



Freedom of Expression/Right of Information in Relation to the Protection of Personal Data in the Framework of Globalism in Albania

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1. Introduction

Freedom of expression and the right to information are fundamental rights of citizens everywhere in the world, including our country Albania, where these rights are sanctioned both in the Constitution and in other international acts, such as the European Convention of Human Rights (ECHR) and the Universal Declaration of Human Rights (UDHR) which are an inseparable part of our legal system.

In the face of these rights that belong to all citizens and interest groups to be informed about an issue or decision-making by state institutions, be they administrative or judicial bodies, there exists the right of the persons involved in this decision-making or ongoing administrative and judicial processes for preserving personal data.

In the conditions of globalization, where the right to information and the distribution of this information through social platforms offered by the Internet service after the 90" in our country has created many discussions regarding the relationship between these two rights that take place in the framework normative with a domestic and international character, as well as the point of view taken by the ECHR, about similar cases and the current situation we face in our country.

On the other hand, the processing and protection of personal data against the freedom of expression and information have their limits in order not to harm the honor, personality, and other data of a sensitive nature, such as those that take place in the activity of the administration bodies state and judicial.

Because of the harmonization and respect of each fundamental right with a constitutional and conventional character, it is important to see through concrete cases how these rights are intertwined in our country and abroad through media services and platforms, which currently cross the borders of the territory of the Republic of Albania.

Freedom of expression is one of the fundamental rights of citizens and other private entities both in the Council of Europe, through the ECHR, and in the European Union, through the Charter of Fundamental Rights, and other normative acts in this direction.¹

On the other hand, in antagonism and a constant match with this right is the right to a private and family life as well as the protection of personal data that also enjoys special protection in both of these organizations.²

¹ Article 11 - Freedom of expression and information of EU Charter of Fundamental Rights

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The freedom and pluralism of the media shall be respected.

² Article 10 of the European Convention on Human Rights, enshrined:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The right to respect for family and private life is enshrined in Article 8 of the ECtHR. This right is further interpreted by the case-law of the Court and reinforced by the Council of Europe that has approved Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

This Convention is the first binding international instrument which protects the individual against abuses which may accompany the collection and processing of personal data and which seeks to regulate at the same time the transfrontier flow of personal data.

In addition to providing guarantees in relation to the collection and processing of personal data, it outlaws the processing of "sensitive" data on a person's race, politics, health, religion, sexual life, criminal record, etc., in the absence of proper legal safeguards. The Convention also enshrines the individual's right to know that information is stored on him or her and, if necessary, to have it corrected.

The Convention also imposes some restrictions on transborder flows of personal data to States where legal regulation does not provide equivalent protection

The European Court human Rights has emphasised that Article 8 includes a wide range of interests, namely private and family life, home, and correspondence including mail, telephone communications and e-mails in the workplace. Private life relates to a person's right to their image, for example by means of photographs and video-clips. It also concerns a person's identity and personal development, the right to establish and develop relationships with other human beings. Activities of a professional or business nature are also covered.³

Many activities of users will involve some form of automatic processing of personal data; examples include the use of browsers, e-mail, instant messages, voice-over Internet protocols, social networks. Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data covers all operations carried out in the Internet, such as collection, storage, alteration, and retrieval or dissemination or personal data.

There are principles and rules that should be respected by public authorities and private companies which are engaged in the processing of personal data. It is necessary that a user is aware of and understands what and how her/his data is processed and whether action can be taken in this regard. According to Convention, personal data must be obtained and processed fairly and lawfully, and stored for specified and legitimate purposes.

Nowadays the Internet plays an important role in people's daily life and in all aspects of human society. It is continually evolving and providing citizens with possibilities to access information and services, to connect and to communicate, as well as to share ideas and knowledge globally. The impact of the Internet on social, economic and cultural activities is also growing.

There is an increasing number of cases which relate to the Internet before the European Court of Human Rights ("the Court"). ECHR has affirmed that "the Internet has now become one of the principal means by which individuals exercise their right to freedom of expression and information, providing as it does essential tools for participation in activities and discussions concerning political issues and issues of general interest."

