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Abstract of the doctoral thesis:

Constitutional and legal aspects of the normativization of the "right to be forgotten"

written under the supervision of Prof. dr hab. Bogumił Szmulik

The progressive development of the Internet caused that we are dealing today with the phenomenon of the "global village", where high scale of collecting and processing personal data, make them impossible to control properly. Dynamic escalation of technology induced sharing information with unlimited number of entities, even against the will of the data author.

The subject of the doctoral dissertation concerns the constitutional and legal aspects of the normativization of the "right to be forgotten", thus, formulating this right in an act of EU law, i.e., Regulation No. 2016/679. From May 25, 2018, i.e., from the date which the provisions of the GDPR began to apply, each data subject is entitled to request the deletion of his personal data concerning. Previously, the "right to be forgotten" remained a theoretical construct. The concept itself has been applied to the institution of expungement in criminal proceedings. The Court of Justice of the European Union leaned over the "right to be forgotten". In one of its judgments of May 13, 2014, in the case pending under ref. no. act: C-131/12 granted personal data subjects the "right to be forgotten". This right mainly related to data published in search engines. Therefore, the law in question is not a completely new institution.

The need to implement this law in the European Union was dictated in particular by the desire to strengthen the guarantee of the implementation of human rights in the digital world, because they are universal in nature, and therefore the scope of their protection should also cover the on-line sphere. The protection of human rights on the Internet is a challenge for the EU legal system, due to, for example, the increase in the use of social networking sites. Ensuring on-line privacy to data subjects has become one of the main EU activities in the area of the ongoing reform of the personal data protection system. The functioning of this right in the information society, on the one hand, is necessary, and on the other, raises concerns about the imbalance between the protection of privacy and access to information.

The dissertation consists of four substantive chapters, introduction, and conclusion. The doctoral dissertation includes a list of abbreviations and acronyms as well as a bibliography.

The considerations contained in the first chapter focus on showing that the right to privacy is closely related to the right to personal data protection, and the right to personal data protection is a derivative of the right to privacy. This Chapter focuses on the informational autonomy of the individual guaranteed by the provisions of the Basic Law.

The second chapter presents the origins of the "right to be forgotten", including the legislative work influencing its development. Attention was drawn to various concepts of this right and the functions it performs.

The third chapter presents the basic elements of the content of the solutions, allowing to understand the nature and meaning of the "right to be forgotten". It is necessary not only to present the privacy sphere of an individual and his personal data, but also a model defining the conditions for the implementation of the "right to be forgotten" and its exclusions. Only such an analysis made it possible to make final assessments in terms of the effectiveness of exercising this right.

The fourth chapter shows the need to create a new legal act, the provisions of which are adequate to the standards adopted at the level of the European Union in the area of personal data protection. In the dissertation, were indicated the reasons for the adoption of the Personal Data Protection Act of May 10, 2018 (Journal of Laws of 2019, item 1781) and the reasons why the repealed Act of August 29, 1997 (Journal of Laws of 1997, No. 133, item 883) turned out to be ineffective. The issue of the implementation of the "right to be forgotten" and the associated risk were discussed. An attempt was made to assess the imposition of the obligation to implement appropriate technical and organizational measures, and characterized, with particular emphasis on practice, legal protection measures, liability rules and administrative fines for the data subject for violation of the "right to be forgotten". The issue of the implementation of the "right to be forgotten" and the associated risk were discussed. An attempt was made to assess the imposition of the obligation to implement appropriate technical and organizational measures, and characterized, with particular emphasis on practice, legal protection measures, liability rules and administrative fines for the data subject for violation of the "right to be forgotten".

The doctoral dissertation was prepared on the basis of a complex method, which consists of theoretical-legal, dogmatic-legal and historical-legal methods, as well as comparative-legal methods to a limited extent.

Keywords: right to privacy, protection of personal data, “right to be forgotten”, erasure of data.