Jan-Apr 2016 Vol.1 Nr. 1

Personal Data Protection and the Empowerment of Civil Liberty, Justice and Security: Universal Value of Globalization

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Abstact

Protection of personal data and the privacy, at the time of final approval of the New Regulation on the protection of personal data, for the subjects of personal data brings hope; however, it is to believe that "in a world with protected privacy." Despite the challenge of protection of personal data in the era of colossal development of communication technology, the Internet and the major inventions of smart portable mobile devices, some new legal provisions are put in the Regulation of the EC, EU and the Parliament, in the future strengthens the protection of personal data; Freedom, justice and security, as notions that are spread in our country Kosovo, are the constitutional and legal obligations to provide stability to the country. However, the institutional strengthening of the law in this regard, with compact action (interaction) between the competent authorities within the country, our region and the competent authorities of the segment of rights and freedoms, justice and security of the EU, the EC and the European Parliament will undoubtedly bring success in the overcoming of challenges, through which the personal protection of data is going through. Strengthening of the National Authorities of personal data protection and freedom of information, is, and remains, the main input of justice, freedoms and security, now as standard globalist values.

Keywords: Protection of personal data, human rights, civil liberties and security

Introduction

In the conception of thinking and in todays living, the circumstances have completely changed in every country of the globe. This is because the speed of the individual, speed of penetration of information and speed of movement of capital. These developments are much larger in quantity and quality, compared with the time before the computers are found in the seventies. Also "discovery of the airplane in 1903, the discovery of TV 1925, discovery of computers and the Internet from 1970 to 1980", taken from http://old.zeri.info/artikulli/8836/disa-nga-zbulimet-me-te-medha-ne-bote (December 24, 2015); are considered epochal discoveries to humanity. Those discoveries along with the phone discovery of 1860s, and mobile phones and internet in 2000s, taken from https://sq.wikipedia.org/wiki/Telefoni (December 24, 2015), has given a new opportunity to the humanity and new approaches of development

We freely conclude that; man of this century is under the complete digitized world and his behavior now resembles the world in which he lives. In everyday's life, in an effort to achieve high standards for the man of the (XXI) century, obviously, it is very interesting, so he can control the digitized technology in order to overcome the challenges of times which he lives in. This development for the individual, in terms of violation of privacy, has two sides: that of improving of the quality of life, in terms of reaching of a quickest way of profiting, and of capital development; and that of intervention on daily basis and violation of freedoms and rights of his private life.

But what does this mean? Is there a violation of human rights in this regard? Is it jeopardized the security of the individual and the collective one? Why is it important to protect citizens' personal data? Why are important rules and knowledge on the protection of personal data? In verse of many other questions, they are almost the most frequent questions that may arise in everyday life tonnes, to be overcome-d.

We will try in continuance of this work, somehow bring to the reader: new developments, challenges that must be overcomed, in times already the new Rules for the Protection of Personal Data of EU is moving towards approval of its final and when

in many countries on all continents have approved laws and new institutions that have begun the work of the management and supervision of the implementation of these laws.

Of course, from this view, at the end will come also the results, of an interest to all of us that can be satisfied by access of points of view other of various experts, but success will undoubtedly be our common goal of all of us the ruling of law, human rights and fundamental freedoms, protection of personal data and security in general. For the best times, we should work together in the field of data protection. Anyways, marking the International Privacy Day, 28th of January 2016, will mark the positive curves and the best day for the protection of personal data.

Methods

We oriented work of this thesis are used methods: Empirical, Analytical and Inductive

Challenges in the field of protection of personal data

Discoveries in the field of digital technology continue in unstoppable ways of filling of our markets. Functionalization of new computer equipments of different sizes to those of the pocket portable ones, with possible connection to the internet search of huge engine capacity, our world has become an integral part of all areas of work and of human life's. Therefore, the challenge for the protection of data is growing, so it requires our attention and preoccupation to set priority objectives in this area, at the international level. To understand how and how much we are endangered due to interference and possible misuse? In the following we give a brief overview of concerns in the data privacy and protection of personal data in various fields of life and work in different countries:

In an article posted on December 19, 2013, over 46 recommendations for changing the US surveillance practices of article "The White House publishes a report on interception", to bring release from Day newspaper; it is a clear harassment and preoccupation of the US, which says: "The Obama administration has said it is considering how to best use its ability to gather information in the national security interest of the United States, without unnecessarily encroaching on civil liberties and personal privacy." Taken from the: http://www.gazetadita.al/shtepia-e-bardhe-publikon-raportin-mbi-pergjimet (seen on 29.12.2015).

