can be extracted from other information in the document for which a public authority is not obliged to allow the inspection to the applicant, the authority will allow the applicant to access the part of the document that contains only the extracted information and notify him that the rest of the document is not available.

This means that the responsible body referred to in the Lawmay make information requested by the applicant available by enabling access to the part of the document in its possession which does not refer to the personal data contained therein.[55]

In this case, the court should assess the volume of data that needs to be made accessible in order to grant the request for a free access to information. The Law, therefore, provides for the possibility of anonymization of personal data (the methods, techniques and procedures of which have already been discussed) in a document. The court will use this possibility whenever the public does not have a justified interest to view the personal data of one or more persons, contained in documents that are relevant as a whole, in order to completely grant the request for access to information of public importance. If the applicant is dissatisfied with the response to his request, i.e. if he believes that the responsible bodyimpedes or prevents the realization of his right to a free access to information of public importance, he may complain to the Commissioner.[56]

Like the other responsible bodies under the LFAPI, when it decides on making data public, the court willabove all assess the public interest for the disclosure of information, in view of Article 14 of the LFAPI. Thus, a state or public official to whose data the request refers will

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55 This paragraph has been copied and adapted with the permission of the authors from: Tamburkovski B., B. Nedić, Mišljenović U. Priručnik za sudije Upravnog suda za primenu Zakona o zaštiti podataka o ličnosti, Belgrade, 2014, available at: http://www.partners-serbia.org/wp-content/uploads/2015/04/Prirucnik-za-primenu-Zakona-o-zastiti-podataka-o-licnosti.pdf, p. 42.

56 Article 22, para 1 (6) Law on Free Access to Information of Public Importance

have lower legitimate expectations regarding his privacy if this information is relevant for his official capacity.[57]

Striking a balance between the right to the access to information and the right to privacy in cases when court decisionsare made publicly available is not easy at all. For example, the question is how the court would act in connection with a request for the disclosure of a judgment ina case in which astate official is, for example, a victim of a crime unrelated to his official capacity.

5.2. Practice of the Commissioner for Information of Public Importance and Personal Data Protection

In the field of anonymizationof data contained in court decisions, the researchers have singled out the action of the Commissioner for Information of Public Importance and Personal Data Protection in three cases.

5.2.1. General Position of the Commissioner on the Scope of Personal Data Protection in Court Decisions

A court has asked the Commissioner to present his position on the scope of personal data protection in court decisions that are disclosed pursuant to the Law on Free Access to Information of Public Importance. In his response[58]the Commissioner started from the general statement that "the court decision on whether the names of participants in court proceedings should be made available to the public as information of public importance, should be based on the test of public interest referred to in Article 8 of the LFAPI, or the weighing of the interests between the public right to know and the protection of the right to privacy or another legitimate rightor interestreferred to in article 9of the LFAPI."The Commissioner also said that "from the aspect of the LFAPI, there is no general answer to the question which data is protected in court decisions when acting on a request for a free access to information of public importance, but thatthis must be a matter of assessment of the court in each specific situation."

The Commissioner took a position onthe publication of names of officials participating in the proceedings, whose names are contained injudgments. According to the Commissioner, "these persons enjoy a lower level of protection of privacy in comparison with so-called ordinary citizens, and their names should be available to the public, since this information is related to the exercise of public office or public work, rather than to private life."

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57 Ibid.

58 http://www.poverenik.rs/yu/2011-05-24-08-28-59/1780-anonymization-presuda.html

In the part of the statement that refers to the publication of defendants' names, the Commissioner took the position that "in the implementation of the public interest test, facts that may be relevant for the publication of this information are that the defendant has contributed to the publication of information through his behavior; that this information has already appeared in the public; that this is a person of interest to the public; that this is a criminal offense(s) prosecuted *ex officio*, or offenseswhose commission results in a major social danger or damage to the public interest, and other facts that may fall under the exceptions referred to in items 2 and 3 of Article 14 of the LFAPI. In addition to this, the final judgment of convictionrepresents an additional reason for making the names of the defendants available to the public."

Having analyzed the nuances of access to court decisions depending on the type of the case, the Commissioner noted that "[if] there is no public interest for the publication of the names of participants in the proceedings, such as, e.g., names of the parties in litigation proceedings, this implies that the court has the obligation to protect their names, and depersonalize the judgment before making it available as information of public importance, where it is necessary also to protect the personal data on the basis of which it would be possible to identify the relevant person."

With regard to the disclosure of data on other participants in the proceedings, primarily witnesses, the Commissioner stated in principle that "the court's decision on whether this information should be made available also includes a specific assessment, such as for example, whethera person can be identified solely on the basis of the publication of hisname and family name, what kind of court proceedings are being held, whether this might be a minor or person belonging to other "vulnerable" categories of persons, whether the proceedings have been concluded with a final judgment, whether influence can be made on the statements of other persons who have not been examined, etc."

Finally, the Commissioner said that, when the court finds that the public has the interest to inspect certain personal data contained in the judgment, the principle of proportionality referred to in the LPDP must be borne in mind. More specifically, the Commissioner noted that "data other than a person's name and family name should not be published if there is no legal basis for this, or if their disclosure would constitute excessive processing (address, citizen's unique identification number, etc.)."

5.2.2. The Case of the *Humanitarian Law Center* – Higher Court in Belgrade

The *Humanitarian Law Center* (HLC) is an organization that has continuously monitored and analyzed war crimes trials for more than a decade. In its work, the organization also relies on court decisions as sources of information, which is why it has repeatedly addressed the

courts competent, *inter alia*, for war crimes cases. The HLC has repeatedly publicly expressed its view that courts unjustifiably leave out personal data indecisions. According toa HLC statement "the Higher Court and Appellate Court departments in 2012 and 2013 restricted access to judgments in war crimes cases through the process of anonymization (blacking out, editing) of written judgments. In some cases, courts have even blacked out the names of the defendants, their attorneys, judges, witnesses, experts, and, to top it all,even entire paragraphs and pages of judgments. Judgments as a whole thus become unreadable and impossible to use for legal analysis, while the victims are denied knowledge about the committed crimes." [59]

Thus, in 2013 the HLC filed a complaint to the Commissioneragainst the Belgrade Higher Court decision denying it the integral versions of judgments in the Beli Manastir and Gnjilane Group cases. In its complaint to the Commissioner, the HLC said that "data protection under the Law on Personal Data Protection is not absolute, and that Article 5 of the LPDP states that the protection does not apply to the data which is "available to all and [which has been] published in the media and publications or [which is] available in archives, museums and other similar organizations." In this regard, the HLC recalled that war crimes trials were public, and that data from anonymized decisions are available to the public through the media, individuals or organizations, which, like the HLC, monitor war crimes trials.[60]

In the received court decision in the Gnjilane Group case[61], entire paragraphs were removed electronically.Itis important to note here that the data on the co-defendants–nine of them in total–were anonymized in the same way. Reading the thus delivered judgment, the researchers realized that it was impossible to establish interpersonal relations among severalco-defendants, their respective roles in the commission of the offense of which they were charged, and their respectiveattitudes towards the injured parties, all of which had constitutedimportant information for the decision on the sentence. The public was thus unable to get a valid insight into the work of the court, in view of the fact that it was not possible to establish which sentence referred to which defendant (in this case the sentences ranged between 8 and 15 years). In his decision on the HLC complaint – which is partly quoted in a subsequent conclusion authorizing enforcement – the Commissioner instructed the court to send the requested judgment, "where personal data that would violate the relevant persons' right to privacy, such as: home address, citizen's unique identification number, date of birth and other personal data contained in the judgment would be protected and made inaccessible before sending."

At this point it would be interesting to quote the argument the Commissioner used to point at the necessity of publishing the names and family names of persons whose data is contained

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59 Humanitarian Law Center, Ten Years Of War Crimes Prosecutions In Serbia: Contours Of Justice, 2014, p:45, available at: http://www.hlc-rdc.org/wp-content/uploads/2014/10/Analiza_2004-2013_srp.pdf

60 Available at: http://www.hlc-rdc.org/?p=26065

61 Available at: http://www.hlc-rdc.org/Transkripti/gnjilanska_grupa_prvostepena_presuda.pdf

in judgments, while protecting other data. In the conclusion authorizing the enforcement,[62]it is said:

*After examining the Higher Court in Belgrade War Crimes Department judgment K-PO2 no. 22/10 ofJanuary 21, 2011, which the person responsible for the enforcement has sent to the person requesting enforcement in compliance with the order referred to in the Commissioner's decision, it was determined that that in the judgment, among other things, the names of the defendants, as well as other persons mentioned in the judgment were blacked out, although the relevant decision had neither ordered nor was it the intention of the Commissioner to protect before sending a copy of the judgment*the names and family names of persons, which, otherwise, without other related personal data, would not reveal the identity of the person (italics added by the authors*). If this were the Commissioner's intention, the data protection clause would generally refer to all personal data contained in the judgment, including persons' names and family names, and not, like it was said in paragraph 1 of the wording of the decision, only to certain information, such as the address, citizen's unique identification-number and date of birth of the person, whose publication, together with the name and family name of the person to whom the data pertains, would constitute excessive processing of data, which would be contrary to the principle of proportionality referred to in Article 8 of the Law on Personal data Protection.This is also supportedby the fact that it is a war crimes judgment, and that, for this reason,it has not been the intention of the Commissioner to protect the names of the defendantsagainst whom the judgment was passed, regardless of the fact that this was not explicitly stated in the reasoning of the decision. In addition to this, if thedepersonalization of the judgment were the goal of the Commissioner's decision, there would be no need to protect all other personal data referred to in the Commissioner's decision.*

On the basis of the quotation it can be observed that the Commissioner believes that names and family names should be published, while other data should be protected. Upon reading the explanation, one gets the impression that the reason did not lie in the fact that the Commissioner believed that the application of the public interest test in this case indicated that the interest of the public to know outweighed the right to the privacy of persons, but that the Commissioner found that persons' identities, or at least the identities of some persons whose data were contained in the judgment could not be revealed through the publication of names and family names. This interpretation of the Commissioner's position is supported by the fact that the Commissioner did not make a difference between the disclosure of data on the defendants and that on other persons (for example, witnesses or injured parties).

