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# APPENDIX 2

# SUMMARY OF PROFESSIONAL ACCOMPLISHMENTS

## 1. Full name

Bogdan Fischer

## 2. Diplomas and scientific degrees - including the place, name and year of obtaining them and the title of the doctoral dissertation

1994 – I graduated from the Faculty of Law and Administration of the Jagiellonian University in Krakow in the field of law;

1999 – by the resolution of the Council of the Faculty of Law and Administration of the Jagiellonian University on April 18, I obtained the academic degree of doctor of law; the title of the dissertation "Prawno-kryminalistyczne aspekty przestępczości komputerowej" ("Legal-Criminalistic Aspects of Computer Crime"). The dissertation was written under supervision of prof. dr. hab. Tadeusz Hanausek, and the reviewers were prof. dr hab. Kazimierz Buchała (UJ) and prof. dr hab. Hubert Kołecki (UAM).

## 3. Information on the history of employment in academic units

From October 2000 to October 2014, I was employed as a lecturer at the Institute of Journalism and Social Communication at the Faculty of Management and Social Communication at the Jagiellonian University.

Since October 2014, I have been working as a senior lecturer at the Institute of Journalism, Media and Social Communication at the Faculty of Management and Social Communication at Jagiellonian University.

**4. As a scientific achievement in a scientific discipline of law -** fulfilling the requirements specified in art. 16 sec. 1 and par. 2 point 1 of the Act of March 14, 2003 on Academic Degrees and Academic Title, and on Degrees and Title in the Field of Art (Journal of Laws of 2017, item 1789) I present the monograph: Prawne aspekty norm technicznych. Normalizacja jako wsparcie legislacji administracyjnej (Legal aspects of technical standards. Standardization as support for administrative legislation), Wolters Kluwer, Warszawa 2017, 300 pp.; publishing reviewer dr hab. Paweł Fajgielski, prof. KUL (The John Paul II Catholic University of Lublin).

The main purpose of the paper, which is signaled by its title, is to define the legal aspects of technical standards and their significance for administrative law. My findings confirmed that the limits of administrative law can be shifted thanks to standardization and technical standards. The conducted research led to the determination of the extent to which administrative legislation and standardization are separate areas, and in which - complementary. In order to achieve the main goal, additional objectives were also formulated to answer the question: whether standards arising in the normalization process are non-binding acts (soft law), a form of self-regulation or co-regulation, or tools for deregulating hard law. The primary objective was also achieved by successive findings resulting from the evaluation of existing legal means of regulating technical issues and their consequences in the area of applying the law. These included in particular: evaluating the necessity of introducing and applying different principles than in "non-technical areas" in the process of legal regulation of technical issues, determining the justification for the necessity of legal regulation of technical issues or its abandonment, and consequently evaluating whether the regulation method of technical issues should solely be based on technical standards, or it is necessary to develop differently formed methods, and if so - to what extent. Further detailed research provided a complete - within the adopted framework - picture of aspects which are necessary in order to determine the limits of technical and legal regulations, in particular administrative legal ones.

In the conducted research, in the areas that required it, I used the analysis of substantive approach to particular legal issues relating to, among others, structural bases of introduced technical regulations, characteristics of a technical standard, the concept of the Polish Standard and a technical regulation or non-systemic references to the principles of technical knowledge. I also considered, albeit to a narrower extent, procedural issues, including the harmonization of technical regulations in the European Union. I also distinguished and

analyzed the ways and appropriate forms of regulating technical development, as well as the actual transparency of the legal regulation of technical progress and the scope of necessary public and legal interference in this area. Examination of these issues did not seem possible without indicating - within the limits of this paper - the historical aspects of the development of public-law regulations in this area. In my considerations, I took into account examples of legal solutions in various fields, with particular attention being paid to data protection constructions.

Characteristics of the legal contexts of technical standards, their importance for administrative law and the defined research area covered many issues of various etiology, especially legal-dogmatic, but also theoretical and practical ones. The subject of the undertaken research is mainly the regulations of the administrative substantive law and the structures created on their basis. Clarification and explanation of the concepts meanings which were necessary for the assumed goal attainment, as well as the assumed area of research determined the manner of conducting it and the selection of research methods. In turn, the indication of research methods made it possible to determine the direction, subject and scope of research.

In the paper, I used classic research methods, relevant to legal science. To the fullest extent, I used the formal-dogmatic and legal-comparative methods. The historical method was used to a narrow extent, solely for a proper understanding of the content, purpose and function of normalization before it attained its present form. The methodology adopted by me determined the selection of sources, which included normative acts, case law and source literature. At the same time, attention should be paid to the scarcity of studies and publications in the analyzed research area.

The decision to deal with this issue arose, firstly, from the scale of the phenomenon - thousands of technical standards appearing in circulation, and secondly, due to the lack of the broader studies on this subject in the study of administrative law.

In chapter one, I made preliminary terminological findings, which were aimed at showing the importance of basic concepts used in the paper and the justification of the applied conceptual apparatus. During the study of normalization issues, I took into account its interdisciplinary character and the technical nature of the process it describes, I indicated the concepts on which it is based, and for the purpose of the proper goal attainment, I used the historical conditionalities that influenced its current form. Comparing the obtained results with the characteristic regulations of administrative legislation, I evaluated the creation of

rules in an autonomous area, which affects the shaping of the technical standard, as well as its position in the system of administrative law sources. I compared normalization with legislation in a narrow sense, i.e. constitutional, statutory and delegated, under which legal provisions are adopted by state legislative organs, constituting a legal obligation for citizens.

