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Ad Hoc Information Report

Data protection: Redress mechanisms and their use

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Center for the Research of Ethnicity and Culture (CVEK)

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Mapping of Redress mechanisms in the area of data protection

Background information

Personal data protection is regulated by many national and international legal regulations valid in the area of personal data protection. **The Constitution of the Slovak Republic** stipulates that “*Everyone has the right to protection against the unwarranted collection, publication, or other illicit use of his personal data*”¹. The personal data protection is also regulated by the respective provisions of **Act No. 40/1964 Coll. Civil Code**, which regulate the right of natural persons to protection of his or her personhood, in particular of his or her life and health, human dignity as well as of his or her privacy, name and expressions of personal nature² and other matters of personal nature³. **Act No. 300/2005 Coll. Criminal Procedure Code**⁴ regulates the handling of personal data, in particular in Section 374 on the unauthorised manipulation with personal data and in Section 247 on damage to and misuse of information recorded on the medium.

Personal data protection, including redress mechanisms, is fully regulated by **Act No. 428/2002 Coll. on Protection of Personal Data, as amended**. Under this Act, the **Office for Personal Data Protection (“Office”)** has been established. The Office, as a state authority, shall execute independent supervision of personal data protection and participate in protection of fundamental rights and freedoms of natural persons in the processing of personal data.⁵

Redress mechanisms available to affected people in case of violation of their right to personal data protection are set forth in the aforementioned Acts. As the Civil Code regulates mainly the right to personhood, which is more broadly defined than personal data protection, we have decided to omit the statistics on redress mechanisms under the Civil Code. The report includes redress mechanisms regulated by **Act No. 300/2005 Coll. Criminal Code, Sections 247 and 374**, and those set forth in **Act No. 428/2002 Coll. on Protection of Personal Data**. The redress mechanisms include:

- **Measure⁶:** If the Office for Personal Data Protection determines that the controller or the processor failed to meet or broke any of the obligations stipulated in Act No. 428/2002, circumvented the provisions of the Act in the performance of any of the obligations, failed to meet or circumvented terms and conditions set forth in the Act, or processes or processed personal data at variance with this Act, the Office shall be entitled to oblige the controller or the processor to take measures necessary for removal of identified imperfections and causes of their origin within the specified period of time.
- **Publication of information concerning the violation of the law:** If the Office for Personal Data Protection determines that the obligations stipulated by Act No. 428/2002 were broken, or that the provisions of this Act or of a special Act were circumvented, the Office shall be entitled to publish a business name or name, registered office or address, identification number, if assigned, and the legal form of the person that violated the law (including other

¹ The Constitution of the Slovak Republic, Article 19, paragraph 3.

² Act No. 40/1964 Coll. Civil Code, Section 11

³ Ibid, Section 12

⁴ Act No. 300/2005 Coll. Criminal Procedure Code, Section 374.

⁵ Act No. 428/2002 Coll. on Protection of Personal Data, Section 33.

⁶ Ibid, Section 46 (1b).

facts relating to the violation of the law).⁷ The Office may further impose an obligation on the controller or the processor to publish information concerning the violation of the law and measure taken in the mass media⁸.

- **Administrative offences/fines⁹**: Fines for the breach of different paragraphs of Act No. 428/2002 on Protection of Personal Data in connection with collecting, processing and publishing of personal data and with breaking other obligations in the area of personal data processing.
- **Procedural fines¹⁰**: The Office for Personal Data Protection may impose a procedural fine on the controller or the processor for failure to create conditions for the execution of inspection, for thwarting the execution of inspection, for failure to publish the notification designated to be made public in the mass media, or for failure to provide the Office with cooperation in accordance with the respective provisions of the Act. The procedural fine may be imposed within one (1) year from the day when the obligations were broken.

Table 1

Redress Mechanism Number	Type of possible outcomes of procedure	First Instance	Total number of times this procedure was initiated in 2009¹¹ (please provide source of information in footnote)	Total number of times this procedure was initiated in 2010¹² (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2011¹³ (please provide source of information in footnote)
1	Measure/Removal of imperfections in the area of personal data processing	Office for Personal Data Protection	161	144	102
2	Publication of information concerning the violation of the law	Office for Personal Data Protection	1	0	0
3	Fine	Office for Personal Data Protection	18	19	6
4	Procedural fine	Office for Personal Data Protection	1	2	3
5	Prison sentence	District Court	149	155	124
6	Prison sentence	District Court	116	114	77
7	Compensation	District Court	Data not available	Data not available	Data not available
8	Compensation	District Court	Data not available	Data not available	Data not available

⁷ Ibid, Section 48 (1).

