



REVISTA INCLUSIONES

CIENCIA EN LOS NUEVOS TIEMPOS

Revista de Humanidades y Ciencias Sociales

Volumen 7 . Número Especial

Julio / Septiembre

2020

ISSN 0719-4706

CUERPO DIRECTIVO

Directores

Dr. Juan Guillermo Mansilla Sepúlveda

Universidad Católica de Temuco, Chile

Dr. Francisco Ganga Contreras

Universidad de Tarapacá, Chile

Editor

Drdo. Juan Guillermo Estay Sepúlveda

Editorial Cuadernos de Sofía, Chile

Editor Científico

Dr. Luiz Alberto David Araujo

Pontificia Universidade Católica de Sao Paulo, Brasil

Editor Europa del Este

Dr. Aleksandar Ivanov Katrandzhiev

Universidad Suroeste "Neofit Rilski", Bulgaria

Cuerpo Asistente

Traductora: Inglés

Lic. Pauline Corthorn Escudero

Editorial Cuadernos de Sofía, Chile

Portada

Lic. Graciela Pantigoso de Los Santos

Editorial Cuadernos de Sofía, Chile

COMITÉ EDITORIAL

Dr. Jaime Bassa Mercado

Universidad de Valparaíso, Chile

Dra. Heloísa Bellotto

Universidad de Sao Paulo, Brasil

Dra. Nidia Burgos

Universidad Nacional del Sur, Argentina

Mg. María Eugenia Campos

Universidad Nacional Autónoma de México, México

Dr. Francisco José Francisco Carrera

Universidad de Valladolid, España

Dr. Pablo Guadarrama González

Universidad Central de Las Villas, Cuba

Mg. Amelia Herrera Lavanchy

Universidad de La Serena, Chile

Dr. Claudio Llanos Reyes

Pontificia Universidad Católica de Valparaíso, Chile

Dr. Werner Mackenbach

Universidad de Potsdam, Alemania

Universidad de Costa Rica, Costa Rica

Mg. Rocío del Pilar Martínez Marín

Universidad de Santander, Colombia

Ph. D. Natalia Milanese

Universidad de Houston, Estados Unidos

Ph. D. Maritza Montero

Universidad Central de Venezuela, Venezuela

Dra. Eleonora Pencheva

Universidad Suroeste Neofit Rilski, Bulgaria

Dra. Rosa María Regueiro Ferreira

Universidad de La Coruña, España

Dr. Andrés Saavedra Barahona

Universidad San Clemente de Ojrid de Sofía, Bulgaria

Dr. Efraín Sánchez Cabra

Academia Colombiana de Historia, Colombia

Dra. Mirka Seitz

Universidad del Salvador, Argentina

Ph. D. Stefan Todorov Kapralov

South West University, Bulgaria

COMITÉ CIENTÍFICO INTERNACIONAL

Comité Científico Internacional de Honor

Dr. Adolfo A. Abadía

Universidad ICESI, Colombia

Dr. Carlos Antonio Aguirre Rojas

Universidad Nacional Autónoma de México, México

Dr. Martino Contu

Universidad de Sassari, Italia

Dr. Luiz Alberto David Araujo

Pontificia Universidad Católica de Sao Paulo, Brasil

Dra. Patricia Brogna

Universidad Nacional Autónoma de México, México

REVISTA INCLUSIONES

REVISTA DE HUMANIDADES
Y CIENCIAS SOCIALES

Dr. Horacio Capel Sáez

Universidad de Barcelona, España

Dr. Javier Carreón Guillén

Universidad Nacional Autónoma de México, México

Dr. Lancelot Cowie

Universidad West Indies, Trinidad y Tobago

Dra. Isabel Cruz Ovalle de Amenabar

Universidad de Los Andes, Chile

Dr. Rodolfo Cruz Vadillo

*Universidad Popular Autónoma del Estado de Puebla,
México*

Dr. Adolfo Omar Cueto

Universidad Nacional de Cuyo, Argentina

Dr. Miguel Ángel de Marco

Universidad de Buenos Aires, Argentina

Dra. Emma de Ramón Acevedo

Universidad de Chile, Chile

Dr. Gerardo Echeita Sarrionandía

Universidad Autónoma de Madrid, España

Dr. Antonio Hermosa Andújar

Universidad de Sevilla, España

Dra. Patricia Galeana

Universidad Nacional Autónoma de México, México

Dra. Manuela Garau

Centro Studi Sea, Italia

Dr. Carlo Ginzburg Ginzburg

*Scuola Normale Superiore de Pisa, Italia
Universidad de California Los Ángeles, Estados Unidos*

Dr. Francisco Luis Girardo Gutiérrez

Instituto Tecnológico Metropolitano, Colombia

José Manuel González Freire

Universidad de Colima, México

Dra. Antonia Heredia Herrera

Universidad Internacional de Andalucía, España

Dr. Eduardo Gomes Onofre

Universidade Estadual da Paraíba, Brasil

CUADERNOS DE SOFÍA EDITORIAL

+ Dr. Miguel León-Portilla

Universidad Nacional Autónoma de México, México

Dr. Miguel Ángel Mateo Saura

*Instituto de Estudios Albacetenses "Don Juan Manuel",
España*

Dr. Carlos Tulio da Silva Medeiros

Diálogos em MERCOSUR, Brasil

+ Dr. Álvaro Márquez-Fernández

Universidad del Zulia, Venezuela

Dr. Oscar Ortega Arango

Universidad Autónoma de Yucatán, México

Dr. Antonio-Carlos Pereira Menaut

Universidad Santiago de Compostela, España

Dr. José Sergio Puig Espinosa

Dilemas Contemporáneos, México

Dra. Francesca Randazzo

*Universidad Nacional Autónoma de Honduras,
Honduras*

Dra. Yolando Ricardo

Universidad de La Habana, Cuba

Dr. Manuel Alves da Rocha

Universidade Católica de Angola Angola

Mg. Arnaldo Rodríguez Espinoza

Universidad Estatal a Distancia, Costa Rica

Dr. Miguel Rojas Mix

*Coordinador la Cumbre de Rectores Universidades
Estatales América Latina y el Caribe*