Then, I compared normalization with autonomous legislation, the fourth separate type of legislation. A characteristic feature of autonomous legislation is the creation of law by the participants of legal transactions themselves, which brings this type of legislation closer to standardization, while maintaining the differences discussed in the paper. Finally, I compared normalization with administrative legislation in terms of the law-making of public administration entities in the area of both general and internal law. I also indicated, as justification for the deregulation of the law, irregularities in its creation, which lead to unfavorable phenomena referred to as legal inflation. The intention of this chapter was also to explain the reasons behind the wide variety of instruments used in the creation of the law and the widespread use of non-legally binding instruments in its formation. This helped focus further analysis on determining whether technical standards are the right instrument which can effectively be used to deregulate hard law. Seeking the answer to this question, I analyzed not only the institutionalized law-making process, its creation and formation, but also the differences in the legal and regulatory approach.

In chapter two and three, I conducted an analysis of the mutual relations between the concepts of a legal norm, a technical standard, a legal provision and an administrative provision. In this part of the research, I gave special attention to the evaluation of the technical standard as the main carrier of the model technical content, from the perspective of the concept of the norm constituting the evaluation standard for the correctness of its functioning. Starting from the terminology which is appropriate to the normative act, I referred it to the technical standard, and examined such issues as: initiating the issuing process, drafting, participating in its publishing, entering into force, validity, publishing or accessing the contents of the standard. In this chapter, in addition to the comparison of legal norm and technical standard, I sought answers to further detailed questions: what is the legal status of a technical standard and whether, by putting it in a legal provision, it is no longer solely an optional recommendation, but its use is automatically mandatory, which happens when the technical standard (whose content is independent of the lawmaker) changes, when it is invoked in the regulation, and finally, how to interpret the reference to technical standards

that are not compliant with the acts and whether, in the analyzed approach on a global scale, the administration is exercised by private institutions with regulatory functions.

Organizing terminology made in these chapters allowed me to evaluate the implemented solutions, taking into account the diversity of forms in which the standards are invoked, and the entities implementing them, as well as the risks associated with them. After examining these basic relationships on the basis of the findings, I made an attempt to evaluate the place of the technical standard in the normative system.

In chapter four, I analyzed the position of the national standardization body, Polski Komitet Normalizacyjny (the Polish Committee for Standardization), starting from its origin. In the following part, I determined its functions and evaluated its character. I also drew attention to the considerations, undertaken in the doctrine, related to public management, based on the example of the management control of the Polish Committee for Standardization. In this chapter, it was necessary to refer to structural issues, slightly different from the others described in the paper. Without them, however, the picture of mechanisms related to technical standards would not be full.

In chapter five, I analyzed the meaning and the use of instruments that are not legally binding in the process of Europeanization of administrative law. In the initial part of my considerations, I presented the basic findings of the administrative law doctrine concerning Europeanization and its adopted provisions. They helped reveal the importance of other instruments, apart from the hard law regulations, which are used to implement it. On the basis of the obtained results, I determined, inter alia, that the creation of technical standards as a complementary instrument reveals current trends in administrative law regarding the relationship between the administrative authority and private entities. The standards created as a result of this kind of cooperation, which occur, in accordance with the preliminary assumptions adopted in the paper, as a part of broadly understood soft law, are often a starting point in turning them later into legally binding regulations. A partial assumption made in this chapter was to define the limits of regulation with "soft law", which was meant to be helpful in indicating the usefulness of mechanism of regulation with other non-binding instruments (eg codes of good practices) when there are limitations to the possibility of extending generally applicable provisions over certain areas. And this, in turn, helped in determining what should be covered by technical standards and what by generally applicable provisions. The leading topic of chapter six concerns the mechanisms which are applied to eliminate technical barriers with the use of standardization. First of all, I analyzed the mechanisms for

harmonizing technical standards in the European Union. This extensive issue was deliberately limited to the indication of EU instruments harmonizing the application of technical standards and regulations in the member states. However, the conducted analysis helped to assess what public administration activities should be undertaken in this respect.

The research I conducted achieved the main objective. They showed that the limits of administrative law are shifted by normalization. The analyzes helped distinguish the features of a technical standard and its characteristics in relation to the legal norm, legal provision and administrative provision. A technical standard, functioning primarily as a norm codified by relevant standardization organizations, can be given the character of a legal norm by including in the system the applicable law, using the methods indicated in the paper. I made findings in matters of the use and in the course of applying the law when comes to technical standards that function as a source of normative material, including the issuing and justification of conventional acts (eg administrative decisions, rulings). I confirmed the assumptions made at the beginning of the paper that technical standards are non-binding acts of law (soft law), which may take the form of self-regulation or co-regulation. They may also, in certain cases, play a deregulatory role for "hard law", limiting or changing the nature of the legislator's interference, while the complementarity can be seen. It is understood as regulation and deregulation that determine the directions and the limits of self-regulation and co-regulation, which, in turn, affect back the shape of regulation and deregulation and is included in it to a certain extent. The research enabled me to make an evaluation resulting from a comparison of standardization, in which standards are developed by interested parties, with the voluntary use of a standardization unit, with legislation and administrative legislation. In spite of the fundamental differences between administrative legislation and standardization, I pointed to the spheres in which administrative legislation and normalization merge. On the basis of my analyses, I determined that the increasing use of technical standards and the ways in which they occur constitute one of the manifestations of the situation in which the legislator ceased to fall into traditional divisions and creates new legal solutions and new forms of action, with which the specific risks. discussed in this paper, are simultaneously related.

