Chapter I

The Right to Privacy—General Considerations

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1. Introduction

From an historical perspective, in the life of a community, from time to time, certain circumstances appear that affect their formation, evolution, character, and finally the form of the legal system that organizes the life of these communities. The latter element prompts the emergence of new legal regulations, in line with the well-known Latin dictum, *"Ubi societas, ubi ius"* ("Wherever there is society, there is law"). Often, it takes a moment, or reaching a critical moment in the life of a community, to shape or even discover the new legal parameters. After all, it should be remembered that the atrocities of World War II laid the foundations for the creation of an international judicial body in the form of the International Criminal Tribunal, dedicated to investigating crimes against humanity. It was then that there was a need to administer justice on a global level. Another example here may be the discovery by society and the final formation of basic human rights, which then became a permanent standard of the modern democratic state.[1]

The dynamics of community development is something natural and means that newer solutions require an appropriate organizational and legal framework. We are undergoing the rapid development of new technologies that release new legal challenges., New institutions or tools based on broadly understood new technologies will always need a certain legal framework defining the order of their operation for and

1 Cmiel, 2004, pp. 117–135; Jurczyk, 2009, pp. 29–44; Ishay, 2008, p. 450.

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within the community.[2] It is about mastering them and using only their good sides, although, as we all know, the dark sides of these technologies also exist.

At the center of new regulations is and should always be the human being, with an inalienable dignity. There is no doubt that it is human dignity that is our inherent attribute, a special and recognizable feature, laying the foundation for the further evolution of humanity and related—what is natural—legal systems[3]. Law as a system of norms organizing the life of society must take this dignity into account as the basis of human existence, no matter how modern tools and technologies are created. There is consensus that "no authority: legislative, judiciary or executive, can negate the idea of human dignity as the fundamental principle of law making, applying it or issuing court decisions."[4] Terminologically, "dignity" comes from the Latin *dignus*, which means worthy of respect and worship, or carrying the obligation to be highly respectful.[5] The term connotes pride, honor, ambition, fame, and majesty.[6] There is no doubt at present that dignity is one of the oldest values recognized in society. The essence of human dignity is aptly reflected in the maxim from the Stoics: "the human being is a sacred thing to humankind" (*homo homini res sacra*)[7]—in other words, "dignity is the essence of the human person, that is, it is inseparably connected with every human being, no matter who they are, where and how they live."[8] Hence, no action (public, political, or private) should violate human dignity.[9] Dignity is a value that regulates and determines other areas of human behavior. The universal attributes of dignity are therefore innate, inalienable, permanent, and universal.[10] Therefore, the aforementioned "human rights result from the dignity inherent in man. The authorities do not grant them, but are obliged to obey them. They constitute a category of rights due to man on the public and legal level."[11]

Dignity prompted the emergence and functioning of the broadly understood right to privacy, because synonyms of dignity—pride, honor, ambition, fame, dignity, veneration, respect, etc.—are concepts that also enter the broad orbit meaning of "privacy."

In turn, it is now accepted—and rightly so—that privacy occupies a special position in contemporary catalogues of freedoms and rights and is included in the

2 For example, recently the European Union is working on legal regulations related to the so-called artificial intelligence (see "Proposal for a Regulation of the European Parliament and of the Council establishing harmonized rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final).

3 Wermiel, 1998, p. 223; Habermas, 2018, pp. 52–70; McDougal, 1959, pp. 107–136.

4 Sadowski, 2007, p. 25.

5 Jedlecka, 2013, p. 168.

6 Dubisz, 2006, p. 1039.

7 Sadowski, 2007, p. 11.

8 Wojciechowski, 2009, p. 98.

9 Sut, 2000, p. 525.

10 Bucińska, 2001, p. 34.

11 Skorowski, 2003, p. 394.

human rights of the first generation.[12] The latter—that is, human rights of the first generation—are described as "human rights that everyone is entitled to, regardless of their nationality or social position. They are treated as inherent, inalienable rights of the individual, such as the right to life, personal freedom, property, equality, security."[13]

Everyone is equally entitled to natural rights, and no one can be deprived of them.[14] Among these rights is the right to privacy, the root of which is indisputably human dignity. When juxtaposing human dignity with privacy, dignity is an individual's intangible, intimate sphere that gives legitimacy to the right to privacy. Privacy, as broadly understood, falls within the scope of the guarantee of the rights and freedoms of an individual.[15] After all, there is no dispute that these rights are based on the inherent and inviolable dignity of humankind. [16].

Structurally, the term "right to privacy" essentially consists of two different terms and, at first glance, semantically distant concepts, i.e., law/rights, and privacy.

While—obviously—the concept of law is an immanent term associated with communities and their legal systems, defined as a general set of standards of conduct in the form of orders or prohibitions [17], privacy as such is no longer a legal term. It is a term bordering on sociology or psychology etc.

It is assumed that in the legal meaning of the combination of these two concepts, i.e., law and privacy, the common term, i.e., right to privacy, was used by American lawyers S.D. Warren and L.D. Brandeis in 1890 in an article published in the *Harvard Law Review* entitled "The Right to Privacy."[18] This article was a specific response of the authors to what the authors felt was excessive and embarrassing coverage of people's private lives in the press in the form of reports from social meetings organized by the daughter of Sen. Thomas Francis Bayard.[19]

A law "is a set of norms defining the behavior of people, norms established or sanctioned by the state and secured by the state coercion apparatus" (the object approach).[20] A right (also called a specific right) is vested in an entity (subject approach). Hence, privacy can be defined as "a space of free movement, a domain of autonomous activity that is free from the control of other entities, which includes physical space and objects to which others have no access."[21]

12 Banaszewska, 2013, p. 127.
13 Banaszak, 2004, p. 446.
14 Jurczyk, 2009, p. 43.
15 Banaszak, 2004, p. 446; Skrzydło, 2004, p. 166; Witkowski, 2001, p. 102.
16 See justification for the Judgment of the Constitutional Tribunal of April 11, 2000, file ref. Act. K. 15/98, OTK ZU No. 3 (2000), item 86.
17 Kantorowicz, 1958, p. 109.
18 Mielnik, 1996.
19 Motyka, 2010, p. 11.
20 Muras, 2014, p. 5.
21 Pyrciak, 2010, p. 214.

2. Research assumptions of the right to privacy

The already proven standards of living in the human community in the form of inalienable values such as dignity or privacy, along with new technologies, has prompted research on the right to privacy as part of the international Central European Professors Network research project, coordinated by the University of Miskolc and the Central European Academy consisting of researchers from Hungary, Serbia, Croatia, Slovakia, the Czech Republic, Slovenia, and Poland. Therefore, it is extremely interesting to study the right to privacy, which must assume a multifaceted, multidimensional, and multithreaded concept, as well as the diversity of legal areas of the indicated countries. Moreover, in the study of the right to privacy, not only legal elements, but also sociological, psychological, and pedagogical elements. intersect.

This book is the result of research by scientists carried out as part of the abovementioned research project. It is an attempt to understand the essence of the right to privacy in the future, considering the current situation, but also trying to predict the effects of the dynamic entry of new trends and instruments in the area of privacy.

In this context, it is valuable to analyze the right to privacy from a comparative perspective, and thus to learn about the perception of the right to privacy from the point of view of several different legal systems. Therefore, the main goal of the research conducted in the framework of the research group is to present in this publication a comparative outline of the right to privacy in Central European countries, especially in modern society.

After all, natural questions arise: How is the right to privacy understood in individual countries? What are the current problems with the implementation of this right? How far-reaching are the interventions of national authorities? Is it possible to define the limits of this interference? What are the cases of interference by international bodies in a given country? What are the national forms of protection of the right to privacy? How is the right to privacy understood by national or international jurisprudence when one of the parties participated in the research? It is also important to indicate the national perspective of understanding, implementing, and protecting the right to privacy. After all, there is no doubt that the right to privacy is one of the most important human rights today.

Subsequent years will create new challenges for human communities and state authorities. Therefore, it is important to anticipate possible controversial situations in the future and analyze the legal situation in each of the countries covered in this project. Therefore, it is of great importance to define the right to privacy in the context of the current legal situation and to try to predict potential solutions related to the right to privacy in the future.

It is also important to indicate the right to privacy as a value, and to define the basis for the protection of the right to privacy, which consists of the essence, content, and scope of the right to privacy.

Another important issue is the means of protecting the right to privacy in civil, criminal, and administrative law, especially considering the specificity of the digital environment. It is also important to recognize the right to privacy from the point of view of judicial decisions depending on a given country.

3. Content of the research—General outline

The analyses contained in this book try to answer the above-mentioned research issues closely related to the right to privacy.

The first of the analyses, by Prof. András Koltay, entitled "The Protection of Privacy in the Hungarian Legal System, with Special Regard to the Freedom of Expression" points out from the outset that the current protection of privacy poses a serious challenge to legal systems, especially in light of the proliferation of new technologies for monitoring and registering people. This is a particularly accurate assumption because there is a kind of competitiveness of very important elements of the human community in the form of dynamic development of new technologies and the desire to obtain information by man. Today, information is a very common term, and is one of the most important structural parts of privacy. It is in the name of obtaining information, understanding it, and using and disseminating it that privacy becomes a commodity.[22] There is no doubt that the public is increasingly thirsty for news and information, even confidential info. The balance between the protection of personal privacy and rights, and the public good (freedom of expression, freedom of the press, interest in being informed about public affairs, freedom of information) is difficult to achieve and necessarily remains fragile. In a sense, the importance of the right to privacy increases when the legal norms that ensure—to a greater or lesser extent—the protection of the right to privacy is contained in the provisions of a legal act of the highest order. Of course, today it is the country's constitution. The rank of constitutional regulation for a given legal form makes the protection—in this case of privacy—one of the most important for the legal order of a given country.[23] Hence, we start with an analysis of the right to privacy, starting with the most important legal act in the form of the Basic Law of Hungary.

The Basic Law of Hungary protects the right to the inviolability of private life, and ensures a constitutional level of protection for the home, and for communications and data in the public interest. This is supported by the functioning of a special body for the protection of personal data—the Hungarian Data Protection and Freedom of Information Authority (NAIH).

22 See Barth, 2007, pp. 279–294; Ogbuke, 2022, pp. 123–137; Williams, 2009, pp. 60–67.

23 See Cole and Federico, 2016, pp. 220–237; DeCew and Wagner, 1986, pp. 145–173.

Interesting regulations are also found in civil law in the Hungarian civil code. Protection of civil law is the basic protection for investigating possible breaches of privacy. In Hungarian civil law,[24] they concern protections against the disclosure of confidential information and ensuring the protection of private life. The Hungarian Civil Code has elevated the general protection of private life to the rank of a special personal right, in addition to other established rights also related to privacy, but in a narrower scope (protection of private homes, private information, and personal data, as well as the right to one's name, and the right of protection of one's image and voice recordings).

Another problem identified in Hungarian civil law is the issue of identity disclosure. Identity is also an inherent quality of privacy. Admittedly, it has several threads, because it is also a term on the border of administrative law and civil law, and it can even be combined with criminal law. In the context of privacy, however, this concept is related to the ability to the identification of a person. Hence, identifying a person by revealing their identity is an aspect of privacy, broadly understood.[25] This disclosure may clearly lead to a breach of privacy in various situations related to, for example, court proceedings or "accidental" disclosure of identity. Such a person will become recognizable to the environment in such a way that the published article, photo, etc., do not actually refer to him, and due to the similarity or likeness or identical names, a misunderstanding may arise. Therefore, in this area it is also important to protect the image and voice recordings, which entails the requirement to obtain consent for disclosure. Generally, the subject of protection of the right to one's own image is the image of a person and its consolidation with the use of technology. The production and use of an image of a person or a voice recording requires the consent of the person concerned. On the other hand, the consent of the person concerned is not required for the recording of his or her image or voice if the recording was made in a crowd or in a public appearance. Image protection also concerns the use of the image in public life. In this context, the author notes that sometimes being in a specific public situation is an implicit consent to its exploitation. This is about situations where people participating in public events—even as passive observers—waive their right to privacy to some extent, and even in such cases, photos cannot be published in an offensive or harmful way. There is no doubt, however, that active participants in public events (e.g., speakers) are undoubtedly public figures, while passive observers are not public figures, although photos of such observers may be made public (but not misused), as when the image of police officers during public meetings is published. However, any publication of the image must not be offensive, harmful, degrading, or distorted. The author notes that along with the regulations of substantive law related to the right to privacy, there is also a special court procedure in the matter of image protection. For example, the Hungarian Code

24 See Hamza, 2019, pp. 443–450; Gardos, 2007, pp. 707–722.

25 See Choudhury, 2012, pp. 949–957; Feng et al., 2019, pp. 45–58; Oomen and Leenes, 2008, pp. 121–138.

of Civil Procedure allows for a special mode of claiming the right to protect one's images and voice recordings, the main aim of which is to remove the consequences of the violation as quickly as possible.