⁸ Ibid, Section 48 (2).

⁹ Ibid, Section 49 (1–5).

¹⁰ Ibid, Section 50.

¹¹ Data has been provided by The Office for Personal Data Protection and General Prosecution of the Slovak Republic on the request.

¹² Data has been provided by The Office for Personal Data Protection and General Prosecution of the Slovak Republic on the request.

¹³ Data has been provided by The Office for Personal Data Protection and General Prosecution of the Slovak Republic on the request.

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Detailed information

Ad Redress Mechanism Number 1 – Measures/Removal of imperfections in the area of personal data processing

- Range of possible outcomes:
If the Office for Personal Data Protection determines that any fault occurred in personal data processing, it shall be entitled to¹⁴:
 1. impose an obligation on the processor to provide for, within the specified period of time, the development or completion of documentation or the Security project in accordance with Act No. 428/2002;
 2. impose an obligation on the processor to take, within the specified period of time, technical, organisational and personnel measures corresponding to the manner of processing;
 3. prohibit processing of personal data the processing of which is at variance with the provisions of Act No. 428/2002;
 4. prohibit personal data processing which is at variance with the provisions of Act No. 428/2002;
 5. order removal or destruction of personal data within the specified period of time, provided that they are or have been processed illegitimately;
 6. impose an obligation on the controller¹⁵ to cancel, within the specified period of time, a written authorisation by or a written contract with the processor¹⁶.
- Legal basis (for example, section XX of Civil Code): Act No. 428/2002 Coll. on Protection of Personal Data, as amended, Section 46 (1b).
- Type of procedure: administrative/data protection authority
- Possibilities of appeal: The Office for Personal Data Protection
- Burden of proof: please list what the complainant needs to prove: Pursuant to Act No. 428/2002 Coll., the participant in proceedings shall be obliged to submit evidence to support its allegations. The Office shall decide which of the submitted pieces of evidence shall be taken into account and shall also take into account other pieces of evidence not submitted by the participants in proceedings, provided they are necessary for determining and explaining the facts of the case (Section 44a (7)). A participant in proceedings shall be deemed the person whose rights and obligations are to be heard in the proceedings (Section 44a (2)). Any means by which the facts of the case can be determined and explained, and which are in accordance with valid legal regulations, may be used in the taking of evidence. The evidence shall be constituted, above all, by statements of the participants in proceedings, witness testimonies, documents, expert opinions, or professional opinions, reports, statements and certificates of authorities of other legal and natural persons, information that was made public, inspections and findings of the inspections (Section 44a (4)). Instead of evidence, the Office may accept an affidavit of a natural person (Section 44a (5)). The Office may appoint an expert to develop

¹⁴ Act No. 428/2002 Coll. on Protection of Personal Data, Section 46 (1b)

¹⁵ Controller shall mean a legal or natural person processing personal data (Act No. 428/2002 Coll. on Protection of Personal Data, Section 4 (2)).

¹⁶ Processor shall mean a legal or natural person processing personal data on behalf of the controller (Act No. 428/2002 Coll. on Protection of Personal Data, Section 4 (3)).

an expert opinion (Section 44a (6)).

- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement etc.: Act No. 428/2002 Coll. on Protection of Personal Data, as amended, does not stipulate any mechanisms to lower the burden of proof.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The complainant/petitioner is an active participant in proceedings, he/she can initiate the procedure alone and does not need to be represented by a lawyer.
- Is there free legal advice/representation available from a public body (please specify the public body)? A free legal aid is provided by the Centre for Legal Aid¹⁷. The Centre for Legal Aid is a state budgetary organisation providing people in material need with different forms of legal aid (e.g. legal consultancy, legal representation, etc.). The applicant for the provision of a free legal aid must prove that he/she has met the conditions laid down in Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, in particular that he or she is in material need¹⁸.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? The proceedings concerning the violation of Act No. 428/2002 shall be initiated by the informant (a natural person whose rights under Act No. 428/2002 Coll. have been infringed), other participant in proceedings, or the Office for Personal Data Protection (Section 44a). The Office for Personal Data Protection shall accept the notification of the violation of Act No. 428/2002 from any natural or legal person. In the event that a natural or legal person filing the notification is not a participant in the proceedings, the proceedings shall commence as the proceedings initiated upon the initiative of the Office (Section 45 (17)).
- Cost of procedure: Information on average costs of the proceedings is not available. Pursuant to Act No. 428/2002 Coll. on Protection of Personal Data, as amended, the costs accrued to the participant in proceedings concerning the violation of Act No. 428/2002 shall be borne by the participant in proceedings. The costs accrued to the Office shall be borne by the Office (Section 44a (15)).
- Average duration of procedure: Information on the length of proceedings is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism number 1

Ad Redress Mechanism Number 2 – Publication of information concerning the violation of the law

- Range of possible outcomes: The Office for Personal Data Protection may publish information on a person that violated the Act No. 428/2002 Coll. The Office shall be entitled to publish the following data: business name or name, registered office or address, identification number and legal form, characteristics of the violation and the measure or decision taken by the Office. The Office shall also be entitled to impose an obligation on the person that violated Act No. 428/2002 Coll. to publish the aforementioned information in the mass media.
- Legal basis: (for example section XX of data protection act): Act No. 428/2002 Coll. on Protection of Personal Data, as amended, Section 48.
- Type of procedure: administrative/data protection authority
- Possibilities of appeal: The Office for Personal Data Protection
- Burden of proof: please list what the complainant needs to prove: Pursuant to Act No. 428/2002 Coll., the participant in proceedings shall be obliged to submit evidence to support

¹⁷ www.legalaid.sk.

¹⁸ Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, as amended.

its allegations. The Office shall decide which of the submitted pieces of evidence shall be taken into account and shall also take into account other pieces of evidence not submitted by the participants in proceedings, provided they are necessary for determining and explaining the facts of the case (Section 44a (7)). A participant in proceedings shall be deemed the person whose rights and obligations are to be heard in the proceedings (Section 44a (2)). Any means by which the facts of the case can be determined and explained, and which are in accordance with valid legal regulations, may be used in the taking of evidence. The evidence shall be constituted, above all, by statements of the participants in proceedings, witness testimonies, documents, expert opinions, or professional opinions, reports, statements and certificates of authorities of other legal and natural persons, information that was made public, inspections and findings of the inspections (Section 44a (4)). Instead of evidence, the Office may accept an affidavit of a natural person (Section 44a (5)). The Office may appoint an expert to develop an expert opinion (Section 44a (6)).

- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Act No. 428/2002 Coll. on Protection of Personal Data, as amended, does not stipulate any mechanisms to lower the burden of proof.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The complainant/petitioner is an active participant in proceedings, he/she can initiate the procedure alone and does not need to be represented by a lawyer.
- Is there free legal advice/representation available from a public body (please specify the public body)? A free legal aid is provided by the Centre for Legal Aid¹⁹. The Centre for Legal Aid is a state budgetary organisation providing people in material need with different forms of legal aid (e.g. legal consultancy, legal representation, etc.). The applicant for the provision of a free legal aid must prove that he/she has met the conditions laid down in Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, in particular that he or she is in material need²⁰.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? The proceedings concerning the violation of Act No. 428/2002 shall be initiated by the informant (a natural person whose rights under Act No. 428/2002 Coll. have been infringed), other participant in proceedings, or the Office for Personal Data Protection (Section 44a). The Office for Personal Data Protection shall accept the notification of the violation of Act No. 428/2002 from any natural or legal person. In the event that a natural or legal person filing the notification is not a participant in the proceedings, the proceedings shall commence as the proceedings initiated upon the initiative of the Office (Section 45 (17)).
- Cost of procedure: please provide information on the average cost of the procedure: Information on average costs of the proceedings is not available. Pursuant to Act No. 428/2002 Coll. on Protection of Personal Data, as amended, the costs accrued to the participant in proceedings concerning the violation of Act No. 428/2002 shall be borne by the participant in proceedings. The costs accrued to the Office shall be borne by the Office (Section 44a (15)).
- Average duration of procedure: please provide available information. Information on the length of proceedings is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism Number 2

Ad Redress Mechanism Number 3 – Fine

- Range of possible outcomes: Fines for the breach of different paragraphs of Act No. 428/2002

¹⁹ www.legalaid.sk.