The authors of the analysis cannot take an explicit stand on this issue - whether the names and family namesas such constitute unique identifiers, and whether they reveal a person's

62 Available at: http://www.hlc-rdc.org/wp-content/uploads/2014/03/Zakljucak_poverenika_za_informacije_od_javnog_znacaja-19_03_2014.pdf

identity. However, we would like to point to the fact that names and family names, even when the other related personal data is left out, are not isolated,and that they are always contained in a document or a database. In this case, this is a court document. The information pertaining to the name of the court does not constitute personal data *per se*, but, to a greater or lesser extent, itnarrows the circle of potential persons of the same name.Thus, the name and family namepublished in the act of the Basic Court in Priboj (this court has jurisdiction only in the municipality of Priboj) will probably make a person more identifiable than it would be the case with a document of a court whose jurisdiction covers a substantially more populated territory (for example, the Higher Court in Belgrade). A person can also be identified based on the information on the type and circumstances of the case which does not have to contain personal data (for example, type of criminal offense). In addition to this,court decisions as a rule, contain information about several persons, which can sometimes increase the possibility of identifying some of them. This especially applies to situations where there are several co-defendants or where family members are in the role of petitioner and the respondent in non-contentious cases. Finally, a combination of a name and family name may be more or less common.If Petar Petrović is the defendant, he will probably be more difficult to identifythan if, for example, Vlastimir Stojanoski or Nadežda Balinović Janićijević were the defendants. It is important to note that the four listed factors - the name of the court, circumstances of the case, existence of a large number of persons and level of specificity of a name – cumulativelyachieve a greater identification effect. Therefore, the authors of the analysis indicate that courts need to be cautious when resolving the dilemma referred to at the beginning of the paragraph, andwe therefore refer to the part of this analysis that refers to on the determination of the notion of *personal data*.

5.2.3. Portal of Serbian Courts

In December 2010, the then Ministry of Justice and Public Administration of the Republic of Serbia launched the Portal of Serbian Courts in order to ensure an easy access to information about the completed and ongoing cases. On this occasion, representatives of the ministry said that the visitors of this portal would be able to inspect the basic information about each court, including the "course of the cases in the competence of basic, higher and commercial courts."More specifically, according to the ministry representatives, an insight into the course of the case "means that,owing to the daily work of court employees in the automated case management program (AVP), the parties to the proceedingsand the entire public will be able to find out who the parties to the proceedings are,what the grounds for the court proceedings are, when the work on the court case began, which motions were filed, by whom and when, as well as the dates of the scheduled hearings, outcome of the hearings, dates of procedural and final decisions in the cases, dates when the decisions were dispatched from the court, and dates of submission ofrequests on legal remedies in proceedings held at 77 courts i.e.at all commercial, basic and higher courts, as well as what decisions were made on legal remedies."-Finally, it was also said that "this innovation in the Serbian judiciary [is] in accordance with

the general reform of the judiciary and represents a joint effort of all its participants to bring the work of the courts closer to the parties as well as to enable public access to its work."[63] However, the way in which the portal was established and in which it later worked did not sufficiently take intoaccount the rules ofpersonal data processing. Thecourt portal thus contained data on persons on whose deprivation of legal capacitydecisions were being made. On May 30, 2013 the Commissioner for Information of Public Importance and Personal Data Protection sent a formal warning to the Ministry of Justice and ordered that the shortcomings in the personal data processing be corrected. The Commissioner said in the warning that the data processing did not comply with the Law on Personal Data Protection, hence that the data was collected and used without a proper legal basis. In addition to this, the Commissioner determined that,in view of the purpose of establishment of the portal, the data was collected and used in an excessive, disproportionate manner.

Since the Ministry of Justice had not observed the warning, on December 12, 2013 the Commissioner issued a decision [64]banning further processing of parts of data at the Court Portal. In the decision, the Commissioner quoted the data that must not be published on the Court Portal, and those whose processing was unnecessary for the achievement of the purpose of the Portal.

At the beginning of the decision, the Commissioner quoted the data whose publication was not allowed on the Portal. These are:

a. In ***enforcement proceedings***: name,family name and address (city, street,number) of all enforcement creditors, as well as of those enforcement debtors whosenames have not been entered in the Register of Debtors.
b. In ***non-contentious proceedings***: names,family names and addresses (city, street, number) of participants in the probate proceedings, proceedings aimed at declaring a missing person dead, proceedings for the withdrawal, restoration or extension of parental rights, proceedings for granting permission to a minor/minors to get married, as well as actions of the proponent and respondent in the deprivation of legal capacity proceedings.
c. In ***litigation proceedings***: names, family names and addresses (city, street, number) of the parties.
d. In ***labor disputes***: names,family names and addresses (city, street, number).
e. In ***criminal proceedings***: names and family names of the defendants and their addresses (city, street, number).

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63 December 17, 2010, Ministry of Justice, Novi Portal sudova Srbije, available at: http://arhiva.mpravde.gov.rs/cr/news/vesti/novi-portal-sudova-srbije.html

64 Decision of the Commissioner no. 011-00-00017/2012-05, available at: http://www.drzavnauprava.gov.rs/files/portalsudova-poverenik-resenje.doc.Quotations from the Commissioner's warning are contained in this decision.

Later in the decision, the Commissioner pointed out that the Ministry of Justice and Public Administration had had no legal basis for data processing, since the publication of such data was not explicitly regulated by law.

Nevertheless, for the purpose of this analysis, probably the most interesting part of the decision is the one in which the Commissioner describes the difference between the public nature of court proceedings and public nature ofcourt decisions. According to the Commissioner:

The most important fact is that the public nature of hearings cannot be the same as the broader notion of the public nature of court proceedingsand particularly not as the public disclosure of personal data in the AVP application resulting from court proceedings at the courts of general jurisdiction. The term "public" cannot be interpreted unambiguously, nor can personal data automatically become public for all other persons and, in this specific case, for an unlimited number of Internet users who can access the portal from any part of the world, just because they were presented to the public at a public hearing or trial, or within a publicly declared decision of the court,.

The Commissioner also stated:

The fact that defendants' personal data can be downloaded, saved, multiplied and stored on different media, and that the searched data on the Internet portal remains permanently recorded on the web in the form of cached content, absolutely brings into question the meaning ofthe legal rehabilitation of convicted persons and deletion of information on convictions from criminal records.

The Commissioner thus pointed at the specific features of data processing on the Internet. Traditionally, court decisions were made public by being posted on courthouse notice boards, and usually encompasseddirect stakeholders, their representatives, and a number of participants to other proceedings before the same court. The access to published court decisions was thus restricted to a narrow circle of people, and the copying of court decisions and their later publication outside the court was either unpermitted or technically impossible. In contrast, the publication of court decisions on the Internet offers an unlimited possibility of copying and dissemination, which makes information potentially available to all, including future generations. Hypothetically speaking, court decisions can be downloaded and e-mailed specifically to people who may be in contact with the persons whose data is contained in the decisions, or court decisions in particular matters can be downloaded and published on websites created for this purpose, thus creating informal registers established on various grounds and criteria. All this can lead to a situation in which 50 years later– hence,after the expiry of the prison sentence and the rehabilitation period - the public can still learn the contents of a judgment after conducting a simple search in the Internet browser.This is why at one point in the decision, the Commissioner

uses the term "entire Internet community" –specifically in order to point at the number of Internet users and drastically different way in which information circulates on the Internet. Nearly unlimited availability of personal data on the Internet - both in space and time - is particularly important in view of the right to be forgotten. This issue was also reviewed by the European Court of Justice in the ***Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Costeja Mario González***case, judgment of May 13, 2014,[65]and this is also a very topical issue in current debates on the reform of the EU *acquis*in the field of personal data protection.[66]

As for the processing of personal data of persons convicted by final judgments, the Commissioner pointed out that such data is regarded as particularly sensitive within the meaning of the Law on Personal Data Protection. He provided a similar opinion also regarding the processing of data on persons whose parental custody had been extended or who had been deprived of legal capacity, since the data - albeit indirectly –pointed at the health condition of a person, which also representedparticularly sensitive information within the meaning of the LPDP.

Further in the decision, the Commissioner said that "in principle, personal data in court documents *have the character of information of public importance*" but that "the aforementioned does not imply that all information from the court records is public, nor that the portal, or the ministry, should be *proactive* in publishing such information, the majority of which actually represents personal data on the parties and other participants in proceedings at the courts of general jurisdiction."

Acting upon the decision of the Commissioner, the Ministry of Justice removed the personal data,the processing of which the Commissioner had described as not legally based. Running a search on the portal nowadays, one can get an insight into the course of most cases at the Supreme Court of Cassation, Administrative Court, and the appellate, basic, higher and commercial courts.