An interesting issue is also the requirement of openness of proceedings where the right to privacy is an important element. Open court hearings are a norm. The standard of a democratic state ruled by law requires that the course of court proceedings be transparent. The openness of court proceedings consists in the possibility of becoming acquainted with the course of the court proceedings, unless there are some reasonable limitations in favor of not being fully open to the public. The Basic Law of Hungary requires an open court procedure (public administration of justice). However, the requirement of openness, as an aspect of the right to a fair trial enabling the free transmission of information about court proceedings, cannot be treated as an unlimited right. In informing the public, the media must respect other laws as well. Such rights that may limit publication are the personal rights of trial participants (in particular, the right to protect their image and voice recordings, the right to privacy, and the protection of minors).

Turning to criminal law, in the Hungarian legal system, the author notes that by default, these are individual crimes such as intrusions, breaches of private information, breaches of secret correspondence, the illegal obtaining of data, breaches of trade secrets, the abuse of personal data, and the misuse of data of public interest). On the other hand, the norms of criminal procedure correlated with criminal law focus on the requirement to respect human dignity, because privacy and the right to privacy are fundamentally related to human dignity.[26]

On the other hand, research in administrative law shows that one of the sensitive issues is the protection of personal data. The subject of personal data itself is an extremely important matter, and of a global nature.[27] Personal data is also an important element of privacy.[28] To protect fundamental democratic values, it has become necessary for the state to create restrictions—primarily for itself—to ensure the protection of the personal data of its citizens, and thus their undisturbed privacy. The aim is to provide citizens with "transparency" against others—state and market actors—only to the extent necessary. In administrative proceedings, the law allows for restrictions on the right of access to documents due to the protection of private information and personal data, while the conflict between the right to a fair procedure guaranteed by the constitutional law and the protection of privacy must be resolved by law enforcement authorities on a case-by-case basis.

In the next analysis, entitled *The right to privacy in the European context—insight into the basic issues*, Prof. Vanja-Ivan Savić, analyzes the right to privacy in the legal

26 See Whitehead and Wheeler, 2008, pp. 381–385; Floridi, 2016, pp. 307–312; Moreham, 2008, pp. 231–247.

27 See Tikkinen-Piri, Rohunen and Markkula, 2018, pp. 134–153; Purtova, 2018, pp. 40–81; Custers and Uršič, 2016, pp. 4–15.

28 See Chaudhuri, 2016, pp. 64–75; Bert-Jaap and Leenes, 2014, pp. 159–171; Bygrave, 2001, pp. 277–283.

system of the European continent and selected issues related to privacy, which were the subject of research on the part of national and international judicature. The research approach is interesting here, because the right to privacy is examined from the point of view of axiology. It is axiology as the science of values that sets a very precise point of reference by analyzing the right to privacy as one of the laws shaping the human environment. If we assume that values are absolute, which sets the direction of regulation for the legislature, which will result directly from the needs of society and which will be worth achieving in the legal system, the right to privacy is one of the most important values.[29]

Another point of the analysis is the right to privacy in the context of infection with the COVID-19 virus, as it turns out that epidemiological regulations significantly affect privacy.

The author notes that privacy laws are in fact related to individual privacy rights or expectations regarding privacy and the right to a private and undisturbed life. These features are the very essence of privacy, and therefore the general right to leave everyone in peace. It is the essence of privacy and its legal regulations are among the most important challenges facing us today.[30]

Quoting scientific positions, the author rightly points out that the right to privacy was and still is a "human right" before it became a "well-established fundamental right." The author rightly deduces the right to privacy from the concept of human dignity, clearly pointing out that human rights are a product or derivative of human dignity. In other words, human dignity is the source of human rights and as such occupies a very special position. Therefore, according to the author's view, an understanding of the concept of dignity is necessary to be able to balance the right to privacy and the right to surveillance, as well as the right to privacy and legal state control, which must be: a) justified, b) proportionate, and c) protecting public order. The appeal to dignity in the context of examining the right to privacy is the starting point for any consideration of human rights.[31]

The author also analyzes the right to privacy from the point of view of European law. He states that there is no doubt that privacy matters to the European Union. In this sense, the most visible example of this is the tendency to establish control over the use of data by corporate bodies. These principles show that privacy controls have their limits, which are set out in the relevant legislation—analyzed in this study—and offer guidance in balancing public security with personal and family privacy. Moreover, all this should be analyzed through the lens of public order and public morality.

Another field of the author's analysis is the protection of privacy in family life, with particular emphasis on the protection of children. In general, the protection of children is an exceptionally delicate and important topic, often discussed in legal and

29 See Rössler, 2005, p. 268.
30 See Lilien, 2007, pp. 85–117; Spiekermann, 2012, pp. 38–40; Jensen, 2013, pp. 235–238.
31 See Vaibhav, 2022, pp. 99–116; Ondreasova, 2018, pp. 24–70; Francis and Leslie, 2018, pp. 207–218.

other publications.[32] The author categorically and rightly points out that the family is and should be the cornerstone of European societies and deserves special protection. The author notices and analyzes many international documents that protect family life and are either part of the European legal structure or international pacts and treaties that overlap with European law. In view of the contemporary challenges related to privacy, the author states that the most endangered element in our society is its foundation—the family. There is no doubt that, *inter alia*, the Charter of Fundamental Rights of the European Union contains many provisions regarding the protection of human dignity and guarantees the legal, economic, and social protection of the family, and defines the right to private and family life, home, and personal communication. The right to protect privacy in family life is also embedded in the domestic law of individual ECHR Member States.

There are numerous debates about the extent of state interference in the private life of the family, especially in relation to the parents' right to raise their children in accordance with their philosophical and religious beliefs. There are various aspects of the right to privacy that interfere with family life: a) the parents' right to educate and raise their children, b) the family's right to be protected from outside influences, c) the parents' obligation to take best care of their children's needs and interests, d) the duty of the state to ensure an appropriate and decent legal and then social framework for family life, e) the duty of the state to oversee the educational system for the benefit of children, and f) the duty of the state to interfere in the life of the family in cases of violence, crime, and especially when children require special protection.

The author concludes that the basis of privacy should be sought in the socio-psychological concept, which was gradually introduced into the legal systems worldwide and in Europe. One has to agree with the author that the shape of the right to privacy is not yet definitively defined and the processes of introducing the concept of privacy into the legal systems of European countries are underway to date, and at the same time attempts are being made to find the right balance between individual concepts building the right to protect privacy, on the one hand, and the concepts of security and protection of society as a whole, that is, public morality and public order on the other one.

In the next study, entitled "The Right to Privacy in the Digital Age: A Slovenian Perspective," Prof. Matija Damjan presents how the privacy of individuals in the digital environment is protected in the legal system of the Republic of Slovenia, which naturally functions in the wider context of the European and international human rights framework.

In the Slovenian legal order, the protection of privacy is defined—as in other countries of central Europe—first in the provisions of constitutional rank. Also here, in this study, the provisions of constitutional rank are first presented. It is confirmed

32 Plattner, 1984, pp. 140–152; Van Bueren, 1994, pp. 809–826; Melton and Flood, 1994, pp. 1–28; Rodham, 1973, pp. 487–514.

once again that guaranteeing the protection of privacy in the provisions of constitutional rank is a standard in the constitutional regulations of democratic states. The constitution is the beginning of ensuring the protection of the right to privacy.

The provisions of the Slovenian constitution first provide for the inviolability of the apartment. The issue of the inviolability of the apartment is a complex and important topic. The essence of this law is that no one may enter the dwelling or other room belonging to another person or search this room against the will of the person living in it without a court order. Subject to the conditions provided for by law, an officer may enter another person's flat or other premises without a court order and may, in exceptional circumstances, carry out a search in the absence of witnesses, if this is necessary for the immediate appreciation of the person who committed the crime or for the protection of persons or property. The inviolability of the home is based on the territorial concept of privacy, historically conditioned by the protection of private property, the preservation of the autonomy of family life, and the physical separation of the public and private spheres of the place of residence.

Another component of the right to privacy protected by the provisions of the Constitution of Slovenia is the protection of the privacy of communication, i.e., the privacy of correspondence and other means of communication, including any electronic means of communication that did not exist at the time when the constitutional provision was drafted. "Communication" is understood here as a very broad conceptual component of the right to privacy, which is often emphasized in the literature on the subject.[33]

Another element of the protection of the right to privacy in the Slovenian Constitution is the privacy of information, i.e., guaranteeing the protection of personal data and prohibiting their use contrary to the purpose for which they were collected. After all, personal data is an emanation of privacy. There is a strong link between personal data and the right to privacy.[34]

The author notes that all the cited constitutional provisions protecting various aspects of privacy can be found in the chapter of the Constitution devoted to human rights and fundamental freedoms. The author states that, based on constitutional provisions, the right to privacy in all its manifestations has been elevated to the rank of a human right, which means that it is exercised directly based on the Constitution and may be limited only by the rights of other persons and in cases the Constitution specifically allows. There is therefore no doubt that the right to privacy is one of the human rights.[35]

There is a close link between the right to privacy and judicial protection, as every person enjoys the right to judicial protection when their right to privacy is violated. Everyone has the right to have any decision concerning his rights, duties, and any charges against him taken without undue delay by an independent, impartial

33 Burgoon, 1982, pp. 206–249; Kushelvitz, 1992, pp. 273–284; Trepte, 2021, pp. 549–570.

34 Sobczyk, 2009, pp. 299–318.

35 Diggelmann and Cleis, 2014, pp. 441–458; Roessler, 2017, pp. 187–206.

tribunal established by law. To implement this right, there are three forms of judicial protection of the right to privacy: civil, criminal, and constitutional complaint proceedings, which the author thoroughly analyzes in terms of the examined right to privacy.

Additionally, the study attempts to find a definition of the right to privacy in the jurisprudence of the Constitutional Court of Slovenia. Based on the jurisprudence, the right to privacy is treated as a fundamental right. For example, the author cites several views of the Constitutional Court of Slovenia, which defines privacy as, inter alia, the sphere of an individual's life in which no one can interfere without special legal authorization. The right to privacy establishes a circle of intimate personal activity in which individuals can decide for themselves, with the guarantee of the state, what interference they will allow. By protecting the inviolability of a person's physical and mental integrity, as well as their right to privacy and personality, it guarantees the general right to privacy, which also ensures general freedom of action. The latter includes the principle that in the rule of law, everything that is not forbidden is allowed—not the other way around. Therefore, each prohibition or order constitutes an interference with the constitutionally guaranteed freedom of action. The inviolability of privacy determines the circle of intimate personal activity within which individuals can decide for themselves what interference they will allow. Hence, privacy is a set of human actions, feelings and relationships characterized by the fact that individuals create and maintain them either alone or in intimate communion with their loved ones, and which provide a sense of security against unwanted intrusion by public opinion or anyone uninvited.