²⁰ Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, as amended.

Coll. on Protection of Personal Data in connection with collecting, processing and publishing of personal data and with breaking other obligations in the area of personal data processing. Pursuant to Section 49 of Act No. 428/2002 Coll. on Protection of Personal Data, as amended, the Office shall be entitled to impose the following fines for breaching the provisions of the Act:

paragraph (1): fine in the amount of EUR 1,659.69 to EUR 3,319.39;

paragraph (2): fine in the amount of EUR 1,659.69 to EUR 165,969.59;

paragraph (3): fine in the amount of EUR 995.82 to EUR 99,581.76;

paragraph (4): fine in the amount of EUR 331.94 to EUR 33,193.92;

paragraph (5): fine in the amount of up to EUR 3,319.39.

- Legal basis: (for example section XX of data protection act): Act No. 428/2002 Coll. on Protection of Personal Data, as amended, Section 49.
- Type of procedure: administrative/data protection authority
- Possibilities of appeal: The Office for Personal Data Protection
- Burden of proof: please list what the complainant needs to prove: Pursuant to Act No. 428/2002 Coll., the participant in proceedings shall be obliged to submit evidence to support its allegations. The Office shall decide which of the submitted pieces of evidence shall be taken into account and shall also take into account other pieces of evidence not submitted by the participants in proceedings, provided they are necessary for determining and explaining the facts of the case (Section 44a (7)). A participant in proceedings shall be deemed the person whose rights and obligations are to be heard in the proceedings (Section 44a (2)). Any means by which the facts of the case can be determined and explained, and which are in accordance with valid legal regulations, may be used in the taking of evidence. The evidence shall be constituted, above all, by statements of the participants in proceedings, witness testimonies, documents, expert opinions, or professional opinions, reports, statements and certificates of authorities of other legal and natural persons, information that was made public, inspections and findings of the inspections (Section 44a (4)). Instead of evidence, the Office may accept an affidavit of a natural person (Section 44a (5)). The Office may appoint an expert to develop an expert opinion (Section 44a (6)).
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Act No. 428/2002 Coll. on Protection of Personal Data, as amended, does not stipulate any mechanisms to lower the burden of proof.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The complainant/petitioner is an active participant in proceedings, he/she can initiate the procedure alone and does not need to be represented by a lawyer.
- Is there free legal advice/representation available from a public body (please specify the public body)? A free legal aid is provided by the Centre for Legal Aid²¹. The Centre for Legal Aid is a state budgetary organisation providing people in material need with different forms of legal aid (e.g. legal consultancy, legal representation, etc.). The applicant for the provision of a free legal aid must prove that he/she has met the conditions laid down in Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, in particular that he or she is in material need²².
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? The proceedings concerning the violation of Act No. 428/2002 shall be initiated by the informant (a natural person whose rights under Act No. 428/2002 Coll. have been infringed), other participant in proceedings, or the Office for Personal Data Protection (Section 44a). The Office for Personal Data Protection shall accept the notification of the violation of Act No. 428/2002 from any natural or legal person. In the event that a natural or legal person filing the notification is not a participant in the proceedings, the proceedings shall commence as the proceedings initiated upon the initiative of the Office

²¹ www.legalaid.sk

²² Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, as amended.