The Council of Europe's Internet Governance Strategy 2012-2015 attaches importance to the rights of Internet users. According to Recommendation CM/Rec(2014)6 of the Committee of Ministers for Member States of the Council of Europe, which has prepared a human rights guide for Internet users, maximum care is required in the exercise of freedom of expression by citizens and other private/public entities via the Internet, who must be fully informed about the choices they make via the Internet, the risk that their actions may violate the rights and freedoms of others, and the consequences of giving consent for choices that they do. They must understand the limitations of their rights and be aware of the compensation mechanisms for any violation of the rights of others in violation of the law.⁴

2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*"

³ Article 8 of the ECHR, enshrined: "1. Everyone has the right to respect for his private and family life, his home and his correspondence...."

2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*"

⁴ <https://www.coe.int/en/web/freedom-expression/igstrategy>

2. We Can Raise a Crucial Issue About this Topic:

Are the services offered by social networks and various platforms today through the Internet safe in relation to freedom of expression, disclosure of the truth and protection of personal data in Albania?

The answer to this question must be seen from several perspectives closely related to the global processes that our country is going through, where the Albanian government has undertaken many legislative and institutional initiatives that aim to protect citizens, state institutions, other public entities and private, for the above.

Referring to the last thirty years, several international acts have been approved, such as: the European Convention on Human Rights and Fundamental Freedoms, the Budapest Convention against cybercrime, the legal framework for the protection of personal data, changes in the Criminal Code, as well as some special laws aimed at the protection of fundamental human rights and freedoms, such as: freedom of expression and the right to information, as well as the ratio of the exercise of these rights in relation to the protection of personal data that are closely related to private life and the family one.

The exercise of these rights today crosses the borders of the territory of our country, thanks to the social platforms that enable such a thing through the internet service. The exercise of these rights through this new global approach comes in a broader plan, but in the meantime the careful exercise of freedom of expression, accumulation and publication of information that constitutes a state secret, commercial and closely related to personal data, without authorization of the persons to whom these data are used, means that we are in a new virtual world, where important interests of public and private life, known and protected by law, are violated.⁵

For all these reasons, in all democratic societies it is intended to find a balance for the respect of these rights, regardless of the forms and tools used, such as the virtual world that crosses the borders of our country, due to the Internet service. Due to the opportunity offered by the Internet, which today constitutes a global phenomenon, uniting all countries and societies around the globe, we can say that the opportunity to receive information and express our beliefs has increased clearly, as well as the opportunity to be better informed in real time about any phenomenon and process that happens in real time anywhere in the world in terms of culture, sport, politics, economy, industry, religion, education, science, etc.⁶

Based on this possibility, what is currently established is the fact that:

1. There is more freedom of expression on social platforms;
2. There is more information accessed in real time inside and outside the country in all aspects, from all social groups including the young and the elderly people;
3. There are more commercial transactions and online purchases due to the opportunity offered by the Internet;
4. There is more transparency regarding all processes of a political, social and economic nature that take place inside and outside the country and that affect important issues of the future of humanity.

On the other hand, the way that the right of expression through social media aims to reflect the daily social, political, and economic reality, the analysis of a particular process or situation, to increase the public's awareness of discovering the truth and the protection of public interest leaves much for desired, based on the following facts:

1. Often on social networks Facebook, Twitter, Tik-Tok, etc, we can see offensive and denigrating vocabulary characterized by the spread of violence, despite the fact that companies covering these platforms have in recent years implemented a selective filter in order to limit freedom of expression when it is transformed into an abuse of this right.
2. In many cases, every online newspaper or social networking platform in our country enables, (more than 700 of them), to publish articles of accusatory, offensive, humiliating character, affecting the honor and personality of the person to whom addresses the writing, unaccompanied by facts and evidence. These writings, which often affect the family members of the person against whom the writing is directed, may also be minor children, thus violating the freedom of expression and protection of personal data through the Internet. These social media that publish articles denigrating characters through the Internet have media space that allows publishing the same denigrating opinions by commentators;
3. There are quite a few cases where girls under 18 years of age or women who are been violated/rapped become the subject of media broadcasts, without any protection of personal data, only to the public's curiosity and expand the person to the uncertain environment after the discovering of the event, and without purpose