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65 See: Miloš Stojković, Pravo na zaborav – šest meseci primene presude Evropskog suda pravde, published in Pravni monitoring medijske scene u Srbiji, 10th issue of the publication, Anem, 2014, available at http://www.anem.org.rs/sr/aktivnostiAnema/monitoring/story/16810/DESETA+Monitoring+publikacija+ANEMA+.html, as well as: Article 29 Data Protection Working Party, Guidelines on the Implementation of the Court of Justice ofthe European Union Judgement on "Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González" C-131/12, available at: http://ec.europa.eu/justice/data-protection/article-29/documents/opinion-recommendation/files/2014/wp225_en.pdf

66 See: EU Council of Ministers Adopts General Data Protection Regulation, available at: http://privacylawblog.fieldfisher.com/2015/eu-council-of-ministers-adopts-general-data-protection-regulation

5.3. Internal Court Documents Regulating the Anonymization of Data Contained in Court Decisions

In the part of the analysis that refers to the methodology of research, it was said that the research sample consisted of 46 courts, out of which: 20 basic, 10 higher, 10 misdemeanor, and 4 appellate courts, as well as the Supreme Court of Cassation and the Administrative Court. At the beginning of the research,a search of the court websites and the Portal of Serbian Courtswas conducted, in order to determine whether any of the internal documents regulatingthe anonymizationof data in court decisions (hereinafter: internal documents) were available in that way. On these websites, the researchers found the internal documents of the Supreme Court of Cassation and the Belgrade, Niš and Novi Sad Appellate Courts. The internal document of the Administrative Court was published on its website once it was adopted, which took place while the research was conducted.

It was also determined that the requested internal documents of basic, higher and misdemeanor courts could not be found at the Serbian Court Portal. As a result, requests for the access to information of public importance were sent to the addresses of 20 basic, 10 higher and 10 misdemeanor courts from the sample, as well as to the Appellate Court in Kragujevac, requesting that internal documents regulating the anonymizationof data in court decisions be sent to us.

The next step in the research was to analyze the internal documents of the Supreme Court of Cassation (SCC), Administrative Court and the available internal documentsof the appellate courts. Also, this stage of the research was conducted to identify and analytically isolate the items regulated byinternal documents, such as the type of anonymized data, types of data exempt from anonymization, method/procedure of anonymization, possible existence of different rules of anonymization depending on the case type, etc.

After analyzing theinternal documentsof the SCC, Administrative Court and appellate courts, we determined that the rules of anonymizationwereharmonized up to a point. These documentsdo not have identical names - some courts have rules and othersguidelines, and rules from some of these documents refer to the anonymizationof data in in court decisions, while in others they refer to the(minimum) anonymization of court decisions

The table shows the names of the documents and the date of their adoption:

Court	Name of the document	Adoption date
Supreme Court of Cassation	Rules on the Replacement and Omission (Anonymization) of Data in Court Decisions	May 27, 2010
Appellate Court in Belgrade	Rules on the Minimum Anonymization of Court Decisions; RulesAmending the Rules	August 20, 2010; April 26, 2012
Appellate Court in Niš	Guidelines on the Replacement and Omission (Anonymization) of Data in Court Decisions	March 9, 2011
Appellate Court in Novi Sad	Ruleson the Replacement and Omission (Anonymization) of Data in Court Decisions	January 5, 2011
Appellate Court in Kragujevac	Rules on the Replacement and Omission (Anonymization) of Data in Court Decisions	January 12,2011
Administrative Court	Rules on the Replacement and Omission (Anonymization) of Data in Court Decisions	August 10, 2015

The general provisions of these documents regulate the method of replacement and omission(anonymization) of information in court decisions published on court websites, while the Belgrade and Niš Appellate Courts say that the same rules apply on the case law of relevant courts. Under the documentsof all courts, the rules ofanonymization apply to court decisions that "are published on the court website in their entirety."Under the Rules of the Supreme Court of Cassation,allcourt decisions are made available to the public through the website, while other courts whose documents were subjected to this analysis do not envision this practice.

Under the court documents, court decisions are published in such a way as to "replace or omit" information on different persons. The Supreme Court of Cassation envisions the replacement and omission of data that can be used to identify "the parties, their representatives or proxies." The Niš Appellate Court document envisions the replacement of omission of such data if it refers to "the parties, their representatives or proxies, witnesses, parties' relatives, close

personsand neighbors, etc., as well as to officials who participate in the proceedings within their official capacity (court expert, court interpreter, social worker, psychologist, pedagogist, etc.).” Under the Appellate Court document, the replacement and omission of datarefers to all persons listed in the Niš Appellate Court document, as well as to physicians who participate within their official capacity.Under theKragujevac Appellate Court document, in civil matters the data on the following is to beanonymized: “parties (natural persons and legal persons, participants recognized as parties bya special law or the court), their proxies (lawyers, interns, law office employees), legal representatives, interveners, injured parties, witnesses, parties’ relatives, close persons and neighbors.”Unlike other appellate court documents, this court document also provides for the anonymization of data on the following: “partythat appears in the proceedingsas: a state authority, territorial autonomy and local governance authority, institution (university, faculty, school, kindergarten, hospital, clinic, theater, museum, institute, etc.), public enterprise, association, trade union, or a natural person representing a state authority, public enterprise, association or trade union.”This leaves an impression that through this provision the court has taken the position that even when an institution with public authority appears as a party in a civil case, thepublic does not have a justified interest to learn about the participation of thisinstitution in the case.

At this point, it is important to mention that the rules ofanonymizationof data in court decisions, depending on the type of the case or department of the court which handles the case, are not harmonized with appellate court documents.

The Novi Sad Appellate Court has adopted different criteria ofanonymization depending on the type of the case. Thus, the court document specifiesthe data that is anonymized in decisions in civil matters, labor disputes, criminal matters and criminal proceedings againstjuvenile offenders. Such rules have also been established in the Kragujevac Appellate Courtdocument, but only for the civil and criminal matters. The 2010 BelgradeAppellate Courtdocument does not differentiate between types of cases.However, under the RulesAmending the Rules of 2012, the exemption from the general rules of anonymization refers to the data on “defendants and convicted persons in judgments and asset forfeiture decisions in war crimes, organized crime and money laundering cases.”Something similar can be found in the Supreme Court of Cassation document: “Data on the defendants and convicted persons in war crimes, organized crime and money laundering cases are not anonymized.” The Niš Appellate Court failed to establish different anonymization standards, and therefore applies the same rules regardless of the case type and department adjudicating the case.

The document sections on the method of data anonymization determine types of data that are to be anonymized. All the documents analyzed so far envisionthe anonymization of the following data:

- Name and family name of a natural person;

- Name and address of a legal person, institution, association, trade union, etc. [Niš, Novi Sad and Belgrade Appellate Courts documents also list the name and seat of a state authority, and the territorial autonomy and local governance authority, while the Kragujevac Appellate Court, in addition to this data, also lists: institutions, public enterprises, associations, and trade unions];
- Address (temporary or permanent residence, seat);
- Date and place of birth;
- Citizen's unique identification number–JMBG;
- PIB – tax identification number;
- Number of the ID card, passport, driver's license, vehicle registration, or other personal documents;
- E-mail or web address.

In addition to this, the Novi Sad Appellate Court has introduced the obligation of anonymizingthe "name of the city/town, street and number, time or date of the relevant event."

If we apply the definition of anonymization presented at the beginning of this publication, we may conclude that the term *anonymization* should not be interpreted in such a way as to apply on the replacement and omission of data that is not considered to be personal data (or data on the basis of which a person cannot be identified). However, under certain circumstances, the location of the event can really point to the identity of the person.For example, if a court decision says that drugs were seized in the backyard of the defendant's family house, the specification of the address where the relevant event took place would point to the defendant's permanent residence, which could make this person identifiable. This example indicates that there is a need to approachthe anonymization of data in each individual court decision contextually, taking care of: a) recognizingthe type of data which might make a person identifiable, and then b) striking the right balance between the satisfaction of the public right to know and the right to the privacy of persons whose data is containedin a court decision.

The collected documents envision the anonymization not only of personal data but also of other types of information. Specifically, under Article 4 of the Rules of the Supreme Court of Cassation adopted on May 27, 2010:

Certain documents that represent an official or business secret and evidence that violates the privacy of participants in the proceedings are to be anonymized by omission from the reasoning of court decisions, and the omitted part is to be marked by dots (...) or blacked out.

Similar language can also be found in the Belgrade, Kragujevac, Novi Sad and Niš Appellate Court documents.

It is also important to point out that the legal framework in the field of personal data protec-

tion in the Republic of Serbia refers to natural persons (individuals, citizens), and does not guarantee the privacy of legal persons, except in the cases where data on a legal personpoint to a natural person. In this sense, one can raise the issue of justification of the use of the term "anonymization" for the establishment of rules of omission and replacement of data on legal persons, such as the name of the legal person, tax identification number, etc.A similar issuemay also be raisedin connection with the determination of rules of anonymizationof "evidence that represents an official or business secret," unless such evidence contains personal data. Here, it is important to say that the issue of use of the termanonymization is not onlya question of terminology. Since the internal court documents provide for the omission or replacement of data that is not necessarily personal, courts are required to establish a legal basis for denying public access to this type of information, and regulations in the field of personal data protection cannot serve as this legal basis.

