

DOI: [10.20472/SS.2015.4.2.003](https://doi.org/10.20472/SS.2015.4.2.003)

HABEAS DATA: THIRD GENERATION GUARANTEE IN LATIN AMERICA

ANA DHAMO, IRIS DHAMO

Abstract:

In this conference we want to make our contribution in the theme " Habeas data: in Latin America", concept of habeas data, origin and evolution, regulatory developments of the right-guarantee habeas data in the Latin America, experience of Colombia, Brazil, Venezuela and Costa Rica, legal interests protected, active and passive subjects.

The first theme that we want to discuss is related to the basic concept of habeas data, its origin and regulatory development, the regulatory and judicial development in the Latin America Continent.

In second place we have analyzed some typical realities of Latin America, so that we can observe, through the constitutional paper, the respect and the rules for the application of this right- guarantee of third generation. Experience of Colombia, experience of Brazil, experience of Venezuela and experience of Costa Rica.

The third theme in which was focused our study is related to the analysis of active and passive subjects, legitimate in the application of the right-guarantee of habeas data, the legal interest protected, legal and procedural aspects of this right-guarantee.

Analytic study related to the guarantee of habeas data in the founding charts of the countries included in this study. Fields of application, legitimate of application and procedural aspects related. Comparative analysis of reality.

Raise awareness of the Albanian legislator to build and include, at constitutional level, through the forms of constitutional review provided, the right-law of habeas data.

Lead the Albanian citizens to learn, update and rectify the information concerning the protection of fundamental rights related with the privacy and honor.

Make the necessary constitutional revisions provided, with the purposes of including in the constitution the right-guarantee of habeas data.

Keywords:

Habeas data, concept, new guarantee, origin, Colombia, Brazil, Venezuela, Costa Rica, Albania, active and passive subjects, public law, differences.

Authors:

ANA DHAMO, European University of Tirana, Albania, Email: anadhamo@libero.it

IRIS DHAMO, European University of Tirana, Albania, Email: irisdhamo@libero.it

Citation:

ANA DHAMO, IRIS DHAMO (2015). Habeas data: third generation guarantee in Latin America. International Journal of Social Sciences, Vol. IV(2), pp. 25-28., [10.20472/SS.2015.4.2.003](https://doi.org/10.20472/SS.2015.4.2.003)

The development of communications and information from the twentieth century to the present, has led to new relationships that the law could not have foreseen. The development of information technology, mass media, global networks interconnected, the fixed and mobile satellite television, multimedia technologies, data about the person closely, has surprised legislators and governors, to the point that the person, the face of such developments, it remained for a long time without proper legal protection for their rights.

The concept of Habeas Data, is comprehensive in that it includes all the guarantees, actions, claims and judgments appropriate to ensure:

1. the right to protection of data, such as the protection of individual rights of the person likely to be harmed by the "managers" of personal data;
2. the right to data protection, as the power of people obtain from public authorities the defense of those rights violated or threatened by access, register or transfer to third parties of their personal data;
3. freedom of information, understood precisely as the right to self-disclosure, that is, as the right of individuals, groups or institutions to determine when, how and quantum of personal information subject to disclosure to third parties;
4. the freedom of information, as security personnel to know and access to personal information existing in databases, to check their contents and modify them in case of incorrect or improper storage or treatment, as well as to decide on their circulation or transmission.

The definition of habeas data as a law that allows each person to know, update and rectify information concerning him or her and that are present in the database, in the archives of public or private, in defense of his fundamental rights to privacy, to 'honor or the good name, is restrictive and partial.

To overcome these limitations, we must understand that the habeas data, such as habeas corpus amparo, Latin America has the category of basic constitutional law and legal guarantee, which is exercised as action, action or judgment, with ways and various procedures.

The habeas data as a right, belongs to the third generation. This new law is formed and develops parallel computing, with the electronic storage of data, the widespread use of computers, which allows a limitless collection and an immediate and total flow of personnel.

From this fact comes the need to create a mechanism judicial action, an action or a judgment that protects the right - freedom to privacy, understood as the power - the duty of everyone to keep in reserve aspects of their private lives, so that no one can interfere or impose constraints on behavior that does not affect the freedom or rights of others.

Corresponds to the area of family relations, the individual life, the character, and then to a strictly personal with you rend concrete the right personality and expresses the freedom of conscience.

The judicial mechanism must be able to ensure equally other independent elements, but which connect to privacy, including the right to their own image, honor, the idea that everyone has of itself and of its quality. Similarly, it must ensure the right to a good name, reputation, fame and opinion, that people and communities must have for all those who have shown their virtues, merits and quality.

This tool should enable the achievement of four objectives:

1. access to the recorded data in public and private institutions that regards themselves;
2. the right to correct them, so that you recognize the individual's ability to prevent the manipulation of information or dissemination of personal data affecting only the owner;
3. the power to know what information the person has been communicated to third parties and for what purpose;
4. ensure that the data collected are used or treated so as to injure the rights or freedoms of the same.

This mechanism, based on what has been stated above, it also becomes a tool suitable trial, in favor of the right to security, as it creates an environment of trust and peace of mind, family and society towards the development of the personality. It also ensures the effectiveness of this right, as a natural right essential to the personality of each.

The concept of habeas data is extremely complex because in Latin America is a constitutional right - freedom and a legal guarantee. Right - freedom and guarantee that involve action, a case, a judgment for the purpose of protection of rights to information, data protection and the protection of personal data, freedom of information and computer science, intimacy or privacy.

In the era of computerization it is necessary for all States to include in the constitution, through a revision of the Constitution, the right - guaranteed third generation: habeas data.