⁵ <https://www.coe.int/en/web/freedom-expression/guide-to-human-rights-for-internet-users>

⁶ <https://www.coe.int/en/web/freedom-expression/internet>

- for going to the end of the investigative and judicial process regarding the punishment of the guilty persons.
4. There are some cases in political life where offensive words are articulated directly by voice and image against the opponent or other state power officials, outside any ethical and professional limits, whereby accused not only official /politician but also members of his family, regardless of age and gender;
 5. There are many cases where the most important online media platforms in the context of freedom of expression and the right to information, publish only successes and achievements in the fields of business, tourism, agribusiness, and education, without focus to the real problems that currently concern every citizen and small and medium business in the country.
 6. It is a very well-known practice currently that the news of the black chronicle, accompanied by arrests and confiscation of property, as well as the dismissal of senior and justice officials, occupies most of each media platform, where no one is interested in for violating the principle of presumption of innocence and protection of property as two fundamental constitutional rights. Freedom of expression through these platforms in most cases does not care about violating the personality of the person fired, often unfairly. There are only a few audio-visual media that analyze and pursue this phenomenon in progress, especially when a court decision is given for the innocence of the person accused, as well as the damage that the state pays and aggravates all taxpayers.
 7. The phenomenon of globalization (regionalism in the Balkans and the EU) that we are living in today is visa liberalization since 2010 and opening negotiations to become a member state of the EU in June 2023. However, beyond these two positive achievements of the Albanian state over the years, in various media platforms and social networks, there is little analysis that young people do not trust a better social and economic life in our country and continue to be educated and demanded their future in a legal manner or through asylum mainly in the EU and England. Policies to prevent this type of legal and illegal exodus that leads to the contraction of the population are given little importance and lack of media pressure/criticism to request legislative and administrative institutions to implement appropriate measures related to this problem.
 8. There is a lack of freedom of expression and evidence of the truth in the framework of the global processes that Albania is going through, such as the need to increase the quality of education at all levels, which comes mainly from the way the academic/teachers staff is recruited and the lack of improvement in the quality of teaching curricula.
 9. Freedom of expression through media networks has a lack of attention to the real problems that face farmers today, related to the high costs that competition has created in the conditions of a free market due to globalization, which makes a part of them hopeless and unsupported by government aid by abandoning the lands, which they have obtained for free under Law 7501.
 10. Freedom of expression pays less attention to the polarization of society and urban development, transparency, and the origin of invested income, where the process of new construction continues to flourish, outside of any urban plan that protects the green surfaces of cities, in opposition with sustainable urban development, even though there is not the same attention for public facilities (schools, gardens, parks).
 11. Freedom of expression is mainly focused on sensational arrests and the dismissal of leaders of important institutions, while there is a lack of media pressure that refers to the reports of the Supreme State Control on the economic damage caused directly or indirectly to citizens, for finding legal ways to prevent and recover this economic damage that burdens all taxpayers.

3. Personal Data Processing, Security and Transparency of Processed Information

New communication technologies have transformed society, pushing it towards the information age, while we accelerate to become part of this new era, we encounter new or old problems that have undergone unknown changes. One of these issues is protecting personal data in cyberspace and the risks it presents. Seeking to prevent the processing of personal data in the name of protecting it is almost objectively impossible nowadays.⁷

It is therefore necessary to face this reality to find the necessary balance that allows technology to develop regarding basic human rights and freedoms. Protecting personal data already has as its companion the right to be forgotten (the right to delete personal information in whole or in part from the Internet). One of the hottest points of debate

⁷ https://www.nagb.gov/naep-subject-areas/technology-and-engineering-literacy/framework-archive/2014-technology-framework/toc/ch_2/society/society3.html

is freedom of expression through various social platforms on the Internet versus the right to be forgotten.

Data protection should be understood only within the framework of privacy protection as a legal tool for its protection, which was born under a certain technical and social context. In this way, data protection can be interpreted within the privacy protection legislation.

