

Procedures for Exercising of Data Subjects' Rights

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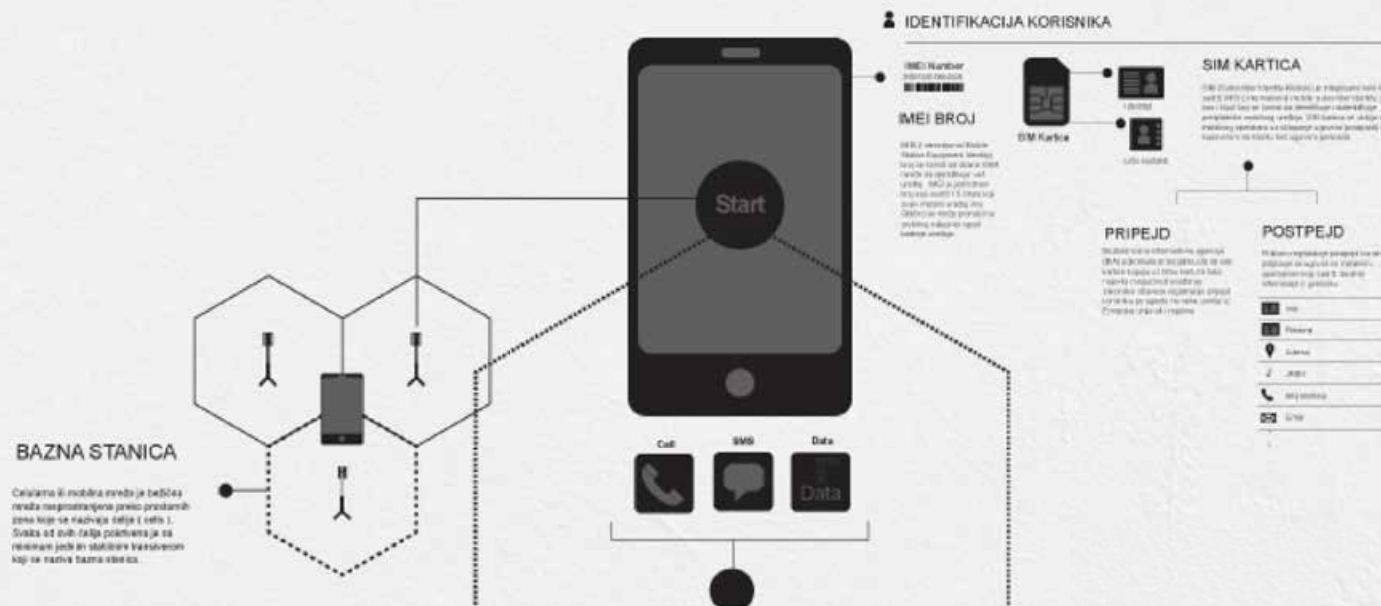
Introduction

- ✓ You received an email from unknown survey agency?
- ✓ You are receiving promo messages and phone calls from the store where you once bought shoes?
- ✓ Or you just want to inform your bank and your resident police station that you moved.