Meanwhile, the function of safety when we are all witnesses of the terrorist attacks in November 2015 in Paris, France, where the ISIS terrorists have killed 130 innocent civilians, protection of individual and collective and public property is and remains a main concern. But, namely personal data and their violation, was and is the main focus of the evildoers.

Working across in processing of their rights also legal rights, will narrow the possibility of misuse, by groups of individual hacking into personal information for terrorist purposes called as "Terrorist Cyber Crimes" ("Cyber terrorism").

In this regard for the first time we have seen the case, that by use of computer equipments the terrorist organizations were supported. So, in October 2015 has happened the arrest of Ardit Ferizi in Malaysia, a young man originally from Kosovo, due to abuse of cyber theft of personal data of US service members, most had that data transferred to a hacker in the Islamic State, where according to the Washington Post, as reported by Telegraph, this is the first time that US prosecutors have charged a suspected cyber terrorism in plains of hacker, taken from the //http://www.telegrafi.com/lajme/ardit-ferizi-personi-i-pare-ge-akuzohet-per-terrorizem-kibernetik-ne-shba-2-77775.html// (December 26, 2015)

Cyber attacks and various interventions in the official websites of banking systems have also become, almost, an everyday occurrence. Cyber attacks on the banking system are causing losses of hundreds of millions of euros. Improvement of digital bank services and their advance has made progress, where the services of hundreds - millions of clients are performed through mobile phones as so called the "online services". Therefore, this service at this time is greatly challenged and remains the target of cyber attacks, hackers and abusers of informational technology. Thus, according to the news, "Hurriyet Daily News" the newspaper Express, brings an information about the biweekly cyber attack, by a group of hackers which has culminated on December 24, 2015, causing serious problems in digital banking services of Turkey, resulting in the blocking of access to online banking services to some of the financial institutions with a large number of clients, taken from <u>Follow @gazetaexpress</u> (December 26, 2015:18.00h). Digital banking services in Turkey reaches their transactions around 2 millions of Turkish lira, where 85 percent of them are made from mobile phone services.

According to the daily information and reports to the institutions of the rule of law, interference and infringements of privacy of banking system, we have in many different countries of the globe. In this regard do not stand any better neither countries within the EU and OECD.

Use of search engines in the so-called "the mine the data" is a global electronic market, where has globalized the world in this direction and there are no differences, on age, sex, social, nor such as education and science, racial, language or religion, regardless of geographic distance.

Above were superficially affected only two sectors, with specific examples, but the access to personal data is now possible, and done in different systems that are also very important as the health system, education, trade, manufacturing, media, public administration, political electoral systems, tourism, internet of things, marketing etc., to the use and receipt of personal data through the maritime traffic communications, terrestrial and aquatic (i.e. may be noted as a phenomenon of new use of drones for surveillance purposes other than study, research etc.).

By the way, forms of processing and types of personal data depend on the height of the possibility of jeopardizing their access to the outlawed in our records. But even to this day, it remains as a serious threat to the processing of personal data in social networks. In reference to the article "Russian Hackers steal half of data of the Internet users in the world", published on the official Deutsche Welle website in section, *Focus/ Science and Education/*; It's states that: A group of hackers from Russia has stolen more than 1.2 billion records of various online profiles. According to the accounts, affected were half of Internet users in the world, taken out of *Http://www.dw.de/hakerat-rusë-vjedhin-të-dhënat-e-gjysmës-së-përdoruesve-të-internetit*, fage 1.(July 8, 2014, 18:00h).

As we see the man's life is put in danger, where through the computer virus can cause death of the patient, where his condition, or the condition after surgery is followed by the internet sites ". Or even by a computer virus, hackers can cause a car accident. This is evidenced by the researchers. Taken from the Deutsche Welle official site, Http://www.dw.de, Focus /Science and education (July 8, 2014, page 3)

In processing of personal data, its collection, transfer, disposal and storing them; we know that we already have in continuous use automated technology, mobile technology (smart mobile equipment) servers / hardware device; combined with video surveillance equipment, laser remote control and search engines (Internet) and telecommunications; We understand that the challenge for the protection of personal data undoubtedly becomes one of the serious concerns in each country; ranging from our country (Kosovo), our region (the Balkans), the European continent and internationally.