One of the most important and long-awaited normative acts for the protection of personal data is embodied as a fundamental right in the Charter of Fundamental Rights of the EU, in Article 8 and Regulation (Ec) No 45/2001 Of The European Parliament And Of The Council of 18 December 2000 on the protection of individuals about the processing of personal data.⁸

For the EU, the protection of personal data is a relatively new right, recognized by its Charter of Fundamental Rights, Article 8/1, which provides the following: "1. *Everyone has the right to the protection of personal data concerning him or her.*"⁹

The declaration of the rights for the protection of personal data in Article 8 of the EU Charter, marked the acceptance of the existence of this right as a separate right. Before the adoption of the Charter, it was more common to accept that it was a right to respect private life for the protection of personal data, treating the protection of personal data as the right to private life.

The Parliament of the Council of Europe on April 8, 2016, approved two new data protection acts Regulation no. 016/679 and Directive no. 2016/680.

The Regulation Repealed Directive 95/46 which was the precursor instrument for the protection of personal data.

Directive no. 2016/680 on the Protection of Personal Data for prevention, detection, investigation, or prosecution of criminal offenses and matters related to judicial activity.

Cyberspace through the rapid changes of new computer networking and communication technologies has radically changed our lives. We carry out a multitude of actions through new technological platforms of a social, economic, etc. nature. The expansion of new forms of technology has also led to an increase in the quantity and quality of data being processed.

What we can all say without any doubt is that today's technological developments, the speed of their spread, and the enormous capacities of information storage are some of the most "critical" moments (weak points) in the preservation of personal data of citizens. These developments are so rapid and ubiquitous that they seem to affect everyone.¹⁰

The protection of personal data rests on several widely accepted principles; one of them is the principle of the right to request the deletion or correction of false or incomplete personal data collected in violation of the law.¹¹ The Regulation provides for the right of subjects to request the deletion of data, but in no case does the Constitution, the law, or the Directive make a direct reference to the data found in the network. The right to be forgotten, in contrast to the right to request the correction of data, is not related to their falsity but to the element of time that has passed since the data was made public. Traditionally, the right to be forgotten has been linked to the subject's right not to see published news that pertains to legally published events, but a relatively long time has passed since that moment.¹²

The question is whether the Internet will be accepted as a form of archive or as a means of distribution and communication of information. At one of its decisions, ECtHR considers the Internet as an archive. Whereas, regarding the recognition of the right to be forgotten, the ECtHR considers it a right that must be balanced with freedom of expression.

According to this position of the ECtHR, the right of the subject to apply not for the deletion of the news but for its updating is recognized, this is based on the fact that an un-updated news is not true. In this judgment, the court specifically ruled that removing the article from the website would constitute censorship and would be rewriting history. The ECtHR in its previous decision had emphasized the importance of the historical value of online archives, underlining

8 Regulation (Ec) No 45/2001 Of The European Parliament And Of The Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

9 Article 8 - Protection of personal data.

1. *Everyone has the right to the protection of personal data concerning him or her.*

2. *Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.*

3. *Compliance with these rules shall be subject to control by an independent authority.*

10 Daniel Solove, *Privacy and power: Computer Databases and Metaphors for Information Privacy*, published 2001, pg 1394.

11 Article 35 paragraph 3 of the Constitution of the Republic of Albania

12 Jusella Finocchiaro, *Ildiritto all'oblio nel quadro dei diritti della personalita, Il diritto all'oblio su internet dopo la sentenza Google Spain, Roma TrePress 2015, pg 30*

it in a double sense: both in terms of free access and the use of these archives for study or research purposes.¹³

In the case of Google Spain, the situation is different, the complainant requested that the news be deleted from the Google search engines not because of its untruth, but because it had been there for a long time and without any reasonable cause. Moreover, this information did not constitute a fact of social importance.

The protection of personal data, in particular the right to request the deletion of data (the right to be forgotten), which concerns the request to completely or partially delete personal information on the network, is in continuous conflict with other rights. Through the Google Spain decision, Europe prioritized the right to be forgotten over freedom of expression. This report has different legal approaches, on the one hand respecting the dignity and personality of the individual, on the other hand, not restricting the freedom of expression. With its decision, the court has given political legitimacy to the choice in favor of European citizens, despite the super economic power of American network operators. The decision of the court has turned out to be coherent with the European perspective in the field of data protection, this is proven by the approval of the Regulation for the protection of personal data in the EU.¹⁴

The interested party/complainant can go directly to the search engines, for the deletion of information or early publication in time that violates his/her data without the control of the judicial authority.¹⁵ Interested persons have the unconditional right to delete information on their behalf, this right prevails over the economic interest of network administrators, but also over the right of the public to access this information. The supposed predominance of privacy loses its role only if we are faced with reasons to leave it, such as the position that covers the person in public life, in this case, the public's interference with his main rights is justified by the public interest. to know this information.¹⁶

Regarding the processing of personal data, in recent years an important reform has been undertaken through the digitization of online services, as well as the increase in transparency regarding the competences, activity and decision-making of state institutions.

