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Abstract of doctoral dissertation

‘The use of computing clouds in the realisation of tasks of municipal self-government bodies and the protection of privacy in the Constitution of the Republic of Poland and the GDPR’

**written under the supervision of prof. dr hab. Mariusz Jabłoński
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The subject matter of the presented dissertation is to examine whether and how municipal self-government bodies can use cloud computing technologies in the performance of their tasks. The main research hypothesis of the doctoral dissertation is the recognition that municipal authorities may process personal data in cloud computing tool, with the provision that such a possibility is limited due to the subject, nature and territorial scope of data processing. Data processing in cloud computing tools by local government authorities (without taking into account the indicated elements) is a violation of the provisions of the Constitution of the Republic of Poland and the Regulation of the European Parliament and Council (EU) 2016/679 of 27th April 2016, on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the repeal of Directive 95/46 / EC (GDPR). In addition, the author tried to show that the authorities, when taking advantage of the possibilities offered by data processing in cloud computing, do not always act appropriately from the point of view of the standards specified in the regulations on the protection of personal data. This leads to a breach of the right to privacy and the right to the protection of personal data of the entities whose data they process. Such action may result in the imposition of an administrative fine by the supervisory authority within the context of the GDPR or the initiation of civil law proceedings by the data subject against public bodies.

The considerations made in the six chapters of the doctoral dissertation are to serve to prove the assumed hypothesis. The first chapter contains the conceptual grid necessary for further analysis. The conducted research is aimed at reaching the essence of the right to privacy and personal data protection. A review of the most important achievements t (from

the point of view of Polish law and international organizations) create broad guarantees of individual rights. Taking into account the work of the United Nations, the Council of Europe and the European Union, it was indicated how the right to privacy and the right to the protection of personal data are understood in the jurisprudence of international bodies. The considerations contained in this chapter are supplemented with the definition and analysis of the most important challenges for the right to privacy in the contemporary world. References were made not only to the achievements developed by legal sciences, but also to sociological, political and economic issues.

The next chapter is devoted to the analysis of constitutional solutions guaranteeing the protection of the right to privacy and information autonomy. By examining the theoretical and practical aspects of the standards contained in Art. 47 and 51 of the Constitution, the most important elements of constitutional guarantees are indicated. The delegation of certain competences to the European Union was also analysed, and it was examined as to whether its authorities were entitled to regulate the issue of personal data protection by means of a regulation. There is also a relationship between constitutional law and acts of primary and secondary law of the European Union.

The third chapter concerns the informatization of public administration. Elements of the evolution that have taken place in the public sector in recent years and how it has influenced the scope and implementation of public tasks.. Based on the provisions of Chapter VII of the Constitution of the Republic of Poland the place occupied by a commune in the public administration system was analysed.. It was also indicated which tasks under the Constitution of the Republic of Poland fall within the competence of municipalities and whether their implementation requires obtaining personal information from persons remaining under the jurisdiction of the Republic of Poland. This chapter attempts to answer the question of whether, on the basis of the constitutional principle of legalism expressed in Art. 7 of the Constitution of the Republic of Poland, it is lawful to act in such a way that public administration authorities use modern technologies, including cloud computing, without a clear legal basis.

The fourth chapter is devoted to cloud computing definitions and the classification of this service model. Various cloud computing models were described, including Infrastructure as a Service or Platform as a Service. The possibilities offered by cloud computing for public administration were analysed on the basis of solutions already implemented in Poland and around the world. The impact of the data processing service in cloud computing on the protection of privacy and personal data of an individual is also presented. In addition, the

most important risks resulting from the posting of personal data and other information held by the authority and stored on the suppliers' servers are described.

In the next chapter, an analysis was carried out on how to strengthen the protection of personal data to ensure compliance with the GDPR, while ensuring the free flow of information in cloud computing. The focus was primarily on the practical aspects of implementing the GDPR in the cloud computing environment, with particular emphasis on the concept of privacy by design. The terms used in the GDPR "public authority" and "public body" were examined to see how they correlate with the nomenclature used by the Polish legislator.

The last chapter is devoted primarily to the issue of entrusting data processing by municipal authorities. Mandatory subjective and objective elements of the entrustment are indicated. The permissible circumstances of transferring personal data to third-world countries were also checked. The technical and organizational conditions that must be met to ensure compliance of personal data processing in clouds with the regulations in force in the European Union and Poland were also analysed.

During the preparation of the doctoral dissertation, legal-dogmatic and formal-dogmatic research methods were used. In the scope of chapters 1-4, the legal and dogmatic research method allows for the precise determination of what legal regulations are subject to the processing of personal data in computing clouds. In the case of chapters 5 and 6, the formal and dogmatic method was mainly used to examine how the regulations contained in the GDPR affect the work of municipal self-government bodies.

The central aim of the considerations in the dissertation is to formulate conclusions confirming or modifying the indicated research hypotheses, as well as to propose *de lege ferenda* conclusions. The dissertation takes into account the normative status as of May 1st, 2021.



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