- (Section 45 (17)).
- Cost of procedure: please provide information on the average cost of the procedure: Information on average costs of the proceedings is not available. Pursuant to Act No. 428/2002 Coll. on Protection of Personal Data, as amended, the costs accrued to the participant in proceedings concerning the violation of Act No. 428/2002 shall be borne by the participant in proceedings. The costs accrued to the Office shall be borne by the Office (Section 44a (15)).
 - Average duration of procedure: please provide available information. Information on the length of proceedings is not available.
 - Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism Number 3

Ad Redress Mechanism Number 4 – Procedural fine

- Range of possible outcomes: Pursuant to Act No. 428/2002 Coll. on Protection of Personal data, the Office for Personal Data Protection may impose a procedural fine up to the amount of EUR 66,387.84, provided the controller or the processor failed to ensure appropriate conditions for the execution of inspection, thwarted the execution of inspection, failed to publish the notification of the violation of the law in the mass media, or failed to provide the Office with cooperation.
- Legal basis: (for example section XX of data protection act): Act No. 428/2002 Coll. on Protection of Personal Data, as amended, Section 50 (1).
- Type of procedure: administrative/data protection authority
- Possibilities of appeal: The Office for Personal Data Protection
- Burden of proof: please list what the complainant needs to prove: Pursuant to Act No. 428/2002 Coll., the participant in proceedings shall be obliged to submit evidence to support its allegations. The Office shall decide which of the submitted pieces of evidence shall be taken into account and shall also take into account other pieces of evidence not submitted by the participants in proceedings, provided they are necessary for determining and explaining the facts of the case (Section 44a (7)). A participant in proceedings shall be deemed the person whose rights and obligations are to be heard in the proceedings (Section 44a (2)). Any means by which the facts of the case can be determined and explained, and which are in accordance with valid legal regulations, may be used in the taking of evidence. The evidence shall be constituted, above all, by statements of the participants in proceedings, witness testimonies, documents, expert opinions, or professional opinions, reports, statements and certificates of authorities of other legal and natural persons, information that was made public, inspections and findings of the inspections (Section 44a (4)). Instead of evidence, the Office may accept an affidavit of a natural person (Section 44a (5)). The Office may appoint an expert to develop an expert opinion (Section 44a (6)).
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Act No. 428/2002 Coll. on Protection of Personal Data, as amended, does not stipulate any mechanisms to lower the burden of proof.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The complainant/petitioner is an active participant in proceedings, he/she can initiate the procedure alone and does not need to be represented by a lawyer.
- Is there free legal advice/representation available from a public body (please specify the public body)? A free legal aid is provided by the Centre for Legal Aid²³. The Centre for Legal Aid is a state budgetary organisation providing people in material need with different forms of legal aid (e.g. legal consultancy, legal representation, etc.). The applicant for the provision of a free legal aid must prove that he/she has met the conditions laid down in Act No. 327/2005 Coll.

²³ www.legalaid.sk.

on Providing the Legal Aid to Persons in Material Need, in particular that he or she is in material need²⁴.

- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? The proceedings concerning the violation of Act No. 428/2002 shall be initiated by the informant (a natural person whose rights under Act No. 428/2002 Coll. have been infringed), other participant in proceedings, or the Office for Personal Data Protection (Section 44a). The Office for Personal Data Protection shall accept the notification of the violation of Act No. 428/2002 from any natural or legal person. In the event that a natural or legal person filing the notification is not a participant in the proceedings, the proceedings shall commence as the proceedings initiated upon the initiative of the Office (Section 45 (17)).
- Cost of procedure: please provide information on the average cost of the procedure: Information on average costs of the proceedings is not available. Pursuant to Act No. 428/2002 Coll. on Protection of Personal Data, as amended, the costs accrued to the participant in proceedings concerning the violation of Act No. 428/2002 shall be borne by the participant in proceedings. The costs accrued to the Office shall be borne by the Office (Section 44a (15)).
- Average duration of procedure: please provide available information. Information on the length of proceedings is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism Number 4