The findings required determining the impact of participation in international organizations on the inclusion of broadly understood legal systems applicable to these organizations in the domestic legal system. I pointed out the features of non-binding instruments that define the directions of regulation of technical solutions, and mechanisms supporting the introduction of technical standards of these organizations. In addition, I tried to explain the reasons for the

difficulty of effectively solving "technical issues" by means of regulatory and administrative measures taken independently by individual states in some areas. As a result, I confirmed the need to use a system of EU solutions that would largely take into account non-binding instruments as well as other transnational forms of regulatory cooperation. On the basis of findings made in the paper, I determined what the change in EU approach to technical regulations is, and I confirmed that in some areas there is a systematic replacement of administrative law with other instruments on a European and European Union scale (and consequently also in the member states). This is manifested in the limitation of the scope of application or even full exclusion of legal regulation in a form of administrative and legal norms in some areas of social or economic life. This is most often justified by the elimination of technical barriers and differences in legal systems in individual member states. However, such a situation requires the recovery of the vulnerable areas by administrative law and the use of technical standards and standardization for this purpose, i.e. instruments from which the potential threat was also flowing. The results of the analyzes conducted in the dissertation also enabled me to formulate the *de lege ferenda* postulates. Finally, I confirmed the adopted hypothesis that the legal systems in the area of technical issues based solely on the codified law are not effective and should be supplemented by technical standards, which in turn - although created as part of standardization - shift the limits of administrative law.

**Description of other scientific and research achievements**

Apart from the monograph, which was presented as a scientific achievement within the meaning of art. 16 sec. 2 of the Act of March 14, 2003 on Academic Degrees and Academic Title, and on Degrees and Title in the Field of Art (Journal of Laws of 2017, item 1789), my scientific achievements after obtaining the degree of doctor of law consist of over 60 scientific publications, including three scientific monographs, one textbook (co-author), one commentary (co-author), two dictionaries (co-author, author of 113 entries), 18 scientific articles in journals (three as co-author) and 35 chapters in scientific monographs (three as co-author). In Polska Bibliografia Prawnicza - Instytut Nauk Prawnych Polskiej Akademii Nauk (Polish Legal Bibliography - The Institute of Law Studies of the Polish Academy of Sciences), there were 69 entries (including the ones prior to doctorate) of my authorship or co-authorship.

A detailed list of published scientific papers or my other professional accomplishments, along with detailed information about my 31 presentations at international or domestic scientific conferences, didactic achievements, cooperation with scientific societies, and

activities promoting science are included in Appendix 3 of the application for the post-doctoral proceedings.

In my previous scientific work, my primary scientific area is a part of administrative law, which is information law (IT law), within which four further sub-areas can be distinguished, including:

1) **Public law protection of personal data,**

2) **Access to information and its boundaries, re-use of public sector information, information access authorities,**

3) **Media law, with particular emphasis on public and boundary aspects with private law,**

4) **Alternative methods to the law to regulate social and economic relations that broaden the boundaries of administrative law, including technical standards.**

My primary scientific area (using the analysis of the German professorial project of the Information Law Code from 2011 in its characteristics) covers the issues of information freedom and its boundaries (set out in private and public law), information supply (access to public information, its re-use, information by state authorities), data processing (by public and non-public entities, traditionally, and with the use of information technology) and information administration (information obligations of private entities towards the state, information flow between public entities, public registers).

A characteristic feature of activities in this area is the need to make arrangements in connection with legislative processes in which the Polish legislator tries to resolve current legal problems related to electronic communication and information protection through the parallel application of two or even three methods of regulation (civil law, administrative and criminal law), often taking into consideration non-legislative EU conditions. I devoted a part of my postdoctoral thesis to the study of this tendency (and somehow the necessity). I published my first analyzes and conclusions after defending my doctoral thesis, at an early stage of the development of information law, in a monograph entitled *Przestępstwa komputerowe i ochrona informacji (Computer crimes and information protection)*, Zakamycze, Kraków 2000, 257 pp. Characterizing IT (information) law in the world and in Poland, I indicated then, among others, that the development of computerization should be accompanied by regulations appropriate to a given phenomenon, as well as regulations and instructional acts, which results from the fact that, as a rule, slow legal processes do not keep

up with constant changes related to technical progress. In the following years, this monograph was often cited in scientific publications of other authors referring to information issues and is still used, for example, in didactics in the field of data protection principles.