One should also bear in mind the fact that the Law on Data Secrecy, which came into force as early as in 2009, hence before the adoption of these court documents, introduced a new classification of confidential information. Thus, this law abolished the category of official secret and provided for the following four categories: restricted, confidential, secret and top secret. In this respect, the court documents should be amended so as to comply with the Law on Data Secrecy. The Administrative Court carried out this harmonizationduring the adoption of a new document in August 2015,when it provided for the *anonymization by omission from the reasoningsof court decisions of certain evidence marked by the level of secrecy of...*

Internal court documents also specify the data that is notanonymized. At this point, it is important to note that there are three groups of data: data on natural persons, data on legal persons and data on documents (cases). Thus, the documents of the Supreme Court of Cassation and Appellate Courts state that "anonymizationdoes not apply on the data on judicial authorities whichhave the statutory responsibility for undertaking actions and proceedings, such as the name of the court, case number, case file marking, number and date of adoption of the decision, composition of the court, names of judges (panel president and members), court reporter, names of other judicial authorities and data on the identity of their representatives (public prosecutors and their deputies, public attorney of the Republic of Serbia and his deputies), law enforcement authorities, etc."Under the Novi Sad and Kragujevac Appellate Court documents, data is not to be anonymized on "legal persons - public companies that are carrying out activities in the general interest and that have a monopoly,"which is illustrated by the examples of the *Electric Power Industry of Serbia Public Enterprise, Srbijašume, Srbijavode, Serbian Railways Public Enterprise* etc. The Belgrade and Niš Appellate Court documentsenvision slightly different criteria for derogation from the rules of anonymization–stipulating that "anonymizationdoes not apply on the data on legal persons - public enterprisesthat are carrying out activities in the general interest and that have a monopoly, if their activities are performed throughout the republic and if they have a large number of employees." Examples include theentities listed in the Novi Sad and Kragujevac Appellate Court documents, as well

as the *PTT Serbia* and the Serbian Army. The Administrative Court document states that "anonymizationdoes not apply on state authorities, authorities of the autonomous province, local governance, enterprises and other organizations with public competences."

The Administrative Court document statesthat the already published and available data are not to be anonymized. It seems that through this formulation, the Administrative Court wanted to stress how pointless it was to anonymize thedata that was already publicly available, for example through the Internet, public registers, daily press, etc.Not intending to take a standon the justification of this provision, we would like to point out that the already published and available contents can sometimes be known only to a limited number of people, and that the decision not to replace or omit the data can result in the awareness of their content of a much wider circle of people - potentially the entire public and for a potentially unlimited period of time.

Document parts commonly called "instructions on the method of anonymization," with the exception of the Belgrade Appellate Court document, envision specific actions that are to be taken. These acts stipulate that names and family names be replaced by initials. The names of legal personsare usually replaced by the capital letter of the word contained in the name of the entity, while the information on the type of business entity is stated as a whole (for example, *the public utility company* or a joint stock company). As regards the "address and place of birth,"the name of the city/town or municipality is generalized by quoting the initial letter, while the street name, number and other specificationsare omitted. E-mail addresses, websites, dates of birth,personal identity numbersand numbers of personal documents are replaced by dots, and the type of the relevant document is specified.The data on the registration number of a vehicle is replaced in the same way.

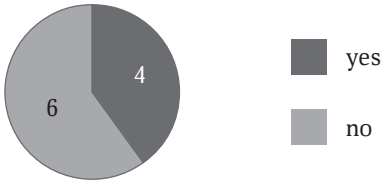
It is useful to note that the Niš and Novi Sad Appellate Courts have established the rules for the replacement of data relating to the "names of state authorities, authorities of territorial autonomy and local governance or institution,"whereby they are replaced by "a word that signifies the legal nature of the relevant authority, or initials if the name is inside quotation marks." Thus, the data on the "Branko Radičević" Primary School is to be replaced as follows: " B.P. School ," while the City of Belgrade is replaced by "City B."This leaves an impression that, through these solutions, these courts have decided that the appearance of public institutions in court proceedings does not constitute a piece of information of public importance.

5.3.1. Statistics of Court Responses regarding the Existence of Internal Documents

Following this initial step in the research, the researchers analyzed the responses of the remaining courts from the sample. Out of the 40 courts to which requests weresent, 38 responded. It was determined that some courts had adopted internal documents and others had

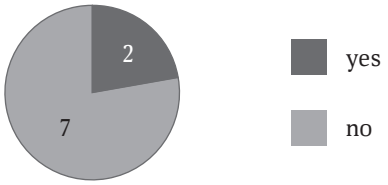
not. The third group of courts consists of those that have decided to implement the internal documents of other courts e.g. the Supreme Court of Cassation or Appellate Courts, or most frequently of theAppellate Courtsthat have jurisdiction over them. A total of 11 documents were collected. Information about the existence of internal documents in the basic, higher and misdemeanor courts from the sample are displayed in the charts.[67]

Higher courts - existence of internal documents



Basic courts - existence of internal documents

Misdemeanor courts - existence of internal documents



In this stage of the research, the initial assumption was confirmed that the internal documents of basic, higher and misdemeanor courts generally do not differ much from the documents of the Supreme Court of Cassation, Administrative Court and appellate courts, and that differences in the observed solutions in the documents of the basic, higher and misdemeanor courts reflect differences that exist in the previously presented documents of the Supreme Court of Cassation, Administrative Court and Appellate Courts.

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67 The Basic Court in Sjenica and Misdemeanor Court in Paraćin did not provide information about the existence of internal documents and requested judgmentsuntil the completion of the analysis. The responses were sent by a total of 10 higher, 19 basic and 9 misdemeanor courts.

At this point, we would like to point to the Rules on the Anonymization of Personal Data, adopted by the Trstenik Basic Court in 2014. Unlike other courts, which mainly relied on the documents of the Appellate Courts and the Supreme Court of Cassation in the preparation of their documents, it seems that this court has offered some original solutions. This document offers the following definition of anonymization: "Anonymization is the omission or replacement of letters, numbers, symbols, etc. from the personal data of the parties; their representatives or proxies; witnesses, relatives, close persons or neighbors of the parties; as well as official persons and expertswho participate in court proceedings within their official capacity (experts, court interpreters, pedagogists, social workers, etc.), wherethis data is contained in court decisions and other official documents of this court (hereinafter: document), after which it would be impossible to identify or try to identify the person to whom the data refers."This document also quotes the types of data that should be anonymized. In addition to the data which is to be anonymized under the previously presented Supreme Court of Cassation and Belgrade and Niš Appellate Court documents, the Basic Court in Trstenik also envisions the anonymization of "other information relating to a natural person on the basis of which this person could be identified or identifiable."Through this provision,the court probably wanted to point to the necessity of contextual approach to the anonymization of data in each decision, in order to eliminate all reasonably conceivable risks of reidentification.

This court says that, notwithstanding the general rules,the anonymizationdoes not apply on "the names and family names of persons on whom the measure of public proclamation of the judgmenthas been imposed."

As for the anonymization methods, a significant number of courts from the sample does not define this process in detail, but envisions the "anonymization [of data]by omission and/or replacement of the relevant data of the relevant decision in aunified manner. The unified manner of replacement or omission of data can differ in different decisions, but it has to be consistent within the relevant decision." It is also said that "decisions which are to be anonymized are delivered to the person in charge of digital anonymization,which is suitable for computer processing" and that the person in charge ofanonymization is requiredto comply with theseRules, as well as to preserve copies of the original and anonymized decisions. When they prescribe the techniques and procedures of data anonymization, courts generally use the language contained in the previously presented documents of the Supreme Court of Cassation and Appellate Courts.

5.4. Implementation of Standards of Anonymization of Data in Court Decisions

In the text below, we will present the way in which the courts responded to the requests for a free access to information of public importance, in which the courts were asked to send specific court decisions. Each of the courts of general jurisdiction was requested to submit

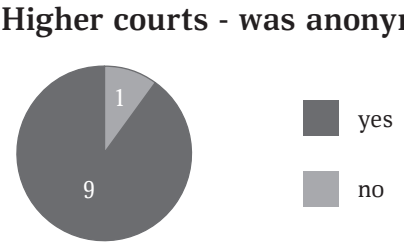
two decisions, namely: one relating to a criminal caseand one relating to a civil or non-contentious case. The request sent to misdemeanor courts referred to the latest two misdemeanor judgments which, according to the available information, are most frequently prosecuted in our courts.

From a total of 40 misdemeanor, basic and higher courts from the sample, only two courts failed to respond to the request, hence the decisions of a total of 38 courts wereanalyzed. With the exception of one court, which had sent one of the requested decisions to a court of higher instancewhich prevented it from presenting it to the researchers, all other courts provided both requested decisions. Alongsidewith the decisions of four Appellate Courts, the Administrative Court and the Supreme Court of Cassation, a total of 87 decisions were collected and processed during this research.

After an examination of the decisions,the initial classification of the courts' actionscan be made:

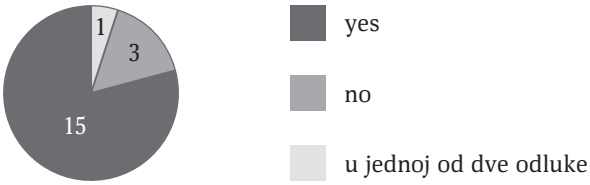
- Courts anonymized data in the decisions;
- Courts did not anonymize data in the decisions;
- Courts anonymized data in one of the two decisions.

As for the Supreme Court of Cassation, Appellate Courts and the Administrative Court, it is important to say that data was generally consistently anonymized inthe collected decisions published on their websites. However, other courts from the sample did not have a fully harmonized practice. As a rule, basic and higher courtsanonymize (some) data, while misdemeanor courts more frequentlymake their decisions available to the public without anonymization. The charts present the state in which the decisions were sent by the courts:

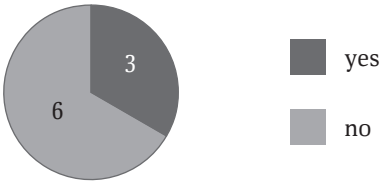


The courts that did not anonymize data include the Higher Court in Subotica, Basic Court in Kuršumlija, Basic Court in Sombor, Second Basic Court in Belgrade, Misdemeanor Courts in Vršac, Bačka Palanka, Lazarevac, Loznica, Požega and Prokuplje. Of these courts, only the MisdemeanorCourt in Lazarevac has an internal document governing the anonymizationof data in court decisions. In the text below, we will briefly present some answers of the courts that may be particularly relevant for this analysis.

