



Received: 27 April 2020  
Revised: 28 May 2020  
Accepted: 24 June 2020  
Published: 30 June 2020

## LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

### PRAWNE ASPEKTY OCHRONY WIZERUNKU OSÓB FIZYCZNYCH W POLSCE W ŚWIELE RODO I PRAWA AUTORSKIEGO

**Łukasz Wojciechowski**

PhD, University of Economics and Innovation (WSEI) in Lublin / Poland  
ORCID: <https://orcid.org/0000-0002-9403-6412>

\* *Corresponding author: e-mail:* lukasz.wojciechowski@wsei.lublin.pl

#### **Abstract:**

The article contains an analysis of the legal aspects of protecting the image of natural persons in Poland. The paper aims to compare image protection in the light of the provisions of the GDPR and Polish copyright law. The reform of the personal data protection system in the European Union countries and the entry into force of the provisions of the GDPR have led to the increased awareness of individuals regarding the need to protect their data, with particular emphasis on the image. At that time, it was necessary to change the approach to protecting the image which was previously protected under copyright law for a long time. The analysis was prepared using three research methods - institutional and legal method (analysis of normative acts), factor analysis (isolation of adequate factors affecting image protection), and a comparative method (comparison of GDPR and Polish copyright). The presented considerations lead to the conclusion that the entry into force of the provisions of the GDPR had a real impact on the protection of the image of natural persons in Poland constituting a supplement to copyright law. The article is scientific analysis, at the same time the author presents practical aspects of image protection with particular emphasis on the progressing popularization of modern technologies.

**Keywords:** GDPR, Personal Data Protection, Information Security, Copyright, Image

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski Ł., (2020).** LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS  
IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

**DOI: 10.5604/01.3001.0014.3111**

**Streszczenie:**

Artykuł zawiera analizę prawnych aspektów ochrony wizerunku osób fizycznych w Polsce. Celem artykułu jest porównanie ochrony wizerunku w świetle przepisów RODO oraz przepisów polskiego prawa autorskiego. Reforma systemu ochrony danych osobowych w państwach Unii Europejskiej i wejście w życie przepisów RODO doprowadziły do wzrostu świadomości osób fizycznych w zakresie potrzeby ochrony ich danych, ze szczególnym uwzględnieniem wizerunku. Wówczas konieczna była zmiana podejścia do ochrony wizerunku, który wcześniej był chroniony na mocy przepisów prawa autorskiego, co miało wieloletnią tradycję. Analiza została sporządzona z wykorzystaniem trzech metod badawczych - metody instytucjonalno-prawnej (analiza aktów normatywnych), analiza czynnikowa (wyodrębnienie adekwatnych czynników mających wpływ na ochronę wizerunku) oraz metoda komparatystyczna (porównanie uregulowań prawnych RODO i polskiego prawa autorskiego). Przedstawione rozważania prowadzą do konkluzji, iż wejście w życie przepisów RODO miało realny wpływ na ochronę wizerunku osób fizycznych w Polsce, stanowiąc uzupełnienie przepisów prawa autorskiego. Artykuł stanowi analizę naukową, jednocześnie autor przedstawia praktyczne aspekty ochrony wizerunku, ze szczególnym uwzględnieniem postępującej popularyzacji nowoczesnych technologii.

**Słowa kluczowe:** RODO, ochrona danych osobowych, bezpieczeństwo informacji, prawo autorskie, wizerunek

**Statement of the problem in general outlook and its connection with important scientific and practical tasks.**

**Constituting information security mechanisms in Poland.**

A wide spectrum of activities in the area of preventing threats to information security and personal data protection has been undertaken in Poland since 1998 with varying degrees of intensity. In the beginning, it is worth considering that a short period – only over twenty years of activity – puts Poland in a disadvantaged position compared to the countries which joined the European Union earlier. This is primarily due to the political conditions as the possibility of taking any action appeared after the political transformation in 1989. The entry into force of the Constitution of the Republic of Poland of April 2, 1997, and the first Polish Law on the Protection of Personal Data (of August 29, 1997) enabled the first actions in a specific legal environment. Then, the regulations and guidelines regarding cybersecurity began to appear in legal acts, strategic documents, and other government documents. The process of shaping the legislative framework for information security and personal data protection in Poland started especially when the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons concerning the

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

processing of personal data and the free movement of such data, and repealing Directive 95/46/EC (GDPR) entered into force. The new legislation in the field of personal data protection has simultaneously contributed to the discussion in the academic community and the extension of scientific research in this field.