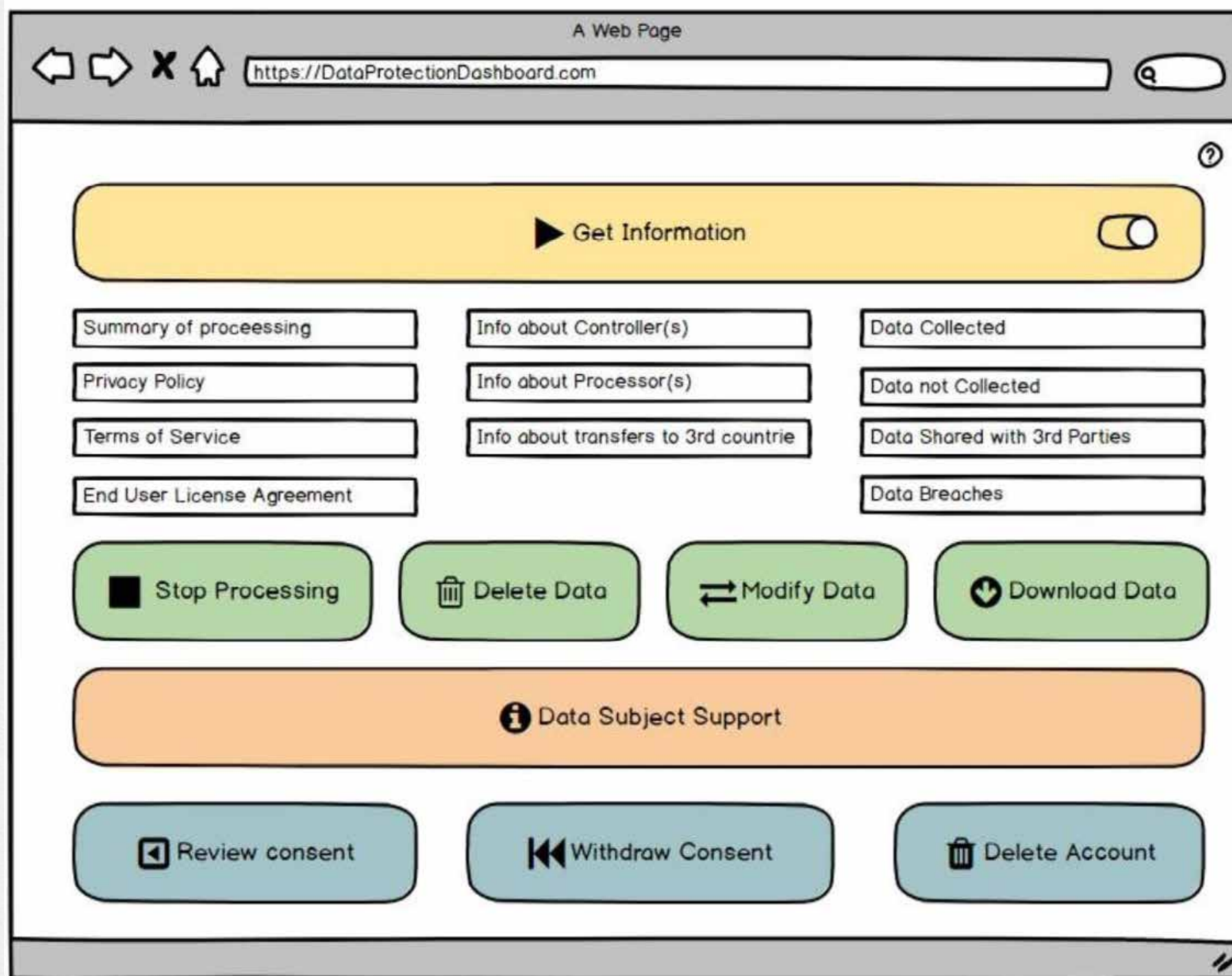
Every data subject needs to have a possibility to **make decisions** about what is happening with his or her personal data, **to be informed** about and be able **to influence the process**.

Serbian Law on Data protection, as well as GDPR guarantee a **wide range of rights to data subjects'** that they can exercise in relation to data controllers, whether in the public or private sector.