The author states that based on these views, the subject of privacy protected by the Constitution is defined functionally and spatially. The functional aspect prevents disclosure of an individual's personal affairs, which he or she wishes to keep secret and which are considered private by their nature or in accordance with moral and other rules of conduct established in society (e.g., sex life, health, confidential conversations between relatives, diary entries). The spatial aspect of privacy protects individuals from disclosing their behavior in places where they reasonably expect to be left alone. Outside the home, the privacy of an individual is protected wherever he or she can reasonably and clearly expect others not to be exposed to the public.

The right to privacy of legal persons is another fascinating discussion. He cites a ruling by the Slovenian Constitutional Court which found that legal persons also had the right to privacy, albeit to a limited extent.

Apart from the indicated regulations of the Constitution of Slovenia, the author states that there is no legal act that would specifically regulate the protection of the right to privacy, neither as a general *sedes materiae*, nor as a special regulation focusing on a specific area in which the issue of privacy arises, such as like a digital environment. There are also no plans for new general legislation on the right to privacy at present. Therefore, the legal framework does not provide an exhaustive definition of the scope and content of the right to privacy.

The author's research has shown that the right to privacy is considered both a personal right protected by civil law instruments and a human right protected by the Constitution and international human rights instruments. Personal rights are equally applicable to every human being and protect their unique personality, i.e., the physical and moral essence of an individual. These are personal, non-property private rights and are *erga omnes* binding, which means that no one—neither another person nor the state—can interfere with these rights. This reflects the negative aspect of personal rights. However, personal rights also have a positive content, as they allow their holder to use a certain personal value directly, and sometimes even to dispose of it. Privacy is one such personal value.

The study also includes an analysis of the institutions responsible for protecting the right to privacy. In the Slovenian legal system, the most important institutions ensuring effective protection of the right to privacy are common courts, which provide legal remedies in both civil and criminal cases, as well as remedies against decisions of administrative authorities interfering with the right to privacy. If the privacy of an individual has been violated by individual actions of state bodies, local community bodies or public authorities, a constitutional complaint may be lodged with the Constitutional Tribunal against such action due to the violation of a constitutionally guaranteed human right. The study specifies the basic model of the procedure for lodging a constitutional complaint. If the Constitutional Tribunal finds that a violation has taken place, it may amend or revoke the challenged individual act or revoke the implementing regulation on which the challenged individual act was based. However, this analysis shows that specific measures to protect the right to privacy in civil law are based on the main civil law mechanism for the protection of privacy, contained in two provisions of the Slovenian Code of Obligations, which regulates the demand to cease infringement of personal rights—one of which is the right to privacy. Any person may apply to a court or other competent authority to order the cessation of an activity that violates the integrity of a human person, personal and family life, or any other personal interest (if the violation continues), to prevent such activity (when the violation is imminent), or to remove the effects of such action (when the breach has ceased, but its effects remain). The court or other competent authority may order the infringer to cease such action, and in the event of failure to act, a compulsory payment of a sum of money to the injured person, collected in full or for each time unit.

An interesting point is to pay attention in the study to the so-called the right to be forgotten in Slovenian civil law, first settled by the Slovenian Supreme Court in 2006 as an aspect of the general right to privacy.

Another interesting issue is the admissibility of evidence obtained by secret recording in civil proceedings.

In the area of criminal law under Slovenian law, the right to privacy, on the other hand, is protected by a series of criminal offenses. And so, in the Criminal Code of Slovenia, in the chapter on crimes against human rights and freedoms, the Slovenian Penal Code criminalizes several types of violations of privacy, such as:

unlawful body searches, unlawful wiretapping and audio recording, unlawful visual recording, violation of the confidentiality of communication, unlawful publication of private letters, violation of the sanctity of housing, unlawful disclosure of professional secrets and misuse of personal data. Most of these crimes can also be committed by electronic means. To initiate criminal proceedings for these offenses, the national prosecutor must first receive a request from the injured person, while for some less serious offenses, victims are left with the option of initiating a private criminal prosecution. It should be emphasized that these crimes are personal and difficult to detect or prosecute without the active cooperation of the victim. After all, privacy is an optional right—just as individuals can allow interference with their privacy, they can also refrain from prosecuting unlawful violations of their privacy.

On the other hand, the Criminal Procedure Act provides for procedural safeguards in criminal proceedings so that the investigative powers of the police and prosecutors are not used in a way that excessively interferes with the right to privacy. This area was dealt with, *inter alia*, by the Constitutional Court in Slovenia, which has repeatedly examined the constitutionality of regulations on special investigative powers of the police, which interfere with the constitutional right to privacy, and in several cases has annulled regulations on such special measures in criminal proceedings. The effect of this was that the rules of criminal procedure have been changed fifteen times in the last twenty years. In criminal proceedings, there is also the issue of the admissibility of using private recordings as evidence in criminal proceedings. The measures to protect the right to privacy in administrative law focus mainly on the provisions on the protection of personal data. The author presents case studies in which the information commissioner recently dealt with data protection issues.

The author concludes that the right to privacy is a true fundamental right that permeates the Slovenian legal system and cannot be limited to narrower areas such as privacy law or constitutional law.

The analysis of the right to privacy by Prof. David Sehnálek entitled "The Right to Privacy in the Digital Age in the Czech Republic" shows how privacy is protected in the Czech Republic, but strictly according to the standards of national law not yet covered by unification tendencies at the level of EU law relating to the right to privacy. The main environment for analyzing the right to privacy has become modern digital technologies, and more precisely the impact of their functioning on the protection of privacy. There is no doubt that modern technologies are currently the factor determining new challenges in terms of the scope and type of legal regulations.[36] They influence our social life, influencing them directly, shaping our attitudes and opening up new opportunities.

The analysis is complemented by the presentation of the jurisprudence of the Czech Constitutional Court and its Supreme Court.

36 See general Bielecki et al., 2021; Filiczkowska et al., 2021; Górska et al., 2021; Blicharz et al., 2021; Wielec and Oręziak, 2021a, pp. 113–139; Wielec and Oręziak, 2021b, pp. 121–149; Wielec and Oręziak, 2021c, pp. 117–141; Wielec and Oręziak, 2021d, pp. 101–129.

At the beginning, the author reviews the regulation of the right to privacy at the constitutional level. He points out that the current Czech constitutional legislation on the protection of privacy was adopted in connection with the partition of the former Czechoslovakia. It is contained in several articles of the Charter of Fundamental Rights and Freedoms of the Czech Republic (hereinafter referred to as the "Czech Charter"). These national regulations are complemented by harmonized international and EU regulations on this issue, which, however, are rather present in the Czech judicial practice. Nevertheless, the author notes that the regulation of privacy protection in the Czech Charter is fragmentary and therefore quite complicated. According to this document, the general protection of the right to privacy is ensured by Art. 7 (1) of the Charter, which guarantees the integrity of the person and his privacy. It may be limited only in cases provided for by the law. The essence of the right to privacy protection is defined in Art. 10(1) of the Czech Charter, according to which:

> 1. Everybody is entitled to protection of his or her human dignity, personal integrity, good reputation, and his or her name. 2. Everybody is entitled to protection against unauthorized interference in his or her personal and family life. 3. Everybody is entitled to protection against unauthorized collection, disclosure, or other misuse of his or her personal data.

Partial protection of privacy is ensured by Art. 12 of the Charter, which states that human habitation is inviolable. Art. 13 of the Charter states that, nobody may violate the secrecy of letters and other papers and records, whether privately kept or sent by post or in another manner, except in cases and in a manner specified by law. Similar protection is extended to messages communicated by telephone, telegraph, or other such facilities. In a broader sense, provisions ensuring the protection of privacy can also be included in Art. 15 of the Charter, which guarantees freedom of thought, conscience, and religion. According to the author, there is also a second possible approach to the systematics of regulating the right to privacy in the Constitution of the Czech Republic. In line with this approach, Art. 7 (1) of the Czech Charter refers only to the physical and mental integrity of the person. Therefore, it is not a general clause, but a specific and subject-limited provision. The right to privacy is primarily protected in Art. 10 of the Czech Charter. Therefore, these two provisions overlap when processing personal data obtained because of an interference with the physical and mental integrity, e.g., genetic information, blood chemistry results, etc., as not only Art. 7 but also Art. 10 deals with this issue in its third section.

The author indicates that such an approach is supported by the jurisprudence of the Constitutional Tribunal and seems to prevail, even if it does not correspond to the legislature's original intention. However, it is favored by the system of the Czech Charter, which ranks fundamental rights according to their importance.

The next area of research concerns legal regulations regarding the right to privacy at the sub-constitutional level, e.g., in civil laws protecting the privacy of natural and legal persons.

At the same time, the protection of privacy does not raise any major concerns, but the topic, which includes the possibility of interfering with their privacy or of creating a privacy protection system for a legal person, is extremely interesting. The literature asks whether the privacy of a legal person is possible at all, or whether it is a fiction.

In administrative law in the Czech Republic, the right to privacy primarily concerns the processing of personal data.

On the other hand, the criminal law protects the rights to personality, privacy. and confidentiality of correspondence. In particular, the following crimes are regulated: illegal disposal of personal data, violation of the rights of other people, violation of the confidentiality of correspondence, violation of the confidentiality of records and other private documents, and defamation. The criminal law also protects against cyberstalking.

In the context of privacy and modern technologies, the Civil Code plays a significant role in the civil law of the Czech Republic. This legal act treats privacy protection as follows: (1) The right to privacy protects the dignity and freedom of man and his natural right to care for his own happiness and the happiness of his family or those close to him in such a way as not to cause unjustified harm to others. (2) Private law is based in particular on the principles according to which: a) everyone has the right to the protection of life and health as well as freedom, honor, dignity and privacy.

Interestingly, under Czech law, the right to privacy is not statute-barred, although there are some exceptions that the author mentions and analyzes in depth.

In addition, the protection of privacy in the context of modern technologies in the civil procedural law of the Czech Republic takes the form of a series of procedural rules that are formulated very generally and do not regulate, for example, the heated issue of electronic evidence, which is inherently related to modern technologies. An interesting element of this analysis is the use of digital evidence, which by its nature is an element directly or indirectly related to modern technologies and the fight against cybercrime.[37]

Analyzing the right to privacy in relation to modern technologies in the public law of the Czech Republic, the author notes that special rules apply to work in public administration, including administrative law regarding the possibility of recording the course of proceedings. No one may be forced to do something that is not prescribed by law. There is no provision preventing a party to an administrative procedure from making audio recordings of the hearing, and it does not matter whether it is a public or private proceeding. Therefore, there are no grounds for stating that by making an audio or visual recording of the proceedings, the party grossly disturbs the order and may be asked to leave the hearing. This could only take place in a situation in which making a recording of the administrative procedure would be a gross disturbance of the peace. However, in court proceedings, the possibility of making

37 See Kigerl, 2009, pp. 566–589; Shapiro, 1999, pp. 14–27; Stolz, 1983, pp. 157–180; Hancock, 2000, pp. 306–307; Wible, 2003, pp. 1577–1623; Coleman, 2003, pp. 131–136; Simon, 1998, pp. 1015–1048; Walden, 2004, pp. 321–336; Reidenberg, 2005, pp. 1951–1974.

recordings is clearly regulated, *inter alia*, in the Law on Courts and Judges, which explicitly states that visual or sound transmissions and visual recordings may be made during a court hearing only with the prior consent of the president of the chamber or one judge. Sound recordings may be made with the knowledge of the president of the chamber or a single judge; the president of the chamber or a single judge may prohibit such recordings if the manner of their making may have a negative impact on the course or the seriousness of the proceedings.

The right to privacy also means image protection, which is especially important when recording with a participation of the third party.