### **Theoretical aspects of information security.**

Information security is an area that is systematically gaining importance both in terms of scientific research and the search for effective practical solutions. A systematic increase in the amount of data processed in IT systems can be observed. Some researchers also indicate that the 21st century is an era of the information society (Vanberg A.D., 2018, p. 11). The argument for such a view is the systematic development of entrepreneurship which is not based on production but the provision of information-related services. At the same time, citizens expect that the taxes paid by them will be allocated, among others, for computerization of offices, which will allow them to deal with matters faster, easier and more efficiently also via the Internet (Anderson C., Baskerville R.L., Kaul M., 2017, p. 1085). The costs incurred by individual countries for the computerization of their offices and services under e-administration are high due to the need to take additional measures, including ensuring cybersecurity (Pawlak P., 2015, p. 205). According to the research of cybersecurity issues, Sylwii Gwoździewicz, the actions undertaken by the European Union and the Government of the Republic of Poland in the field of cybersecurity must respect the rights and freedoms of citizens. The main assumption of cybersecurity should be the premise that free and open Internet is a very important element in the functioning of today's society. Cybercrime and the fight against cybercrime in the European Union cannot be ensured at the expense of human rights to privacy and data protection (Gwoździewicz S., 2017, p. 164). Creating a definition of information security is problematic, because technological development in the field of computerization is changing rapidly, and new threats are emerging. Therefore, instead of formulating one definition of information security, researchers in this area point to individual attributes. The authors of the definition contained in the ISO/IEC 27001 indicate that information security refers to the preservation of three basic attributes - the confidentiality (the essence of which is to ensure that the information is not disclosed or disclosed to unauthorized persons or entities), the integrity (with particular attention to ensuring the accuracy and completeness of information), the availability (its essence is to ensure access to information at the request of an authorized entity).

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski Ł., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

**[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)**

### **Protecting the image of natural persons.**

One of the most important areas of information security policy is protecting the image of individuals. This subject was until 2016 primarily a subject of copyright regulation. The legislator in Poland decided to include the rules of using the image of the natural persons in copyright, at the same time indicating that it is not possible to use the image without the consent of its owner, indicating two exceptions. This issue does not apply to public persons performing their official tasks and the situation in which the image of a natural person is a part of a larger perspective (e.g. wedding reception, mass event). However, the case-law of the courts in Poland indicates that according to the idea of copyright, it primarily protects the authors (e.g. photographers). There were usually no doubts regarding the use of the image of a well-known person (e.g. an actor) during a private situation. However, in the case of photographs from celebrations used for marketing purposes, the 'element of a larger perspective' was often widely misunderstood.

### **The connection of protecting the image of natural persons with important scientific and practical tasks.**

The matter analyzed in the presented article is the subject of interdisciplinary scientific research. The problematic area refers to taking photographs of individuals and publishing them without their consent. On the other hand, however, many photographs are imprudently published by people whose image is presented to them. Then, they are reused for illegal purposes discussed in the article. Therefore, the presented issues constitute a potential subject of social sciences research, including security sciences, political and administrative sciences as well as psychology. Legal regulations protecting the image of natural persons are also important, hence scientific research focuses on legal sciences. The analysis is very often not possible without using the achievements of computer science because a wide spectrum of processed data takes place on the Internet.

The specificity of this area in the field of practical tasks is determined by several factors. The first one relates to actual losses made to natural persons resulting from the unlawful use of their image. In this area, it is possible to indicate primarily the violation of privacy and dignity as a psychological and social factor. The interdisciplinary analysis proves that the sense of danger and unfair treatment by others does not have a positive effect on the functioning of the individual in the local community and the community in the broad sense. Another factor is the ability to authorize crimes with the image of another person. In this case, the situation may relate to simple activities

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

that do not require the use of advanced IT techniques (e.g. sending someone's photo to legitimize fraud). One of the activities characterized by a greater degree of IT knowledge of a person committing a crime may include hacking into an IT system to deceive the face identification application. An equally important area is the threat to copyright (Bosher H., Yeşiloğlu S., 2019, p. 174; Luo H., Mortimer J.H., 2016, p. 143). Nowadays, the image of any natural person can be valued. A person whose image is used commercially should receive appropriate remuneration and decide whether he or she agrees to such a solution.