Ad Redress Mechanism Number 5 – Prison sentence

- Range of possible outcomes: Imprisonment for 6 months up to 3 years
- Legal basis (for example section XX of Personal Data Protection Act): Act No. 300/2005 Coll. Criminal Procedure Code, Section 247.
- Type of procedure: criminal
- Possibilities of appeal: district court and further courts of higher level
- Burden of proof: please list what the complainant needs to prove: The burden of proof in criminal proceedings is on the part of a prosecutor who must prove that the accused has committed a crime.
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Neither Act No. 301/2005 Coll. Criminal Procedure Code nor other legal regulations contain mechanisms to lower the burden of proof in criminal proceedings.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? Criminal proceedings shall be initiated by a prosecutor. Complainant is not allowed to initiate the proceedings on his own. The complainant shall act as a victim in criminal proceedings, in Slovakia's legal system the so-called aggrieved²⁵. Slovakia's legal system does not recognize the term "victim"; instead, it uses the term "aggrieved" to describe any person that suffered damage to their health, sustained material, moral or other harm or whose rights and freedoms protected by the law were violated or jeopardized as the result of a criminal offence.²⁶ According to the Code of Criminal Procedures, the aggrieved have the right to express agreement with criminal prosecution of the perpetrator, to lodge indemnification claims, to file proposals to produce or add evidence, to produce evidence, to inspect and scrutinize the files, to attend the main trial as well as the public hearing adjudicating on appeal or on guilty plea and acceptance of punishment, to comment on produced evidence, to present

²⁴ Act No. 327/2005 Coll. on Providing the Legal Aid to Persons in Material Need, as amended.

²⁵ Act No. 301/2005 Coll. Criminal Procedure Code, Section 46 (1).

²⁶ Ibid.

the summation and to file legal remedy proposals in the extent envisaged by the law.²⁷

- Is there free legal advice/representation available from a public body (please specify the public body)? The injured person can apply for a free legal aid to the Centre for Legal Aid²⁸, or a non-governmental organisation providing assistance for victims of crime. A person accused of a crime shall not be entitled to use the free legal aid, as the Centre for Legal Aid does not provide services in criminal proceedings.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? Pursuant to Act No. 301/2005 Coll. Criminal Procedure Code, information on a crime may be filed by any person who has learned about the commitment of a crime in a reliable manner. Criminal prosecution before the court shall only be initiated on the basis of a motion or an indictment filed by a prosecutor²⁹.
- Cost of procedure: please provide information on the average cost of the procedure: Information on costs relating to criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Act, Section 247, is not available.
- Average duration of procedure: Information on the length of criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Code, Section 247, is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism Number 5

Ad Redress Mechanism Number 6 – Prison sentence

- Range of possible outcomes: Imprisonment for up to 2 years
- Legal basis (for example section XX of Personal Data Protection Act): Act No. 300/2005 Coll. Criminal Procedure Act, Section 374.
- Type of procedure: criminal
- Possibilities of appeal: district court and further courts of higher level
- Burden of proof: please list what the complainant needs to prove: The burden of proof in criminal proceedings is on the part of a prosecutor who must prove that the accused has committed a crime.
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Neither Act No. 301/2005 Coll. Criminal Procedure Code nor other legal regulations contain mechanisms to lower the burden of proof in criminal proceedings.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? Criminal proceedings shall be initiated by a prosecutor. Complainant is not allowed to initiate the proceedings on his own. The complainant shall act as a victim in criminal proceedings, in Slovakia's legal system the so-called aggrieved³⁰. Slovakia's legal system does not recognize the term "victim"; instead, it uses the term "aggrieved" to describe any person that suffered damage to their health, sustained material, moral or other harm or whose rights and freedoms protected by the law were violated or jeopardized as the result of a criminal offence.³¹ According to the Code of Criminal Procedures, the aggrieved have the right to express agreement with criminal prosecution of the perpetrator, to lodge indemnification claims, to file proposals to produce or add evidence, to produce evidence, to inspect and scrutinize the files, to attend the main trial as well as the public hearing adjudicating on appeal or on guilty plea and acceptance of punishment, to comment on produced evidence, to present the summation and to file legal remedy proposals in the extent envisaged by the law.³²

²⁷ Ibid.

²⁸ www.legalaid.sk.

²⁹ Act No. 301/2005 Coll. Criminal Procedure Code, Section 2 (15).

³⁰ Ibid, Section 46 (1).

³¹ Ibid.

³² Ibid.

