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LEGAL REMEDIES IN THE CASE OF VIOLATIONS OF RIGHTS PROVIDED FOR BY THE LAW ON PERSONAL DATA PROCESSING IN BOSNIA AND HERZEGOVINA – IS THERE COMPLIANCE WITH THE EU ACQUIS AND COMPATIBILITY WITH THE DOMESTIC LEGAL ORDER?

Summary: *The paper analyses the alignment of the 2025 Law on Personal Data Protection (ZZLP) with the General Data Protection Regulation (GDPR), as well as its relationship with the general rules of tort law contained in the Law on Obligations (ZOO). Although the ZZLP, as a *lex specialis* and *lex posterior*, prevails in its application, the study examines whether certain ambiguities or conflicts between these two laws undermine the fundamental objective of the GDPR—namely, to ensure effective, dissuasive, and proportionate remedies.*

*A high degree of normative alignment between the ZZLP and the GDPR has been established, particularly with regard to administrative and criminal sanctions. However, significant divergences have been identified in the field of damages. The case law of the Court of Justice of the European Union confirms that there is no *de minimis* threshold, that damage must be real and provable, and that compensation has a purely compensatory character. Given that Bosnia and Herzegovina is a candidate country for EU membership, these standards are also relevant for domestic courts.*

The key issue concerns causation and damage, which the ZZLP does not regulate in detail, thereby necessitating the application of the ZOO. Proving causation may hinder effective protection, which is why the possibility of qualifying data processing as a hazardous activity is considered, thereby shifting the burden of proof to the data controller.

Particular attention is devoted to material and non-material damage. In the case of material damage, low amounts may discourage injured parties, prompting a discussion on the potential role of nominal or punitive damages, notwithstanding the restrictive stance of the CJEU. The most significant inconsistency between the ZZLP/GDPR and the ZOO concerns non-material damage. While the GDPR and the ZZLP allow compensation regardless of the intensity and duration of the infringement, the ZOO relies on a subjective

conception requiring a certain threshold of pain or distress. Accordingly, de lege ferenda, a shift towards an objective concept of non-material damage is proposed, whereby any infringement of personal rights constitutes damage, while the intensity of pain and distress would serve only as a criterion for determining the amount of compensation.

The paper also critically addresses procedural shortcomings, including the lack of alternative territorial jurisdiction and the absence of provisions on collective protection of rights.

Key words: *data protection, GDPR, compensation for data protection violations, non-material damage, collective redress.*