This reform, which has a complete resemblance to the framework of globalization with what democratic states have previously applied, mainly in the EU and US, should be applauded for the cohesion and usefulness it aims to achieve.

As a very important reform for digital Albania, as part of the globalization process in this field, we can mention:

1. Strengthening e-Albania services, where the economic cost and physical time for a number of services have been reduced, such as judicial certificates, family status certificates, employment certificates, social insurance, business data, road transport fines, etc.¹⁷
2. Providing access to notarial and implementing services for property applications and restrictions set out in cadastral registers administered by the Cadaster office.¹⁸
3. Registration of students at all levels through E -E -Albania, etc.

On the other hand, the efficiency, transparency and type of decision-making of state administration and justice institutions regarding the processing and maintenance of personal data and the right to information has had some problems that have caused a wide debate in public opinion in Albania.

1. Regarding the state administration, applying electronically on the official website of state institutions constitutes a new form of application in the framework of globalization, with the aim of avoiding delays, waiting and corruption that existed before in public offices. About this very useful new form of application, as a problem, we still often identify the lack of processing of complaints and the requests for information sent by citizens, within the legal deadlines.¹⁹
2. Publishing data from most Albanian citizens who were entitled to vote in 2021 (through a database in February 2021), highlighting their political beliefs and the person who patronized them, creating a wave of dissatisfaction and moral damage to those subjects, violating a constitutional right, which is exercised only at the time of voting and which must be guaranteed as a secret.

Regarding the scandal of the orientation of political beliefs of the citizens in contravention of the legal framework of personal data, the Special Prosecutor's Office against Corruption and Organized Crime questioned journalists Andi

¹³ Case, *Times Newspaper v United Kingdom*, (application no, 3002/03), 10 March 2009, pg 27

¹⁴ Giovanni Sartor, *M.Viola De Azevedo Cuhna, Il Caso google e i rapporti regolatori USA/EU, Il diritto all'oblio su internet dopo la sentenza google spain*, Roma Tre-Press, 2015, pg 123

¹⁵ Decision C-131/12 of the ECJ, paragraph 65.

¹⁶ Giovanni Sartor, *idem*, pg 11.

¹⁷ For more details, refer to the E-Albania office page.

¹⁸ <https://e-albania.al/Pages/NewsDetail.aspx?id=127>

¹⁹ <https://gazetasi.al/kaosi-i-kadastres-bllokon-gjithcka-me-pronat-asnje-shitje-ne-tregun-e-pasurive-te-palauajtshme/>

Bushati and Armando Shkullaku, who as platform leaders of the social media lapsi.al enabled the publication of this database online.²⁰

In this database, there was data on the full identity of all voters, personal identification number, housing addresses, their political orientation, and persons who patronized Socialist Party voters.

Regarding the identification of the authors or the person who should have been responsible for this database created in opposition to the Law Data Protections, the head of the Portal Lapsi.al, Bushati, said in one statement to journalists that the perpetrators who created it are not being investigated for the electoral crime dealing with this database, but the distributors of this information.²¹

Regarding the scandal of collecting and processing the personal data of all voters in the Republic of Albania, out of their will and knowledge, despite the administrative and criminal investigation conducted, there is still no final result about the responsible persons who committed the criminal electoral crime for preventing in the future about collecting, processing and disbursing of these data with a manipulative and denigrating character.²²

Despite the above fact and evidence, it should be noted that the legal framework for the protection of personal data punishes both the collector and processor of the personal data as well as the distributor, especially when this crime is realized through the Internet.