Information law is still very dispersed - hence my research for over a dozen years has focused on the separate elements that constitute this law. The primary research areas which I dealt with after obtaining the doctoral degree are: personal data protection law, legally protected secrecy, information protection under the conditions of information society development, access to public information, re-use of public sector information, administration computerization processes, electronic administration and supplementary issues regarding information and IT under administrative law. For many years, non-legally binding instruments have been a very important area in my research that complements the above areas. My research focuses not only on a broader analysis of their significance for administrative law, in particular information law, in the context of lawmaking, application and adherence, but also taking into consideration the opportunities and threats to administrative law resulting from the expansion of soft law or technical standards. The analysis of data circulation within the information society also enabled me to identify, in this perspective, the areas that are guided by, inter alia, similar internal axiology. A characteristic feature of a lot of my research and related activity is the evaluation of technical aspects of the analyzed phenomena from the point of view of administrative law.

**1a) Personal data - legal aspects of personal data protection**

My primary area of scientific activity is the issue of public law protection of personal data. For almost 20 years I have been devoting research attention to issues that are still subject to significant changes (*Ochrona danych osobowych (Personal data protection)*, „Prawo i Życie" 14/1998, pp. 6–9. Monograph, *Przestępstwa komputerowe i ochrona informacji* (*Computer crime and information protection*), Zakamycze, Kraków 2000, 257 pp. was partly devoted to the protection of personal data. Between 2000-2005 I was a scientific co-editor and co-author of an extensive two-volume edition *Prawo komputerowe w praktyce (Computer law in practice)*, Verlag Dashöfer, Warszawa 2000–2005. Despite the title, limiting the thematic scope, in fact this publication was a place of analysis regarding information (IT) law with a broad focus on the law of new technologies. In relation to the discussed area of analysis , I wrote sub-chapters 11.2.1 to 11.2.4 in chapter 11.2: *Ochrona danych osobowych (Personal data protection)* (in:) B. Fischer, M. Skruch (ed.), *Prawo komputerowe w praktyce (Computer*

*law in practice)*, Verlag Dashöfer, Warszawa 2001, pp. 1–29. Further research and resulting publications focused on the legal consequences of the processing personal data in connection with Poland's accession to the European Union and the introduction of, as a rule, uniform data protection in the Member States – e.g. *Administrator danych osobowych po przystąpieniu Polski do Unii Europejskiej. Uwagi de lege lata (Administrator of personal data after Poland's accession to the European Union. Comments de lege lata)*, „Radca Prawny" no 5/2004, pp. 71–78. In this publication, I analyzed the validity of the introduced changes, including the dichotomous division into the European Union member states that provide adequate data protection and third countries that do not provide such guarantees, which became the beginning of a broader study of data transfer issues ending with the publication of a monograph entitled *Transgraniczność prawa administracyjnego na przykładzie regulacji przekazywania danych osobowych z Polski do państw trzecich* (*Cross-border aspect of administrative law on the example of regulation of the transfer of personal data from Poland to third countries*), Wolters Kluwer, Warszawa 2010, 320 pp. The emergence of a new specific model of data processing in the cloud computing brought the need to identify and investigate its threats to the protection of personal data. Diagnosing potential problems and preparing proposals for the application of appropriate legal structures that guarantee protection became the foundation a monograph entitled *Cloud computing – globalny technologiczny paradygmat – zagrożeniem dla ochrony danych osobowych i prywatności (Cloud computing - global technological paradigm - as a threat to the protection of personal data and privacy)*, In Altum, Kraków 2013, 282 pp.

After the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data entered into force and the Directive 95/46 / EC (OJ EU L 119, 4/05/2016) was repealed, I focused on researching the most sensitive area, i.e. the data subjects rights. In this respect, I was a co-author of the publication: B. Fischer, M. Sakowska-Baryła (ed.), *Realizacja praw osób których dane dotyczą, na podstawie rodo (The exercise of data subjects rights under GDPR),* Presscom, Wrocław 2017: Chapter 1: *Charakterystyka praw osób, których dane dotyczą, na gruncie rodo*, (*The characteristics of data subjects' rights under GDPR)* pp. 15–45 (co-author); Chapter 8: *Prawo do usunięcia danych (Right to erasure*), pp. 201–224.

**1b) Legal issues regarding the transfer of personal data to third countries**

This issue is a very important area of research in my scientific work. Although there were many publications in world (especially in Europe) and Poland regarding numerous issues related to personal data, the issue of cross-border data transfer and its legal and administrative aspects remained for many years on the margins of research interest of scientific communities. This was an additional motivation for intensive research in this area. As for the most important publications of my authorship or co-authorship regarding this subject, I would point out: *Transfer danych osobowych do państw trzecich (wybrane zagadnienia)(Transfer of personal data to third countries (selected issues)*, „Państwo i Prawo" no. 1/2007, pp. 100–112 (co-author); *Zasady transferu danych osobowych z Polski na przestrzeni 10 lat obowiązywania ustawy o ochronie danych osobowych (Rules for the transfer of personal data from Poland over the 10 years span of validity of the Act on the Protection of Personal Data* (in:) P. Fajgielski (ed.), *10 lat ochrony danych osobowych w Polsce (10 years of personal data protection in Poland)*, Wydawnictwo KUL, Lublin 2008, pp. 127–140. A separate issue requiring the definition of the boundaries with the labor law were the studies on the specificity of legal protection with respect to employee data, both at cross-border transfers and during processing as part of employer's control activities. I wrote about it in: *Skuteczność ochrony danych osobowych pracowników korporacji z uwzględnieniem ich pozyskania z monitoring (Effectiveness of personal data protection of corporate employees, including obtaining data from CCTV)* (in:) G. Szpor (ed.), *Ochrona danych osobowych. Skuteczność regulacji (Personal data protection. Effectiveness of the regulation)*, Municipium, Warszawa 2009, pp. 167–176.

