

**“The enforcement of Data Protection Rules by National and European  
Agencies – between unification and contradiction”**

**Master Thesis**

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**Summary**

Modern online services facilitate not only large capacities for processing personal data but huge financial and strategic powers for several digital global players. When the General Data Protection Regulation (GDPR) was finally published in May 2016, the interesting question arose if this might be the final step towards a level-playing field of data-security balancing the co-existence of privacy protection and economic growth. It lies within the nature of data protection that in the global digital age the companies are not only operating worldwide but have a big influence and thus solutions have to be determined with and not against them. As compliance measures are costly for the digital industry, it consequently cannot be expected that the rules are always followed and thus strict enforcement cannot always be the only instrument. This general enforcement begins with the draft of coherent provisions, their consequent application and interpretation and ends with their final execution. While analysing these different executive steps in the light of European and national jurisprudence which draw the framework for national decisions, the work mainly concentrates on the data protection supervision over private entities and where necessary draws the differences and relation to the enforcement over public bodies. In the beginning, it is answered what the most important data protection rights and obligations at the moment and in the future are. In this sense, the application of the right to be forgotten and further concepts for its efficient implementation are described. Concerning the instruments for the data subject's awareness, the value of information and transparency are found to be underestimated in the current provisions. After revealing the importance of prior compliance strategies of the upcoming GDPR, the author finds key developments in the strengthened role of data subjects as well as of national data protection authorities (DPA). Due to the hidden nature of the data

processing and the speed of the infringement, which will be in most of the cases irrecoverable, preventive controls constitute a central part of this system. Part of a better solution would also be the publishing of privacy assessments' results on the product and thus making data subjects aware of data processing and the respective risks. In a next step, it is examined how differently the current Dir. is implemented into the domestic framework of Germany, France and Luxembourg and what the concrete role of these national authorities is. Therefore, it is answered which national legislative instruments and administrative practices guarantee the best standard of protection. As this comparison of the frameworks shows the disadvantages of weaker vested authorities, the strengthening of the DPA's role in the GDPR reveals a clear enhancement. Furthermore, the new supranational system of cooperation between European and national supervisory authorities is observed in depth. The reader gets a picture of the multifaceted administrative structure that causes efficiencies and problems at the same time. For example, the consistency mechanism, in which the DPAs commonly determine balanced solutions under the guidance of the European Data Protection Board (EDPB), will be a strong and diversified instrument of supranational cooperation. On top of that, the future EDPB can, through a more intense and independent elaboration of guiding instruments, reinforce the coherent implementation of the data protection provisions. The thesis further questions whether various hierarchical instruments and mixed administrative responsibilities contribute to a real enforcement-interplay or might even endanger consistent data protection. The author's approached idea of one single European Supervisor is finally denied because the introduced mechanisms of particular supervision and cooperation may be more complex but contribute to a balance between harmonised data protection and national autonomy. More specifically, during common examinations, each national DPA substantially affected by data-processing, shall have the right to participate and confer powers, including investigative powers. When presenting advantages and limits of these new structures, especially the European administrative procedures are critically analysed because severe problems arise when neither the EDPB nor national authorities may be predominantly responsible for the execution of the law. In the end, the author discovers that the described structures not only reveal ambiguous aspects but that specific advanced solutions as e.g. the introduction of alternative dispute resolution systems or time conditioned licenses for data processing in the new GDPR could had been possible.