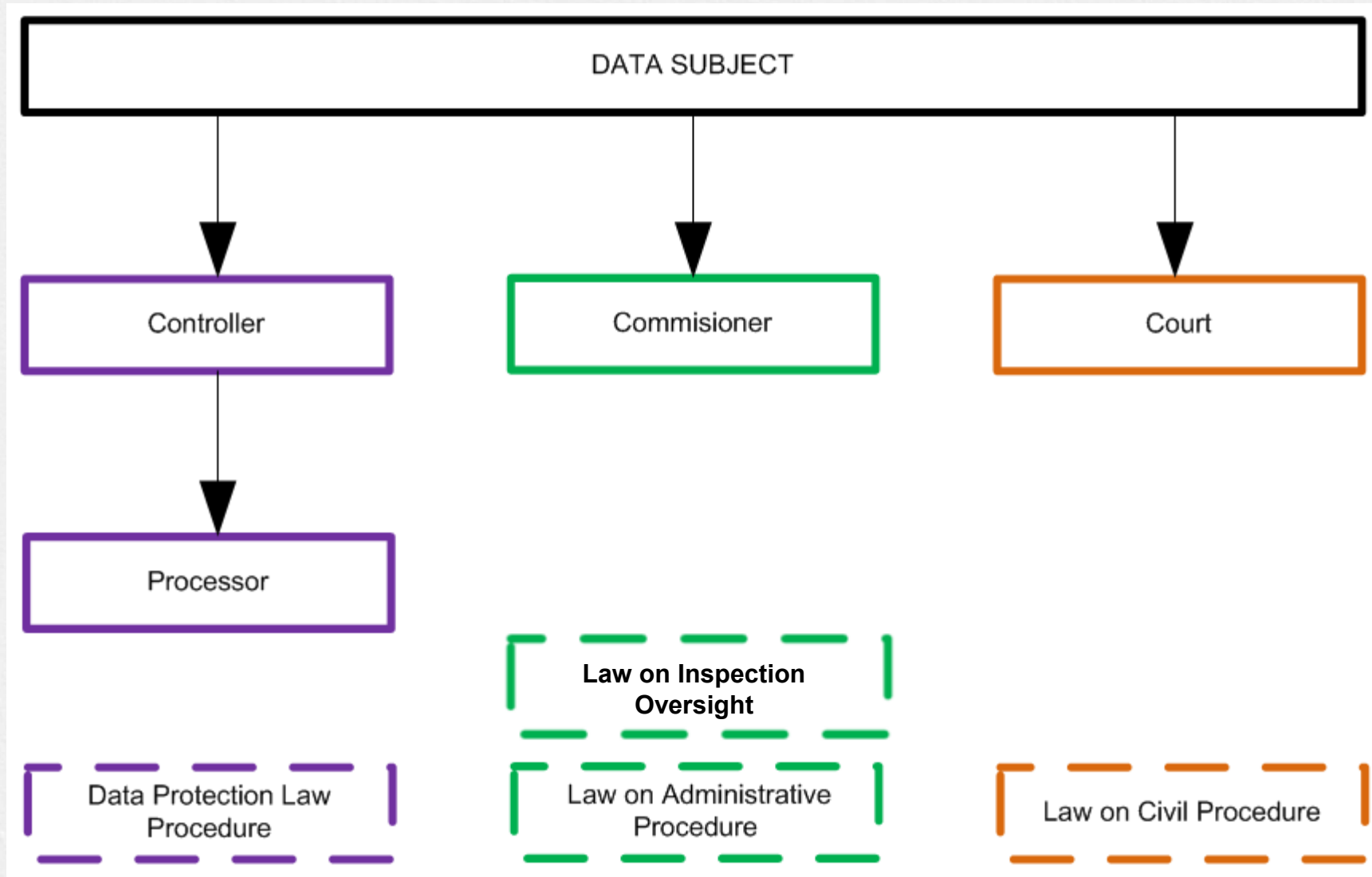


- = Article 26 // Request for access by data subject;
- = Article 29 // Request for rectification;
- = Article 30 // Request for erasure (Right to be forgotten);
- = Articles 30 and 37 // Objection to the processing of personal data and request for erasure of personal data that is used for direct marketing purposes;
- = Article 31 // Request for restriction of processing;
- = Article 36 // Request for data portability;
- = Article 37 // Right to object;
- = Article 38 // Request for termination of the automated individual decision-making, including profiling;





Procedures for Exercising of Data Subjects' Rights



Data Subject Rights Requests

Since it is modeled like GDPR, segment III of Serbian Law on Personal Data Protection gives explanation and definitions about data subject's rights.

Article 21 is explaining concept of transparent information, communication and modalities for the exercise of the rights of data subjects'.

Every data subject is in possibility to submit a legal request to the controller.

It is recommended that the controllers have internal rules and procedures regarded to these legal claims in advance so that process could be fluent.



Data processors are also obligated to give assistance to data controller during the process.

Should be regulated in detail within the agreement between controllers and processors.



Law is relatively new, so data subjects who enter into the process are in position for creating legal standards for the future.



When legal request is received...

I Data controller must determine data subjects' identity, and if identity is undeterminable, data operator can decline request.

II Data controller is obligated to deliver information in easily understandable language and in the shortest possible form.

* If information is regarded to a minor this must be taken as special obligation

III No specific form of the Answer. Request submitted by electronic means should be answered by electronic means.

*Data controller is also obligated to help data subject for exercising his or her rights



Rejecting the request

Specific bases for rejection are provided within the articles related to specific Data Subject Rights.

Data controller is hypothetically authorized to reject the request under certain circumstances /Art. 40/. In such a case it is recommended to provide comprehensive explanations which considers at least 8 relevant factors provided by the Law /Art. 40.2/



Deadline for giving first information about the process: **as soon as possible or maximum 30 days.**

*There is possibility to extend this deadline for additional 60 days if request to complex.

Deadline for giving arguments why data controller is not acting upon request: **30 days. .**

Process and deadlines for every request are the same.



If data controller is not acting upon request or rejects the request...

Data subjects has:

- = the right to **lodge a complaint** with a Commissioner for Information of Public Importance and Personal Data Protection
- = the right to **effective judicial remedy** against a controller or processor

Neither of these rights excludes the other in term of process.



The Commissioner

In this process the Commissioner has:

- = the authority to order data controller, by virtue of the law, to act upon the request of the data subject.
- = inspection authorities;

Data controllers will find as necessary to achieve fluent cooperation with Commissioner team, during this process and much more of them that are happening during ordinary data processing.