The crowning achievement of many years of research on cross-border transfer of personal data to third countries is a monograph: *Transgraniczność prawa administracyjnego na przykładzie regulacji przekazywania danych osobowych z Polski do państw trzecich (Cross-border aspects of administrative law on the example of regulation of the transfer of personal data from Poland to third countries)*, Wolters Kluwer Warszawa 2010, 320 pp. In this work, I used the concept of cross-border administrative law as a research tool to describe and define transformations in administrative law under the influence of social needs related to the protection of the rights of persons across borders. I pointed out and analyzed the activities of states whose purpose is to create public subjective right in the field of personal data protection, and their correct and possibly uniform understanding in the international community, as well as actions that are aimed at protecting the entitled entity against third party interference or guaranteeing such protection. The adoption of a broad category of

"cross-border" enabled me to include both domestic and European law, or, more broadly, international law, in the case of activities that go beyond the borders of the state. This category does not cause limitations solely to entities of international law, but also it allows for the inclusion of other entities, if their actions or effects of these actions refer to the territory of more than one country, as in the case of, for example, international business entities. In this context, I pointed to the reduction of the importance of national law, and the increase in the importance of supranational (transnational, hierarchical) and transnational systems (of more network character rather than hierarchical). In the adopted approach, I analyzed current integration processes that affect the emergence of cross-border administrative law, using in the research a limited category of legal solutions regulating cross-border data transfer. As a result of the conducted research, I explained in my paper the essence of the phenomena defining the characteristics of cross-border administrative law, including in particular: the emergence of new self-regulation tools that focus on measures, not on the purpose of action, shaping a variety of mechanisms of informal arrangements between administrations creating normative foundations for completing tasks, as well as diversifying the sources of law and strengthening the role of soft law. Analyzes I conducted showed that shaping the cross-border administrative law will not rely on the adoption of uniform patterns, but on the gradual development and adaptation of general principles recognized in the international community. I also showed that cross-border activities and their regulation by public law require a gradual increase of the influence area of administrative law. After almost seven years, these claims are still valid and are confirmed by existing mechanisms, with the use and appropriate adaptation of existing instruments (e.g. technical standards which subject to analysis in my post-doctoral paper).

Let me quote a fragment of the editorial review to this monograph by Prof. dr. hab. Andrzej Wróbel: "The reviewed paper concerns a significant scientific problem in the field of public (administrative) law, which is the gradual formation of a body of cross-border administrative law in the area of data transfer from Poland to third countries. The author aptly characterizes cross-border law, paying attention to its comprehensive character and specificity of the structure of this law resulting, inter alia, from the influence of international law and European law. The choice of transfer of personal data from Poland to third countries as a reference area for the analysis of the cross-border nature of administrative law is definitely correct, because this field is subject to particularly intensive and widely described, in this paper, processes of globalization and Europeanization. The added value of the paper is undoubtedly the results of

analyzes of corporate statutory law, regulating issues related to the cross-border transfer of personal data, the more so that this issue is practically ignored in scientific analysis, and - as demonstrated by this paper - is of great importance. The related issue is the legal classification of this "corporate" law in the context of the requirements of the rule of law. The scientific problem studied in this paper is therefore significant and deserves to be disseminated in the scientific community. I recommend this paper to appear in print (...) taking into account high scientific value of the research topic, an interesting way of its presentation, correctly applied research methods and correctness of analyzes as well as the importance of conclusions and theses included in the paper."

**2a) Access to information and its boundaries and re-use of public sector information.**

The need to undertake research, helpful in setting the boundaries of the right to information and the personal data protection, was intensified by the reform of the personal data protection law. The deliberations on this subject were covered in the publication: *Czy reforma europejskiego prawa ochrony danych osobowych pomoże w rozstrzyganiu kolizji tego prawa z prawem do informacji (Will the reform of the European law on the protection of personal data help to resolve the conflict of this law with the right to information)* (in:) M. Maciejewski (red.) *Prawo do informacji publicznej. Efektywność regulacji i perspektywy jej rozwoju (The right to public information. Effectiveness of the regulation and prospects for its development)*, Wydawnictwo Biuro RPO, Warszawa 2014, pp. 67–78. The basis of the analysis was the treatment of access to information as the basic form of realizing the standard of transparent administration in social life.

This topic was also part of my research (as one of the contractors) within a scientific project „Model regulacji jawności i jej ograniczeń w demokratycznym państwie prawnym" (The regulatory model of transparency and its limitations in a democratic state of law), which aimed at diagnosing access to information and its conditions, and presenting the concept of increasing the effectiveness of legal regulation of data processing protected from disclosure. The work resulted in several presentations at scientific conferences and publications in a multi-volume monograph as part of the project: *Wolność wypowiedzi prasowej a prawo do bycia zapomnianym (Freedom of press release and the right to be forgotten)* (in:) G. Szpor (ed.), *Jawność i jej ograniczenia (Transparency and its limitations)*, vol. VIII: J. Gołaczyński (ed.), *Postępowania sądowe (Litigation)*, C.H. Beck, Warszawa 2015, pp. 91–109; *Funkcja kontrolna prasy i jej wykonywanie poprzez dostęp do informacji publicznej (Control function*

*of the press and its performance through access to public information)* (in:) G. Szpor (ed.), *Jawność i jej ograniczenia (Transparency and its limitations)*, vol. IX: B. Szmulik (ed.), *Zadania i kompetencje (Tasks and competences)*, C.H. Beck, Warszawa 2015, pp. 346–359. Apart from access to public information, the essential need of modern times, as well as the form of disclosure, is the re-use of public resources.

