

GOVERNING THE DIGITAL SOCIETY – BIG DATA, AI, BLOCKCHAIN AND DEMOCRACY

Prof. Dr. Johannes Caspar

The Hamburg Commissioner for
Data Protection and Freedom of Information

Dialogue of Continents 2019

The New Age of Progress

30. October 2019 | Hamburg



Governing the digital society

Different perspectives of governing data:

- **Level 1 – Ethical context:** Standards for internal behaviour which cannot be enforced (which are morally binding / digital ethics)
- **Level 2 – Statutory laws:** Regulation as standard for external behaviour which can be compelled by governmental procedures
- **Level 3 – Legal policy:** Clear demands for a change of the legal system

Level 1 - Ethical context

- Digital ethics are the fundament for a resolution of the collision between technical and economical digital development and the individual rights on privacy.
- Ethical principles shall not block technological and social innovation as well as dynamic market developments (our competitiveness but safeguard the rights and freedoms of people).

Level 1 - Ethical context

Central issues: Guidelines on algorithmic systems

- Risk based approach
- Transparency
- Liability
- Respecting the principles of non discrimination and equality

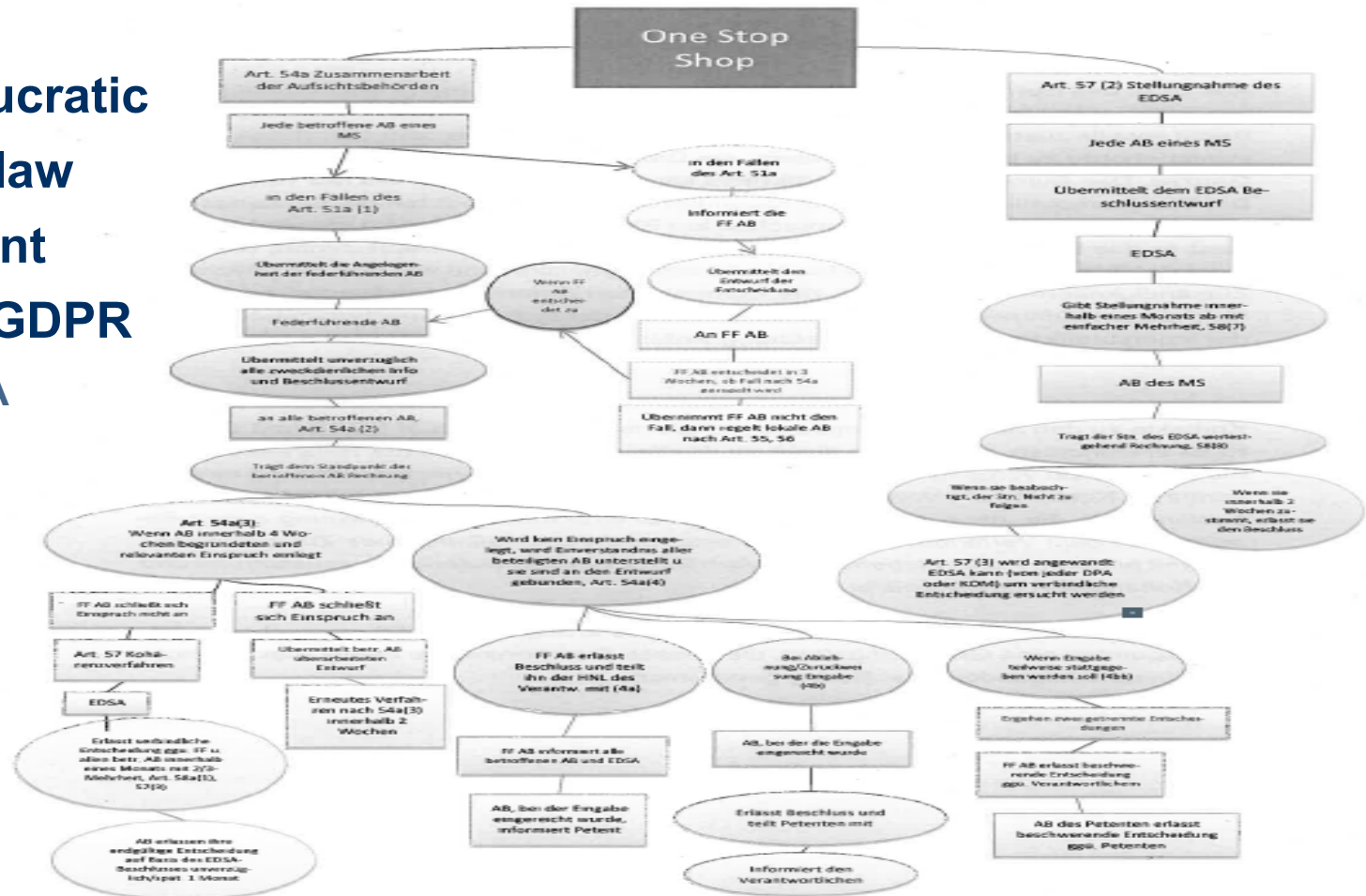
Example: Governmental survey of experts on digital ethics