**Analysis of latest research where the solution of the problem was initiated.  
Polish scientific achievements in the field of image projection.**

The achievements of Polish researchers lack comprehensive studies on image protection in which this issue would be discussed in many dimensions. Most often, issues related to image protection are separated and discussed in the field of copyright and GDPR. There are more publications regarding the copyright than GDPR because the former has a much richer tradition and duration than the latter. Among these publications, the book 'Commentary to the Copyright and Related Rights Act' (2019) under the scientific editorship of Arkadiusz Michalak is one of significant importance. Considerations on the protection of the image of natural persons were included in the discussion of legal provisions regulating this aspect. The scientific research in this area was also done by the University of Warmia and Mazury. This resulted in a publication entitled 'Protection of the right to image' by Joanna Ryba which appeared in the journal 'Kartowski Legal Review'. The image protection as an element of personal data protection, including the provisions of the GDPR, was discussed in the book entitled 'Commentary to the General Regulation on the Protection of Personal Data' (2017) edited by Elżbieta Bielak-Jomaa and Dominik Lubasz. Also, the scientific research at the Adam Mickiewicz University in Poznań conducted in the second decade of the 21st century is vital. The issue of image protection in the changing media reality was analyzed, among others, by Jędrzej Skrzypczak in the article 'Image protection at the time of media tabloidization' which was published in 'Central European Political Studies' (No. 2/2013). The image projection in the sectoral dimension has also become the subject of research by Emilia Kuczma. The researcher analyzed the issue in the context of the gathering of large groups of people. In the book 'Freedom of assembly' (ed. Balicki R., Jabłoński A.), she published a chapter entitled 'Protecting the image of the participants in the meeting' (2018). Another example of sectoral analysis is the issue of image protection in the

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski Ł., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS  
IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

**DOI: 10.5604/01.3001.0014.3111**

healthcare sector. In the scientific journal 'Nursing and Public Health' (2019, volume 9, no. 2), Monika Kołęda published an article entitled 'The right to the image of the patient'. Of course, this is not the only publication dealing with this topic, but in this case, journalistic articles or guidebooks on websites and blogs dominate, with authors often being lawyers and academics of Polish universities. Therefore, the author used mainly foreign sources to prepare this article. On the other hand, examining the conditions for the functioning of image protection in Poland was possible primarily with the use of the Polish normative act regulating copyright and legal acts related to the entry into force of the provisions of the GDPR, e.g. the new Polish Act of 10 May 2018 on personal data protection.

### **Foreign publications.**

Source material available in English on various aspects of image protection is much more extensive than in the case of Polish publications. It is worth emphasizing, however, that such publications contain primarily information on image protection in the GDPR. The author did not find any scientific research described in English regarding Polish copyright. Therefore, scientific studies analyses were more comparative. But due to this factor, the article is not reproductive and largely constitutes an empirical analysis. The key importance in the field of source materials when writing the article was the publication entitled 'Impact of GDPR security measures on the intellectual property and unfair competition' (Pelikánová R.M., Cvik E.D., 2018) and the article entitled 'An analysis of the fundamental tensions between copyright and social media: the legal implications of sharing images' (Bosher H., Yeşiloğlu S., 2019). In the case of the first text, the authors drew attention to a wide spectrum of dependent and independent variables affecting the correlation between intellectual property protection (including copyright) and GDPR. The second publication is a scientific and empirical analysis of sharing images which is an important element of the presented issues.

### **Aims of paper. Methods.**

The paper aims to analyze the issues of protecting the image of natural persons as a part of information security and personal data protection. The author verifies the research hypothesis that the protection of the image of natural persons in Poland is insufficiently protected and activities in this area should be extended. The additional purpose of this article is also to initiate an interdisciplinary scientific discussion on image protection in Poland. The author represents the opinion that this area is not given

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article  
under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS  
IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

sufficient attention in the field of publications and scientific conferences. It is also important to solve the dilemma of whether it is worth harmonizing the legislation on image protection in Poland. The fact that the court may adjudicate both based on provisions regulating copyright law and also based on provisions regulating the protection of personal data makes the case-law differ. This diminishes citizens' confidence in the courts and allows the dangerous practice of matching the legal basis with actions instead of analyzing whether the action will comply with the law.