3. Another scandal of violating personal data through the Internet from various social platforms was the publication of the payroll database in December 2021. Salaries of over 637,000 public and private sector employees were published on social networks. This right is closely linked to the exercise of the profession and constitutes a personal right protected by the Constitution and ECHR. The salary list in the form of a document in the "Excel" format that circulated on the "Whats App" platform is a flagrant violation of the personal data of Albanian citizens. The institutions responsible for storing data related to ID and salaries were "AKSHI" and the Directorate General of Taxes. The investigation of the Prosecutor's Office and decision-making of the court of the Tirana Judicial Circle showed that co-workers in this crime that violated the processing and storage of these personal data were two bailiffs and two tax department employees who contributed to the issuance of the above data. This issue raised an urgent need regarding the lack of security level that reflects the competent state body in the processing of such personal data of a sensitive character.²³
4. The year 2022 would culminate in a cyberattack through the Internet outside the territory of the Republic of Albania, which managed to enter the Office of the Ministry of Internal Affairs and the TIMS system by providing personal data and documents that constituted state secrets aims to impose unfair influence to the foreign policy of the Albanian state. The leak of data collected by "Homeland Justice" platform that was administered by hackers in Iran, extracting data related to the criminality, property, and conspiracy of Police operations, as well as temporary interruptions of the TIMS system on August 2022, brought out another concern related to the impossibility of protecting sensitive personal data from the country's highest institutions, exposing functionaries and officials to criminal groups in connection with the exercise of their activity.²⁴

A cyber-attack took place on July 15, 2022, that blocked all official state websites and the e-Albania online services platform, as well as the TIMS system that serves to record entry and exit at borderline. Immediately afterwards, the protocol of shutting down the system was followed, in order not to give hackers the opportunity to advance in taking control of this system.²⁵

Meanwhile, on September 14, 2022, the TIMS system was attacked at all border points of the country. Albania blamed Iran for these attacks and cut off diplomatic relations with this country.

On October 17, 2022, Homeland Justice published the next data titled "telephone numbers of Albanians", where based on this publication on the network you can find thousands of phone numbers of Albanian citizens, first name, last name, as well as ID numbers. Support for the Mujahideen was claimed as the cause of the Iranian hacker attack. The Prosecutor's Office of Tirana, after starting the investigation for this cybercrime, requested the seizure of data and the closure of online pages in three countries: Hong Kong, Great Britain and Russia, which publish data obtained from cyberattacks in Albania. Through these three letters, the authorities hope to put a lid on the data received by the Ministry

²⁰<https://lapsi.al/2021/04/13/andi-bushati-rrefen-si-i-gjeti-lapsi-al-listat-sekrete-te-ps-dhe-emrat-e-patronazhisteve/>

²¹ <https://dosja.al/tag/andi-bushati>

²²<https://www.botasot.info/shqiperia/1561513/skandali-i-te-dhenave-andi-bushati-dhe-armand-shkullaku-thirren-ne-spak/>

²³ <https://shqiptarja.com/lajm/skandal-me-te-dhenat-private-pagat-e-mbi-637-shqiptareve-dalin-ne-publik-nisin-hetimet-ndaj-tatimeve-dhe-sigurimeve-shoqerore>

²⁴ <https://dosja.al/live-updates/zbulohet-hakerat-qe-uan-shqiperine-prokuroria-e-tiranes-nis-het-i241638>

²⁵ <https://lapsi.al/2022/09/21/sulmi-nga-irani-pse-u-prit-me-cinizem-renia-e-shtetit-dixhital/>

of the Internal Affairs and AKSHI, which are being distributed with continuous episodes on the "Homeland Justice" accounts. The court approved the request of the Prosecutor's Office, addressed by letter to Britain, China and Russia, for the sequestration and prohibition of the publication of data from this cyber-attack, arguing that the continuation of the publication endangers national security and private life of citizens.²⁶

As a response to prevent the intensification of the cyber war and the further infringement of national data and personal data of citizens, on June 20, 2023, for the first time in the MEK camp in Manza, Durrës, where they are harboring members of the Iranian opposition, a police operation was carried out with the aim of seizing servers and various documents. The operation was carried out in compliance with the control orders issued by GJKKO, after the approval of the request by the Special Prosecution before this Court, while the police forces encountered resistance from the Iranians inside the camp. The order for controlling was issued by GJKKO, after suspicions of terrorism and cyber-attacks. From the checks carried out by the Police inside the camp of Iranians in Manza, several servers were found and seized through which it is suspected that some foreign institutions were hacked. The purpose of the control was to seize these devices with which cyber-attacks were carried out in foreign institutions.²⁷

5. A real concern raised on a global level is the various offers through the telecommunications telephone network related to the advertisement for the online purchase of various services and products where citizens inside and outside the territory of the Republic of Albania have fallen prey to cyber fraud.