Level 2 - Statutory laws

Applicable Data Protection laws and law enforcement

- GDPR - The Magna Carta of the digital age?
- Different enforcement instruments (big fines, administrative orders, reprimands)

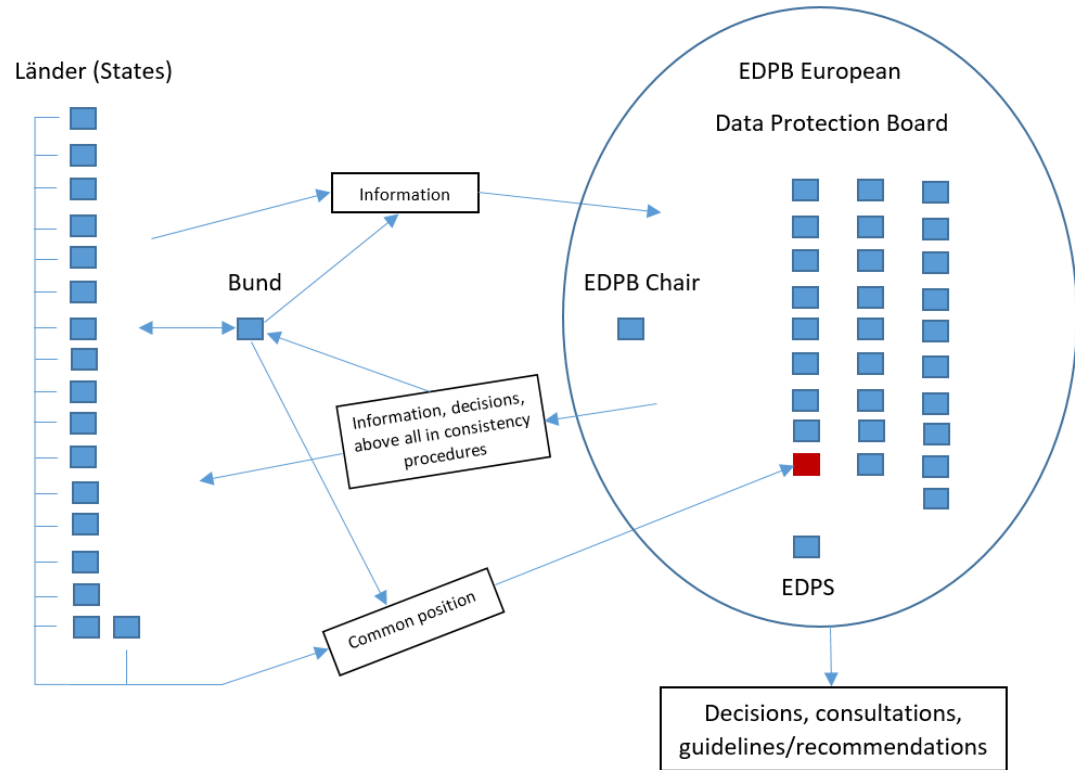
The bureaucratic system of law enforcement under the GDPR Level 2 Part A



Lost in bureaucracy?

Level 2 Part B

The bureaucratic interaction for law enforcement from a federal perspective



Level 3 - Legal policy

Political demands for the change of statutory law:

- Canada's Digital Charter - Trust in the world
- The Charter of Fundamental Rights of the European Union

Level 3 - Legal policy

Principles of the Digital Charta: Dignity, Liberty and Equality in the digital sphere: Old wine in new bottles?

- Specifying principles of the concept of modern constitutional state on the practice of the digital society by building subprinciples
- Safeguarding democratic procedures of election against manipulating voters by tracking and profiling
- Free access
- Automated systems and individual decision
- Net neutrality
- Direct applicability of rights and principles to non-state actors

Conclusion

On all three levels there is need for evaluation and improvement of existing structures. Especially regarding the political perspective implementation of new principles for safeguarding right and freedoms are prerequisite.

Civil society has to discuss different approaches and models. Innovative aspects of the digital society must be balanced with human dignity, equality and freedom.