### **Methods.**

Three research methods were used to prepare the article. The first of these is the institutional and legal method, which was used to analyze normative acts regulating image protection in Poland (in some cases in all European Union countries). The second method is the factor analysis which was used to isolate dependent and independent variables related to the prevention of threats to the image use. The last research method is comparative studies. The article compares individual threat and risk scenarios related to the use of the image and the effectiveness of legal protection tools - GDPR and Polish copyright law. It is worth mentioning that the protection of personal data is a part of information security. The distinction of this component in the title and structure of the article is primarily because the protection of personal data is crucial in the case of image protection. The image is also defined as a personal data, and regardless of the indication of the legal basis, in the case of unauthorized use of the image in any situation, it will be treated with the principles of personal data protection (Van Ooijen I., Vrabec U., 2019, p. 94).

### **Exposition of main material of research with complete substantiation of obtained scientific results. Discussion.**

The image following the provisions of the GDPR is personal data, however, it has not been indicated as a special category of data. Biometric data may be an exception in this respect, but they are a separate issue. This means that the image is protected like other personal data (e.g. identification number, name, surname, telephone number).

The provisions of the GDPR provide a wide spectrum of possibilities for people whose image has been used unlawfully. The analysis of the correlation between image protection and GDPR should, however, start not with the actions taken by individuals, but with the obligations of entities processing personal data. In the case of processing personal data obtained directly from a natural person or obtained from another source, the information obligation is relevant (Articles 13 and 14 of the GDPR). Before

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski Ł., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

processing personal data, every natural person must be informed, among others, about the administrator's data, the Data Protection Officer data, the purpose of processing, the legal basis for processing, the possibility of submitting a complaint to the data protection authority, as well as whether the data will be subject to profiling. The administrator must demonstrate that he or she has taken appropriate action to fulfill the information obligation (Vanberg A.D., 2018, p. 14-15).

Also, the administrator must without delay implement the rights and freedoms of natural persons (Articles 15-22 GDPR). One of them is the right to be forgotten, which is widely used in the case of images. A natural person cannot demand the deletion of their data if their further processing results from a legal obligation. However, the image is usually the so-called 'redundant data', which means that even if not all personal data can be deleted, the image is usually deleted. The right to rectify data is also important. On this basis, any natural person may request the removal of an image even in a situation where there is a legal requirement for its further existence. The removal involves the replacement of a new image that is current.

The presented circumstances depend largely on the effectiveness of the personal data protection authority and internal procedures in companies and institutions. That is why the cooperation of natural persons with the President of the Office for Personal Data Protection in Poland is a priority. In the case of persons specializing in data protection who have the expertise, the cooperation with specialized bodies of the European Union may also be important. In this matter, education and increasing the awareness of individuals about potential activities are also crucial (Marković M. G., Debeljak S., Kadoić N., 2019, p. 154-155).

The awareness of individuals is directly proportional to the number of complaints submitted to the data protection authority. In the absence of sufficient activity of natural persons in this regard, a field of action is created for dishonest entities that use the image illegally. After the entry into force of the provisions of the GDPR, the procedure for submitting complaints in Poland has been significantly simplified. First of all, the collection of fees, which constituted a barrier for some people interested in lodging a complaint, was abandoned. This was not due to the high amount (PLN 10) but to the need to take additional actions. Currently, a complaint may be filed both via the Internet and sent by post or in person at the office.

Copyright law in Poland has a much longer history than the protection of personal data. In Polish legislation, it was decided that not only works and their creators would be protected by copyright. Copyright protection has also been granted to computer

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies, 1(7)2020: 59 - 70*

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)



applications without preparing a separate normative act. The strength of this solution is the cumulative provisions relating to different sectors in one normative act – the copyright. It is worth noting, however, that copyright is by definition protection for creators. Hence, placing it in the provisions relating to image protection can be considered as a controversial act, which by definition is a less favorable solution for individuals.