When Data Subject is lodging a complaint with a Commissioner, a Serbian Law on Inspection applies.

A complaint to the Commissioner has a **form of initiative** of Data Subject.

Rejection must be performed within of **30 days**.

Deadline for the Commissioner to inform data subject about the process: **15-60 days**.



The Administrative Court has the competence to review the legal decisions of the Commissioner enacted in the exercise of inspection authorities.



All involved parties have the right to commence an administrative dispute against the decision of the Commissioner within **30 days** as of receiving the decision.

Data Subject have the right to commence an administrative dispute if the Commissioner did not react within **60 days** as of filling of **initiative**.

The Court

Pursuant to Article 84. of Serbian Law on Personal Data Protection, data subjects' have a right to effective judicial remedy against a controller or processor.

The High Court is competent to resolve the case.

When data subject is submitting a lawsuit to the Court, a Serbian Law on Civil Procedure applies.



With entering in the process of effective judicial remedy against a controller or processor, next can be requested:

1. providing information from Article 22 to 27, Article 33 to 35 and Article 37 of this Law;
2. rectification or erasure of information about the prosecutor referred to in Article 29, 30 and 32 of this Law;
3. restriction of processing referred to in Article 31 and 32 of this Law;
4. providing data in a structured, commonly used and electronically readable form;
5. data portability to another controller referred to in Article 36 of this Law;
6. termination of data processing referred to in Article 37 of this Law.

+ DAMAGES



Appointing representative

Pursuant to Article 85 of Serbian Law on Personal Data Protection every data subject have a right to mandate a civil society organisation active in the field of protection of citizens data to lodge the complaint to Commissioner or to request effective judicial remedy on his or her behalf, to exercise their rights regarded to personal data.

Conflict with the Law on Free Legal Aid - CSOs can provide free legal aid only in cases of Asylum and Non-Discrimination.



Cases in EU

[Request for data erasure / Article 17/ Latvia](#)

Data controller: online services; **Fine:** 7000EUR

Subject: A controller was repeatedly requested by a data subject to delete all his personal data, in particular his/her mobile phone number.

[Request for access by data subject / Article 15 / Bulgaria](#)

Data controller: employer; **Fine:** 500EUR

Subject: An employee sent a request to his employer for access to personal data concerning him.



Right to object / Article 21 / Germany

Data controller: Delivery Hero GmbH **Fine:** 195.407

Subject: Eight former buyers complained on unwanted advertising e-mails from the company. A data subject who had expressly objected to the use of his data for advertising purposes nevertheless received further 15 advertising e-mails from the delivery service.



SHARE prepared [Guide through Serbia Law on Personal Data and GDPR](#) which is an explication of legal framework.

REASON: The law must be understood in order to be obeyed



VODIČ KROZ ZAKON O ZAŠTITI PODATAKA O LIČNOSTI I GDPR

TUMAČENJE NOVOG PRAVNOG OKVIRA



SHARE foundation has prepared
Guide on Data Subjects Rights

REASON: Citizens are not aware
of their rights.



VODIČ KROZ GDPR I ZAŠTITU
PODATAKA O LIČNOSTI

**MOJI PODACI,
MOJA PRAVA**

SHARE
FOUNDATION

SHARE foundation has prepared [models for legal claims](#) to data controller according to articles of Serbian Law of Personal Data Protection.

REASON: Exercising of data subjects' rights could be easy to do and to understand.

VAŠI PODACI, VAŠA PRAVA – MODELI ZAHTEVA ZA GRAĐANE

01-10-2019

PRIGOVOR NA OBRADU LIČNIH PODATAKA I ZAHTEV ZA BRISANJE LIČNIH PODATAKA KOJI SE KORISTE U SVRHU DIREKTOG MARKETINGA

U skladu sa članom 37 stav 2 Zakona o zaštiti podataka o ličnosti podnosim prigovor na obradu sledećih podataka koji se odnose na mene:

(upisati što preciznije na koje od spornih podataka se prigovor i zahtev odnose (mejl adresa, broj mobilnog telefona, broj fiksnog telefona...))

Ovim putem vas molim da na osnovu gore iznetog **prekinete odmah sa obradom** navedenih podataka.

U skladu sa prigovorom, odnosno, iskazanim neodobravanjem da se moji lični podaci koriste



MY

DATA

DONE

RIGHT



Take control

Access, remove, correct, or move your data.