The right to privacy in the Czech legal system is also an area of interconnection between civil law and criminal law. Attention is paid to privacy in the light of the Civil Code and to sound, visual, or other recordings made as part of the defense against crime. The analysis is extremely interesting here, because crime victims may defend themselves against recordings that violate the right to privacy, but even this defense has its limits. Such recordings may not be used in an "offensive" manner. Returning, however, to civil and family regulations, the author presents a new phenomenon of violating children's privacy by their parents: "sharenting." This is defined as parents' thoughtless and excessive sharing on the Internet, especially in social media, of an image of their child—photos and videos in which the child can be recognized, without the child's knowledge and consent. The development of information society services, in particular the various social networks, has facilitated the dissemination of information that falls within the scope of privacy. Sharing information about yourself is usually not a problem: part of our freedom is also the freedom to decide which parts of our private life becomes public. However, the situation is more serious when privacy information is published by persons who have a right to do so, but relates to another person who cannot decide for themselves. This usually applies to parents and children, and may also apply to persons deprived of legal capacity and their guardians. In a broader sense, this also includes the activities of schools and kindergartens, which might make what is happening in their institution publicly available in the form of photos or videos, generally through "sharenting."[38]

Another element of the analysis is the intersection between privacy, digital technologies, and Czech labor law. According to the author, it is understandable that employers are interested in using modern technologies to monitor the workplace—and consequently, the employee. The analysis presents the protection of the employer's property interests and the protection of the employee against unjustified interference with their privacy.

Finally, the author's arguments also address the issues of privacy and COVID-19, where several anti-epidemic measures in the Czech Republic based on the use of digital technologies are presented. The Tečka and čTečka applications were introduced, which process the personal data of natural persons. These applications were

38 See Błasiak, 2018, pp. 125–134; Fox and Grubbs-Hoy, 2019, pp. 414–432; Garmendia, Martínez and Garitaonandia, 2022, pp. 145–160; Brosch, 2018, pp. 75–85; Goggin and Ellis, 2020, pp. 218–228.

used to prove and check whether a person had a valid negative test, or had been vaccinated for COVID-19.

In the next analysis, entitled “Privacy and Data Protection in Serbian Law: Challenges in the Digital Environment” Prof. Dušan V. Popović points out that the concept of privacy in Serbian law is a relatively new and modern concept. The meaning of this concept has grown with the development of digital technologies. The introduction of privacy regulations into the Serbian legal order was caused by the international obligations of the Republic of Serbia in the field of privacy and protection of personal data, which in turn result from its membership in the United Nations and the Council of Europe, as well as from its candidate status in the EU. The approach of the Serbian legislature is similar to that of the European Union, as the constitutional right to data protection is regulated separately from the right to privacy in the strict sense. Additionally, for decades, the right to privacy has been protected under national civil and criminal law.

The author presents that in the Republic of Serbia, as in other jurisdictions, there is no unanimously adopted definition of privacy, both in the legal doctrine and in legal instruments. National constitutions, including Serbia’s, usually protect the privacy of individuals by referring to: (1) the inviolability of the home; (2) confidentiality of letters and other means of communication; and (3) the protection of personal data. In a broader sense, the right to privacy can also include freedom of thought, conscience, and religion, in the sense that citizens are under no obligation to declare their religious or other beliefs. One must agree with the author that the ubiquity of the Internet, social networks, search engines, and computing clouds, has reduced the right to privacy to the right to personal data protection. Therefore, the protection of privacy in a digital context means, in essence, the protection of data relating to an identifiable natural person. The concept of personal data includes not only names, addresses, and identification numbers, but also any data that can be associated with an individual, such as photos, profiles on social networks, and web browsing history.

In the first part of the analysis, the author examined several international obligations of the Republic of Serbia in the field of privacy and personal data protection, resulting mainly from the legal instruments of the United Nations, the European Convention on Human Rights, and the Stabilization and Association Agreement concluded between the EU and Serbia. The Republic of Serbia’s international obligations in the field of privacy and personal data protection derive from its membership of the United Nations and the Council of Europe, as well as from its EU candidate status. The right to privacy enjoys constitutional protection in the Serbian legal system in at least two respects: it protects the inviolability of home, and it protects the confidentiality of letters and other means of communication. Moreover, the Serbian Constitution guarantees the right to the protection of personal data. However, the right to the protection of personal data and the right to privacy should not be treated the same way. The scopes of both rights overlap to a large extent, but there are also areas in which their subjective and objective scopes diverge. In addition, in line with the trends in comparative law, the Serbian legislature, by issuing numerous laws

and executive acts, intervened in the field of personal data protection, primarily in relation to the “traditional” protection of privacy.

The connotations of the protection of the right to privacy in Serbia law are also protected in civil law. Under Art. 157 of the Act on Contracts and Torts, everyone has the right to demand that the court or other competent authority order the cessation of activities that have resulted in violation of the inviolability of a natural person or of family life, and other rights relating to the person. In the event of a breach of privacy, the general principles of civil liability for unlawful acts apply.

The right to privacy is also protected in criminal law. The Criminal Code of the Republic of Serbia provides for several crimes that are directly or indirectly related to the violation of privacy: (1) violation of the privacy of letters and other mailings (including e-mails); (2) violation of the peaceable home; (3) unlawful search of dwelling or person; (4) unauthorized disclosure of a secret; (5) unauthorized eavesdropping and recording; (6) unauthorized photographing; (7) unauthorized publication and presentation of someone else’s texts, photos, or recordings; (8) unauthorized collection of personal data; (9) disseminating information about personal and family life; (10) showing, acquiring, or possessing pornographic material, including pornography of minors; (11) using computer networks or other technical means of communication to commit crimes against the sexual freedom of a minor; (12) unauthorized use of or access to a computer, computer network, or electronic data processing; or (13) breach of the confidentiality of official proceedings. In addition to criminal liability, several laws provide for penalties for minor offenses.

The legal framework for the protection of privacy and personal data in the Serbian Republic also includes administrative redress. Pursuant to the applicable regulations, the data subject (the natural person whose personal data is processed) has the right to lodge a complaint with the public information and personal data officer if he or she believes that the processing of his personal data was unlawful. Even though the Republic of Serbia is not yet an EU Member State, the General Data Protection Regulation of the European Union may, under certain circumstances, apply in the Serbian context. This means that companies that have links with the European market must comply with the same data protection standards that European companies apply.

The author’s analysis situates privacy as a value that functions in Serbian literature. He emphasizes that in Serbian law, the concept of privacy was initially used to describe the protection of personal and family life, protection of the home, and the protection of correspondence. Today, the concept of privacy is understood rather as the protection of personally identifiable data. The Serbian legal doctrine distinguishes between general personal law and special personal rights. The right to privacy is traditionally classified as special personal rights, along with the right to one’s identity, to one’s good name (derived from the right to human dignity), and to respect for the deceased.

On the relationship between privacy and data, i.e., the protection of personal data in administrative law, the author shows that the main legal act currently regulating the protection of personal data in the Serbian Republic is the Personal Data Protection Act, adopted in November 2018 and in force since August 2019. This act

defines personal data as any information relating to a natural person whose identity can be determined or identified, directly or indirectly, in particular by reference to an identifier, such as a name and surname and identification number, location data, Internet identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

In conclusion, the author points out that privacy has been directly or indirectly protected in Serbian civil and criminal law for decades. However, the new challenges are precisely the widespread use of the Internet and modern technologies. It was these two factors that raised the issue of privacy and personal data protection, and led to the creation of special protection mechanisms in law. Further developing digital technologies will require additional legislative efforts, especially in the field of mass surveillance and child protection.

The analysis "The Right to Privacy in the Digital Age (from the Viewpoint of the Slovak Legal Order)" was presented by Prof. Katarína Šmigová.

First, Šmigová analyzes the concept of privacy and its contents, as well as the challenges related to this concept in the context of the digital world. The analysis begins with the examination of the provisions of the Constitution of the Slovak Republic and the jurisprudence of the Constitutional Court of the Slovak Republic. The author notes that both the right to privacy and privacy are not defined in the Slovak Constitution. Nevertheless, the Constitution of the Slovak Republic provides guarantees for the right of every individual to integrity and privacy. Limitations on this right can only be introduced in cases expressly provided for in the act. However, the Constitutional Court of the Slovak Republic clarified that the constitutional protection of the right to privacy is related to the inviolability of the person, and therefore privacy is related to the integrity of the body and material values of a private nature. Slovakia's constitutional jurisprudence generally indicates that the protection of private life from being made public must be understood more broadly than the protection of life: it also includes the right to establish and develop relationships with other people, especially in the emotional sphere, to develop and realize one's own personality. The interesting thing about this argument is that originally the right to privacy in the legal order of Slovakia only applied to natural persons. The court has expressly excluded a legal person as a privacy protection entity within the meaning of Art. 16 of the Constitution. Nevertheless, considering the judgments of the ECHR, the jurisprudence of the Constitutional Tribunal changed its interpretation and granted legal persons protection under Art. 16 of the Constitution, therefore legal persons deserve protection not only under the Civil Code, but also under the Constitution.

A more detailed provision relating in a way to the right to privacy can be found in Art. 19 of the Slovak Constitution. According to this article, everyone has the right to human dignity, personal honor, and the protection of one's reputation and good name. In addition, everyone has the right to be protected against the unauthorized collection, publication, or other misuse of personal data. Finally, everyone has the right to be protected against unlawful interference with private and family life. According to the author, the current understanding of the right to privacy was influenced

by the era of lack of freedom in the past. Based on the achievements of constitutional jurisprudence, there was no real public society at that time, so there was no public space, and the protection of privacy was essentially reduced to neighborly or communal conflicts. That is why the specification of the right to privacy was made more specific in the Slovak Civil Code, because it constitutes the basis for the private law protection of personal rights that are part of the right to privacy. The Civil Code deals with the protection of human personality, in particular life and health, civil honor and human dignity, privacy, name, and statements of a personal nature. In addition, the Civil Code regulates the right to protect personal documents, portraits, images, as well as video and audio recordings of a natural person or their statements of a personal nature, which may be produced or used only with the consent of that person, unless they are produced or used e.g., for purposes. official, scientific, or artistic.

The personal goods mentioned in the study are also a special component of the right to privacy. The author of the analysis found that the means of judicial protection of personal rights are, first, a negative action, i.e., a demand that the court rule on the abandonment of unjustified interference, and, second, a restitution action, i.e., satisfactory, i.e., demand that the court rule on adequate redress. These judicial remedies may be used individually or in combination. Their joint application depends on the purpose, e.g., if the unjustified interference with personal rights continues and the right to compensation has arisen, it is possible to bring a negative claim with a satisfactory claim.

The author —like the authors in previous analyses—also sees the problem of the right to privacy in the context of children, especially as they may be victims. Children as victims are a very delicate and complicated problem. Overall, Slovakia is party to all international treaties that deal with the protection of children in the online world.

Moreover, it should be noted that the Slovak legal order also addressed the issue of cyberbullying. The concept of cyberbullying is also a new term introduced on the canvas of dynamically developing new technologies.[39] For several years now, the penal code has allowed the *de facto* prosecution of cyberbullying through the *de jure* prosecution of several other, already-defined crimes. Cyberbullying was *de facto* prosecuted via laws on cyberstalking, blackmail, coercion, sexual abuse, defamation, violation of the rights of others, child pornography (production, distribution, possession), compromising morals, endangering the moral education of youth, and even crimes of supporting and promoting terrorist groups, of producing, disseminating, or storing extremist materials, of denial or approval of the Holocaust, as well as crimes of political regimes, of the defamation of other nations, races, and beliefs, of inciting national, racial and ethnic hatred or threats. Another issue related to the right to privacy is when a person is monitored.

The author also presents the problem of privacy in the context of the systemic transformation in Slovakia. during the Communist regime the State Security Service (Štátna bezpečnosť, or StB) kept files with lists of associates. It was noticed that these collaborators were divided into several groups depending on their level of cooperation, e.g.,

39 Slonje, Smith and Frisén, 2013, pp. 26–32; Olweus and Limber, 2018, pp. 139–143; Sabella, Patchin and Hinduja, 2013, pp. 2703–2711; Langos, 2012, pp. 285–289; Smith, 2008, pp. 376–385.

agents, candidates for cooperation, or informants. After the collapse of the Communist regime, the files of the StB were released (although some of them were destroyed) and several people realized that they were on these lists, refusing to cooperate.