It should be emphasized that the personal data related to the telephone number of different citizens, by seducing them that they were randomly selected based on a lottery organized by the company in question, constitutes the processing of personal data in violation of the law, in all those cases when none of these persons have given their phone number and their consent to be part of a certain lottery.²⁸

Thanks to the bilateral cooperation agreements and that of Europol and Interpol that our justice bodies have with the counterpart bodies of the countries where the damage occurred to the citizens of these countries who have been harmed by this new global way of selling and buying of products has made it possible in some cases to identify and catch the guilty subjects.

Buying online, as a new phenomenon of globalization, has increased free trade, making it possible to shorten physical distances to buy products/services and reduce costs of these products, but at the same time has increased the risk of stealing the personal bank data. Often consumers do not receive the service they would like to have through online order or worse purchases, their data Debit and Credit Card bank are used without their consent by other people, a phenomenon that is a growing problem in this field.²⁹

An issue of particular interest in relation to freedom of expression, and the right to information of the public about the protection of personal data is the Law Reform that was undertaken in our country after 2015.³⁰

As far as the implementation of the Justice Reform is concerned, it should be emphasized that Serbia, Montenegro, Macedonia, and Ukraine have also been asked to do so in the framework of regional integration and cooperation to become part of the European family. Except in our country, which adopted without any reservation Justice Reform to have a reevaluation of all magistrates in judicial body and the creation of new institutions related to this power, in the above-mentioned states, this Reform failed also due to the skepticism of the political class and societies of these countries to undermine the independence of one of the three basic powers such as justice.³¹

Currently, some data with a positive character that brought about the reform in Justice should be highlighted, such as the re-evaluation of all judges and prosecutors in terms of their professional career, integrity, and wealth, as well as the establishment of SPAK.

However, regarding the processing of personal data and transparency, evidence in court proceedings, the development of a fair trial within a reasonable time, as well as the selection of magistrates with the highest moral and professional integrity, as proclaimed in the Strategy of the Year 2015, effects that are happened leave a lot to be desired, based on these data:

- Based on the amendments to the Civil Procedure Code of 2017, it is assumed that the civil court process should not last 2 years in the first instance, two years in the Court of Appeal and one year in the High Court. Meanwhile, currently, this deadline has been exceeded several times in most of the judicial cases grafted or in

²⁶<https://shqip.com/grupi-i-hakereve-drejtesia-e-atdheut-nxjerr-ne-shitje-me-bitcoin-te-dhenat-nga-e-albania-dhe-tims/>

²⁷ <https://telegafi.com/nderhyrja-ne-kampin-e-opozitareve-iranian-ne-shqiperi-policia-publikon-pamjet/>

²⁸ <https://ekonomiaonline.com/arrestohen-35-persona-per-mashtrime-kompjuterike-per-fitime-financiare/>

²⁹ https://www.reddit.com/r/albania/comments/17xhmf0/grabitja_e_te_dhenave_bankare/

³⁰ *Strategjia e Reformes ne Drejtesi*, Korrik 2015, pg 10. <https://rm.coe.int/strategjia-ne-refomen-e-sistemit-te-drejtesise/16809eb53a>

³¹ *Erida Skendaj*; "Advocate magazine", *Values, complexity and challenges of the vetting process in Albania*,