One of the research fields I dealt with under the aforementioned project were the issues related to public registers (as part of public information resources). The research was aimed at evaluating the rationalization of legal and non-legal restrictions for the access and re-use of public information resources, with particular reference to selected registry resources.They resulted in the conclusions I included in the chapter *Rejestr dzienników i czasopism (Register of journals and magazines)* (in:) A. Gryszczyńska (ed.), *Rejestry publiczne. Jawność i interoperacyjność (Public registers. Transparency and interoperability)*, C.H. Beck, Warszawa 2016, pp. 351–367. Although there are no legislative or non-legislative barriers to data access inside the examined register as well as to their re-use, supporting the development of technical infrastructure by public administration which leads to the simplification of the use of individual registers, including the search for public data in them, should be strengthened in parallel to the development of regulation specifying re-use and protection against risks it entails. With the interdependence of the contents of individual registers, not all existing registers are necessary. Only some of the latter should be included in Centralne Repozytorium Informacji Publicznej (Central Repository of Public Information) (and in metadata describing the information resource), while for the remaining ones, it would be advisable to function within the existing framework.

I indicated the possibility of limiting the diagnosed threats related to the re-use of public sector information in public and non-statutory records, among others in: *Ustawa o ponownym wykorzystywaniu informacji sektora publicznego. Komentarz (Act on the re-use of public sector information. Commentary)* (co-author), Presscom, Wrocław 2017, 527 pp. In the commentary, I thoroughly investigated this new generation law, which is one of the manifestations of changes taking place in social life, which are related to the growing importance of new technologies. The basic tasks of public administration were distinguished, which apart from providing public data for re-use include the creation of legal and technical infrastructure for data sharing, for re-use and counteracting threats connected with the re-use of data. These risks were diagnosed and analyzed, among which specific risks associated with privacy violations were identified. Admissible conditions for the re-use of public sector

information and the principles of unconditional communication of information were examined. In the commentary, the restrictions related to access to public sector information were analyzed, which stemmed from, among others, personal data protection, classified information and other statutory protected secrets, and rules were formulated which should be taken into account in the implementation of the above-said restrictions. The rules regarding the material content of the right to re-use public sector information and the principles defining them such as equal treatment, non-exclusivity, complimentariness, unconditionality, format availability and transparency were subject to evaluation.

The right to re-use is associated with the concept of open government, which is a response to changes in social life at the beginning of the 21st century. In connection with the process of "opening" the administration, the role and significance of public data as a resource, which is in the possession of public authority and can serve the general public, increases and it has a definite value, both economic and non-economic (e.g. for the development of information society, science, culture, data quality). Access and re-use are the basic forms of realizing transparency of public life.

As part of the examination of the limits of access to information, I analyzed whether the scope of protection adopted in the Polish legal system is sufficient and whether the regulations of legally protected secrets are complementary, supplementary or perhaps completely independent. For the proper determination of boundaries, I determined conceptual designates and formulated the principles of proper information processing covered by legally protected secrecy. I have devoted my research attention to verifying information access boundaries at an earlier period of my scientific work after obtaining a doctorate, among others, in in: *Granice dostępu do informacji – tajemnice ustawowo chronione na przykładzie informacji publicznych, informacji niejawnych i prawa do prywatności (Limits of access to information - secrets protected by law on the example of public information, classified information and the right to privacy)* (in:) T. Wawak (ed.), *Zarządzanie bezpieczeństwem informacji programami antykorupcyjnymi (Management of information security and anti-corruption programs)*, Wyższa Szkoła Administracji w Bielsku-Białej, Bielsko-Biała 2007, pp. 32–38. One of the first attempts in Poland to define the boundaries of individual secrets protected by law, to collect and catalog them was an academic textbook: *Dostęp do informacji ustawowo chronionych, zarządzanie informacją (Access to information protected by law, information management)* (co-author), Wydawnictwo UJ, Kraków 2006, 128 pp. In distinguishing between the public and private law methods for establishing legally protected

secrets, attention was paid to, among others, for a patchy conceptual apparatus used by the legislator, from "secrecy" to "statutory protected secrets", "legally protected secrets", "professional secrets", "data" and "information" and inconsistency of many other terms. This handbook is still used not only in the classes conducted in this area, but also by other researchers.

