Mr. sc. Dominik Bobrovský, PhD student / Doktorant
University of Miskolc / Univerzitet u Miskolcu
bobrovskydominik@gmail.com

THE RIGHT TO PRIVACY IN DIGITAL WORLD – MISKOLC INTERNATIONAL SCIENTIFIC CONFERENCE[1]

PRAVO NA PRIVATNOST U DIGITALNOM SVIJETU – MEĐUNARODNA NAUČNA KONFERENCIJA U MISKOLCU[2]

The University of Miskolc in cooperation with the Central European Academy, Central European Professors Network, and Institute of Justice in Warsaw organized the scientific conference named,, The Right to Privacy in the Digital Age – in specific terms", which was held in Hungarian Academy of Sciences in Budapest on 1st December 2022.

Professor Dr. Tímea Barzó initiated the Conference with her presentation about the Central European Academy (CEA) outcomes and results in 2022. Central European Academy started to work from 1st January, 2022 with the aim to publish English-language scientific journals and books (under the editorship of CEA publishing), creating research projects in Central European countries for young researchers (like Central European Junior Programme and Professors´ Network), organizing scientific conferences, webinars, and important activities with the widely acknowledged professional network, which is connecting Central European countries. Till today, CEA has organized together 15 conferences, 9 within the Central European Professors Network and 5 from the Junior Programme – one Annual Scientific Conference of the Central European Academy PhD programme and other ones to introduce new PhD books.

Central European Professors´ Network has the objective to create cooperation between legal researchers with various international comparative law activities. The first part of its activities started on 1st January, 2021 with the support of Ferenc Mádl Institute for Comparative Law, later substituted by

[1] This text is review of the International scientific conference ***The Right to Privacy in the Digital Age – in specific terms***, which was held in Hungarian Academy of Sciences in Budapest on 1st December 2022

[2] Ovaj tekst je pregled Međunarodne naučne konferencije ***Pravo na privatnost u digitalnom dobu – u konkretnim terminima***, održane 1. XII 2022 U Budimpešti na Mađarskoj akademiji nauka.

Central European Academy. The second part started on 2nd January, 2022, in partnership with 7 countries and 47 researchers, with the division into five research groups. The results of such cooperation were viewed by various forms of publications, international conferences, dissemination events (49 until 31st December, 2022), and other additional professional platforms. Currently, CEA consists of these research groups:

1) Constitutional protection of national symbols with the leadership of Zoltán Tóth J. from Hungary
2) Right to privacy group with the leadership of Marcin Wielec from Poland
3) Content of the right to parental responsibility with the leadership of Pawel Sobczyk from Poland
4) Constitutional framework for the protection of future generations and the environment with the leadership of János Ede Szilágyi from Hungary
5) Constitutional Identity and Relations between the EU Law and the Domestic Law of Member States with the leadership of András Varga Zs. from Hungary

Central European Junior Programme consists of two parts. The first part is connected with 4 year long PhD programme in the University of Miskolc and another one consists of 4 year long internship programme in the spaces of the Central European Academy in Budapest. Currently, there are two classes consisting 19 students from selected Central European countries – Croatia, Czech Republic, Hungary, Poland, Romania, Serbia, and Slovakia. Academy is providing foreign language courses for students, funding summer schools, and gives them course materials in English through approximately 200 university lectures. Juniors gain insight into the research and publication processes; they are actively and passively participating in research activities and apart from this, they are involved with other different activities of CEA. Students are involved in creating scientific articles, researches, reports, and with all of these acquired knowledges they gain experiences that will contribute to their candidate's research and their professional progress.

CEA has its publishing house, which is trying to promote Central European Academy results as widely as it is possible. Until 31st December, 2022 4 books were in total for the curriculum of the PhD programme. Moreover, other books related to legal studies on Central Europe were also written in English. CEA is publishing its own journals actively, one such example is Central European Journal of Comparative Law, Journal Law, Identity and Values, and Journal CEA Law Review, which is practically a student-run journal with the targeting group of young researchers.

In the second panel, Professor Wielec introduced members of his research group of the Central European Professors Network, which had their presentations at the conference. That group consisted of 8 people in total.

Professor Vanja-Ivan Savic is a lawyer and legal Scholar from Croatia from the University of Zagreb, with an area of expertise in Legal Theory, Comparative Law, Theory of Law and State, Law and Religion, Human Rights, and Corporate Criminal Law. He speaks Croatian/Bosnian/Serbian, English, French, Spanish, and also has some basic fluency in Latin and Hebrew language.

Professor András Koltay is a research professor at the University of Public Service and Pázmány Péter Catholic University. His area of expertise consists of freedom of speech, personality rights, and media regulations. He is the author of more than 400 publications and numerous monographs, many of them in English.