- the process of review;
- There is a lack of transparency of the cases brought for consideration at each level of judgment, listing the cases according to the chronological order of registration from the earliest to the newest to verify which case has priority in consideration;
 - To mitigate the large and artificial overload that was caused in the courts of the judicial district, the courts of appeal, and the Supreme Court, the institution of the request for the acceleration of the trial was introduced, which received a positive response only in occasional cases, while the majority of subjects who have been waiting for several years for the appeal or Recourse to be filed, they never receive an answer;
 - Also, the creation of the new judicial map that entered into force in February 2023, currently having from six Courts of Appeal to a single one, which is the Tirana Court of Appeal, has further reduced the access of litigants for more effective service and more effective, to recognize, protect and restoring their legal interests,³²
 - There is a lack of transparency of the judicial decisions announced in each court by each magistrate in real time to verify both the disposition of the announced judicial decisions and the time of filing of the given judicial decisions with the chief secretary;
 - In dozens of cases, the deadlines for issuing court decisions have exceeded the 20-day deadline (up to five months) provided for in the Code of Criminal Procedure, not to mention sporadic cases of up to a year, and this delay does not exclude those magistrates. that have passed the reassessment process;³³
 - The Supreme Judicial Council has not guaranteed, not to say that it has failed to make transparency, in real-time regarding the right to information for litigants and the general public about all those decisions that the court session is public. This issue is about strengthening the transparency of judicial power as one of the main obligations for EU integration;
 - The lack of transparency of anonymized judicial decisions does not allow legal researchers, the bodies that control the activity of magistrates, the High Inspector of Justice, and the general public to assess the degree of professionalism and honesty in the decision-making given on behalf of the Republic of Albania. ;
 - While the publication of decisions by the Supreme Court, with the full identity of the litigants and third parties involved in the trial, without anonymization, seriously harms their data by going to the other extreme that has to do with the right to information;
 - Also, in not a few cases, it is found that the decisions given by the Supreme Court with a high impact on the public interest, are not published on the website of the Supreme Court.
 - The lack of creating a server to administer and exchange all official information between justice institutions in real-time, a legal obligation that should have been fulfilled since 2017, has caused the highest justice institutions themselves to have truncated and insufficient cooperation for the entire activity of the justice bodies today, the decisions that are made and the problems that arise in this direction with an institutional and administrative character.
 - The exclusion from the ranks of the justice bodies through the re-evaluation bodies that often follow the practice of double standards and focus their administrative investigative activity only on the criterion of wealth has led to the absence of magistrates with a high professional and moral level in the system today.³⁴
 - Last but not least in terms of importance, since we are talking about the process of globalization and regionalization, often the practices of the most powerful countries that allowed be implementation of this Reform in Albania, follow a double standard, such as the abrogation of the law on the re-evaluation of magistrates in Poland by the Court of Justice of the EU.³⁵

4. Recommendations

More control is needed on how online media obtain legal personality for them to fulfill all financial obligations to the state and third parties for any possible damage that may be caused by the violation of freedom of expression and personal data;

1. Citizens should be aware that the Internet is a virtual space in which attitudes and opinions on social, political,

³² Maho, Besnik, "Approval of the new judicial map: A priority of the Albanian justice reform", "Jus&Justicia", No 16/2022.

³³ For more, see the findings of the thematic inspection of the High Inspector of Justice for the Court of the Judicial District of Tirana, September 2023, as well as article 308, second paragraph of the Civil Code of the Republic of Albania

³⁴ Maho, Besnik, "The revaluation process in Albania during 2016-2021", "Jus&Justicia", No 15/2021.

³⁵ Bianku L., Kramer against Kramer, Tirana 2021. <https://www.cna.al/2021/10/18/from>

- and economic aspects can be freely expressed without exceeding and violating the rights, honor, and dignity of other persons;
2. The media should increase the quality of the protection of the truth by finding information and revealing the freedom of expression for all those real problems that concern the majority of interest groups in Albania;
 3. State institutions must take measures to increase the quality of the infrastructure and to prevent in the future all cyber-attacks that affect national security and the personal data of citizens;
 4. Banking institutions must offer the same protection policy for the protection of personal data in the banking system for all their customers.
 5. Law enforcement institutions in Albania must improve their capacities and take measures to prevent the infringement and stealing of personal data in the field of banking and online purchases of Albanian and foreign citizens by all those delinquent entities operating in our country and not just execute arrest warrants for guilty persons wanted by other law enforcement bodies abroad.