Protection of Personal Data in Block of Justice, Freedom and Security

Subject of personal data in terms of the realization of its rights, when considers that they are violated or misused by controllers (institutions, associations of various organs) of public or private sector, in all the states of the EU already the justice system has legal frameworks that guarantees legal protection and supervision of its rights to personal data. Above all, with the filed legislations in all countries, institutions that oversee the implementation of the legislations.

Now there is an evidence's almost in every country, there are administrative measures against violators of law institutions. Even the justice system (courts) in Kosovo, the lawful processing of personal data, in 2015, the first has pronounced the administrative measures to KEDS (Power Distribution System in Kosovo); *AMDP- State Agency for Protection of Personal Data, taken from http://www.amdp-rks.net (December 31 2015,15.30h)*. Administrative measures, the justice system (courts) in the year of 2015 have decided also towards the other controllers, to the mobile phone operators, to ascertain as violators of personal data, during an unauthorized marketing, with the distributing of SMS-s, during the election campaign of political parties (held in 2014).

Even the European Court of Justice in respect of the European Convention on Human Rights, particularly in Article (8) guarantees privacy rights of the individual and other legislation relevant to the legal framework of the European Union and the EC, and has issued a significant number of decisions and opinions in favor of the complainants.

Development of major cyber technology and information's, has set in motion the need to develop other rights as constituents of legal rules, such as: Establishment of legal rules during the Internet use, the right to be forgotten, the establishment of legal rules during use of portals to different legal rules to various other websites. Otherwise, the rule of law through the justice system for citizens meant a relaxation and increase confidence in state institutions, on the one hand,

while on the other hand exercise the powers and duties received institutions and society human, in welfare of citizens including, personal dignity and its privacy.

In an effort to concretize the universal principles of safety, we find different approaches, different concepts and principles that directly affect the collective local security, regional, continental and the global one. Even poverty, contagious diseases, financial stability, extreme nationalists, assimilating actions and repressive dictatorship, efforts of movements of the ethnic groups for liberation in different regions of the world, efforts for domination of various powers are considered as key factors of security in a country which in a form of a coil brings to the regional instability with the impact of even global security violation.

The advancement of human rights and freedoms implies a very broad range in many areas of life and work, in all categories of society, regardless of nationality, age and social group; rights which are guaranteed from birth of the individual, such as: employment, education, children's rights, political organization, syndicalism, religion, property rights, health care, free movement, the right to know, to the rights, such as those for further information, the right to transparency, access to public documents, the protection of privacy, etc., which together give a value to the value system of democracy. These rights are in progress, every day, on the basis of technological development, to meet the obligations arising from the principal documents on the universal rights of human freedoms.

The expansion of the legal framework in this regard is a requirement of the time. Humanity globally goes with the secured steps towards the modern theory of a otherwise so called "Globalization". By the fact of the efforts of all nations for the unique platforms: the protection of privacy, the right to information, cyber security, the security of citizens, etc., these are the unifying aspirations to freely give us the right of a conclusion that; We are dealing with the development of the general welfare of citizens and are of unique "global" value of modern society in the era of the Internet.

Justice, security and human rights in Kosovo have a special connotation in regards to the fact that within the Kosovo Progress Report in 2012-2015, for visa liberalization, drafted by the European Commission, Protection of personal data has been placed in block of "Justice, Liberty and Security" of the required standards, to be met, and that institution for the protection of personal data has always shown responsibility and has reflected positively in the fulfillment of all recommendations in this area.

Justice, security and the rights and freedoms in the world today are universal values that give credibility, cultural progress, economic development, peace and stability, confidence in the institutions of justice and in general; are the values of the modern world in the New World Order, in terms of the development of the free global market.

At the international level, the main attribute of generating these legal values, obviously belongs to the West, respectively to the European institutions: the European Council, European Commission and European Parliament.

January 28th 1981, is the day of the approval of the 108 Convent, *EC- European Councill, Strasburg, (Convent 108:28 january 1981)*. This day of adoption of this Convention, originally was celebrated as a day of European privacy, but now has received the title of the International Day of privacy, which manifests marking of the first Convention in a global level, approved for the protection of personal data during the automatic processing of data.

