



NEJVYŠŠÍ SPRÁVNÍ SOUD



**Seminar organized by Supreme Administrative Court of the Czech Republic and ACA-Europe**

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**Supreme administrative courts and evolution of the right to publicity, privacy and information.**

Brno, 18 May 2015



Seminar co-funded by the “Justice” programme of the European Union

## Protection of Personal Data

	<u>Main sources of legal regulation on personal data protection</u>	<u>Oversight authority</u>	<u>Judicial review</u>	<u>The Constitutional court review</u>
<b><u>Austria</u></b>	<b>Federal Act concerning the Protection of Personal Data</b> (at Federation level) and <b>Data Protection Acts</b> (at Federated States level)	<b>Data Protection Authority</b>	<b>Federal Administrative Court</b> ; final complaint with <b>Austrian Supreme Administrative Court</b>	yes, if the constitutionally guaranteed right is violated
<b><u>Belgium</u></b>	<b>Act on Private Life Protection with regard to Personal Data Processing</b>	<b>Commission of Family Life Protection;</b> <b>Police Information Body of Control</b>	<b>Tribunal of First Instance</b> (special proceedings before its president); <b>Council of State</b>	not known
<b><u>Bulgaria</u></b>	<b>Constitution</b> (protection of private and family life and of mental integrity of citizens); <b>Access to Public Information Act</b>	not known	not known	not known
<b><u>Croatia</u></b>	<b>Act on personal data protection</b>	<b>Croatian Personal Data Protection Agency</b>	<b>first instance administrative court</b> decision is appealable before the <b>High Administrative Court</b>	yes, if the constitutionally guaranteed right is violated
<b><u>Cyprus</u></b>	<b>Constitution</b> (art. 15 and 17); <b>Processing of Personal Data Act</b>	<b>Office of the Commissioner for Personal Data Protection</b>	<b>Supreme Court</b> as the only administrative court in Cyprus (it has no jurisdiction to award damages to any person aggrieved by any decision or act declared to be void; this jurisdiction rest on the <b>District Court</b> )	the Supreme Court is called upon to decide on constitutional matters
<b><u>Czech Republic</u></b>	<b>Constitution</b> (art. 10); <b>Act on the Protection of Personal Data</b>	<b>Office for Personal Data Protection</b>	<b>regional court</b> (administrative chamber); <b>Supreme Administrative Court</b> (cassation complaint)	yes, if the constitutionally guaranteed right is violated
<b><u>Denmark</u></b>	-----	-----	-----	-----
<b><u>Estonia</u></b>	<b>Personal Data Protection Act</b>	<b>Data Protection Inspectorate</b>	<b>administrative court; circuit court; Supreme Court</b> (Administrative Law Chamber)	not known
<b><u>Finland</u></b>	<b>Personal Data Act</b>	<b>Data Protection Ombudsman; Data Protection Board</b>	<b>regional administrative court; Supreme Administrative Court</b>	not known
<b><u>France</u></b>	<b>Act No. 78-17 of 6<sup>th</sup> January 1978</b>	<b>CNIL – National Commission of Informatics and Freedoms</b>	<b>administrative tribunals; Council of State</b>	possibility to submit a priority question of constitutionality of a legal provision
<b><u>Germany</u></b>	<b>Constitution</b> (general right to protection of personality - art. 2 sec. 1 in connection with art. 1 sec. 1);	<b>Federal Commissioner for Data Protection and Freedom of Information</b> (at Federation level and	<b>administrative courts</b> ; appeal: <b>higher administrative courts; Federal Administrative Court</b>	yes, if the constitutionally guaranteed right is violated