The author also presents specific conclusions about the right to privacy in the digital world. He notes that whether it is digital cameras, satellites, or just what we click on, we must have more explicit rules—not only for governments, but also for private companies. Finally, it is true that the information was difficult to find. Today, however, it is difficult to make a choice. It is important to be aware of and respect the rules that also apply to private individuals, because we never know to whom we are opening the door to our privacy.

Prof. Marta Dragičević Prtenjača, in her chapter entitled "The Report on Privacy and Criminal Law in Croatia—Criminal Offenses Against Privacy in the Croatian Legal System" indicates that although technology is something extremely positive, it also has a dark side. Therefore, privacy and the right to privacy must be protected at the international and national level (constitutional and legislative), as it is a kind of shield against the intrusion of other people and the state, and thus protects individuals and their rights. Its violation must be prohibited, and there must be sanctions for violating it.

The author distinguishes between privacy, the right to privacy, and private space. These are three different terms and should not be understood as synonyms.

Privacy is a term that each state defines in its own way (even each legal area has its own definitions). *The right to privacy* is the right of the individual to enjoy privacy, which is protected by various international documents and national constitutions and laws. *Private space* is a space "no one has the right to enter" and in which the individual has the right to enjoy his privacy.

In the Republic of Croatia, the right to privacy is guaranteed by its constitution and the provisions of ratified conventions, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the legislation of the European Union, including implementation of the General Data Protection Regulation. Privacy is also protected by various national laws, such as the Labor Act, the Media Act, the Electronic Media Act, the Consumer Protection Act, and the Electronic Communications Act. The protection of the right to privacy is complemented by the provisions of the Penal Code, which, however, are applied according to the "ultima ratio" principle. Nevertheless, despite so many pieces of legislation directly or indirectly relating to the right to privacy, in Croatia, there is no unique definition of privacy or the right to privacy. In the first place, the right to privacy is guaranteed by the Constitution of the Republic of Croatia in various contexts. Among other things, the protection of various rights and freedoms is regulated by Art. 14 of the Constitution, which states that everyone in the Republic of Croatia, regardless of social origin, sex, race, religion, and other characteristics, has rights and freedoms, and everyone is equal before the law. Rights and freedoms are not absolute. The Constitution in Art. 16 provides the possibility of certain limitations of the guaranteed rights and freedoms: only a statute may limit the rights and freedoms of citizens to protect the freedoms and rights of others, the rule of law, public morality, and health; and any restriction of these rights and freedoms

must be proportionate to the nature of the need to limit the rights and freedoms. The right to privacy, as already mentioned, takes several forms, and various constitutional provisions guarantee its protection, including Art. 34 which guarantees the inviolability of the house as a form of privacy. The provision of Art. 35 guarantees everyone the right to personal and family life, dignity, honor, and good name, while Art. 36 prescribes the freedom and secrecy of correspondence and all other forms of communication. The provision of Art. 37 guarantees the security and confidentiality of personal data, and Art. 40 the right to religion and religious beliefs. All the above articles of the constitution guarantee various forms of privacy and indicate the necessity of their legal protection. Interpretation of the above provisions of the Convention and the Constitution of the Republic of Croatia leads to the interpretation that no one (the government or other persons) may take any action that would restrict the rights of other persons to a greater extent than it results from the relevant provisions of these documents.

One of the most important issues in Croatian law relating to the right to privacy is the provisions relating to the General Data Protection Regulation (GDPR), which is directly applicable and is defined in the Act on the Implementation of the General Data Protection Regulation. Elsewhere in the Croatian legal system, the Media Act defines privacy as family and personal life and the right to live of one's own choice.

The provisions of the Croatian criminal law complement the aforementioned regulations. Criminal law criminalizes a number of crimes against privacy in a special chapter of the Penal Code entitled "Offenses Against Privacy"—including violation of a dwelling or business premises[40]; violation of the secrecy of letters and other parcels[41]; unauthorized sound recording of eavesdropping[42]; unauthorized taking of photos[43]; taking sexually explicit videos without consent[44]; unauthorized disclosure of professional secrecy[45]; and Unlawful Use of Personal Data[46]. Some crimes against privacy can be found in other chapters, as crimes against marriage, family, and children (violation of the privacy of a child[47]), but also in the chapter regulating crimes against the judiciary (identity disclosure of threatened person or protected witness[48]). Important information is that in 2011, Croatia received a new criminal code with a new chapter, "Offenses against Privacy." The subject of protection here is privacy, which, as stated, is not unanimously defined, but it can be said that it is the private sphere of individuals, encompassing the physical and mental interests of individuals, including sex, gender expression, and sexual orientation, as well as personal data, reputation, and photographs.

40 Art. 141 of the Penal Code.
41 Art. 142 of the Penal Code.
42 Art. 143 of the Penal Code.
43 Art. 144 of the Penal Code.
44 Art. 144a of the Penal Code.
45 Art. 145 of the Penal Code.
46 Art. 146 of the Criminal Code.
47 Art. 178 of the Penal Code.
48 Art. 308 of the Penal Code.

The author explicitly believes that the right to privacy is inextricably linked with data, the collection of which, without the knowledge of individuals, is spying. This word is the correct word to describe what is actually happening. Many people do not think about these aspects—maybe they do not want it, or maybe they are not aware of the dangers of a daily visit to the Internet or performing legal actions (e.g., entering into a contract when providing their personal data). But whether we like it or not, the danger is there, and we give our personal data about habits, wishes, and everyday interests to all kinds of people (physical or legal) and entities. Banks, news sites, science networks and journals, almost everyone. Everyone often uses this information for different purposes, unilaterally choosing to store, sort, or even sell it to the highest bidder.

The presentation and analysis of statistical data in this study is very valuable, because the author wanted to directly check how many such crimes were committed between 2016 and 2020. According to data collected both by the Croatian Bureau of Statistics (CBS) and based on research carried out at the Municipal Criminal Court in Zagreb, the most common criminal offense is the Unlawful Use of Personal Data[49], which is represented in over 50% of convictions for criminal offenses against privacy (according to CBS data) and 83% in a survey by the Zagreb Municipal Criminal Court. In the second place is the infringement of the inviolability of a dwelling and business premises[50] of about 30% (according to CBS data), but not so much when the Zagreb Municipal Court survey is questioned (only 0.8% less than 1%). According to CBS data, convictions for unauthorized taking of photos[51] account for approximately 5% of convictions. Interestingly, there is no data available during the observation of the Disclosure of the Identity of a Dangerous Person or a Protected Witness[52]. The crime of the abuse of sexually explicit material[53], also known as "revenge porn," is still a "young" crime (as of July 2021), so it is understandable that we do not have criminal convictions data.

The final analysis is the study by Bartłomiej Oręziak entitled "The Right to Privacy in the Digital Age: A Perspective from the Republic of Poland."

This study deals with the analysis of the right to privacy in the digital age from the perspective of the Polish normative system—that is, the Polish approach to the right to privacy. First, Oręziak discusses the digital reality as a new space for the right to privacy, and attempts to define the right to privacy. The right to privacy is then presented in light of constitutional regulations, then in civil and criminal law, and finally in administrative law. The author notes that Polish law lacks a statutory definition of the right to privacy and the right to privacy itself, but proposes to define the right to privacy as a right of every human being by virtue of simply being human (an element of natural law), to ensure that intrusion into their privacy (e.g., private, family, home, home, communication correspondence), is not legally unjustified

49 Art. 146 of the Penal Code.
50 Art. 141 of the Penal Code.
51 Art. 144 of the Penal Code.
52 Art. 308 of the Penal Code.
53 Art. 144a of the Penal Code.

(horizontal aspect) or unjustified by the proportionality test (vertical aspect), and that there was no interference (protective function) by another private entity or state (positive and negative actions). In the case of an unjustified violation of privacy, it ensures that any damage caused is repaired or restored. This will lead to recognition that the right to privacy is one of the values.[54]

The analysis carried out in this area showed that the Polish Constitution contains several provisions relating to the right to privacy, according to Art. 47 of Polish Constitution, everyone has the right to legal protection of private and family life, honor and good name, and to make decisions about their personal life. There is also a set of legal protection measures regarding the protection of the right to privacy provided for in the provisions of the Polish Constitution. First, according to Art. 77, everyone has the right to compensation for the damage caused by an unlawful act of a public authority, and statutory law may not prevent anyone from seeking the infringed rights or freedoms. Second, according to Art. 78, each party has the right to appeal judgments and decisions issued in the first instance. Third, in accordance with Art. 79, everyone whose constitutional freedoms or rights have been violated has the right to lodge a complaint with the Constitutional Tribunal, and the court or public administration body will adjudicate his/her freedoms or rights or about his obligations set out in the Polish Constitution. Fourth, according to Art. 80 of the Polish Constitution, everyone has the right to apply to the ombudsman for assistance in the protection of their freedoms or rights infringed by public authorities, in accordance with the provisions of the Act. In light of Art. 31(3) of the Polish Constitution, there is a possibility of introducing limitations to the right to privacy, but they must be established only by statute and only if they are necessary in a democratic state for its safety or public order, or for the protection of the environment, health and public morality, or freedom and the rights of others. These restrictions must not infringe the essence of the right to privacy.

The right to privacy in civil law in Poland is mainly the Act of April 23, 1964—the Civil Code. Pursuant to Art. 23 of the Civil Code, human personal rights—in particular, health, freedom, honor, freedom of conscience, name or pseudonym, image, privacy of correspondence, inviolability of the home, and creative freedom, whether scientific, artistic, or inventive—remain under the protection of civil law, regardless of protection provided for in other regulations. Personal rights are values recognized by a legal system that encompasses the physical and mental integrity of a human being, as they are attributes of every natural person with whom they are closely related, and as such have an individual character and are protected by the construction of absolute rights. In accordance with the relevant case law, the open catalogue of personal rights also includes personal rights related to the sphere of private and family life and of intimacy. Protection in this respect may relate to cases of disclosure of facts from personal and family life, abuse of information obtained, collecting information and assessments from the sphere of intimacy through private interviews to publish them or otherwise disseminate them.

54 See Wielec, 2017.

In Poland, civil law remedies are gaining popularity due to their effectiveness. This effectiveness is high when it comes to the realities of the traditional world. However, it is different in the digital reality. The analysis presents three big problems here. The first problem is the widespread anonymity of cyberspace users. Therefore, if someone violates the privacy of another person in cyberspace, to effectively benefit from the legal protection provided for in civil law, it is necessary to establish the personal data of the infringer. In this context, the current possibilities of information, communications, and technology (ICT) detection techniques are wide, although unfortunately not very common. Thus, a possible solution to this problem could be not only to provide civil courts with the power to effectively abolish the anonymity of cyberspace users, but also to make the public aware of this fact. The second problem is the difficulty in determining the law applicable in the event of violating someone's privacy in cyberspace. We are talking here about the application of legal meta-norms, which would clearly indicate, for the benefit of the weaker party, the principles of establishing an appropriate legal system under which one can assert one's rights. In the age of digitization, this is a big problem, because the person who violates privacy may be from Canada, and the person whose privacy is violated may be from Portugal. In turn, to make things even more complicated, the breach of privacy takes place on a social network registered in the Dominican Republic. The remedy for this problem would be to define common rules for determining the applicable law. The third problem related to the second is the difficulty in determining jurisdiction in cyberspace. This difficulty is due to the same reasons as the problem of the applicable law. The solution to this problem would also be to define common rules for determining proper jurisdiction.

The right to privacy in criminal law—which is natural—has a completely different context and meaning than in civil law. Here, human privacy is protected based on penalizing violations of a legally protected good. This means that legal remedies in criminal law are specific types of prohibited acts. In turn, procedural criminal law plays a role that enables the fulfillment of the purpose of a specific legal protection measure of Polish criminal law. In Poland, the basic legal acts in this area are the Criminal Code (CC) and the Code of Criminal Procedure (CCP). In this way, in Poland, as in most modern countries, we can distinguish between substantive criminal law and procedural criminal law.