Basic courts - was anonymization used?



Misdemeanor courts - was anonymization used?



In its response to our request, the Higher Court in Suboticaexplained why it had not anonymized data in the decisions it had sent us, as follows:

Having inspected the case file No. K. 23/14 and P. 22/14, it was established that the public had not been excluded from either of these cases (in whole or in part), hence there is no need for the subsequent concealing of the names of participants in the proceedings, since the testimonies of witnesses and experts as well as otherevidentiary actions were public, and in democratic societies it is impermissible to conceal the names of the judicial staff handling the case and adjudicating (or prosecuting), "in the name of the people" from the position of state authority. As for the defendants' names, a criminal conviction results in a number of consequences that last until the judicial or legal rehabilitation (Art. 569 - 582 of the CPC). The conditions for rehabilitation in the K 23/14 case do not exist, and therefore the names of the persons convicted by a final judgment at a public trial cannot be concealed, because this would be in contravention with Article 362 of the CPC.

In the relevant decision in the criminal case, which was sent in its entirety, a suspended sentence was imposed onseven persons charged with violent behavior at a sports event, referred to in Article 344a of the Criminal Code, and the security measure prohibiting them to attend certain sports events was also imposed.

> At this point, it is important to note that, together with the requested decision of this court in a criminal case, the Higher Court in Subotica at its own initiative (proactively) also sent the decision of the Appellate Court in Novi Sad in the appellate proceedings initiated by the defendants who had appealed the sent decision of the Higher Court in Subotica. The personal data of participants in the proceedings were not anonymized in the sentNovi

> Sad Appellate Court decision. Therefore, the researchers turned to the Appellate Court in Novi Sad, requesting it to send its decision in the above mentioned case.This court responded to the request and sent the decisionto the researchers, applying the standards of anonymizationenvisioned under the internal document of this court. The researchers thus obtained the same court decision from two sources, where one source made its contents fully available, while the second anonymized some of the contents. Taking all the circumstances into account, the researchers can conclude that the action of the Higher Court in Subotica compromised the anonymizationapplied by the Appellate Court in Novi Sad, which reinforces the necessity of establishing uniform rules of anonymizationof data in court decisions within the entire court network in the territory of the Republic of Serbia.

The Higher Court in Subotica judgment in litigation proceedings, which was also submitted in its entirety, partly upheld the plaintiff's claim for the compensation of non-pecuniary damage for the emotional pain suffered as a result of the unlawful deprivation of liberty of his father, who is now deceased. The latter had spent slightly more than three years (1949-1952) in the Goli Otok prison camp for the crime of dissemination of fraudulent enemy propaganda, for which he was fully rehabilitated in 2013.

The Basic Court in Kuršumlija also failed to anonymize data in the decisions sent to the researchers. In its letter, the Court said that it had been *established onJanuary 1, 2014, so it had not yet regulated the anonymization of datain court decisions.* In the criminal judgment,which was submitted in its entirety, a suspended sentence for the criminal offense of violent behavior referred to in Article 344 of the Criminal Code was imposed. The decision inthe non-contentious case - also submitted in its entirety, without data anonymization - is relevant for this research since it refers to a decision on the extension of parental rights, where in addition to the basicpersonal data of the parents and children (applicant and respondent) numerous especially sensitive data can be found in thereasoning of the ruling.Findings and opinions of medical experts are quoted in thereasoning, and so we find out that the person to whom the extension of the parental rights is granted –under his full name–*hurtshimself and others, sometimes demonstratively urinates, hits his head, bites his hands, is effectively disharmonized, unpredictable, introverted ... that he is present at the hearing owing to the drugs belonging to a group of strong sedatives that he is taking... This state of the patient is a result of brain damage suffered at an early age, as well as a damage to the eyeballs, and represents a permanent and definitive state, manifested through fits and mental state which, as such, cannot be improved...*

The Basic Court in Sombor also failed to anonymize data in the decisions that were submitted to the researchers. In its decision in a criminal case,submitted in its entirety, a single sentence of community service for the criminal offense of domestic violence referred to Article 194 of the Criminal Code was imposed, as well as the security measure ofprohibition of access and communication. The full name and family nameof the victim –defendant's wife - are contained in the decision, as well as the information that the victim suffered *a blow to the*

face, resulting in a light bodily injury - contusion- with redness and hematomaof about 7-10 cm around the right eye, after which [the defendant] immediately hit her in the chest, as a result of which thevictim sustained a light bodily injury – contusion- of the right side of the chest with a hematoma of about 8 cm... In the continuation, it is said that *as a result of such behavior of the defendant, the victim experienced fear, and left the defendant the next day.*

The civil case decision of this court refersto aclaim of the plaintiff - "Čistoća» Sombor Public Utility Enterprise - that the defendant pay a particular amount to cover the debt for the trash collection service.

In its response, the Second Basic Court in Belgrade said that it did not have a document regulating the rules of data anonymization, and that *in this field, it actedonly on the basis of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection*. Itscriminal case decision referred to a conviction for a serious offense against traffic safety referred to in Article 297 of the Criminal Code.From the sent decision, we learn that the injured party – fully named - whodrove a motorcycle, after a collision with the vehicle driven by the defendant *sustainedmajor head injuries - scalp tissue injury, multiple bone fractures, fracture of the skull and face, cranial cavity destruction, multiple fractures of the bones in the body - the spinal column, ribs, sternum, soft tissue injuries of the torso and limbs in the form of bruises and abrasions of the skin and subcutaneous soft tissue injuries, where the death of the injured party occurred as a result of the destruction of vital brain centers*_____[68].

At this point, it may be useful to note that on the same day, local media reported on the critical event without anonymizing data on the defendant and the injured party[69]. This example has been given in order to indicate the difficulties faced by the courts in the anonymizationof data in court decisions relating to the events covered by the media that quote the personal data of persons involved in the subsequent judicial proceedings.

The Misdemeanor Court in Bačka Palanka sent the requested decisions in their entirety. In its letter, the court stated: *Given the fact that the decisions are still not final, they aresent to youas drafts, i.e. without the signatures and the stamp,*and went on to say that it has not adopted any internal documents that would regulate the anonymizationof data in court decisions, and that it*therefore directly implements the Law on Personal Data Protection.*

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68 The full name and family name of the injured partywere quoted in the submitted decision, but were omitted for the purpose of this research

69 Kurir, Poginuo motociklista u Beogradu, November 2, 2011.http://www.kurir.rs/poginuo-motociklista-u-beogradu-clanak-120241

5.4.1 Methods, Techniques and Procedures Used for Data Anonymization

With regard to the responses in which the courts anonymized data, the researchers found that different methods, techniques and procedures of anonymizationwere applied. The omission of data is significantly more frequent than data replacement.

Higher courts - implemented methods of anonymization

Basic courts - implemented methods of anonymization

Misdemeanor courts - implemented methods of anonymization

The electronic omission of datawas applied by the Higher Court in Pančevo, Higher Court in Novi Pazar, Basic Court in Zrenjanin, Basic Court in Bujanovac and MisdemeanorCourt in Belgrade.

The Basic Court in Zrenjanin implemented the anonymizationprocess inconsistently, and in one place failed to omit the name of the defendant's daughter whose alimony the defendant did not pay, due to which the court imposed a suspended sentence in this case. In view of the fact that this is a minorliving in a town which, according to the data available on the Internet, hasslightly less than 4,000 inhabitants, and that the date of divorce of the parents is quoted in

the decision, the impression is that this person could be relatively easy to identifyon the basis of the name of the daughter.

The Basic Court in Belgrade did not carry out the anonymizationprocess completely, and in one place failed to omit the name and family name of the defendant.

The manual omission of data - using a correction fluid or a marker–was applied by the Higher Courts in Belgrade, Smederevo, Negotin, Leskovac, Kruševac and the Basic Courts in Senta, Vrbas, Novi Sad, Obrenovac, Jagodina, Trstenik, Požarevac, Bor, Aleksinac and Lebane. This technique and the anonymizationprocess proved to be inappropriate in several responses sent by the courts.The part of the decision crossed out bya marker (name and family name of the defendant, for example) could bedistinguished in the decisions sent by the Higher Court in Smederevo, Higher Court in Leskovac, Basic Court in Vrbas, Basic Court in Novi Sad and Basic Court in Gornji Milanovac, because the marker was inappropriate. Correction fluidcan also be inappropriate for anonymizationpurposes, if fingernails or some other toolcan be used for removing the correction fluidand making the covered text readable. This problem has been observed in the decisions submitted by the Basic Court in Senta and Misdemeanor Court in Ruma.

As for the replacement of data,the generalization and encryptiontechniques were used. Generalization was applied by the Higher Court in Sremska Mitrovica, Higher Court in Užice, Basic Court in Šid and Basic Court in Knjaževac. Encryption, as a technique of data replacement, has not been applied consistently by any of the courts. This technique was applied by the Basic Court in Ub, but only in one of the sent decisions. This court observed the request by applying the data anonymization standardsin one decision (in a criminal case –the defendant received a suspended sentence for the failure to provide maintenance – criminal offense referred to Article 195 of the Criminal Code).Data in this decision wasanonymized by replacement –encryption – in a very systematic way,making the judgment easy to read and fully understand; therefore, we stress this as a good practice example. The second decision of this court has been submitted in its entirety. This is a ruling regulating the manner of using of co-owned property. The personal data of the applicant and respondent have not beenanonymized. In the letter accompanying the two decisions, the court informed the researchers that it does not have an internal document governing theanonymization of datain court decisions and did provide the reasons for its decision to act differently in the case of these two decisions. The authors of this analysis can, therefore, only assume that the court assessed that the prevailing interest in the criminal case was the protection of privacy, whereas in the non-contentious case the prevailing interest was that of the public to know.

