

how to prevent juveniles from being convicted of violent offenses, it is necessary to understand a few of the innumerable peril variables that presumably make youths susceptible towards delinquent behavior [3, p. 13].

Since a few years the impact of first person shooter-games (FPS) and other violent computer games, as one possible reason, has been controversially discussed just as much as the connection of SVJ with mental health problems, for example hyperactivity and depression. Because further research in these scientific fields is needed, these predictors will not be mentioned in the additional course of this paper. Even though it is important to emphasize that the causes of criminal behaviour is not only restricted to the ones itemized in the following. Criminology findings on various spheres of influence are rather limited; the outcomes definitely state that there has to be some causal relationship between certain social and individual conditions and violent offending. This research paper will direct the reader's attention to the most important of all referred risk factors.

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COMPENSATION FOR NON-MATERIAL DAMAGE IN THE WEST-EUROPEAN COUNTRIES

For the first, non-material damage means damage, loss or destruction to any portion of the Real Property, the loss of which is not a Material Loss.

Who is responsible for damage that has occurred through human error and how, in particular, reparation can be provided for the consequences of bodily injury or the death of a person are questions that are answered differently in every country, even within Europe. There is widespread agreement on the principle that whoever is culpable of causing damage to another party is obliged to compensate. The stage of development of the society, economics and technology, as well as the traditions and aspirations of national law, are the decisive factors here. Increased efforts have nevertheless been made recently by international organisations, and in particular by the European Community (EC), to bring about legal approximations, in the tort law sectors also, of the European countries: Germany and Netherlands [1].

One of the strongest impacts of the GDPR (General Data Protection Regulation) in Germany is that data subjects now can claim compensation

for non-material damages (Article 82(1) GDPR). A legal basis for such claims had (arguably) not existed in German law before. With a small change – just by putting the word «non-material» into Article 82(1) – the GDPR has changed this fundamentally. Practitioners dealing with damage claims in Germany have to handle law that is completely new. There are, however, now first court decisions indicating that bringing such claims might not be as easy as it seems.

The meaning of the term «non-material damage» is not defined in the GDPR, but Recital 85 mentions a number of scenarios that it regards as «damages». Recital 85 does not divide these scenarios into the groups of «material» or «non-material». The rationale of this Recital is that all issues mentioned in it should be regarded as damages, irrespective of whether they are «material» or «non-material», where «the characteristic features of obligations of compensation for damage caused i.e., by mutilation are that they arise when the absolute rights of the injured are violated, despite the fact that compensation for damage is of a property nature, all obligations are non-negotiable, since its subjects before causing the damage did not were related to the terms of the contract, and the most significant, in our opinion, is that the obligation to compensate for damage can be imposed not only on the person who caused the damage but also on other persons» [4].

Recital 85 lists the following scenarios as potential cases of damages:

- loss of control over personal data,
- limitation of rights,
- discrimination,
- identity theft or fraud,
- financial loss,
- unauthorized reversal of pseudonymization,
- damage to reputation,
- loss of confidentiality of personal data protected by professional secrecy,
- or any other significant economic or social disadvantage to the natural person concerned.

This broad understanding of “damages” can lead to a substantial risk to organisations that have to manage the consequences of potential GDPR infringements – in particular in scenarios where a large number of data subjects might have been affected.

There are already organizations active in Germany that specialize in organising mass claims for damages, in particular after large-scale data breaches. Most importantly, the «European Society for Data Protection» (Europäische Gesellschaft für Datenschutz mbH) and the law firm Franz LLP (Limited Liability Partnership) have been organising such claims [2].

Traditionally, the Dutch courts have been strict in awarding non-material damages. In the so-called EBI (Extra Beveiligde Inrichting) judgment from 2019 (in Dutch), the Dutch Supreme Court considered that a

claimant must substantiate with sufficiently concrete information (i.e. evidence) that they have been harmed, meaning that they will have to substantiate the violation of a norm and the detrimental consequences thereof. Transposed into a GDPR context: arguing a violation of the norm (e.g. processing without a lawful basis) should be doable. However, it will be more difficult for a claimant (or class) to substantiate that the breach has detrimental consequences.

As with most rules, certain exceptions apply. A claimant does not have to provide concrete information on the detrimental consequences if the severity and nature of the breach itself makes those consequences 'so obvious' that the impairment can be assumed. Based on Dutch case law, it can be carefully assumed that this exception only applies in very severe cases (e.g. a case referred to by the Supreme Court is where an obstetrician missed a severe birth defect during a check-up). The fact that data protection is a fundamental right is not sufficient – it is all about the severity of the breach.

Therefore, if the breach is severe, an award may well be on its way. However, if the breach is more neutral/trivial, substantiating the damages will be required (and for non-material damages, this is often difficult to do). Unfortunately, there is no one-size-fits-all answer, and the outcome will likely be based on all the relevant facts [3].

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