

## **Act LIII of 2018 on the protection of privacy**

The totality of the right to respect for private and family life, home and communications stems from the inborn dignity of humans and everybody is entitled to it. The right to privacy is indispensable for the fulfilment of human life and self-identity since it delimits the untouchable realm of human personality.

All humans are entitled to the right to privacy and it should also be respected during the free debating of public affairs; therefore, the free debating of the issues of public life should not result in impairing private and family life or one's home. In line with the Fundamental Law, the public figures are also entitled to the protection of private life and the tranquillity of home. As laid down in Acts, public figures are only bound to tolerate in relation to their public activity.

The modern tools of infocommunications have changed the daily forms of keeping contacts, thus the protection of private life is extended to harassments both in the physical world and on the internet. The dignity of the individual and his rights to private life should also be secured in the space of social media. Therefore, the intention of the lawmaker is to guarantee for the individual the security of privacy also with regard to the contents shared and disclosed privately.

Taking into account Article VI of the Fundamental Law as amended by the seventh amendment, the general framework of the restrictability of fundamental rights as laid down in the Fundamental Law, and the case-law of the Constitutional Court, for the purpose of effectively guaranteeing the right to privacy, and in the interest of drawing the attention of the organs responsible for the application of the law to the current challenges affecting the right to privacy, and at the same time for the purpose of allowing for the enhanced protection of the right to privacy in legal disputes, the National Assembly adopts the following Act:

### *CHAPTER I*

#### *GENERAL PROVISIONS*

##### **1 Aims and principles**

**Section 1** Everyone shall have the right to have his or her private and family life, home, communications (hereinafter jointly “right to privacy”) respected.

**Section 2** (1) The right to privacy is a part of the right to the free development of one's own personality, according to which the individual has the liberty to responsibly and individually form his own life, to establish and safeguard a family, a home and human contacts.

(2) The fundamental rules on the enhanced protection of privacy shall be laid down in an Act. This right may only be restricted to allow the effective use of another fundamental right or to protect a constitutional value, to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of the right to privacy and for human dignity.

(3) It is the essence of the right to privacy that, with the exceptions laid down in a separate Act, no one shall violate it against the will of the individual.

(4) When exercising the right to privacy, everyone shall pay respect to the rights of others.

**Section 3** The State shall facilitate and support in all fields of social and business life the development and the maintenance of an attitude putting a priority on respecting privacy.

**Section 4** The laws affecting the right to privacy shall be interpreted in accordance with the Fundamental Law and, for the purpose of a more effective protection of privacy, with the provisions of this Act.

**Section 5** In the case of violating one's right to privacy, everyone shall have the right to turn to the authorities or to the court in the ways laid down in a separate Act.

**Section 6** The detailed rules on the protection of the right to privacy shall be laid down in separate Acts, in particular the Civil Code, the Criminal Code and the Act on informational self-determination.

## CHAPTER II

### DETAILED PROVISIONS

#### 2 Provisions related to certain priority areas of the right to privacy

**Section 7** (1) Everyone shall have the right to an enhanced protection of his private life and to disclose it for others only under his own will or in a case required by an Act.

(2) The private and family life as well as the home of public figures shall enjoy the same protection as attributed to persons who are not qualified as public figures.

(3) Every child shall have the right to the private and family life, home and communications ensuring his appropriate physical, mental and moral development, and everyone shall be obliged to pay respect to it.

#### 3 The right to respect for privacy

**Section 8** (1) The purposes of the right to respect for privacy shall be in particular to protect the right to a name, personal data, personal secret, image and recorded voice, honour and good reputation.

(2) The violation of the right to respect for privacy may take the form of any misuse related to the personal data, personal secret, image and recorded voice intended to be preserved by the individual especially in the context of his private life, or defamation and violation of good reputation.

(3) Personal data disclosed on the internet exclusively for private purpose may only be used with the explicit consent of the data subject, with the exception of the cases of mandatory data processing.

#### 4 The right to respect for family life

**Section 9** (1) Everyone shall have the right to an enhanced protection of his family life, being an area of private life.

(2) The individual and his family member shall also be jointly entitled to the right to respect for family life.

(3) The unauthorised violation or disturbance of the family life of others or any unauthorised intrusion into the family life of others shall in particular qualify as the violation of the right to respect for family life.

#### 5 The right to respect for home

**Section 10** (1) The State shall provide legal protection for the tranquillity of homes. The tranquillity of home shall ensure the development of private and family life as well as the free and full living of privacy. For the purpose of respecting this, everyone shall be entitled to an enhanced protection for his own home as the place of his private and family life.

(2) The unauthorised entry or any other unauthorised annoying, disturbing or harassing intrusion into the home of others shall in particular qualify as the violation of the right to respect for home.

(3) The person whose right to respect for home has been violated may, in addition to the legal consequences according to sections 12 to 13, enforce other claims laid down in a separate Act, in particular the protection of possession, neighbouring rights and the protection of property.

## **6 The right to respect for communications**

**Section 11** (1) Private communication and private information transmitted live, over the phone, by way of traditional or electronic mail or via other means of communication shall be covered by the protection under the right to respect for communications. Individuals shall enjoy enhanced protection against both the traditional forms and all forms of harassment on the internet.

(2) The right to respect for communications shall also cover protection against any form of surveillance of private communication.

### *CHAPTER III*

#### *THE LEGAL CONSEQUENCES OF VIOLATING THE RIGHT TO PRIVACY*

### **7. The legal consequences of violating the right to privacy under personality rights**

**Section 12** The person whose right to privacy has been violated may claim, within the limitation period, on the basis of the fact of violation, according to the circumstances of the case, in accordance with the rules of the Civil Code

- a)* the establishment of the violation by the court;
- b)* that the violation be ceased and the person committing the violation be forbidden from continuing the violation,
- c)* that the person committing the violation give appropriate satisfaction, and provide for its publicity at his own expenses;
- d)* the ending of the injurious situation, the restoration to the situation existing prior to the violation, and the destruction of things produced through the violation or the depriving such things of their unlawful character;
- e)* that the person committing the violation or his legal successor relinquish the material gain obtained by the violation according to the rules of unjustified enrichment.

**Section 13** (1) The person whose right to privacy has been violated may claim a grievance award for non-material harm done to him, in accordance with the rules of the Civil Code.

(2) The person who suffers any damage from the violation of his right to privacy may claim, in addition to the claims laid down in section 12, compensation from the person committing the violation in accordance with the rules of the Civil Code on liability for damage caused by unlawful actions, and may also enforce other claims as laid down in a specific Act.

### **8. Other legal consequences of violating the right to privacy**

**Section 14** The person whose right to privacy has been violated may also enforce, in addition to the claims under personality rights as laid down in sections 12 to 13, other claims as laid down in a specific Act.

*CHAPTER IV*

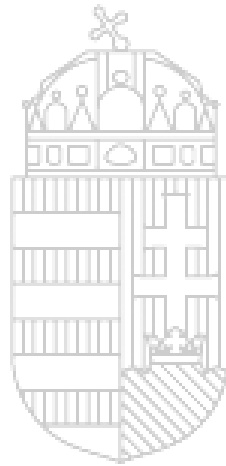
*FINAL PROVISIONS*

**9 Provisions on entry into force**

**Section 15** This Act shall enter into force on the day following its promulgation.

**10 Amending provisions**

**Section 16**



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