Get started

Case in Serbia

Article 44 // Representatives of data processors and data controllers which do not have head office in Serbia

Subject: Letters to 20 foreign companies which are processing personal data of Serbian citizens

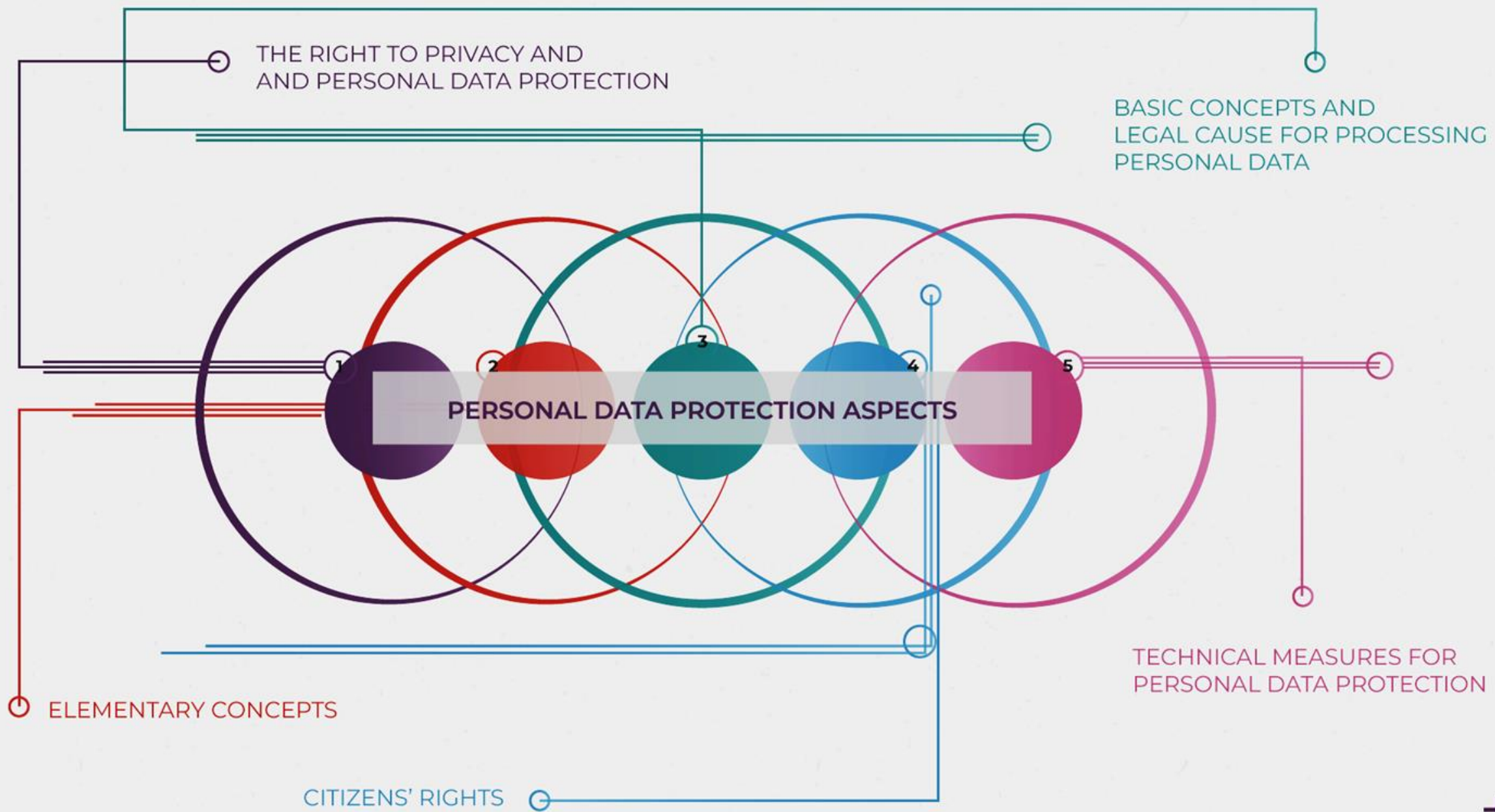
- = In June 2019. SHARE sent announcement letters to the companies to inform them about their obligation to appoint representative in Serbia. **Answer** came from KupujemProdajem, e-Sky and Twitter.
- = In October 2019. sending was repeated with slightly different content – that they need give as information about their representative in 10 days or we are considering reporting with motion to initiate misdemeanor proceedings to the Serbian DPA. **Answer** came from Upwork.



Current status: motion to initiate misdemeanor proceedings is in preparation

REASON: Processes must take their place by Law so that Serbian data subjects' could exercise their rights easily and with more efficiency.





Thanks for attention!