Professor Matija Damjan is an Assistant Professor in the department of civil and commercial law at the University of Ljubljana. His work is mostly focused on civil law, intellectual property, and information society law. He is also a co-author of several draft proposals of legislative acts.

Professor Marta Dragičević Prtenjača from the University of Zagreb, mainly focuses on the research in criminal law. Moreover, she participated in the drafting of many laws and their amendments in Croatia.

Professor Dušan Popović is a professor of Intellectual Property, Competition Law, and Internet Law at the University of Belgrade. He held numerous guest lectures at different European universities.

Professor David Sehnálek from Masaryk University focuses primarily on the European constitutional law, law interpretation, European private law, and the external relations of the European Union.

Professor Katarína Šmigová is currently the dean in the Faculty of Law of the Pan-European University. Her work focuses mostly on international law, international human rights law, and international humanitarian law.

Dr. Bartlomiej Oreziak is the coordinator of the Centre for Strategic Analysis of the Institute of Justice and an associate at the Faculty of Law and Administration of the Cardinal Stefan Wyszynski University in Warsaw. His

interests consists of new technologies in law, human rights protection, public international law, intellectual property law, and criminal law and trial.
Doc. Dr. Matija Damjan, the presenter from the University of Ljubljana was presenting his speech about The Protection of Privacy of IP Addresses in Slovenia. An IP address is a numerical identifier, which is assigned to every device on a network, consisting of 128 bits written as eight four-digit hexadecimal numbers separated by colons. The number helps to define the location of the device in the network and recognize other devices in the network. We can recognize two types of IP addresses – permanent and dynamic. The IP address is public information visible for other devices and shows the general geolocation of the device, but no personal data of any individual user. This information could be obtained by law enforcement bodies, and it could potentially show logs of websites visited by their IP addresses. Privacy of IP addresses could be protected by technological means or by legal protection. Technological means could be realized by VPN (anonymous browser) and legal tools are setting rules for personal data protection. Protection of privacy is based basically in the constitutional provisions of the states and in fundamental European documents such as the European Convention on Human Rights and the European Charter of Fundamental Rights. According to the European regulation concerned with GDPR, personal data means any information related an identified or identifiable natural person, which is a person, who could be identified directly or indirectly, with reference to an identifier such as a name, number, etc. Processing of this data could be performed on the basis laid by law. The Court of Justice declared in its decisions that IP addresses are protected personal data because that could lead to the precise identification of personal data of the users. Such an attitude was adopted later by the Slovenian information commissioner as well. According to the Slovenian constitution, access to the communication privacy could be based just with the approval of the court order and need to be provided by law, and only in the cases of criminal proceedings or in reasons connected with the national security.

Doc. JUDr. Katarína Šmigová, PhD., LL.M, from the Pan European University of Slovakia, had a presentation about ,,The right to privacy in the Digital Age – In specific terms". The presentation was concerned with the right to freedom of expression in the digital era in relation to public figures. There are different criteria for the freedom of expression of public officials and special regulations for the protection of the opposition members, which are part of the protection of democracy. Freedom of expression is also based on fundamental documents of the Council of Europe and the European Union. There were original court cases regarding freedom of speech on the internet, concerned with the Slovak parliamentary members and the president. Cases

were related to politically sensitive content events, such as the Russian invasion of Ukraine or signing the international agreement with the United States regarding its potential bases in the territory of the Slovak republic. According to the European Court of Human Rights (ECoHR) and Slovak court decisions, systematic and long-term hate speech-inciting attacks are not protected by the freedom of expression but in general, public figures need to subdue to the higher level of criticism thanks to the importance of the public interest. ECoHR also stated to not protect speech with the aim to incite negative emotions where rational arguments are absent, especially with threatening nature. There's also needed to evaluate consequences, which happened with the connection of such speech. The offensive nature of speech is protected, but at a certain level.

Professor Dr. Dušan V. Popović from the University of Belgrade held a presentation regarding the role of Data Protection Authorities in digital privacy protection: Serbian experience. The first text protecting international data was the non-binding unanimous resolution of the UN General Assembly, adopted in 1991. In connection with the membership in the Council of Europe, the Republic of Serbia ratified the Convention for the Protection of Individuals regarding the Automatic Processing of Personal Data and the Additional Protocol to the Convention for the Protection of Individuals in connection to Automatic Processing of Personal Data, supervisory authorities and transborder data flows. From the other important documents, we can pinpoint the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and Stabilization and Association Agreement with the EU in 2008, which had art. 81 dedicated completely to personal data protection. With obligations from the objective agreement, Serbia is obliged to harmonize its legislation concerned with the personal data protection with the EU law. The first regulation with personal data protection was made in 1998, with the adoption of the Law on Personal Data Protection, but with little success in its effectiveness. In 2008 we can see a modern legislative act, that regulated personal data protection and the adoption of a Strategy for personal data protection too. With the adoption of such a law, nationwide Data Protection Authorities were established too, consisting of the most important body - Commissioner. Citizens have the right to access their personal data, the right to have inaccurate personal data rectified, the right to delete their personal data from databases, right to complain before National Data Protection Authority (DPA). The most recent legislative act referring to this topic is the Law on Protection of Personal Data (LPPD), adopted in November 2018. An important part of the DPA is its inspection body, which is undertaken in compliance with pieces of information from complaints and their ex officio activities. Some breachings