There are several types of prohibited acts in Polish substantive criminal law, which can be associated with the pursuit of repressive protection of human privacy. The basic and most important provision of Art. 267 of the CC. Other provisions of the CC, which can also be qualified as aiming at repressive protection of human privacy, are Arts. 268 (obstructing the reading of information), 268a (destruction of IT data), 269 (damage of IT data), 269a (disruption of a computer system), 269b (generation of inappropriate computer programs) and 270§1 (material forgery). The author points out that when assessing these provisions of Polish substantive criminal law from the perspective of legal protections of privacy in cyberspace, there is modern law in this area in Poland, mainly due to the good implementation of the Council of Europe Convention on Cybercrime.

There are many guarantees of respect for human privacy in Polish procedural criminal law because, as part of the criminal process, there are numerous restrictions on the rights and freedoms provided for in the Polish Constitution, especially the right to privacy. This seems to be the natural effect of Polish criminal proceedings, and thus, as a rule, of establishing the legal liability of the accused for the alleged offense. This determination often requires, even as part of evidence proceedings, state interference with the rights and freedoms of persons—the right to privacy in particular. This interference causes a normative restriction of the scope of the right to privacy, and thus reduces the protection of privacy, which means that more designations of the private sphere of a person, than under non-criminal-procedural conditions, are transferred to the public sphere.

The right to privacy, therefore, is not an absolute right and is subject to limitations, but in strict accordance with Art. 31 §1 of the Constitution. The CCP provides for rules governing the taking of evidence of a search, which provide for guarantees of respect for privacy in Art. 220 (search of an authorized body), Art. 221 (search hours), Art. 223 (search of a person), Art. 224 (method of conducting the search). Art. 227 of the CCP is of great importance here, according to which the search should be carried out in accordance with the purpose of this activity, with moderation, and within the limits necessary to achieve the purpose of these activities with due diligence, respecting the privacy and dignity of the persons concerned, and without causing unnecessary damage. The CCP also provides for provisions on the control and recording of conversations, where there are also certain guarantees of respecting human privacy. They take place in Art. 237 (conditions of application, authority, controlled entities, playback of records), Art. 238 (maximum inspection period) and Art. 240 (complaint). In terms of the protection of the essence of the right to privacy, the prohibitions on evidence, in particular in Art. 178 (prohibition of questioning the defense counsel and the clergyman), Art. 182 (right to refuse to testify), Art. 185 (exemption from the obligation to testify of a person who is in a particularly close personal relationship with the accused), and Art. 199 (secret expert information, privacy in providing medical assistance) are of great significance.

The legal norms cited above relate to the taking of evidence. Here, in terms of privacy protection, it is about maintaining the proportion between two important goods—the realization of the value of truth, and the protection of the privacy of every human being. Criminal proceedings are aimed at establishing the legal liability of the accused for the alleged offense, and for this purpose, evidence is collected, including electronic evidence.

This possibility results directly from Arts. 218a and 236a of the CCP. Therefore, data related to the needs of criminal proceedings is processed here. Referring to the usefulness and importance of legal measures to protect human privacy in Polish criminal proceedings, the appropriate rules for the processing of data obtained as evidence need to be defined. Such a need existed, as the Act on the protection of personal data processed in connection with the prevention and combating of crime was passed in Poland in 2018. The most interesting from the point of view of the title

issue are the provisions of Art. 50 (complaint against unlawful processing of personal data or notification of a violation of the processing of personal data), Art. 51 (complaint to the administrative court against the decision of the president of the office, or his/her inactivity in a complaint against the unlawful processing of personal data or reporting a violation of personal data processing), Art. 52 (authorization of a social organization to exercise rights related to the protection of personal data), and Art. 53 (compensation or compensation due from the administrator). The Act of December 14, 2018 and the presented provisions of the CCP seem to be adequate protection of human privacy based on criminal procedural law in the digital age.

The right to privacy in administrative law concerns the protection of personal data. The protection of personal data is one of the pillars of privacy protection. Poland, like most European countries, is an EU member state. Under EU law, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 was adopted on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, or GDPR) and Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by union institutions, bodies, and offices and the free movement of such data and repealing Regulation (EC) No. 45/2001 and Decision No. 1247/2002/EC. In Poland, however, one can speak of a specific national, although due to the GDPR's limited approach to the protection of personal data. This is because the Act of May 10, 2018, on the protection of personal data. Legal measures contained in constitutional, civil, criminal, and administrative law should generally be assessed positively as passing the test of legal protection of human privacy. Apart from the indicated problems, their significance and usefulness in the digital age should also be assessed positively. Nevertheless, a certain observation arises regarding the effectiveness of national law. This efficiency within the boundaries of statehood in the traditional world is at an appropriate level. On the other hand, in the digital world, without state borders and with universal anonymity, it seems that the effectiveness of national law is lower than that of common law in other countries. This is most visible in situations where the entity responsible for the right to privacy is an entity, such as transnational corporations or a social media manager. It therefore seems that international cooperation is the key to fighting for human privacy in the digital age.

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4. Conclusions

The analysis presented showed that the right to privacy is an extremely important and topical issue. The study of its scope, content, and significance will yet take a long time ahead. The phenomenon is privacy as such, as well as the issue of delineating its boundaries and potential factors influencing or even limiting

privacy. The backbone of the right to privacy is privacy, which is very difficult to attribute to a permanent nature. It is a dynamic concept and very susceptible to environmental conditions in which this concept operates, i.e., it is about cultural, social, and even ideological circumstances and influences. The changeability of the environment in which privacy functions is what makes privacy and the right to privacy dynamic, which makes it difficult to define. Currently, one of the factors influencing the understanding of the right to privacy, characteristic of our times, is the issue of modern technologies, which, on the one hand, may support the protection and implementation of the right to privacy, and, on the other hand, may limit, interfere with, or eliminate even this right. This is a positive invention dilemma. If we assume that the invention is a new, original, technical or organizational solution of a utility character, the creation of which has the features of a creative act (in which it differs from a discovery, which is a statement of something that exists objectively), modern technologies, as a collective term, undoubtedly fit into the concept of invention.[55] The invention is often associated positively, because it most often appears as a response to current challenges, where the goal is to increase human capabilities, facilitate life and make it more comfortable, etc. In this context, modern technologies, which at first glance—as a new invention of humanity—should only bring benefits to society, but they also bring huge threats, especially in the area of privacy, broadly understood. They can be used aggressively against the community, while at the beginning of the development of these technologies there were lofty ideas for improving the life of the society. Therefore, privacy itself in the era of new inventions, methods of communication, social media, increasing the importance of datasets, is experiencing a huge renaissance. Therefore, the dilemma of a positive invention is a situation in which the emergence of anything determines both the benefits and threats. It is a situation in which, under the cover of positive expectations and effects, comfort and, at the same time, discomfort arise. Today, there is no doubt that the aforementioned renaissance of the right to privacy has its source in the dynamics of the development of human society, in its maturation that humanity, including the individual, needs a free area for its life. Currently, the key development factor is undoubtedly modern technologies that have revolutionized the approach to privacy and at the same time defined the need to define the scope of the right to privacy. It is the new technologies that are this positive invention. Modern technologies will not only facilitate the life of the community, but will also interfere with it, as a result of which there may be violations, e.g., privacy. Privacy belongs to a set of values, and thus to the circle of valuable and worthy ideas that constitute the core of the community, for which the community strives, because they are the subject of special care on the part of individuals and constitute an important goal of individuals' aspirations. Privacy as a value related to the functioning of an individual in society must therefore be protected. And since one of the functions of

55 "Invention" [Online]. Available at: https://encyklopedia.pwn.pl/haslo/wynalazek;3998913.html (Accessed: June 1, 2022).

the law is the protection of the individual, then the individual's right to privacy becomes an element of this protection. There must be some compatible privacy protection system in the form of the right to privacy of every individual, containing appropriate instruments that actually implement this protection.

The analysis showed that in virtually every country whose legal system was analyzed in terms of the right to privacy, this protection is provided by legal regulations of the highest order, i.e., by constitutional provisions. Moreover, it is right, because placing the right to privacy into constitutional provisions makes this issue itself a constitutional element. And this already proves the importance of the issue, because the constitution, as a basic law defining the foundations of the system of a given state, including regulations on the privacy of an individual, places this issue as one of the essential elements of the state system. Ensuring the right to privacy in constitutional provisions is the highest recognition of this issue in the systemic area of the state. Of course, the constitutional regulation regarding the right to privacy is characterized by a certain degree of generality, because it is the basis that delineates universal directions of this law, which is later detailed in individual legal acts of lower rank. Based on the research conducted, this is exactly what is happening. Therefore, supplementary and detailed regulations on the right to privacy in the further part of the hierarchy of legal acts can be found, *inter alia*, in acts such as the Civil Code, the Penal Code, or a number of acts relating to personal data, for example.

In addition to the noticeable model of protection of the right to privacy, the analysis carried out showed that there are several issues that future legislation should consider.

Among other things, such an issue is the right to one's image. There is no doubt that image is an inseparable component of privacy. One's image relates to the visible, physical features of a human being, which make up one's appearance and allow for identification. The image, apart from external physical features, may include additional elements related, for example, to his or her profession, such as characterization, clothing, and ways of moving and communicating with the environment.[56] These are all clearly elements of privacy that must be protected, especially if the context of the image may be ambiguous. This element of privacy, which is the image, can be used in various situations and on various occasions. However, it is always part of the right to privacy that must be fully respected.

Another issue related to the right to privacy that arose during the study was the issue of linking the norms of substantive law (e.g., civil law, criminal law) with the norms of formal law (civil proceedings, criminal proceedings) in the context of the right to privacy. While the issue of the right to privacy in substantive law is, *inter alia*, the definition of the right to privacy is already formal law (procedural law) associated with the taking of evidence. Defining the relationship between substantive law and formal law does not cause any problems, as it has been clear for years that formal law (procedural law) is the implementer of the norms of substantive law. In other words, the provisions of substantive law are triggered and implemented by the provisions of formal law.

56 Judgment of the Supreme Court dated November 10, 2017, file ref. act: V CSK 51/17.

For example, if the substantive law, e.g., the Civil Code, provides for the protection of privacy in the form of protection of one's good name (personal rights), then the implementation of this protection, i.e., a statement that there has been a violation of privacy by the violation of one's personal rights (insults, defamation) takes place by way of evidence, which is part of formal law (legal procedure): classical evidence (e.g., a witness) or modern evidence, e.g., related to the broadly understood law of new technologies. There is a clear need for the legal regulation of formal standards of digital evidence. On the other hand, the issue of creating separate courts to investigate possible breaches of the right to privacy remains to be considered. This also implies the possible formulation of specialized but very simple to apply privacy infringement actions. The construction of such claims must be simple and quick. Currently, respecting the right to privacy is most often associated with personal rights, i.e., the protection of personal rights by bringing an action for the protection of personal rights. It seems, however, that in our global society, the multitude of possible forms of privacy violations and the enormous scale of cyberspace require the creation of courts or privacy departments, and a tool to initiate and conduct such cases for the protection of privacy should be created.

In addition, the researchers in this study note several times when the right to privacy is also related to another issue that has not been discussed at all, or has been discussed only fragmentarily in the literature. Among other things, it is about the privacy of individuals who are not able to consent to interference with their privacy, especially children. Undoubtedly, this type of issue is a very important element of the right to privacy, because children, as people who only learn the rules of living in the community and as people who are essentially dependent on adults, also have their own need for privacy. The most important thing here is the family–child–parents relationship. It is a very strong and unbreakable connection. It is not without significance that the right to privacy of children should be considered in detail in national legislation.

The right to privacy is recognized as a human right and, as such, should always be effectively and rationally protected. Of course, this is not an absolute right, so exceptions to it must be justified and have strictly defined limits.

Bibliography

BANASZAK, B. (ed.) (2005) *Prawo konstytucyjne*. 3rd edn. Warsaw. C.H. Beck.