Marking of this day now is remembered by the messages already in the institutions of international significance, which is not specifically linked with professional competence, but undoubtedly touches the actual signal to the global challenges for humans. At the World Economic Forum in Davos on 27 January 2012, the Vice-President of the European Commission; Viviane Reding and Secretary General of the European Council, Thorbjon Jagland in their speech, among others had declared "Communication on the Internet should work hand to hand, with the protection of privacy on the Internet. The protection of personal data is a fundamental right. Technology of Information offers enormous economic and social potential, which will be fully realized if citizens trust that their personal data on the Internet are protected. "WEF - World Economic Forum, taken from

http://europa.eu/rapid/press-release MEMO-12-50 en.htm Data Protection Day: safeguarding privacy rights, (January 22nd, 2016, 18:30h)

Advancements in the field of protection of personal data in the EU

Compared with other countries in the overall international level, in terms of specific regulatory aspects, observation is freely standing; that Europe is a leader in the field of protection of personal data. In support of the Universal Declaration of Human Rights, initially in Europe will enter into force the European Convention of Human Rights and Fundamental Freedoms (1953), which for the signatory state members specifically requires, an acceptance of the obligations with the constitutional and legal frameworks, to clearly specify rights and freedoms, thus clearly guaranteeing the right to respect the private life, housing and privacy of correspondence during communication's (Article 8) ECHRF (KEDLNJ) - European Convention of Human Rights and Freedoms, approved in Rome, (November 4th, 1950).

While several decades later such obligations we will also see in the International Covenant on Civil and Political Rights of the United Nations (approved in 1966 entered into power in 1976), *Gruda, Z. (2013), THE INTERNATIONAL PUBLIC RIGHT, Pristine, p. 426.* Later such advancement where the human dignity and protection of his privacy will also be seen in the American Convention on Human Rights: "Pact of San José", - November 22nd, 1969, *Gruda, Z.(2001). International Protection of Human Rights, Documents II, University of Prishtina, Pristine, p.102-127*; Then, the Cairo Declaration on Human Rights in Islam, adopted in Cairo on August 5, 1990, *Gruda, Z.(2001) International Protection of Human Rights, Documents II, University of Prishtina, Pristine, p.138-144* etc. Besides the last year's initiative to African countries for the processing of a convention on the protection of privacy, in no other continent nor in the international level, has not occurred to have a specific Convention as the one of the Council of Europe, 1981, which is specifically in step with the great development of technological information, automation and telecommunications, gives a specific legally binding in the protection of personal data, during the automatic processing, while watching the convention to the publication: CPDP (*KMDP*) - *Commissioner for Personal Data Protection (2012)*

LEGAL SUMMARY OF THE COMMISSIONER FOR PROTECTION OF PERSONAL DATA, Tirana, p.50. This obligation for state members of the EU becomes an obligation, while to accede in this Convention are also the member countries from other continents (Africa, Latin America). European leadership goes on, so in terms of practical regulatory, the year of 1985, marks the radical curves in terms of transposition of the Convention 108, the legislation of EU member states on the occasion of the issuance of the European Directive 95/46 on the protection of personal data and privacy. EC Directive of the EP and the Council of Europe, Strasbourg: (October 24, 1995).

The United States of America due to the protection of tax evasion, in the state of financial system respectively the banking system, have initiated and signed the bilateral agreements with several countries in Europe, the EU and abroad, to ensure acquisition of information regarding flows in accounts of its citizens. Such agreements made the subject of discussion for the authorities and the experts of personal data protection, where the issue will go to the ECJ (GJED).

