

The right to privacy in the context of health data processing

The purpose of this dissertation is to analyse constitutional provisions that protect specific values, such as privacy and informational autonomy of the individual. The research is focused on the standard of protection of personal information in the context of health data processing. The analysis takes into account changes associated with dynamic development of information technologies and the introduction of their widespread use in everyday life. This dissertation aims to determine whether the constitutional scope of privacy protection is adequate in informational society.

With advances in digital media we have witnessed a dramatic rise in technology-mediated monitoring, often emerging as first-round solution to a wide range of social needs and problems. Major advancements in computer science contributed to vastly improved capacities for storing, organizing, and retrieving great quantities of information. Furthermore, developments of digital electronic communication networks allows large quantities of information to be moved around quickly and reliably. Rapid developments of information science as well as mathematical and statistical analyses makes interpretation of gathered information easier and creates tools for profiling.

If the Constitution is a coherent, comprehensive and exhaustive legal instrument, it is necessary to assess what interpretation of constitutional norms is adequate to address the challenges related to the development of new technologies. The dissertation analyses specific requirements for measures which restrict fundamental rights and freedoms.

The dissertation consists of five chapters. The first chapter is introductory and presents different definitions of privacy and various concepts of its protection. The second chapter refers to the protection of informational privacy in Polish constitutional law. The third chapter refers to the solutions that the Polish legislator adopted when undertaking the operationalization of constitutional norms. The aim of the fourth chapter is to enrich the considerations included in the previous chapters with the analysis of the jurisprudence of the Constitutional Tribunal, relating to the protection of privacy and the informational autonomy. The fifth chapter presents the evolution of European regulations that is extremely important from the perspective of the Polish system.

The analysis presented in the dissertation led to the conclusion that universality, complexity and fluidity of personal information processing in modern society will certainly affect the way in which the lawmaker assesses the proportionality of restrictions on individual privacy and how the constitutional court examines the correctness of the process and its results by assessing the constitutionality of regulations. The most important thesis of my dissertation is that in order to correctly perform such interpretations, it is necessary analyse the context in which the information about the individual is processed. Important conclusion formulated in the dissertation is that the lawmaker is constitutionally obliged to design the architecture for circulation of personal information within the law. Within this architecture, the legislator must ensure proper implementation of the principle of informational autonomy.