BANASZEWSKA, A. (2013) 'Prawo do prywatności we współczesnym świecie', *Białostockie Studia Prawnicze*, 13, pp. 127–136 [Online]. Available at: https://doi.org/10.15290/bsp.2013.13.11 (Accessed: 3 June 2022).

BARTH, A., MITCHELL, J., DATTA, A., SUNDARAM, S. (2007) 'Privacy and utility in business processes', *20th IEEE Computer Security Foundations Symposium (CSF'07) 2007*, pp. 279–294 [Online]. Available at: https://doi.org/10.1109/CSF.2007.26 (Accessed: 20 September 2022).

BIELECKI M., GOLINOWSKI J., KUREK J., ŁOSZEWSKA-OŁOWSKA M., MEZGLEWSKI A., ORĘZIAK B., TACZKOWSKA-OLSZEWSKA J., WALCZUK K., WIELEC M. (eds.) (2021) *Zarządzanie Ludźmi w Organizacji. Zapobieganie przyczynom przestępczości*. 2nd edn. Warsaw: Instytut Wymiaru Sprawiedliwości.

BLICHARZ G., ORĘZIAK B., RATOWSKI E., RATOWSKI K., WALCZAK P., WIELEC M. (eds.) (2021) *Rynek Finansowy: Zapobieganie przyczynom przestępczości*. 2nd edn. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości.

BŁASIAK, A. (2018) 'Sharenting–współczesną formą rodzicielskiej narracji', *Horyzonty Wychowania*, 17(42), pp. 125–134.

BROSCH, A. (2018) 'Sharenting–Why do parents violate their children's privacy?', *The new educational review*, 54(4), pp. 75–85 [Online]. Available at: https://doi.org/10.15804/tner.2018.54.4.06 (Accessed: 20 September 2022).

BUCIŃSKA, J. (2001) 'Godność człowieka jako podstawowa wartość porządku prawnego', *Państwo – Administracja – Kościół*, 2(3), pp. 32–33.

BURGOON, J. K. (1982) 'Privacy and communication', *Annals of the International Communication Association*, 6(1), pp. 206–249 [Online]. Available at: https://doi.org/10.1080/23808985.1982.11678499 (Accessed: 20 September 2022).

BYGRAVE, L. A. (2001) 'The place of privacy in data protection law', *University of New South Wales Law Journal*, 24(1), pp. 277–283.

CHAUDHURI, A. (2016) 'Internet of things data protection and privacy in the era of the General Data Protection Regulation', *Journal of Data Protection & Privacy*, 1(1), pp. 64–75.

CHOUDHURY, H., ROYCHOUDHURY, B., SAIKIA, DILIP, K. (2012) 'Enhancing user identity privacy in LTE' in *2012 IEEE 11th International Conference on Trust, Security and Privacy in Computing and Communications*. Liverpool: IEEE. pp. 949–957 [Online]. https://doi.org/10.1109/TrustCom.2012.148 (Accessed: 20 September 2022).

CMIEL, K. (2004) 'The recent history of human rights', *The American Historical Review*, 109(1), pp. 117–135 [Online]. https://doi.org/10.1086/530153 (Accessed: 20 September 2022).

COLE, D., FABBRINI, F. (2016) 'Bridging the transatlantic divide? The United States, the European Union, and the protection of privacy across borders', *International Journal of Constitutional Law*, 14(1), pp. 220–237 [Online]. Available at: https://doi.org/10.1093/icon/mow012 (Accessed: 20 September 2022).

COLEMAN, C. (2003) 'Cyberspace security: Securing cyberspace – new laws and developing strategies', *Computer Law & Security Report*, 19(2), pp. 131–136 [Online]. Available at: https://doi.org/10.1016/S0267-3649(03)00208-5 (Accessed: 20 September 2022).

CUSTERS, B., URŠIČ, H. (2016) 'Big data and data reuse: a taxonomy of data reuse for balancing big data benefits and personal data protection', *International data privacy law*, 6(1), pp. 4–15 [Online]. Available at: https://doi.org/10.1093/idpl/ipv028 (Accessed: 20 September 2022).

DeCew, J. W. (1986) 'The scope of privacy in law and ethics', *Law and Philosophy,* 1986(5), pp. 145–173; https://doi.org/10.1007/BF00190759.

Diggelmann, O., Cleis, M. N. (2014) 'How the right to privacy became a human right', *Human Rights Law Review*, 14(3), pp. 441–458 [Online]. Available at: https://doi.org/10.1093/hrlr/ngu014 (Accessed: 20 September 2022).

Dubisz, S. (ed.) (2006) *Uniwersalny słownik języka* polskiego. 1st edn. Warsaw: Wyd. Naukowe PWN.

Encyklopedia – wynalazek [Online]. Available at: https://encyklopedia.pwn.pl/haslo/wynalazek;3998913.html (Accessed 1 June 2022).

Feng, Q., He, D., Zeadally, S., Khan, M. K., Kumar, N. (2019) 'A survey on privacy protection in blockchain system', *Journal of Network and Computer Applications*, 2019(126), pp. 45–58 [Online]. Available at: https://doi.org/10.1016/j.jnca.2018.10.020 (Accessed: 20 September 2022).

Filiczkowska, J., Oręziak, B., Płonka, M., Szaraniec, M., Strupczewski, G., Wielec, M., Witwicka-Szczepankiewicz, A. (2021) *Rynek Ubezpieczeniowy. Zapobieganie przyczynom przestępczości*. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości.

Floridi, L. (2016) 'On Human Dignity as a Foundation for the Right to Privacy', *Philosophy & Technology,* 29(4), pp. 307–312 [Online]. Available at: https://doi.org/10.1007/s13347-016-0220-8 (Accessed: 20 September 2022).

Fox, A. K., Grubbs Hoy, M. (2019) 'Smart devices, smart decisions? Implications of parents' sharenting for children's online privacy: An investigation of mothers', *Journal of Public Policy & Marketing,* 38(4), pp. 414–431 [Online]. Available at: https://doi.org/10.1177/0743915619858290 (Accessed: 20 September 2022).

Francis, J. G., Leslie, P. F. (2018) 'Privacy, Employment, and Dignity', in Cudd, A., Navin, M. (eds.) *Core Concepts and Contemporary Issues in Privacy AMINTAPHIL: The Philosophical Foundations of Law and Justice*. Cham: Springer, pp. 207–218; https://doi.org/10.1007/978-3-319-74639-5_14.

Gardos, P. (2007) 'Recodification of the Hungarian civil law', *European Review of Private Law,* 15(5), pp. 707–722 [Online]. Available at: https://doi.org/10.54648/ERPL2007037 (Accessed: 20 September 2022).

Garmendia, M., Martínez, G., Garitaonandia, C. (2022) 'Sharenting, parental mediation and privacy among Spanish children', *European Journal of Communication*, 37(2), pp. 145–160 [Online]. Available at: https://doi.org/10.1177/02673231211012146 (Accessed: 20 September 2022).

Van Bueren, G. (1994) 'The International Legal Protection of Children in Armed Conflicts', *International & Comparative Law Quarterly*, 43(4), pp. 809–826 [Online]. Available at: https://doi.org/10.1093/iclqaj/43.4.809 (Accessed: 20 September 2022).

Goggin, G., Ellis, K. (2020) 'Privacy and digital data of children with disabilities: Scenes from social media sharenting', *Media and Communication*, 8(4), pp. 218–228 [Online]. Available at: https://doi.org/10.17645/mac.v8i4.3350 (Accessed: 20 September 2022).

Górska, A., Jankiewicz, S., Józefczyk, V., Kwiatkiewicz, P., Oręziak, B., Piekarz, D., Rosicki, R., Wielec, M., Wojcieszak, Ł. (2021) *Rynek Energetyczny. Zapobieganie przyczynom przestępczości*. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwosci.

Habermas, J. (2018) 'The concept of human dignity and the realistic utopia of human rights', in Nascimento, A., Bachmann, M. (eds.) *Human Dignity, Perspectives from a Critical Theory of Human Rights*. 1st edn. London: Routledge; https://doi.org/10.4324/9781315468297-4.

HAMZA, G. (2019) 'Codification of Hungarian Private (Civil) Law in a Domestic and International Comparison', *Polgári Szemle: Civic Review, Learned Paper for Economic and Social Sciences – Hungary,* 15(Special Issue), pp. 443–450 [Online]. Available at: https://doi.org/10.24307/psz.2019.0823 (Accessed: 20 September 2022).

HANCOCK, B. (2000) 'US and Europe Cyber Crime Agreement Problems', *Computers & Security,* 19(4), p. 310 [Online]. Available at: https://doi.org/10.1016/S0167-4048(00)04016-5 (Accessed: 20 September 2022).

ISHAY, M. R. (2008) *The History of Human Rights: From Ancient Times to the Globalization Era,* Berkeley: University of California Press.

JEDLECKA, W. (2013) 'Godność człowieka jako podstawa aksjologiczna porządku prawa Unii Eu' in BATORA, A., JABŁOŃSKI, M., MACIEJEWSKI, M., WÓJTOWICZ, K. (eds.) *Współczesne koncepcje ochrony ochrony wolności i praw podstawowych*, Wrocław: Wyd. Prawnicza i Ekonomiczna Biblioteka Cyfrowa, pp. 167–177 [Online]. Available at: http://www.bibliotekacyfrowa.pl/Content/43840/014.pdf (Accessed 1 July 2022).

JENSEN, M. (2013) 'Challenges of privacy protection in big data analytics' in *2013 IEEE International Congress on Big Data*, IEEE [Online]. Available at: https://doi.org/10.1109/BigData.Congress.2013.39 (Accessed: 20 September 2022).

Judgment of the Supreme Court dated November 10, 2017, file ref. act: V CSK 51/17.

JURCZYK, T. (2009) 'Geneza rozwoju praw człowieka', *Homines Hominibus*, 2009/1, pp. 29–44.

Justification for the Judgment of the Constitutional Tribunal of April 11, 2000, file ref. Act. K. 15/98, OTK ZU No. 3 (2000), item 86.

KANTOROWICZ, H. (1958) *The Definition of Law,* Cambridge: Cambridge University Press.

KIGERL, A. C. (2009) 'CAN SPAM Act: An Empirical analysis', *International Journal of Cyber Criminology,* 3(2), pp. 566– 589.

KOOPS, B. J., LEENES, R. (2014) 'Privacy regulation cannot be hardcoded. A critical comment on the 'privacy by design' provision in data-protection law', *International Review of Law, Computers & Technology,* 28(2), pp. 159–171 [Online]. Available at: https://doi.org/10.1080/13600869.2013.801589 (Accessed: 20 September 2022).

KUSHELVITZ, E. (1992) 'Privacy and communication complexity' *SIAM Journal on Discrete Mathematics,* 5(2), pp. 273–284 [Online]. Available at: https://doi.org/10.1137/0405021 (Accessed: 20 September 2022).

LANGOS, C. (2012) 'Cyberbullying: The challenge to define', *Cyberpsychology, behavior, and social networking,* 15(6), pp. 285–289 [Online]. Available at: https://doi.org/10.1089/cyber.2011.0588 (Accessed: 20 September 2022).

LILIEN, L., KAMAL, Z.H., BHUSE, V., GUPTA, A. (2007) 'The Concept of Opportunistic Networks and their Research Challenges in Privacy and Security' in MAKKI, S. K., REIHER, P., MAKKI, K., PISSINOU, N., MAKKI, S. (eds.) *Mobile and Wireless Network Security and Privacy.* Boston: Springer International Publishing, pp. 85–117; https://doi.org/10.1007/978-0-387-71058-7_5.

MCDOUGAL, M. S. (1959) 'Perspectives for an International Law of Human Dignity' in *Proceedings of the American Society of International Law at its annual meeting (1921-1969), 53.* Cambridge: Cambridge University Press, pp. 107–136; https://doi.org/10.1017/S0272503700023314.