In turn, in the article *Tajemnica telekomunikacyjna w świetle dyrektyw UE i w prawie polskim* (Telecommunications Secret in the Light of EU Directives and in Polish Law), „Europejski Przegląd Sądowy" no 11/2006, pp. 29–35 I analyzed the issues of information protection in the field of telecommunications, in particular telecommunications secrets, which I compared with the requirements for personal data protection and privacy in the electronic communication sector (then based on the so-called communication directive). I primarily pointed to the protective nature of the latter, which distinguishes it from other telecommunications directives. I also studied other issues related to the development of modern information technologies and the characteristic aspects of the protection of telecommunications secrets, including the conditions for exemption from it. In the presented approach, I based on the assumption of a joint interpretation of sectoral regulations (in this case telecommunications law) and the act on the protection of personal data. The research allowed me to define the characteristic features of the restrictions on access to information, including the appropriate (proportional) approach to protection also when it is of a particularly restrictive character. Proportionality in this approach is realized, in particular, through the exceptions provided, whose essence and validity have been assessed. The aforementioned analyzes were a continuation of the research that I started before the PhD that dealt with data retention and the need of member states for protection against unauthorized access to communications (ensuring protection of communications confidentiality) and subsequent considerations regarding legislative changes prior to accessing the European Union are in a form of commentary in the chapter 6.1: *Nowe prawo telekomunikacyjne (New telecommunications law)* (in:) B. Fischer, M. Skruch (red.), *Prawo komputerowe w praktyce*, (Computer law in practice), Verlag Dashöfer, Warszawa 2004, 72 pp.

**2b) Access to information: authorities at accessing public information, re-using the ISP and protecting personal data**

As part of the Narodowe Centrum Nauki (National Science Center) grant, as one of the contractors, I conducted research on the functioning of specialized bodies in access to public

information in selected European Union countries (Great Britain, Federal Republic of Germany, Hungary and the French Republic). In Poland, this body does not exist, therefore the purpose of the research was to find an answer to the question about the legitimacy of its appointment and its character and legal aspects of its functioning. The issue of appointing a specialized body in access to public information in Poland was an element of my reflections on amendments to the Act on Access to Public Information. Prior to the research, there was no consistent concept or normative proposals in this area. Deepening knowledge about the operation of specialized bodies in other legal systems and the results of comparative analyzes, including the *de lege ferenda* conclusions, are of great importance for the discussion of possible changes in the applicable law. The work presents, among others, arguments for combining the functions of a body specialized in matters of access to information (Rzecznik Dostępu do Informacji Publicznej - the Commissioner for Access to Public Information) and personal data protection (GIODO), as well as arguments against linking indicated cases in one body. The result of the above research was an extensive chapter: *Wyspecjalizowany organ do spraw dostępu do informacji o charakterze publicznym w wybranych krajach UE* (*A specialized body for access to public information in selected EU countries*) (in:) G. Sibiga (ed.), *Główne problemy prawa do informacji w świetle prawa i standardów międzynarodowych, europejskich i wybranych państw Unii Europejskiej (The main problems of the right to information in the light of international and European and selected European Union country law and standards)* (co-author), C.H. Beck, Warszawa 2013, pp. 149–239.

**3. Media law with particular emphasis on public and boundary aspects with private law**

In the research work in this area, I undertook comprehensive consideration of private and public media issues, with significant social and economic significance related to the development of the information society. It is the operation of the press that should be seen as legitimate merging (interbreeding, completing) freedoms from art. 54 and the rights from art. 61 of the Constitution of the Republic of Poland. Thanks to the press, it is possible to link effective control of people and activities and to inform the public about it. It should be emphasized at the same time that the issues subject to research regarding the area of media law are closely related to the information law and mostly overlap with the issues discussed above in points 1 and 2. The research resulted in publications: *Prawne aspekty ochrony informacji w gospodarce elektronicznej – wybrane zagadnienia dla dziennikarzy (Legal aspects of information protection in the electronic economy - selected issues for journalists)*,

„Studia Medioznawcze" no 5/2003, pp. 40–47; *Akty informacyjne administracji i ich identyfikacja przez środki masowego komunikowania (Administration information files and their identification by mass communication means)*, „Kwartalnik Prawa Publicznego" 1/2016, pp. 29–40; *Prywatność informacyjna w usługach audiowizualnych z perspektywy nowych rozporządzeń unijnych (Information privacy in audiovisual services from the perspective of new EU regulations) (RODO i EPR) (GDPR and EPR)*, „Zeszyty Prasoznawcze no. 1/2017, pp. 155–171; *Analysis of processing electronic communication data on the basis on consent in the light of Council's e-privacy regulation proposal* (co-author), „Naukowy Przegląd Dziennikarski" no 4/2017. An important aspect of this area of my research are the issues of press law, mainly the problems of access to information, including the journalistic right to information, its functions and implementation - including specific types of information, eg public information, statutory protected secrets. I analyzed them in the paper: *Funkcja kontrolna prasy i jej wykonywanie poprzez dostęp do informacji publicznej (The control function of the press and its performance through access to public information)* (in:) G. Szpor (red.), *Jawność i jej ograniczenia (Transparency and its limitations)*, vol. IX: B. Szmulik (ed.), *Zadania i kompetencje (Tasks and competences)*, C.H. Beck, Warszawa 2015, pp. 346–359.

In connection with the accession to the European Union, there were fundamental changes in the legal situation of entities responsible for data processing, including people conducting journalistic press activities, which in turn affects the realization of the right to information of recipients and the furtherance of public interest. In the paper, *Dziennikarz a ochrona danych osobowych przed nowelizacją z 2004 r. i po niej (Journalist and personal data protection before and after the 2004 amendment)* („Zeszyty Prasoznawcze", Kraków no 3–4/2004, pp. 7–19) I determined, among others, to what extent the freedom of media functioning justifies the introduction of press clauses and how much the limitation of journalists' liability in fact caused the increase of the duties incumbent upon them. When describing a journalist as a specific category of data administrator, I made its characteristics taking into account the impact on the information needs of the recipients.