The Act of 4 February 1994 on copyright and related rights indicated that the dissemination of the image requires the permission of the person depicted on it. No express reservation is required if the person has received the agreed payment for posing. The circumstances in which such permission is not necessary are also indicated. The first of these is the dissemination of the image of a well-known person if the image was taken in connection with the performance of public functions, in particular political, social, and professional ones. The second premise is the dissemination of the image of a person who is only a detail of a whole such as an assembly, landscape, public event. In the case of celebrities and other public figures, the rules do not have a wide interpretation. If a picture of a well-known person is published, e.g. on the Internet, and the person did not agree, he or she has a very good chance of obtaining compensation after the trial in a common court (Luo H., Mortimer J.H., 2016, p. 143). In Poland, there are many such cases and they relate primarily to famous people who are in pictures in private situations, e.g. on the beach.

It is much more difficult to recognize whether someone is a detail of the whole. Companies and institutions that have posted the image of a natural person almost always try to invoke this premise. This case concerns, among others, the companies that provide photo services at weddings and want to brag about photos on their websites, enriching their portfolio. Such marketing activities cannot, however, constitute a way to not respect the rights and freedoms of natural persons. Deciding whether they are right is a court task. It is worth emphasizing that a change in the attitude of common courts to this provision is needed. It should not be the case that copyright law is an opportunity to ignore the provisions of the GDPR, introduced jointly and severally in all European Union countries (Pelikánová R.M., Cvik E.D., 2018, p. 1539). In the case of a natural person who learns that their image has been unlawfully used, there are three possibilities to take legal action. The first of these is invoking the provisions of the GDPR. It is worth stating, however, that the provisions of the GDPR apply only to situations in which personal data are processed by companies or institutions (Vesely P., 2018, p. 44; Dogruel L., Joeckel S., Vitak J., 2017,

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski Ł., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

p. 237). The GDPR does not regulate the relationship between individuals. Hence, if the processing is carried out by a natural person, it is possible to rely on the other two ways. The first one is copyright. The second one is the provisions of the Civil Code, which as a route is not the subject of this article, because it is too broad. Asserting their arguments in common courts by natural persons involves relying on provisions regarding the loss of personal rights. This gives possibilities for a broad interpretation both in terms of adjudication and the sense of justice of every natural person.

### **Conclusions**

The presented considerations lead to a positive verification of the research hypothesis that the protection of the image of natural persons in the Republic of Poland is insufficient and additional actions should be taken in this respect. This is mainly because the level of knowledge of the society in the field of protection of the rights and freedoms of natural persons remains insufficient and it is not possible to change this state of knowledge in the short-term.

Until the legislation on personal data protection developed, the image was protected by copyright. Copyright was created to protect the rights of authors, hence it did not guarantee adequate protection for individuals. The analysis of the case-law of common courts in Poland indicates a broad interpretation of the provision according to which the dissemination of the image of a person being only a detail of a whole such as an assembly, landscape, public event is not required. Therefore, the knowledge of individuals and lawyers who support individuals is an important factor. If during the assertion of the rights and rights of their clients they decide to invoke the provisions of the GDPR, and not the provisions of copyright law, then the chance for a favorable outcome increases.

It is worth emphasizing, however, that the entry into force of the provisions of the GDPR also did not solve the problems related to image protection. This is mainly because there is a lack of sufficient awareness of individuals and law firms that specialize in image protection from the point of view of personal data protection. The universal recognition of the image as personal data is, however, important and although it does not solve problems at once, it can significantly contribute to the development of effective solutions in the future.

When postulating changes, it is worth focusing on multidimensional education. On the one hand, issues related to image protection should be included in the curricula from the early stages of education. Due to the cooperation of universities, primary and secondary schools, it is also possible to transfer knowledge resulting from scientific

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

research. The education of people who have already graduated from schools and universities is equally important. Due to the high costs, the state should create social campaigns in which, for example, parents acquire knowledge about the risks of publishing their children's images. This is because NGOs find it difficult to raise sufficient funds to inform the public in such a specialized sector.

Changing the copyright law in Poland to increase the protection of the image of natural persons is also worth considering. The changes could ensure greater compatibility with the provisions of the GDPR and change the philosophy of image protection which has a long tradition in Poland. In this case, an important argument is that copyright existed in Poland much longer than the provisions and procedures for the protection of personal data. By allocating adequate human resources working in the essay working groups to refine legislative solutions, it will be possible to develop solutions that will not stop protecting authors, while increasing the protection of individuals (Dombora S., 2010, p. 325).