5.4.2. Types of Anonymized Data in Court Decisions

The presented practice indicates that courts apply different methods, techniques and proce-

dures of dataanonymization in court decisions. Differences in practice have been observed when the actions of different courts in making certain categories (types) of data contained in court decisions available to the public were compared. As a rule, courts publicly disclose information about judges, court reporters and public authorities whoplay different roles in cases, and anonymizethe names of the parties to the proceedings and witnesses. Different practiceshave been observed in connection with the anonymization of data on court experts. Only some examples of the lack of harmonization of practice in connection with the publication of court decisions will be presented in the textbelow.

The Higher Court in Belgrade neither anonymized the data on the defendant, nor on his defense counsel, witnesses and experts. This court, however, anonymized data pertaining to a police officer who had found drugs in the defendant's apartment. Data pertaining to the location where the drugs were found and the number of the receipt on the seizure of objects werealso omitted from the judgment. In addition to this, the information on mitigating circumstances and part of the finding and opinion of the psychiatric expert were also omitted. The authors of this analysis can only assume that this is the data on the health condition of the defendant, which wastaken into account when the decision was made on the type and severity of the criminal sanction. In the letter accompanying the decisions, the court said that *beforeit had sent [requested decisions], the court protected personal data in these documents, pursuant to the Law onPersonal Data Protection.*

The Higher Court in Smederevo anonymized the data on the judge and court reporter, although the internal document of this court stipulates that such data is not anonymized.The data on the judge and court reporter were also anonymized by the Basic Court in Gornji Milanovac which does not have an internal document on anonymization. The same type of data was also anonymized by the Higher Court in Užice and Basic Court in Vrbas. At this point, it is important to recall that information on the judge who has been assigned a particular casecan be found on the Serbian Court Portal, which the researchers could see themselves when they drafted the requestsfor decisions. Therefore, judges who have adjudicated in specific cases can be easily identified, regardless of the omission or replacement of data from the relevant decisions.

The Basic Court in Aleksinac anonymized the data on the injured party. This is a legal personthat installs electric power distribution seals and electricity meters,it has its distribution system and supplies electricity, which can be determined by reading the non-anonymized parts of the judgment. The relevant entity could be identified on the basis of this information. At the same time, under the internal document of this court, public enterprises are to be exempt fromanonymization, and it is unclear why this courtdecided to anonymizethe data on the injured party.

The Basic Court in Knjaževacalso generalized the information on the location (city, intersec-

tion) where the criminal offense of jeopardizing public transport had been committed and for which the defendant was convicted.

The Municipal court in Ruma made available the name and family nameof the defendant, butanonymized all other data relating to him, as well as the information about the defendant's parents and the person he had attacked, as a result of which he was fined for the misdemeanor referred to in Article 6 of the Law on Public Order and Peace.

The Higher Court in Novi Pazar did not anonymizethe data on court experts and witnesses. The Basic Court in Bujanovac anonymized the data on witnesses, but not on experts.

Finally, it is worth mentioning thatsome courts usedthe black marker to black out entire sentences or parts of sentences from the decisions, preventing the researchers from determining what kind of data was omitted from these decisions.

6. Conclusions

On the basis of everything presented in this analysis so far, it can be concluded that the rules of anonymizationof data contained in court decisions in Serbia are not harmonized. Some courts have adopted internal documents governing this area, while others have not. In addition to this, the names and sometimes even the types of information to be anonymized differ in the existinginternal documents. Likewise, the practice of anonymizationof data contained in court decisions has not been harmonized within the Serbian court network. Conducting the research, the researchers observed that some courts had decided to make entire court decisions public. On the other hand, some courts had decided to omit the information onthe judges.

Within this broad range of practices, the field of anonymization of data contained in court decisions needs to be regulated in a systematic way. This endeavor should ensurean adequate balance between the right of the public to inspect court decisions and the right to privacy of persons whose data is contained in these decisions. Thus defined, the rules of anonymization should be adopted and implemented throughout the Serbian court network.

In addition to this, the rules of anonymization of data contained in court decisionsshould take into account the specific features of each type of case. Such rules may be helpful to courts in the application of the public interest test, when they make specific judgments available to the public. It is important to point out, however, that even in the case of the adoption of uniform rules in this field, the decision on whether a particular piece of information will be made available to the public or be anonymizedwill have to be made by the court in each specific case. Regardless of the extent in which the anonymizationstandards can recognize and take into account different nuances, depending on the type of the case and information contained in a

court decision, every court decision should be approached contextually, its specific features should be observed, and an evaluation of data should be made in order to decide which data should be made available to the public and which should be anonymized.

After this evaluation, the appropriate method of anonymization needs to be selected, followed by the selection of the appropriate techniques and procedures. It has been established during this research that the omission of data is much more frequent than data replacement. During the selection of the anonymization methods, techniques and procedures, court capacities and resources in terms of the number of staff and financial resources that need to be used should also be taken into account. At the same time, the need for satisfying the public interest to inspect documents possessed by public authorities has to be met in an appropriate way. Particular attention should be paidto the fact that, when anonymization is implemented, the public needs to know the type of anonymized data.When anonymization is implemented, one has to bear in mind its dual purpose: to eliminate the possibility of identifying the relevant person, while ensuring that the other information in the document keep the original meaning and purpose, and make the documenteasy to readand understand. Otherwise, the judgment will not be comprehensible, which can deprive the public of its right to know. Also, in the application of the specific techniques and procedures of anonymization, one has to take care to avoid the observed omissions, such as the use of transparent markers and removable correction fluids.

III

Process of Development of the Model Rules on Standards of Anonymization of Data Contained in Court Decisions

The availability of case law, together with the observation of the rules of personal data protection, is a precondition for the consistency of case law and improvement of legal certainty in general. For the second quarter of 2016, the Action Plan for Chapter 23 envisions activities aimed at determining clear rules ofanonymization of court decisions before publication, relying on the rules of the European Court of Human Rights (Activity 1.3.9.2). In view of the results of the analysis and plans of the Ministry of Justice and the Supreme Court of Cassation (who are in charge of drafting the rules of anonymization under the Action Plan,), Partners Serbiahave established a group of experts in charge of drafting Model Rules on the Standards of Anonymizationof Data Contained in Court Decisions (expert group).

During the establishment of the expert group, Partners Serbiatried to involve in its work representatives of all relevant stakeholders directly interested in the development of these standards. After a series of consultative meetings with representatives of the key stakeholders, an expert group was established, made up of:

Renata Pavešković	Chief Judge of the Basic Court in Velika Plana, representative of the Association of Judges of Serbia
Dunja Tasić	Researcher, representative of the Belgrade Center for Security Policy
Senka Vlatković Odavić	Journalist, representative of the Independent Association of Journalists of Serbia
Jugoslav Tintor	Lawyer, representative of the Bar Association of Serbia
Miodrag Plazinić	Higher public prosecutor at the Higher Public Prosecutor's Office in Valjevo, representative of the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia
Nina Nicović	Judicial assistant, representative of the Association of Judicial Assistants of Serbia
Prof. Dejan Milenković, PhD	Professor at the Belgrade University's School of Political Sciences, representative of the academic community

The expert group met between October 2015 and February 2016. In this period, the expert group drafted the Model Rules and then presented them to stakeholders in four panel discussions organized in Niš, Kragujevac, Belgrade and Novi Sad between December 2015 and Feb-

ruary 2016. The panel discussions were attended by more than 100 representatives of courts, public prosecutors' offices, independent institutions, members of the legal profession, media, civil society organizations and other stakeholders. At the panel discussion, participants presented their observations and suggestions for the improvement of Draft Model Rules. The expert group reviewed all observations and adopted the final version of the Model Rules. Finally, the Model Ruleswerepresentedto the Supreme Court of Cassation with the suggestion that they be formally adopted and that their implementation in all Serbian courts be recommended.

The topics and issues reviewed by the expert group during the drafting of the Model Rules, as well as the most important observationsof participants in the panel discussions are presented in the text below.

1. Subject-Matter of the Model Rules

The development of the Model Rules was approached with the aim of contributing to proactive transparency of courts. Therefore, with regard to **the method** of making court decisions available to the public, the proposed Model Rules refer both to the publication of court decisions on court websites, in newsletters, information bulletins and other types of publications, as well as in other ways, i.e. methods for making these decisions available to the public (for example, on the basis of the obligation of courts resulting from the Law on Free Access to Information of Public Importance).

2. Types of Documents to which the Model Rules are Implemented

The Model Rules refer to all court decisions, both those that are final and those that are not. This rule has been established because decisions that are not final also represent documents in the possession of public authorities, and arerelated to the work of these bodies, so the public has a right to access them. During the public expert debate at the panel discussions, participants pointed to the risk of violation of the presumption of innocence through the publication of decisions that are not final. The expert group adopted this solution in order to protect the courts from the excessive publication of personal data contained in court decisions that are not final. Also, the expert group established that these rules apply to all court decisions (judgments, rulings, conclusions, etc.).