could be characterized as misdemeanors, where LPPD stipulates fines. DPA could initiate a proceeding in front of the court too. DPA bodies could impose fines directly by themselves. To summarize, DPA procedures is an efficient tool for preventing offline and online breaches of personal data protection, but with the disadvantage of inadequate articulation of different protection mechanisms.

Dr. Bartlomiej Oreziak PhD, held a presentation about the right to privacy in the digital age. The base for such protection is art. 47 of the Polish constitution, which stipulates the protection of private and family law, a person's honor and the right to make decisions concerning his personal life. Art. 48 stipulates parents' right to rise their children in accordance with their own convictions, with the border of deprivation of such right only on the effective court judgment. Art. 49 stipulates the protection of the freedom of privacy of communication and art. 50 inviolability of the home. Limitations of these rights could be secured just in cases of specific statutes. Article 51 contains broad protection of privacy in many situations – the right to disclose information concerning own person, the obligation of public authorities not to collect information on citizens, until its necessary in accordance with conditions of rule of law, which is needed to be specified in a separate statute, the obligation of the state to provide access for such information for the proper person, and right to correction of such acquired information. All of these rights and obligations were further specified by the Judgment of the Constitutional Court of 12th December, 2005, file ref. act K 32/04, Judgment of the Constitutional Court of 5th March, 2013, file ref. act U 2/11, Judgment of the Constitutional Court of 25th November, 2021, file ref. act Kp 2/19.

Izv. Professor Dr. Sc. Marta Dragičević Prtenjača held the presentation the Protection of the Child´s Privacy in Croatia – the Criminal Law Perspective. Photos of children are nowadays spreading gradually throughout social networks, and they are becoming publicly available for any other users of the internet. Privacy protection has its basement in several international agreements, whereas the most important we can pinpoint on the Universal Declaration of Human Rights, Treaty of the European Union, Treaty on the Functioning of the European Union, Charter of the European Union, and European Convention for the Protection of Human Rights and Fundamental Freedoms. Directives of the European Union nr. 95/46/EC and 2002/58/EC and General Data Protection Regulation are other sort of important internationally binding legislature. Specific regulation-protection documents consist of soft law documents such as the Geneva Declaration of the Rights of the Child from 1924, the Declaration of the Rights of the Child from 1959, or Mandatory ones such as the Convention on the Rights of the Child from 1989.

The Convention on the Rights of the Child is the first document, where the child has approached the status of a specific subject with rights and not the person, who needs to have special protection as it was before. Art. 16 stipulates that every child has the right to legal protection against interference with his privacy. European Court of Human Rights (ECoHR) showed special care concerning the photos of the children and their other personal information, especially in the decision as Van Hannover v. Germany (no. 2), Rodina v. Latvia, N. Š. V. Croatia, Bogomolova v. Russia, which was a special case referring to the use of child photography for commercial intentions without the approval of the family and child. According to the court decisions, materials that could reveal a child´s identity should be kept inaccessible to the public. Professor described further privacy protection documents in the Republic of Croatia, especially by Media Act and Electronic Media Act. The electronic Media Act forbid the publication of the material, which reveals the identity of a child under the age of 18. According to Croatian law, disclosing or transmitting something from the child's personal or family life, publishing a child's photography, or revealing the child's identity contrary to regulations, causing the child anxiety, ridicule of peers or other persons, or otherwise endangered the child's welfare. According to the Croatian bureau of statistics, violation of the privacy of the child has a rising tendency. The Office of Child´s Ombudsman worked on 83 individual cases related to child´s right to privacy in 2021. Most of these cases were related to the right to the privacy of children in the media and especially social networks, but there were also cases regarding the protection in public institutions, such as sports clubs, schools, hospitals, or kindergartens. In concluding remarks professor stated, that in Croatia right to privacy of children is totally in the control of their parents and children don't have the protection of their privacy from their parents.