According to the reports from Out-Law.com ECJ (GJED) has decided that "a framework which allowed companies to move personal data across the Atlantic, in a way that was in accordance with the laws of data protection to EU" under the "safe harbor" EU-USA, it was invalid ". Court raised concerns about the transfer of data from the EU, under the question of whether there are sufficient guarantees of privacy in this regard, taken from http://www.out-law.com/en/articles/2015/october/german-data-protection-authorities-limit-companies-options-for-us-data-transfers/ (seen 29:12:2015; 22.00h)

While under Article 29 working groups, of Directive 95/46, had recommended that the issue of safe protection of personal data across the Atlantic for the European citizens should be in accordance with the framework of European legislations for the protection of personal data and by article "Protecting Authorities", German authorities of data protection, set the limits on possibilities to the companies to transfer data to US", brought (written by) from posts Out-Law.com authorities contracting Parties to the agreements to transfer personal data, respectively agreement "safe harbor" to be reviewed by the end of January 2016 in accordance with European law of protection of personal data, taken from http://www.out-law.com/en/articles/2015/october/german-data-protection-authorities-limit-companies-options-for-us-data-transfers/ (seen 29:12:2015; 22.00 h)

Undoubtedly, these highlights in any ways are advancing on the path towards aims of protection of personal data, in lights of increased pressure from public opinion and the great pressure the same one in terms of technological development of telecommunication equipments and information. However, the current legal framework (Convention 108), supplemented by the additional protocol, year 2001, Directives 95/46 of 1995, the 2008 Framework Decision on the protection of personal

data during transfer and cross-border flow of personal data, a large number of recommendations in various sectors issued by the European Commission and the Council, at this stage of developments requires rules and frames much more empowered to ensure the adequate protection in fulfillment of rights and freedoms, values that are proclaimed by the western democracies.

Therefore; in the above mentioned context, the new Rules of the European Union and the European Commission has collected the recommendations, received warnings during the organizing of numerous debating tables, discussions, organized in a time of four years, has already passed the voting procedures of the instances, before the decision-making bodies of the three institutions: The Committee of Civil Liberties, the Standing Committee and the Council with an absolute majority. "On December 15, the three European institutions agreed on a historic reform of the rules on data protection, creating a modern and harmonized framework for data protection across the EU", EU-European Commission, taken from http://ec.europa.eu/justice/newsroom/data-protection/news/ (20th january 2016, 22.20:h). So, 2016 will give final approval of the regulation, which undoubtedly will bring benefits in the interest of big controllers, in the interest of the business world and in particular will have more tight provisions of austerity in the interests of data protection and privacy of citizens, demands of rights and fundamental human freedoms.

Mechanisms operating in protection of personal data

In relation to the developments and demands of the time, since 2012 in the bodies of the Council of Europe, European Parliament and EU is proceeded New Regulation of the European Union for the Protection of Personal Data. While in the European area, are operating large numbers of bodies and organizations, such as: Spring Conference of Protection of Personal Data, attended by authorities of protection of personal data of European Union and Council of Europe, usually gathering every two years and address various topics on PPD (MDHP) and privacy issues, decision making, recommendations, resolutions, tips etc., for the bodies of the Council of Europe and the EU.

Authorities of Francophone Conference, which brings together the mdhp (PPD) authorities of francophone countries even beyond the EU. Also issues recommendations, treating the aspects of the protection of personal data, treating aspects of professional and legal developments of mdhp (PPD) etc.

The GPEN- Networking authorities of protection of personal data, which aims to have a mutual approaches for solution of various problems, joint inspections to big controllers etc., It has an international character. This mechanism is lead by the British authority of Protection of Personal Data.

AMDHPEQL (PAPDCEE)-protection authorities of personal data of Central and Eastern Europe. This mechanism is lead by Polish mdhp (PPD) authority-that deals with topics in the field of personal data and privacy, makes recommendations, proposals, raises issues of concern for the authorities to gather and the same one, in terms of this does; recommendations for instances of the EC and the EU in their respective field.

In addition, on the basis of Convention 108 and Directive 95/46, specified are the mechanisms arising from these documents as are the 108 Consulting Committee and Working Group 29.As acting mechanisms specifically deal with the protection of personal data and privacy, and institutionally report through Secretary of the Council of Europe to the European Commission.

It is worth mentioning that every January (26 -january) in Brussels, the bodies of the Council of Europe in co-organization with Scientific Institutions, Universities and Academic Authorities, organize its specific annual scientific conference, *CPDP – Compjuters Privacy Data Protection, taken from http://www.cpdpconferences.org/, (January 20, 2016, 21.00h), Whereby in the scientific point of view, from different points of view, derived are works and the alternatives and provided are new knowledge's in this field, by different researchers.*

Initiatives do not end, so in June 5, 2014 in Strasbourg is organized the Specific Conference, in support of these institutions of justice and human rights of the EU, European Commission, Group of Labor 29 and French authorities to PPD (MDHP), which brought together all PPD (MDHP) authorities of the European Union, with the only topic to find a common platform of an action to overcome the great challenge of breach of privacy by digital technology of big processors of personal data called "BIG DATA".