3. Notion of Anonymizationand Treatmentof Data on Legal Persons

The right to the protection of privacy, including the right to the protection of personal data, is guaranteed only to the natural, and not tolegal persons.[70]The notion of anonymization is

70 See: Nataša Pirc Musar, Guide to the Law on Personal DataProtection, 2009.

defined on the basis of definitions from a related internal document of the Commissioner [71]and the Opinion on the Concept of Anonymization of the Article 29 Working Party.[72]In this regard, the definition of anonymization refers to personal and other datawhich a third party can use to identify a natural person to whom such data refers. This means that data on legal persons are omitted or replaced only if they can be used for the identification of a natural person. Participants at the panel discussions commented on such a solution and two separate standpoints were identified. One standpoint is that legal persons are entitled to the protection of their good reputation. According to the other standpoint, the public should have such information, because this can increase legal security and the safety of property. The expert group has reviewed these comments and acknowledged the fact that the exclusion of data on legal personsfrom court decisions needs to have a valid legal basis, and that this cannot be regulations on personal data protection.

4. Which Data Should not be Anonymized?

Under the Model Rules,the data on judges, lay judges, court reporters, public prosecutors and their deputies, state attorneys and their deputies, experts and lawyers as proxies and defense attorneys should not be anonymized. This is especially important when it comes to data on judges who decide "in the name of the people" and whose work should be subject to public scrutiny.

Under the Model Rules,the data on legal persons and state authorities should not be anonymized, except when they can be used for identifying participants in the proceedings, pursuant to the previously mentioned definition of anonymization.

5. Minimum Standards for the Anonymization of Data on Participants in Court Proceedings

Under the Model Rules,anonymizationapplies to the personal data of participants in the proceedings, as well as persons whose identity could indirectly lead to the identification of participants in the proceedings. This particularly refers to friends, relatives, neighbors, and other natural andlegal persons,whose data could be used for identifying participants in the proceedings.

However, there are exceptions to this rule, which means that there is no absolute obligation of anonymizing data on participants in the proceedings. The exceptions refer to situations in which the data on a person - participant in the proceedings–are already known to the public,

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71 Commissioner for Information of Public Importance and Personal Data Protection, Pravilnik o anonimizaciji podataka o ličnostia

72 The Working Party is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46 / EC and Article 14 of Directive 97/66 / EC

because they were either disclosed by the competent state authority, or were published in the media. This solution has been adopted due to the fact that the data on the participants were previously published, and that in such circumstances anonymizationcould not be successful, in view of a significant possibility of reidentification.

6. Personal Data That Should be Anonymized

Under Article 6 of the Model Rules, anonymization applies onthe name, family name and nickname of a natural person, other personal data from identification documents (such as the citizen's unique identification number or address), as well as e-mail addresses, telephone numbers, etc. In addition to this type of data that frequently appears in court decisions, the expert group was aware that other data could also be found in court decisions, and should be anonymized. For this reason, anonymization also applies on "other data on the basis of which a person can be identified or is identifiable." This means that the court must review the decision contextually and protect the identity of the person, recognizing all data related to that person.

7. Transparency or Privacy?

The expert group formulated the solution referred to in Article 6 of the Model Rules for cases in which the need for protecting a person's identity overrides the public interest to know the identity of the person. In other cases, i.e. wherea justified public interest to know overrides the need to protect the identity of a natural person, the expert group has envisioned the rule under which all data except the name, family name and nicknameisanonymized. The right of the public to learn about the details of court proceedings in which this person is participating will thus have been satisfied, while the other identification data will be omitted or replaced in accordance with the principles of proportionality and appropriateness in connection with personal data processing. The expert group has not specifically envisioned the cases in which a justified public interest to know overrides the need to protect the identity of a natural person. It has been stated that the provision refers to, e.g., war crimes or organized crime cases, but it has also been said that this only provides the basic guidelines for an easierinterpretation of the provision.

This solution has been adopted keeping in mind that the Model Rules definethe general rules on the anonymizationof data contained in the decisions of all courts in the country. Also, the expert group had in mind the fact that, in the specific case, the court would be required to decide on the right that wouldbe given advantage.

8. Special Proceedings

Given that the Model Ruleshave been developed for the implementation in all courts, the ex-

pert group has tried to identify some of the specific features of different court proceedings. However, due to their diversity, only two rules have been established. First, that in decisions in criminal proceedings againstjuveniles, data onthe juvenile offender, injured party, place and time of the relevant event should be anonymized; and second, that in cases from which the public has been excluded in accordance with the law, the rules of anonymization will apply to the type of data referred to in Article 6 of the Model Rules, as well as to any other data that is considered secret.

9. Methods and Techniques of Anonymization of Court Decisions

After determiningthe type of data that should be anonymized, and the type that should be published in its entirety, the expert group developed rules on the methods and techniques of anonymization. It acknowledged the objective issuesin the operation of some courts,where court decisions are printed on paper (provided in writing), and do not exist in the electronic format. For this reason, it was necessary to envision different methods and techniques of anonymization. However, regardless of the above, Article 8 of the Model Rulesstipulate that the method of data anonymizationmust be applied consistently, so as to prevent the identification of the natural person.

The anonymization of data in court decisions in the electronic format is regulated in Article 9 of the Model Rules. The names and family names are replaced by two identical capital letters (encryption technique). This solution was envisioned in view of the fact thatitreduces the possibility of reidentificationof a person. Each additional name and family name contained in a court decision isto be replaced bytwo other capital letters, in the alphabetical order. In this way the identity of a person can be protected (anonymization can be applied), whileensuring that the reader is able to understand the relationships and links between multiple persons whose data is contained in the court decision. In addition to this,under the Model, the information on the capacity in which the person whose data is anonymized appears should not be omitted, where suchcapacity is specified (for example: witness, defendant, proponent, etc.). Other types of data (addresses, phone numbers, etc.) are to be replaced by dots.

Article 10 of the Model Rules regulates the rules of anonymization of data contained in court decisions that exist only in writing. The encryption technique cannot be applied on court decisions in this format, so the data is to be anonymized by omission, by blacking out the content. In view of the practice of some courts to use transparent markersor removable correction fluids, this article provides for the photocopying of scanning of the anonymized document. The possibilityof reidentification of a person is thus removed. Like in the case of decisions in the electronic format, the data on the capacity of the person whose personal data is anonymized is to be kept.

10. Persons in Charge of Anonymization

Under the Model Rules, every court (or court administration) should designate one person who would bein charge of anonymizing data contained in court decisions. Under another rule, the court decision is to be presented to this person in the format suitable for anonymization, in view of the fact that court decisions may come in hardcopy (written format) or in the electronic format. This person should also keep a copy of the original and a copy of the anonymized decision. The purpose of this provision is for every court to establish a single register of all anonymized decisions. In this way, it will not be necessary to anonymize data contained in the same court decision repeatedly. Also, the court will thus be able to see how the decision was presented to the public in the past, and to assess whether, when it should be presented to the public again, certain data should be published or anonymized, in view of regulations on rehabilitation and other regulations relevant for making the right decision on whether of the public right to know or the right to privacy will have priority.

11. Data Anonymization in Documents from the Same Case

In Article 12 of the Model Rules, the expert group also envisioned an obligation to apply certain standards of anonymizationon all other documents contained in the case file. This solution has been formulated in view of the fact that the public sometimes wishes to inspect documentsother thancourt decisions. In such cases, anonymizationshould be implemented consistently, so as to preventthe reidentificationof persons by cross-referencing information from multiple documents in the same case, or making the document impossible to read by omitting too much.

12. Data Anonymization inDecisions of Another Court

Under the Model Rules,anonymization iscarried out by the court that made the decision. This provision should be treated as supplementary, rather than contrary to the provisions of the Law on Free Access to Information of Public Importance. In this respect, the court is required to present information requested under the Law on Free Access to Information of Public Importance. The request may also relate to the presentation of a decision of another court (for the purpose of clarification of the status of the court decision). This provision of the Model Ruleswas formulated primarily in order to regulatesituations in which courts, instead of acting uponrequests for a free access to information, publish their decisions proactively. With the application of this solution, the possibility will be reduced that the higher and appellate courts, for example, anonymizethe sameappellate court decision differently, which was observed during this research.

The Model Rules on the Standards of Anonymization of Data Contained in Court Decisionsare presented in the fifth part of this publication.

MODEL RULES ON THE STANDARDS OF ANONYMIZATION OF DATA CONTAINED IN COURT DECISIONS

I GENERAL PROVISIONS

Article 1

Subject-Matter of the Model Rules

These rules regulate the anonymization of data contained in the court decisionsof___***(name of the court)***___that are published or made available to the public:

1. On the court website;
2. In publications issued by the court (newsletters, information bulletins and similar publications);
3. In any other way.

Article 2

Court Decisions on Which the Rules Apply

Within the meaning of these Rules, court decisions are all decisions, final or not final, in the printed or electronic formats.

Article 3

The Notion of Anonymization of Data Contained in Court Decisions

The anonymizationof data contained in court decisions involves the replacement or omission of personal and other data, in order to prevent a third party who comes into possession of the court decisionfromidentifyingthe person to whom the data refers.

The anonymizationof data contained in court decisions does not apply to court decisions subject to the measure of public proclamation.

Article 4

Data That is Not to be Anonymized

Data on legal persons and state authorities are not to be anonymized in court decisions, except where this data leads to the disclosure of the identity of participants in the proceedings.

Personal data is not anonymized if it refers to: judges, lay judges, court reporters, public prosecutors and their deputies, state attorneys and their deputies, experts and lawyers as proxies and defense counsels.

II PERSONAL DATA SUBJECT TO ANONIMIZATION

Article 5

Minimum Standards of Anonymizationof Personal Data Contained in Court Decisions

Minimum standards of anonymization of personal data contained in court decisions refer to the replacement or omission of dataon the basis of which a participant in court proceedings can be identified, as well as data on a person whose identification could result in the identification of the participant.

The person whose identification could result in the identification of the participant in the proceedings is a relative, friend, neighbor of the participant in the proceedings or another natural person or a legal personwhose name, seat and tax identification number could be used for the identification of a participant in court proceedings.