- Is there free legal advice/representation available from a public body (please specify the public body)? The injured person can apply for a free legal aid to the Centre for Legal Aid³³, or a non-governmental organisation providing assistance for victims of crime. A person accused of a crime shall not be entitled to use the free legal aid, as the Centre for Legal Aid does not provide services in criminal proceedings.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? Pursuant to Act No. 301/2005 Coll. Criminal Procedure Code, information on a crime may be filed by any person who has learned about the commitment of a crime in a reliable manner. Criminal prosecution before the court shall only be initiated on the basis of a motion or an indictment filed by a prosecutor³⁴.
- Cost of procedure: please provide information on the average cost of the procedure: Information on costs relating to criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Act, Section 247, is not available.
- Average duration of procedure: please provide available information: Information on the length of criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Code, Section 247, is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: please see Table 1, Redress mechanism Number 6

Ad Redress Mechanism Number 7 – Compensation

- Range of possible outcomes: Compensation
- Legal basis (for example section XX of Personal Data Protection Act): Act No. 300/2005 Coll. Criminal Procedure Act, Paragraph 46, Section 3
- Type of procedure: criminal
- Possibilities of appeal: The aggrieved must appeal for compensation during the police investigation. He/she no longer has such option during the court proceedings.
- Burden of proof: please list what the complainant needs to prove: The burden of proof in criminal proceedings is on the part of a prosecutor who must prove that the accused has committed a crime.
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Neither Act No. 301/2005 Coll. Criminal Procedure Code nor other legal regulations contain mechanisms to lower the burden of proof in criminal proceedings.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The aggrieved cannot initiate criminal proceedings; the prosecutor acts on his/her behalf. Should the aggrieved request compensation from the offender, he/she must do so during the investigation when there is no need for assistance of a legal representative. Consequently, the court rules in the matter of compensation within the proceedings on the defendant's guilt.
- Is there free legal advice/representation available from a public body (please specify the public body)? The injured person can apply for a free legal aid to the Centre for Legal Aid³⁵, or a non-governmental organisation providing assistance for victims of crime. A person accused of a crime shall not be entitled to use the free legal aid, as the Centre for Legal Aid does not provide services in criminal proceedings.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? Pursuant to Act No. 301/2005 Coll. Criminal Procedure Code, information on a crime may be filed by any person who has learned about the commitment of a crime in a reliable manner. Criminal prosecution before the court shall only be initiated on

³³ www.legalaid.sk.

³⁴ Act No. 301/2005 Coll. Criminal Procedure Code, Section 2 (15).

³⁵ www.legalaid.sk.

the basis of a motion or an indictment filed by a prosecutor³⁶.

- Cost of procedure: please provide information on the average cost of the procedure: Information on costs relating to criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Act, Paragraph 46, Section 3 is not available.
- Average duration of procedure: please provide available information: Information on the length of criminal proceedings in cases pursuant to Act No. 300/2005 Coll. Criminal Procedure Code, Paragraph 46, Section 3 is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: data not available.

Ad Redress Mechanism Number 8 – Compensation

- Range of possible outcomes: Compensation
- Legal basis (for example section XX of Personal Data Protection Act): Zákon č. 40/1964 Zb. Občiansky zákonník, paragraf 420
- Type of procedure: civil
- Possibilities of appeal: district court and further courts of higher level
- Burden of proof: please list what the complainant needs to prove: Applicant for compensation must prove that he/she suffered damages as a result of the violation of the right to data protection.
- Available mechanism to lower the burden of proof: for example presumption of fact or reversal of the burden of proof or lump sum compensation arrangement, etc.: Neither Act No. 40/1964 Coll. Civil Code nor other legal regulations contain mechanisms to lower the burden of proof in criminal proceedings.
- Requirement of legal representation: can the complainant initiate/be active in a procedure on his own? The applicant may appeal to the court within the civil proceedings without being represented by an attorney.
- Is there free legal advice/representation available from a public body (please specify the public body)? The injured person can apply for a free legal aid to the Centre for Legal Aid³⁷, or a non-governmental organisation providing assistance for victims of crime.
- Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure? A person whose rights to personal data protection have been violated can seek court's decision in the matter of compensation.
- Cost of procedure: please provide information on the average cost of the procedure: Information on costs relating to criminal proceedings in cases pursuant to Act No. 40/1964 Coll. Civil Code, Paragraph 420 is not available.
- Average duration of procedure: please provide available information: Information on the length of criminal proceedings in cases pursuant to Act No. 40/1964 Coll. Civil Code, Paragraph 420 is not available.
- Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011: data not available.

³⁶ Act No. 301/2005 Coll. Criminal Procedure Code, Section 2 (15).

³⁷ www.legalaid.sk.