As I initially pointed, my research sometimes required reaching for private law issues, in particular, in the scope of analyzes of new information technologies and IT aspects of intellectual property protection, such as *Ochrona patentowa produktów nanotechnologicznych* (*Patent protection of nanotechnology products*), „Przegląd Prawa Handlowego" no 6/2005, pp. 48–54 or *Creative Commons na tle przepisów o dozwolonym użytku programów*

*komputerowych (Creative Commons from the perspective of the law on the permitted use of computer programs),* „Przegląd Prawa Handlowego" no 11/2005, pp. 51–58.

**4. Alternative methods to the law to regulate social and economic relations that broaden the boundaries of administrative law, including technical standards.**

As part of this issue, I analyzed the reasons for the choices that result in the use of new instruments. This may be justified by the need to avoid wrong selection of the legal basis and consequently the invalidity of the act. In accordance with the principle of subsidiarity, in areas that are not the exclusive competence of the European Union, it takes action only if and to the extent in which the objectives of the intended action cannot be sufficiently achieved by the member states. In my research, I noticed solutions that enable us to use appropriate legal instruments in the case where there are no legal grounds for establishing legally binding acts - be it at the European Union level or at the national level. I investigated the use of instruments that allow European Union administration to regulate those areas that remain within the exclusive competence of the member states. I separated and characterized them. In my analyzes, I took into account the actions that are taken and the basis for selecting appropriate instruments when there is no legislative action or when there is no agreement between the institutions, which results in the inability to adopt a legally binding act despite the existing legal basis for its issuance, and so if there are real obstacles.

There are many situations in which, despite the Union having legislative powers, there is not enough political will to introduce a legislative act. Then, to avoid the consequences of the use of undemocratic mechanisms leading to the ignoring of the principle of democracy and legality, the use of other law related instruments is considered. In addition, according to the principle of proportionality, when choosing the form of action, the choice should be the simplest and the most effective. My research allowed me to consider instruments that can be used if the "hard law" does not keep up with technical and technological developments, including computerization. At the same time, I analyzed these mechanisms and identified individual instruments and their features, and also underlined the role that they (and sometimes even should) play. I analyzed these instruments from various points of view in articles: *Wiążące reguły i wzajemne uznawanie w nowelizacji OchrDanOsobU z 2015 r. oraz wspieranie efektywnego funkcjonowania tego instrumentu, (Binding rules and mutual recognition in the amendment of Personal Data Protection Act of 20015 and supporting the effective functioning of this instrument)* „Monitor Prawniczy" no 6/2015, special supplement,

pp. 42–48; *Status norm normalizacyjnych i Polskiego Komitetu Normalizacyjnego – zagadnienia wybrane (The status of standardization standards and the Polish Committee for Standardization - selected issues)*, „Kwartalnik Prawa Publicznego" 4/2015, pp. 5–22; *Prawo do prywatności i pewności prawa przy wykorzystaniu instrumentów samoregulacyjnych w związku z przetwarzaniem danych jednostki w systemach rozproszonych baz danych (The right to privacy and legal certainty using self-regulatory instruments in connection with the processing of individual data in distributed database systems)* (in:) I. Lipowicz (ed.), *Władza – obywatele – informacja. Ku nowemu porządkowi prawnemu. Księga pamiątkowa ku czci Profesor Teresy Górzyńskiej (Authorities - citizens - information. Towards a new legal order. A memorial book in honor of Professor Teresa Górzyńska)*, C.H. Beck, Warszawa 2014, pp. 273–283; *Normy techniczne i normalizacja warunkiem rozwoju „inteligentnych rozwiązań" w „inteligentnych miastach"(Technical standards and normalization as a condition for the development of "smart solutions" in "smart cities")* (in:) G. Szpor (ed.), *Internet rzeczy. Bezpieczeństwo w Smart city (Internet of things. Security in Smart city)*, C.H. Beck, Warszawa 2015, pp. 273–284;

I have devoted extensive deliberations to the issues of self-regulation and correlation and soft law in the aforementioned monographs: *Transgraniczność prawa administracyjnego na przykładzie regulacji przekazywania danych osobowych z Polski do państw trzecich (Cross-border aspect of administrative law on the example of regulation of the transfer of personal data from Poland to third countries)*, Wolters Kluwer, Warszawa 2010, 320 pp. and *Cloud computing – globalny technologiczny paradygmat – zagrożeniem dla ochrony danych osobowych i prywatności (Cloud computing - a global technological paradigm - a threat to the protection of personal data and privacy)*, In Altum, Kraków 2013, 282 pp. Continuation of the considerations in these publications on the subject of extending the boundaries of administrative law, with particular attention paid to one of the instruments, ie technical standards, is the postdoctoral dissertation: *Prawne aspekty norm technicznych. Normalizacja jako wsparcie legislacji administracyjnej* (Legal aspects of technical standards. Standardization as a support for administrative legislation), Wolters Kluwer, Warszawa 2017, 300 pp. discussed at the beginning of this summary of professional accomplishments.

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