Violation of privacy is already an international and challenging problem in this regard every year, for decades has begun with the KNMDHP organization, which gathers authorities of mdhp (PPD) of member countries global. The conference addresses the topic of privacy, issues resolution, designs strategies, take's recommendations, issue statements and decisions in the interest of protecting personal data in the mdhp (PPD) global. Mdhp (PPD) mechanisms of the European Commission as well as participating as an observer, by having a European experience in this field, and give their valuable contribution in the context of these conferences.

The State Agency for the Protection of Personal Data of the Republic of Kosovo, has successfully joined n these mechanisms and shall move to get work experience and to give its contribution in this regard, NAPDP (SAPPD) State Agency for the Protection of Personal Data, taken from http://www.Amdp - rks.org, (18 january 2016, 18.30:h

What needs to be done for the protection of personal data?

As is mentioned above, towards successful protection and advanced personal data, must meet certain actions ranging from:

- Continuous increase of civic awareness and awarding of systematic knowledge unified with harmonized standards within the legal area of the European Union, the education system, building curricula specific to the education of the younger generation in all states of the European Union and wide.
- The unifying actions of the authorities to protect the personal data in the field of inspection, with the possibility of joint inspections of powerful controllers, and that their work headquarters and actions that have outside of countries, which have committed abuse of personal data. Moreover, in this case we are dealing with powerful companies of the Internet, where the radius of operation extends to many continents globally and invasion of privacy is possible at all levels of society, regardless of age and invades billions of people.
- In the spirit of the recommendations of the Resolution of the International Conference held in Amsterdam, the Netherlands in October 2015, which requires the reporting inclusion on the state of privacy in reporting its annual human rights by the Special Representative of the General Assembly of the United Nations; (KNKMDhP) ICCPPD- International Commissioners Conference on the Protection of Personal Data, Amsterdam, taken from https://lineary.org/lengths/site/ (janary 21, 2016,23.00 h), such a practice to be transferred to all ombudsmen, who in their reporting on human rights bring specific reports on the state of privacy and derive their recommendations regarding the raised issues.
- As soon as possible, all computer automated equipment related to the websites that process personal data, to install tools that evidence all traces of approaches and interventions in databases.
- Software equipment should be certified to safety standards in the field of protection of personal data.
- The sooner to occur the unification of the laws and structures of authorities on the European soil and wider, with the unified standards and mandates of acting.

There are many other aspects of recommendations, but accordingly to this study and basic elementary action needs, think that these action criteria, give its own effects in relation to the developmental requirements of society in our time with positive effects in terms of the future.

While to give oxygen to democracy and to advance in security, justice and universal human freedoms, today, everywhere must work in professional grow of supervisory authorities, that at the same time to manage and oversee *Freedom of Information and Protection of Personal Data*.

which at the same time is considered as a global challenge of this century. To determine the boundary, between of that where public interest ends, and where and when can access their privacy because the line is very thin in between these two rights.

Abreviations

AMDHP/APPD- Authority for the Protection of Personal Data

AShMDHP/SAPPD- State Agency for the Protection of Personal Data,

AFDP/AFPPD-The Francophone Authorities for Protection of Personal Data

AMDHPEQL/APPDCEE-Authority for the Protection of Personal Data of Central and Eastern Europe

BE/EC-European Community

BN /IC- The international community

"BIG DATA"- The so called big data

CE- European Commission

CPDP- Compjuter's Privacy Data Protection

EU- European Union

FBE/WEF- World's foremost Economic Forum

GIPEN- The International Network Group of Authorities for Protection of Personal Data

KEDLNJ/ECHRF- European Convention of Human Rights and Freedoms,

KNKMDhP/ICCDP- International Conference of Commissioners of Data Protection

KE/EC- European Councill

MDHP/PPD-Protection of Personal Data

OKB/UNO-United Nations Organization

PE- Europen Parlament

PDP-Privacy Data Protection

SHBA/USA-United States of America

GJED /ECJ- The European Court of Justice

mdhp /PPD- protection of personal data

Imdh / LPPD- Law on protection of personal data

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Conference

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