

Doctoral dissertation summary

**“Liability of the controller and processor
under the General Data Protection Regulation”**

The subject of the dissertation is the analysis of the liability of controllers, processors and subprocessors under the GDPR. In addition to addressing the issues of the GDPR, author included in the thesis provisions regarding artificial intelligence and provisions on non-contractual civil liability for artificial intelligence.

The research thesis is based on the assumption that the right to compensation and liability under Article 82 of the GDPR should not be interpreted narrowly. Otherwise, the law will fail to meet its main purpose, which is to enable the data subject to pursue claims against data processors, especially in the situation where data processors use new technologies, including artificial intelligence, to process personal data.

The dissertation consists of an introduction, four chapters and conclusions. Each of them opens with introductory remarks, where, in addition to a brief characterization of the subject of analysis, author poses research questions. Each chapter ends with a separate summary. Where possible, the summary section of a chapter contains *de lege ferenda* conclusions.

In the first chapter, author analyzes the acts of international law, in order to identify which of them had the greatest impact on the content of Directive 95/46/EC in the regulation of liability for damages. The Directive 95/46/EC has also been analyzed in order to assess the impact of the solutions adopted on the content of the GDPR provisions on liability for damages. In the next step, a closer look is taken at the assumptions of the data protection reform. The final thread taken up in the first chapter is to assess whether the EU standards of personal data protection expressed firstly in Directive 95/46/EC and then in the GDPR constitute a model to which regulations from countries outside the EU/EEA refer.

The second chapter deals with the analysis of the prerequisites for the controller's and processor's liability for damages, with a particular focus on the prerequisite of violation of Articles 24, 25 and 32 of the GDPR. In addition to the prerequisites for liability under Article 82 of the GDPR, author evaluates the issue of indemnity liability as referred to in the proposed provisions of the AI Liability Directive. The reason for referring to the aforementioned draft provisions, is the issue of liability for damages, which is constructed taking into account the

environment in which data is processed, i.e. the environment of new technologies that use artificial intelligence to process data.

In the third chapter, author presents and evaluates the scope of the liability of controllers, processors and subprocessors, under Article 82 of the GDPR. In order to bring the scope of the responsibility of the aforementioned entities closer, author refers to the examples from case law to illustrate the complexity of the relationship between the administrator and the processor, with a particular focus on the case where administrator uses the services of a processor that provides professional - often global - services.

In the last, fourth chapter, author presents and evaluates the problem of choosing the general rules of international civil procedure, bearing in mind that the GDPR does not contain a complete jurisdictional system, and that disputes should be resolved taking into account other regulations. Author also analyzes which conflict of law rules can be the basis for seeking the applicable law for compensation claims under Article 82 of the GDPR. Another point that will be analyzed is the issue of the impact of systems using artificial intelligence, which are used by controllers, processors and subprocessors, in the processing of personal data, on the determination of jurisdiction and the applicable law for compensation claims under Article 82 of the GDPR.

The subject of the analysis carried out in the dissertation is primarily original texts of legal acts, legal texts and available rulings, which determined that the basic research method used by author is the dogmatic-legal method. In addition, the dissertation uses the legal-historical method and the legal-comparative method.

The considerations presented in the dissertation have allowed me to present that the interpretation of the right to compensation referred to in Art. 82 GDPR, should focus on the perspective of the data subject. Therefore, the perspective based on previously applicable provisions should be abandoned. The analysis of the right to compensation cannot be made in isolation from the context created by new data processing technologies. The assessment of the impact of new technologies on the concept of material or non-material damage that may result from a breach by the controller or processor (or subprocessors) of the provisions of the GDPR, is – at the present moment – impossible to foresee.

Consequently, the right to compensation should be interpreted taking into account not only the GDPR, but also in conjunction with national civil law, rules of jurisdiction and applicable law, as well as with the evolving laws of artificial intelligence. Only an interdisciplinary approach can further develop the right to compensation.

Keywords: GDPR, right to compensation, rights of data subjects, controller, processor, sub-processor, new technologies, artificial intelligence, technical and organizational measures, private international law.