

SUMMARY OF DOCTORAL DISSERTATION

entitled *The Efficiency of Law Regulations Regarding Personal Data Protection*
computer print-out, Rzeszów, p 231

Author: Justyna Kunysz, M.A.

Promotor: Prof. Ludwik Żukowski, PhD

The subject of the present dissertation is the assessment of efficiency of law regulations regarding personal data protection. The main thesis of the dissertation is the assumption that the efficiency of law regulations within the scope of personal data protection is not high; there exists far-reaching interference of public law regulations with an individual's private sphere, and more specifically, with personal data. Privacy and personal data protection are interrelated in the way that the right of an individual to protect their personal data is a component of the right to privacy.

In order to develop the present thesis systematics was assumed; deliberations were presented in seven chapters and the conclusion.

Chapter One presents a theoretical analysis of issues regarding the efficiency of law. It details, *inter alia*, definitions and types of law efficiency, as well as factors which condition and limit this efficiency. Moreover, it was assumed that the efficiency of law regulations in the scope of personal data protection can be linked to the purpose of introducing by the legislator an act on personal data protection¹ to the binding system of laws, thus an act of fundamental importance, which would set standards regarding personal data protection.

Chapter Two of the dissertation introduces the process of shaping the right to protect personal data. This process was presented by showing the evolution of law regulations in this field on an international, European Union's and national plains.

Chapter Three regards the fundamental law solutions in the scope of processing and protecting personal data. The Chapter gives the interpretation, *inter alia*, of pivotal notions of personal data protection, as well as legal basis and principals for processing personal data of an individual.

¹Act of 29 August 1997, Dz. U. [Journal of Laws] 2015, item 2135.

Chapter Four illustrates the possibility to limit the right to protect personal data. It presents and analyses formal and material premises which allow interfering with rights and freedoms of an individual which are included in the Constitution of the Republic of Poland².

Chapter Five of the dissertation collates selected acts relating to different cases which undermine the right to protect personal data and thus affect the efficiency of its law regulations. In this context of paramount importance are limitations, introduced by the legislator, of the right to protect personal data which infringe its essence. The Constitution of the Republic of Poland allows the possibility to limit the right to protect personal data, but according to specific rules; meanwhile the said limitations were often enough implemented in a manner discordant with constitutional assumptions, in this way their functioning creates negative consequences and threats to aims and the essence of protection of personal data of an individual. Separate statutory regulations extended the area of integration in an individual's personal data through systematic extension of the catalogue of entities and bodies which have access to personal data of an individual, as well as the development of the scope of personal data which are made available due to the need to accommodate public interest in the form of national security or public order. Providing national security and public order are the most common instances which result in the situation when the right to protect personal data is "diminished"; they constitute indicators for the inefficiency of law regulations within the scope of personal data protection since the combination of needs to limit the right to protect personal data with the need to protect personal data brings about a certain conflict of interests, solution of which requires balancing legally protected values.

Chapter Six of the dissertation indicates that the efficiency of legal regulations in the scope of personal data protection is also influenced by the necessity to account for other laws which are inherent to an individual, including the right to public information. Differently formulated aims of both rights lead to the situation where these rights stand in opposition and create tension between them. Such a relation means that the tendency to execute aims of the right to public information diminishes the execution of aims of the right to protect personal data and in this sense affects the efficiency of legal regulations.

The last seventh Chapter of the dissertation discusses negative consequences and threats to personal data protection related to technological advancements and the expansion of the Internet. Their development carries the danger of interference into personal data of an individual against their will and without their knowledge, who have the right to independently

²The Constitution of the Republic of Poland of 2nd April, 1997, Dz. U. [Journal of Laws] no 78, item 483, as amended.

decide about which information, which regards this individual, can be made public. Technological advancements and the expansion of the Internet also caused the appearance of new categories of personal data which are under protection; personal data can constitute information which allows for identification of an individual even through devices used by this individual. These areas of individual's activity carry the necessity to provide at least minimum standards for personal data protection, while law regulations do not always keep pace with the innovations which appear in this area, or they are virtually nonexistent.

The present dissertation is concluded by a summary of conducted analyses included in particular chapters. It constitutes a basis to indicate which reasons decide about low efficiency of legal regulations in the scope of personal data protection.

The dissertation assumes legislation in force as at 31st December, 2015.

Justyna Kurysz
21.12.2015 ✓