The followingdata on participants in court proceedings are exempted from the rule referred to in paragraph 1 of this Article:

1. If this is a person whose data has already become available to the public in the preliminary proceedings or during court proceedings, including information presented by a competent state authority or a representative of a competent state authority in connection with the relevant case;
2. If such data has already been released in the media;
3. If such data has already been disclosed to the public by the participants themselves;
4. If a participant in the proceedings is a state or public official, or has been nominated for such an office, and the data is important for this office.

Article 6

Personal Data Subject to Anonymization

The anonymization in court decision applies on personal data referred to in Article 5 paragraph 1 of theseRules, where they refer to the:

1. Name, family name and nickname of a natural person;
2. Date and place of birth;
3. Address (permanent and temporary residence of a natural person);
4. Citizen's unique identification number - JMBG;
5. Number of ID card, passport, driver's license, vehicle registration, or other personal documents that might result in the identification of a natural person - participant in the proceedings or another person referred to in Art. 5 paragraph 1 of these Rules;
6. Phone number, e-mail or web address of a natural person, or other personal data referring to a participant in the proceedings, or other person referred to in Art. 5 paragraph 1 of these Rules;
7. Other data on the basis of which a person can be identified or is identifiable.

Data referred to in paragraph 1, item 1 of this Article on the participants in the proceedings are not anonymized, if the justified public interest to know outweighs the protection of the identity of a natural person, including but not limited to criminal proceedings against persons charged with crimes against humanity and other goods protected by international law, and organized crime offenses such as money laundering, human trafficking, etc.

Article 7

Types of Anonymized Data Depending on the Case Type (Special Procedures)

In the decisions in criminal proceedings against juveniles, anonymization applies on the data on the juvenile offender, injured party, place and time of the relevant event.

In the decisions made in proceedings from which the public was excluded in accordance with the law, in addition to the data referred to in Article 6, paragraph 1, items 1-7 of these Rules, anonymization also applies on all data that must be kept secret in accordance with the law, other regulations and documents.

In the decisions on family and statuscases, cases in which the perpetrators or injured parties are minors, anonymization applies on all data from the reasonings of court decisions that invade the privacy of participants in the proceedings.

III – METHODS AND TECHNIQUES OF ANONYMIZATION

Article 8

Methods of Anonymization

Data referred to in Articles 5, 6 and 7 of these Rulesare anonymized by the replacement or omission of data, depending on the formatof the court decision.

The method of anonymization referred to in paragraph 1 of this Article must be applied consistently, so as to prevent the identification of the natural person.

Article 9

Anonymization of Data in Court Decisions that Exist in the Electronic Format

The anonymization of data contained in court decisions that exist in the electronic format is performed by the replacement of data.

The names and family names are anonymized through their replacement bytwo identical capital letters, where the capacity of the relevant person in the proceedings remains in place, if indicated.

The name and family name of each personsubsequently mentioned in the court decision is replaced by other two capital letters, in the alphabetical order.

Numerical and other data, except names and family names (e-mail address, home address, citizen's unique identification number, etc.)are anonymized by being replaced by dots, where the designation of the type of dataremains in place, if mentioned.

Article 10

Anonymization of Data in Court Decisions that Exist Only in Writing

Data contained in court decisions that exist only in writing are anonymized through the omission of data.

The omission of data referred to in paragraph 1 of this Article is carried out by blacking out

the data in order to make it invisible, after which the court decision is scanned or photocopied. When the name and family name is omitted,the capacity in which the person appears in the proceedings remains in place, if mentioned.

When the numerical data and all other data, except names and family names (email address, home address, citizen's unique identification number, etc.) is omitted, the designation of the type of data is kept, if specified.

IV - PERSONS IN CHARGE OFANONYMIZATION

Article 11

Persons in charge of anonymization are the persons designated by the court administration to handle requests for forwarding court decisions to interested parties.

A court decision that is to be anonymized is presented to the person in charge of anonymization in the electronic format suitable for computer processing.

If it does not exist in the electronic format, the court decision is presented in writing.

The person in charge of anonymization is required to act in accordance with these Rules and to retain the copies of the original and anonymized court decisions for the purpose of keeping a single register of all anonymized court decisions.

V - RELATIONSHIP WITH OTHER WRITTEN DOCUMENTS

Article 12

Relationship with Other Documents in the Court Files

All documents in the court files are anonymized in the same way as court decisions, taking care to anonymize all data within one court file in the identical manner.

Article 13

Relationship with Another Court's Decisions

Decisions rendered by another court, which are used to clarify the status of a court decision that is to be anonymized,will be sent for anonymization to the person or court department that has issued the decision.

v

Ten Tips for Successful Anonymization

1. When applyinganonymization, one needs to bear in mind its dual purpose: to exclude the possibility of identifying a person, while ensuring that the other information in the court decision keeps its original meaning and purpose and making it possible to read the decision easily and understand it contextually.

2. Regardless of the format of a court decision (written or electronic), it is important to keep the capacity of the person whose data is anonymized, if indicated. This will facilitate the reading and proper understanding of the court decision.

3. If a court decision exists in the electronic format, the replacement of names and family names by a unique code that is assigned to each person (AA, BB, CC, DD) is recommended. Establish a list of codes and apply it consistently duringthe anonymization process.

4. If a court decision exists in the electronic format, the replacement of thecitizen's unique identification number and other data (except the name and family name) by dots is recommended.

5. When data in an electronic court decision is blacked out, one has to bear in mind that it is not enough to convert the document from the .doc format into the .pdf format. If the text is copied from the .pdf document to a .doc document, the identification of the person will be possible. Therefore, in these cases we recommended that the anonymized document be saved in the image format (for example, .jpeg or .png).

6. If a court decision exists only in hardcopy, we recommend that the decision be photocopied first, anonymized and then photocopied (or scanned) once again. This will prevent the possibility of removal of the correction fluid, or of reading the text underneath the black marker.

7. If a court decision exists only as a hardcopy, but data on several persons need to be anonymized, the applied anonymization should make it possible to determine the roles of each person in the case, while protecting their identities. One way to achieve this is to delete part of the name and family name, and to leave some letters (for instance: „witness Milan Petrović" – „witness [redacted]r[redacted]"), etc.

8. Within the same court decision, it is possible (and recommendable) to use different anonymization methods, techniques and procedures. For example, the name and family namemay be coded, the decade of birth can be provided instead of the date, while the citizen's unique identification number can be replaced by dots.

9. Courts are encouraged to keep a single register of anonymized decisions. This will prevent repeated anonymization of the same decision. The register may be kept in the electronic format or hardcopy, depending on the available resources of the court

10. If the court possesses another court's decision in the same case, we recommend that coordinated efforts be taken with the aim of anonymizing both decisions, in such a way that the issuing court be sent the decision in order to anonymize it. Differences in the anonymization of the same decision are thus prevented.

VI

Appendices

Basic Court in Bor, 5, Moše Pijade Street, Bor

Request No.: 26/2015

REQUEST

for granting access to information of public importance

Pursuant to Article 15 paragraph 1 of the Law on Free Access to Information of Public Importance ("Official Gazette RS" no. 120/04, 54/07, 104/09 and 36/10), please send us, within the statutory time limit, responses to the following questions and requested documents in writing:

1. Does the court have an internal document or any other document regulating the anonymization of data contained in court decisions? If so, please send us the relevant document or document part that regulates this field.
2. Please send us the January 16, 2015 court decision in the K-1/2015 case.
3. Please send us the March 20, 2015 decision upholding the motion in the R3-60/2015 case.

Please send the requested information and documents to the following address:

Partners for Democratic Change Serbia
9, Svetozara Markovića Street, Belgrade
Phone: 011 3231551
E-mail:
office@partners-serbia.org

Belgrade,
April 22, 2015

Higher Court in Užice, 6, Nate Matić Street, 31000 Užice

Request No.: 09/2015

REQUEST

to grant access to information of public importance

Pursuant to Article 15 paragraph 1 of the Law on Free Access to Information of Public Importance ("Official Gazette RS" no. 120/04, 54/07, 104/09 and 36/10), please send us, within the statutory deadline, responses to the following questions and requested documents in writing:

1. Does the court have an internal or any other document regulating the anonymization of data contained in court decisions? If so, please send us the relevant document or document part that regulates this field
2. Please send us the March 25, 2014 court decision in the K-9/2014 case.
3. Please send us the March 30, 2015 court decision in the P-1/2015 case.

Please send the requested information and documents to the following address:

Partners for Democratic Change Serbia
9, Svetozara Markovića Street, Belgrade
Phone: 011 3231551
E-mail:
office@partners-serbia.org

Belgrade,
April 22, 2015

Misdemeanor Court in Ruma
13, Železnička Street,
22400 Ruma

Request No.: 33/2015

REQUEST

for granting access to information of public importance

Pursuant to Article 15 paragraph 1 of the Law on Free Access to Information of Public Importance ("Official Gazette of the RS" no. 120/04, 54/07, 104/09 and 36/10), please send us, within the statutory time limit, responses to the following questions and requested documents in writing:

1. Does the court have an internal document or any other document regulating the anonymization of data contained in court decisions? If so, please send us the relevant document or document part that regulates this field.
2. Please send us the final decision in a case against a natural person for one of the misdemeanors referred to in Articles 42-45 of the Law on Road Traffic Safety.
3. Please send us the final decision in a case against a natural person for one of the misdemeanors referred in Articles 6-20 of the Law on Public Order and Peace.

Please send the requested information and documents to the following address:

Partners for Democratic Change Serbia
9, Svetozara Markovića Street, Belgrade
Phone: 011 3231551
E-mail:
office@partners-serbia.org

Belgrade,
April 22, 2015