MELTON, G. B., FLOOD, M. F. (1994) 'Research policy and child maltreatment: Developing the scientific foundation for effective protection of children', *Child Abuse & Neglect,* 1994(18), pp. 1–28 [Online]. Available at: https://doi.org/10.1016/0145-2134(94)90088-4 (Accessed: 20 September 2022).

MIELNIK, Z. (1996) 'Prawo do prywatności (zagadnienia wybrane)', *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 58(2), pp. 29–41.

MOREHAM, N. A. (2008) 'Why is privacy important? Privacy, dignity and development of the New Zealand breach of privacy tort' *Victoria University of Wellington Legal Research Papers*, 5(24), pp. 231–247.

MOTYKA, K. (2010) 'Prawo do prywatności', *Zeszyty Naukowe Akademii Podlaskiej w Siedlcach. Seria: Administracja i Zarządzanie,* 2010(10), pp. 8–36.

MURAS, Z. (2014) 'Ogólne wiadomości o prawie' [Online]. Available at: https://www.ksiegarnia.beck.pl/media/product_custom_files/1/2/12590-podstawy-prawa-zdzislaw-muras-darmowy-fragment.pdf (Accessed 5 June 2022).

OGBUKE, N. J., YUSUF, Y. Y., DHARMA, K., MERCANGOZ, B. A. (2022) 'Big data supply chain analytics: ethical, privacy and security challenges posed to business, industries and society', *Production Planning & Control*, 33(2-3), pp. 123–137 [Online]. Available at: https://doi.org/10.1080/09537287.2020.1810764 (Accessed: 20 September 2022).

OLWEUS, D., LIMBER, S. P. (2018) 'Some problems with cyberbullying research', *Current Opinion in Psychology*, 2018(19), pp. 139–143 [Online]. Available at: https://doi.org/10.1016/j.copsyc.2017.04.012 (Accessed: 21 September 2022).

ONDREASOVA, E. (2018) 'Personality Rights in Different European Legal Systems: Privacy, Dignity, Honour and Reputation', in OLIPHANT, K., PINGHUA, Z., LEI, C. (eds.) *The Legal Protection of Personality Rights*, Brill Nijhoff, pp. 24–70; https://doi.org/10.1163/9789004351714_004.

OOMEN, I., LEENES, R. (2008) 'Privacy risk perceptions and privacy protection strategies' in LEEUW, E., FISCHER-HÜBNER, S., TSENG, J., BORKING, J. (eds.) *Policies and research in identity management*. Boston: Springer, pp. 121–138; https://doi.org/10.1007/978-0-387-77996-6_10.

PLATTNER, D. (1984) 'Protection of children in international humanitarian law', *International Review of the Red Cross (1961-1997)*, 24(240), pp. 140–152 [Online]. Available at: https://doi.org/10.1017/S002086040006993X (Accessed: 21 September 2022).

Proposal for a Regulation of the European Parliament and of the Council establishing harmonized rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM / 2021/206 final).

PURTOVA, N. (2018) 'The law of everything. Broad concept of personal data and future of EU data protection law', *Law, Innovation and Technology*, 10(1), pp. 40–81 [Online]. Available at: https://doi.org/10.1080/17579961.2018.1452176 (Accessed: 21 September 2022).

PRYCIAK, M. (2010) 'Prawo do prywatności' in SADOWSKI, M., SZYMANIEC, P. (eds.) *Prawa człowieka: idea, instytucje, krytyka*. Wrocław: Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, pp. 211–229; [Online]. Available at: http://www.bibliotekacyfrowa.pl/Content/37379/011.pdf (Accessed: 5 June 2022).

REIDENBERG, J. (2005) 'Technology and Internet Jurisdiction', *University of Pennsylvania Law Review*, 153(6), pp. 1951–1974 [Online]. Available at: https://doi.org/10.2307/4150653 (Accessed: 21 September 2022).

RODHAM, H. (1973) 'Children under the law', *Harvard Educational Review*, 43(4) pp. 487–514 [Online]. Available at: https://doi.org/10.17763/haer.43.4.e14676283875773k (Accessed: 21 September 2022).

ROESSLER, B. (2017) 'X-privacy as a human right' *Proceedings of the Aristotelian Society*, 117(2), pp. 187–206 [Online]. Available at: https://doi.org/10.1093/arisoc/aox008 (Accessed: 21 September 2022).

RÖSSLER, B. (2005) *The value of privacy*, Cambridge: Polity Press.

SABELLA, R. A., PATCHIN, J. W., HINDUJA, S. (2013) 'Cyberbullying myths and realities', *Computers in Human behavior,* 29(6), pp. 2703–2711 [Online]. Available at: https://doi.org/10.1016/j.chb.2013.06.040 (Accessed: 21 September 2022).

SADOWSKI, M. (2007) 'Godność człowieka – aksjologiczna podstawa państwa i prawa', *Wrocławskie Studia Erazmiańskie,* 2007/1. pp. 8–28.

SARIA, V. (2022) 'Differs in Dignity: Shame, Privacy, and the Law' in VAKOCH, D. A. (ed.) *Transgender India.* Cham: Springer, pp. 99–116; https://doi.org/10.1007/978-3-030-96386-6_7.

SHAPIRO, A. L. (1999) 'The Internet', *Foreign Policy,* 1999/115. pp. 14–27 [Online] Available at: https://doi.org/10.2307/1149490 (Accessed: 21 September 2022).

SIMON, G. E. (1997-1998) 'Cyberporn and Censorship: Constitutional Barriers to Preventing Access to Internet Pornography by Minors', *The Journal of Criminal Law and Criminology,* 88(3), p. 1015–1048 [Online]. Available at: https://doi.org/10.2307/3491360 (Accessed: 21 September 2022).

SKOROWSKI, H. (2003) 'Prawa człowieka' in ZWOLIŃSKI, A. (ed.) *Encyklopedia nauczania społecznego Jana Pawła I, Radom.* Polwen.

SKRZYDŁO, W. (2005) *Polskie prawo konstytucyjne.* Lublin: Verba.

SLONJE, R., SMITH, P. K., FRISÉN, A. (2013) 'The nature of cyberbullying, and strategies for prevention', *Computers in Human Behavior,* 29(1), pp. 26–32 [Online]. Available at: https://doi.org/10.1016/j.chb.2012.05.024 (Accessed: 21 September 2022).

SMITH, P. K., MAHDAVI, J., CARVALHO, M., FISHER, S., RUSSELL, S., TIPPETT, N. (2008) 'Cyberbullying: Its nature and impact in secondary school pupils', *Journal of child psychology and psychiatry,* 49(4), pp. 376–385 [Online] Available at: https://doi.org/10.1111/j.1469-7610.2007.01846.x (Accessed: 21 September 2022).

SOBCZYK, P. (2017) 'Ochrona danych osobowych jako element prawa do prywatności' *Zeszyty Prawnicze,* 9(1) pp. 299–318 [Online]. Available at: https://doi.org/10.21697/zp.2009.9.1.14 (Accessed: 21 September 2022).

SPIEKERMANN, S. (2012) 'The challenges of privacy by design', *Communications of the ACM* 55(7), pp. 38–40 [Online]. Available at: https://doi.org/10.1145/2209249.2209263 (Accessed: 21 September 2022).

STOLZ, B. A. (1983) 'Congress and Capital Punishment: An Exercise in Symbolic Politics', *Law & Policy,* 5(2), pp. 157–180 [Online]. Available at: https://doi.org/10.1111/j.1467-9930.1983.tb00294.x (Accessed: 22 September 2022).

SUT, P. (2000) 'Ochrona godności człowieka a tzw. nowe media', *Gdańskie Studia Prawnicze*, 7, p. 525.

TIKKINEN-PIRI, C., ROHUNEN, A., MARKKULA, J. (2018) 'EU General Data Protection Regulation: Changes and implications for personal data collecting companies', *Computer Law & Security Review,* 34(1), pp. 134–153 [Online]. Available at: https://doi.org/10.1016/j.clsr.2017.05.015 (Accessed: 22 September 2022).

TREPTE, S. (2021) 'The Social Media Privacy Model: Privacy and Communication in the Light of Social Media Affordances', *Communication Theory* 31(4), pp. 549–570 [Online]. Available at: https://doi.org/10.1093/ct/qtz035 (Accessed: 22 September 2022).

VAN BUEREN, G. (1994) 'The International Legal Protection of Children in Armed Conflicts', *International & Comparative Law Quarterly*, 43(4), pp. 809–826 [Online]. Available at: https://doi.org/10.1093/iclqaj/43.4.809 (Accessed: 22 September 2022).

WALDEN, I. (2004) 'Harmonising Computer Crime Laws in Europe', *European Journal of Crime, Criminal Law and Criminal Justice*, 12(4), pp. 321–336 [Online]. Available at: https://doi.org/10.1163/1571817042523095 (Accessed: 22 September 2022).

Wermiel, S.J. (1998) 'Law and human dignity: The judicial soul of Justice Brennan', *Wm. & Mary Bill Rts. J.*, 7(1), p. 223–239.

Whitehead, J., Wheeler, H. (2008) 'Patients' experiences of privacy and dignity. Part 1: a literature review', *British Journal of Nursing,* 17(6), pp. 381–385 [Online] Available at: https://doi.org/10.12968/bjon.2008.17.6.28904 (Accessed: 22 September 2022).

Wible, B. (2003) 'A Site Where Hackers are Welcome: Using Hack-In Contests to Shape Preferences and Deter Computer Crime', *The Yale Law Journal*, 112(6), pp. 1577–1623 [Online]. Available at: https://doi.org/10.2307/3657453 (Accessed: 22 September 2022).

Wielec, M., Oręziak, B. (2021) 'Transforming People and Organizations: Prawo, gospodarka i technologia na rzecz zapobiegania przyczynom przestępczości w kontekście implementacji najnowszych rozwiązań prawnych i organizacyjnych' in Koszewski, R., Oręziak, B., Wielec, M. (eds.) *Wdrożenie metod i instrumentów zapobiegania przestępczości w organizacjach.* Warsaw: Instytut Wymiaru Sprawiedliwości, pp. 113–139.

Wielec, M., Oręziak, B. (2020) 'Assessing Foundations: Prawo, gospodarka i technologia na rzecz zapobiegania przyczynom przestępczości w kontekście zidentyfikowania problemu przestępczości w Polsce i na świecie' in Koszewski, R., Oręziak, B., Wielec, M. (eds.) *Identyfikacja przyczyn przestępczości w wybranych obszarach gospodarki w Polsce i na świecie*. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości, pp. 121–147.

Wielec, M., Oręziak, B. (2020) 'Heading Into the Future: Prawo, gospodarka i technologia na rzecz zapobiegania przyczynom przestępczości w kontekście przyszłości i przyszłych zmian' in Koszewski, R., Oręziak, B., Wielec, M. (eds.) *Identyfikacja przyczyn przestępczości w wybranych obszarach gospodarki w Polsce i na świecie*. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości, pp. 117–140.

Wielec, M. (2017) *Wartości – Analiza z perspektywy osobliwości postępowania karnego.* Lublin: Wydawnictwo Academicon.

Wielec, M., Oręziak, B. (2021) 'Improving Performance. Prawo, gospodarka i technologia na rzecz zapobiegania przyczynom przestępczości w kontekście metodyki' in Koszewski, R., Oręziak, B., Wielec, M. (eds.) *Metody zapobiegania przestępczości*. Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości, pp. 101–127.

Williams, M. A. (2009) 'Privacy management, the law & business strategies: A case for privacy driven design', *2009 International Conference on Computational Science and Engineering, IEEE*, pp. 60–67 [Online]. Available at: https://doi.org/10.1109/CSE.2009.478 (Accessed: 06 October 2022).

Witkowski, Z. (ed.) (2001) *Prawo konstytucyjne*. 9th edn. Torun: Dom Organizatora.

Wojciechowski, B. (2009) 'Interkulturowe prawo karne. Filozoficzne podstawy karania w wielokulturowych społeczeństwach demokratycznych', *Państwo i Prawo*, 65(10), pp. 126–129.