## References:

1. ANDERSON C., BASKERVILLE R.L., KAUL M., (2017). *Information Security Control Theory: Achieving a Sustainable Reconciliation Between Sharing and Protecting the Privacy of Information.*, Journal of Management Information Systems. 2017, Vol. 34 Issue 4.
2. BOSHER H., YeŞilođlu S., (2019). *An analysis of the fundamental tensions between copyright and social media: the legal implications of sharing images on Instagram*, International Review of Law, Computers & Technology. Jul2019, Vol. 33 Issue 2.
3. DOGRUEL L., JOECKEL S., VITAK J., (2017). *The valuation of privacy premium features for smartphone apps: The influence of defaults and expert recommendations*, 'Computers in Human Behavior', Vol. 77.
4. DOMBORA S., (2018). *Integrated incident management model for data privacy and information security*. Proceedings of the International May Conference on Strategic Management. May2018.
5. GWOŹDZIEWICZ S., (2017). *Poszanowanie prawnej ochrony danych osobowych i prywatności w cyberprzestrzeni w działaniach Unii Europejskiej i Strategii Cyberbezpieczeństwa Rzeczypospolitej Polskiej na lata 2016-2022* [in] Martin Skaloš, Michal Turošík (eds.) ĽUDSKÉ PRÁVA VČERA A DNES PŮVOD A VÝZNAM ĽUDSKÝCH PRÁVA ICH OCHRANA V PRÁVNEJ TERMINOLÓGII A PRAXI. Univerzita Mateja Bela, Banská Bystrica, pp. 164-181

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

Wojciechowski Ł., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)

6. LUO H., MORTIMER J.H., (2016). *Copyright Infringement in the Market for Digital Images*, American Economic Review. May2016, Vol. 106 Issue 5.
7. MARKOVIĆ M. G., DEBELJAK S., KADOIĆ N., (2019). *Preparing Students for the Era of the General Data Protection Regulation (GDPR)*. TEM Journal. Feb2019, Vol. 8 Issue 1.
8. PAWLAK P., (2015). *Governance of Safety and Security in Cyberspace*, [in:] Dąbrowska-Kłosińska P. (ed.), *Global safety governance: Challenges and Solutions*, Warsaw: ASPRA-JR.
9. PELIKÁNOVÁ R.M., CVIK E.D., (2018). *Impact of GDPR security measures on the intellectual property and unfair competition*, Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis. Vol. 66 Issue 6.
10. VAN OOIJEN I., VRABEC U., (2019). *Does the GDPR Enhance Consumers' Control over Personal Data? An Analysis from a Behavioural Perspective*. Journal of Consumer Policy. Mar2019, Vol. 42 Issue 1.
11. VANBERG A.D., (2018). *The Right to Data Portability in the GDPR: What Lessons Can Be Learned from the EU Experience?*, 'Journal of Internet Law', Vol. 21 Issue 7.
12. VESELY P., (2018). *GDPR issues from a marketing perspective*. Marketing Science & Inspirations, Vol. 13 Issue 4.

### Sources of Law:

13. THE CONSTITUTION OF THE REPUBLIC OF POLAND of 2nd April, 1997, as published in Dziennik Ustaw of 1997 No. 78, item 483.
14. ACT of 4 February 1994 on copyright and related rights, as published in Dziennik Ustaw of 2019, item 1231.
15. ACT of 27 August 1997 on the protection of personal data, as published in Dziennik Ustaw of 2016, item 922.
16. ACT of 10 May 2018 on the protection of personal data, as published in Dziennik Ustaw of 2019, item 1781.
17. REGULATION (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), as published in the Official Journal L 119, Volume 59, on 4 May 2016.

ISSN 2543-7097 / E-ISSN 2544-9478

© 2020 /Published by: Międzynarodowy Instytut Innowacji Nauka-Edukacja-Rozwój w Warszawie, Polska



This is an open access article

under the CC BY-NC license (<http://creativecommons.org/licenses/by-nc/4.0/>)

**Wojciechowski L., (2020). LEGAL ASPECTS OF PROTECTING THE IMAGE OF NATURAL PERSONS IN POLAND IN THE LIGHT OF GDPR AND COPYRIGHT**

*International Journal of Legal Studies*, 1(7)2020: 59 - 70

[DOI: 10.5604/01.3001.0014.3111](https://doi.org/10.5604/01.3001.0014.3111)