Doc. JUDr. David Sehnálek, Ph.D. from Masaryk University held a presentation Sharenting from the perspective of the right to privacy. In cyberspace, children don´t have any control, over how they are present, and de facto they are becoming the object of cyberspace. Word sharenting means parental oversharing information about their children typically on social media. Such sharing could be realized on different levels, for example, we can pinpoint on direct sharenting under the identity of the parent, under the identity of the child by the parent, or indirect sharenting where parents passively or actively create conditions for sharing their child information. In the Czech Republic, there are 3 levels of children's rights regulations – EU law, international law, and domestic law. In domestic law, there is a special place for protection in family law and within protection of privacy laws. The most important child privacy protection regulation is contained in paragraph 81 of the Czech Civil Code, which states general protection of the person's

personality, respect for the person´s free decision to live according to his own meaning, and his right to dignity, honor, and privacy. There is the possibility to make such interference with a person's consent, which of course lacks in the case of young children. Czech legislation stipulates in the Civil Code protective provisions for children, aiming potentially against their parents' harmful behavior. We can focus on many articles of the Czech Civil Code, paragraph 857 states, that parents need to exercise their parental responsibilities in the best interest of the child, and paragraph 855 which states that parental responsibility includes caring for the child. Paragraph 875 is saying, that before making a decision that affects the interest of the child, parents shall inform the child about everything that is necessary for the child to form his own opinion on a given matter. Despite these facts, we can see some voices defending sharenting behavior. For example, Dr. Claire Bessant of Northumbria University asserts, that sharenting is providing direct benefits for children and for their parents too. It tends to build their positive social media image and promote socialization.

Professor Ucz. Dr hab. Marcin Wielec had a presentation on The Dilemma of a Positive Invention Regarding the Foundations of the Right to Privacy. Term privacy consists of the protection of human autonomy, self-existence, intimacy, and naturalness. Protection of this kind of privacy contains protection of the freedom of conscience and religion, integrity of the apartment, secrecy of personal communication, protection of private life, and personal inviolability. These protection of course doesn´t mean potential criminal proceedings against the perpetrator, protection is mostly secured by the various civil law security mechanisms. Despite this, the right to privacy inflict criminal proceedings too, secrecy of confession could be shown as an example of the highest-ranking respect for the right to privacy in criminal proceedings. Professor decided to evaluate the borders of the law of privacy, especially in criminal proceedings with criteria of the dilemma of a positive invention. It’s the situation, in which the creation of anything is determined by the benefits and possible risks of such a process. With the development of modern informational-technical technologies, we could ask about borders of the right to privacy in cases, when they contradicting the interest of society – prosecution of criminals. According to the Polish law systems, surveillance in a criminal proceeding could be realized through subjects with entitlement to realize such activities and in relation to special crimes. Such kind of activities needs to be realized with the law regulations and with specific procedures leading to the destruction of such obtained materials. The right to privacy is not an absolute right, especially in the criminal procedures bordered mainly by the public interest, powers of criminal authorities, and assessment of interest between the collision of these rights. In the area of public law, privacy

will be tending to be confronted with the public interest. The right to privacy doesn't have a uniformed structure in general cases.

Professor Dr. András Koltay had a presentation about photographing people in public places and protecting the privacy, with analyzation of the case law of ECoHR. Could be the protection of privacy held in public spaces? Case Hannover vs. Germany from 2004 is ECoHR key case on this topic, people have basic rights for the preservation of their image, the right to own private life, family law etc. This case gradually explained, how media activities could infringe private law of other persons. Princess of Hannover was photographed by the press on the beach and in the restaurant with her children. Federal constitutional court qualified this as an unlawful behavior, and ECoHR decided that's its a violation of article 8 of the Convention on Protection of Human Rights. The privacy of public personalities has narrower protection overall, but it's still protected. There was also the aspect of protection of the children's privacy, which entails higher protection, with the summarization that disclosure of children's privacy is not in the public interest. Germany lost the case because the media took the photo for their personal gutter press satisfaction and not for public political debate. Another case of the princess of Hannover wasn't justified by the court, because the aim of the publication was a discussion of her father's health, information which could serve in the public interest debates. The last case of the princess is concerned about her photos with her husband in the holiday resort, but the German federal court approved such a media stance because it could contribute to the discussion about finances and public figures' life in Germany. Case Ringier Axel Springer vs. Germany was concerned with taking a photo of a politician taking drugs, which resulted in a positive decision in favor of the media. In the case Peck vs. United Kingdom court decided, that recording private person in public spaces is questionable, even when privacy in public spaces couldn't have the same level of protection, as in private ones. In the case Hansen vs. Norway – the newspaper disclosed photos of the detained murderer, but the court decided to approve the publication of such photography, despite the seriousness of the crime is not a public interest, but there´s a public interest to publicly examine circumstances in the detention.

The conference was closed by the closing speech and consequent discussions were opened by dr. Katarzyna Zombory Ph.D.