	<b>Federal Data Protection Act</b> (at Federation level) and <b>Data Protection Acts</b> (at Federated States level)	Federated States level)		
<u>Greece</u>	not known	<b>Personal Data Protection Authority; Secret of Communication Authority</b>	<b>Council of State</b>	not known
<u>Hungary</u>	<b>Constitution</b> (art. VI); <b>Act on the Right of Informational Self-Determination and on Freedom of Information</b>	<b>National Authority for Data Protection and Freedom of Information</b>	<b>administrative and labour courts; Curia</b> (former Supreme Court)	yes, if the constitutionally guaranteed right is violated
<u>Ireland</u>	-----	-----	-----	-----
<u>Italy</u>	not known	<b>Personal Data Protection Authority</b>	<b>courts</b> (non-administrative branch)	not known
<u>Latvia</u>	<b>Constitution; Personal Data Protection Act</b>	<b>Data State Inspectorate</b>	<b>administrative courts</b> (in case of administrative violations in the court of general jurisdiction); <b>Supreme Court</b>	individuals have no right to submit constitutional complaint against the ruling of the Administrative Court
<u>Lithuania</u>	<b>Act on the Legal Protection of Personal Data</b>	<b>National Data Protection Inspection</b>	<b>administrative court of first instance; appeal: Supreme Administrative Court of Lithuania</b>	not known
<u>Luxembourg</u>	<b>Data Protection Act; Electronic Communication Data Protection Act</b>	<b>National Data Protection Commission</b>	<b>Administrative Tribunal; Administrative Court</b> (appellate court)	not known
<u>Malta</u>	-----	-----	-----	-----
<u>Netherlands</u>	<b>Wet Bescherming Persoonsgegevens</b>	<b>College Bescherming Persoonsgegevens</b>	<b>court of first instance; Administrative Law Division of the Council of State</b>	not known
<u>Norway</u>	<b>Personal Data Act</b>	<b>Norwegian Data Protection Authority</b> , appeal: <b>Privacy Appeals Board</b> (a separate administrative appeal board for these cases which can be seen as a form of specialised administrative court)	<b>court of first instance; Court of Appeal; Supreme Court</b> (there are no administrative courts in Norway)	not known
<u>Poland</u>	<b>Act on the Protection of Personal Data</b>	<b>Inspector General for Personal Data Protection</b>	<b>administrative courts; appeal: Supreme Administrative Court</b>	not known
<u>Portugal</u>	<b>Protection of Personal Data Act</b>	<b>National Data Protection Commission</b>	<b>Central Administrative Court; appeal: Supreme Administrative Court</b> (on a question of law); in the case of administrative offences the National Data	limited to matters of unconstitutionality and only when the appealed decision can no longer be subject to ordinary appeal to other higher courts

			Protection Commission decisions can be appealed to the <b>courts of small criminal claims</b> or to the <b>competent judicial courts</b>	
<b><u>Romania</u></b>	<b>Act no. 677/2001 on Protection of Individuals with Regard to the Processing of Personal Data and the Free Movement of Such Data</b>	<b>National Supervisory Authority for Personal Data Processing</b>	<b>Tribunal</b> (first instance), recourse shall be decided by the <b>administrative division of regional courts</b>	not known; however the Constitutional Court declared the Law on cybernetic security – so called the Big Brother law no. 2 – as unconstitutional
<b><u>Slovakia</u></b>	-----	-----	-----	-----
<b><u>Slovenia</u></b>	<b>Constitution; Personal Data Protection Act</b>	<b>Information Commissioner</b>	<b>administrative court; the administrative department of the Supreme Court</b>	yes, if the constitutionally guaranteed right is violated; the Information Commissioner can also file a request before the Constitutional Court for the review of the constitutionality of a law, regulation, or general act issued for the exercise of public authority
<b><u>Spain</u></b>	not known	<b>Data Protection Agency</b> (there may be other agencies in the autonomous communities)	the decisions of the Data Protection Agency in both procedures (infringement procedure and procedure for protection) can be appealed to the <b>National High Court</b> ; in cases for “procedure for protection” can be appealed to the <b>Supreme Court</b> (no appeal is allowed in disciplinary proceedings)	yes
<b><u>Sweden</u></b>	<b>Personal Data Act; Data Act; Public Access to Information and Secrecy Act etc.</b>	<b>Swedish Data Protection Authority</b>	<b>administrative court of first instance; administrative court of appeal; Supreme Administrative Court</b>	not known
<b><u>Switzerland</u></b>	<b>Act of 19<sup>th</sup> June 1992 on Data Protection</b>	<b>Federal Data Protection and Information Commissioner</b>	<b>Federal Administrative Tribunal; Swiss Federal Tribunal</b>	not known
<b><u>Turkey</u></b>	<b>Constitution (art. 20 sec. 3), draft Law on Protection of Personal Data</b>	<b>Draft Law on Protection of Personal Data envisions the foundation of a Personal Data Protection Committee</b>	concerning regulatory administrative actions the lawsuit would be examined by the <b>Council of State of Turkey</b> ; appeals would be reviewed by <b>plenary session of Council of State</b> ; other cases are examined by <b>first instance courts</b> and appealed by <b>regional administrative courts</b>	not known
<b><u>United Kingdom</u></b>	<b>Data Protection Act</b>	<b>Independent ombudsman (Information Commissioners Office)</b>	<b>Information Tribunal; Court of Appeal and UK Supreme Court</b> (question of law)	the UK Supreme Court is called upon to decide on constitutional matters