Dr. Luis Alberto Romero

CONICET / Universidad de Buenos Aires, Argentina

Dra. Maura de la Caridad Salabarría Roig

Dilemas Contemporáneos, México

Dr. Adalberto Santana Hernández

Universidad Nacional Autónoma de México, México

Dr. Juan Antonio Seda

Universidad de Buenos Aires, Argentina

Dr. Saulo Cesar Paulino e Silva

Universidad de Sao Paulo, Brasil

Dr. Miguel Ángel Verdugo Alonso
Universidad de Salamanca, España

Dr. Josep Vives Rego
Universidad de Barcelona, España

Dr. Eugenio Raúl Zaffaroni
Universidad de Buenos Aires, Argentina

Dra. Blanca Estela Zardel Jacobo
Universidad Nacional Autónoma de México, México

Comité Científico Internacional

Dra. Elian Araujo
Universidad de Mackenzie, Brasil

Mg. Romyana Atanasova Popova
Universidad Suroeste Neofit Rilski, Bulgaria

Dra. Ana Bénard da Costa
Instituto Universitario de Lisboa, Portugal
Centro de Estudios Africanos, Portugal

Dra. Noemí Brenta
Universidad de Buenos Aires, Argentina

Ph. D. Juan R. Coca
Universidad de Valladolid, España

Dr. Antonio Colomer Vialdel
Universidad Politécnica de Valencia, España

Dr. Christian Daniel Cwik
Universidad de Colonia, Alemania

Dr. Eric de Léséulec
INS HEA, Francia

Dr. Andrés Di Masso Tarditti
Universidad de Barcelona, España

Ph. D. Mauricio Dimant
Universidad Hebrea de Jerusalem, Israel

Dr. Jorge Enrique Elías Caro
Universidad de Magdalena, Colombia

Ph. D. Valentin Kitanov
Universidad Suroeste Neofit Rilski, Bulgaria

Mg. Luis Oporto Ordóñez
Universidad Mayor San Andrés, Bolivia

Dr. Gino Ríos Patio
Universidad de San Martín de Porres, Perú

Dra. María Laura Salinas
Universidad Nacional del Nordeste, Argentina

Dra. Jaqueline Vassallo
Universidad Nacional de Córdoba, Argentina

Dra. Maja Zawierzeniec
Universidad Wszechnica Polska, Polonia

Editorial Cuadernos de Sofía
Santiago – Chile
Representante Legal
Juan Guillermo Estay Sepúlveda Editorial

Indización, Repositorios y Bases de Datos Académicas

Revista Inclusiones, se encuentra indizada en:





REX



UNIVERSITY OF SASKATCHEWAN



Universidad de Concepción



BIBLIOTECA UNIVERSIDAD DE CONCEPCIÓN

**LEGAL REGULATION OF PERSONAL DATA PROTECTION IN THE CONDITIONS
OF STATE DIGITAL SERVICES DEVELOPMENT**

Sc. (C) Andrey Andreevich Baybarin

Southwest State University, Russia
ORCID: 0000-0001-9183-3101
andrewbaybarin@gmail.com

Ph. D. Sergey Vladimirovich Skrygan

Financial University under the Government of the Russian Federation, Russia
ORCID: 0000-0003-2971-2266
SVSkryigin@fa.ru

Dr. Aleksey Valeryevich Novikov

Research Institute of the Federal Penitentiary Service of Russia, Russia
Astrakhan state University, Russia
Russian Customs Academy, Russia
ORCID: 0000-0002-6418-7543
novikov.pravo@mail.ru

Ph. D. Diana N. Slabkaya

Scientific Officer Research Institute of the Federal Penitentiary Service of Russia, Russia
0000-0003-3935-9566
sdn10.70@mail.ru

Drda. Tatyana Vladimirovna Deeva

Market Economy Institute of RAS (MEI RAS), Russia
ORCID: 0000-0002-6464-3692
deeva.t.v@mail.ru

Fecha de Recepción: 19 de marzo de 2020 – **Fecha Revisión:** 11 de mayo de 2020

Fecha de Aceptación: 30 de junio de 2020 – **Fecha de Publicación:** 01 de julio de 2020

Abstract

The article examines the features of protecting personal data of users of electronic services of public services. Currently, society faces problems of information security of public services, the solution of which depends on improving the current legislation and technology for providing services. The purpose of this paper is to analyze the problems of ensuring the security of personal data of users of electronic public services. The role of electronic services of public services in the development of society has been noted. Data describing the distribution of electronic public services in the countries of the world have been presented. Such an important sphere of application of information and communication technologies in Russia as e-government has been highlighted; the range of tasks assigned to it, as well as the advantages and possible problems in its use have been described.

Keywords

Information security – Information protection – Personal data – e-government – Public services

Para Citar este Artículo:

Baybarin, Andrey Andreevich; Skrigan, Sergey Vladimirovich; Novikov, Aleksey Valeryevich; Slabkaya, Diana N. y Deeva, Tatyana Vladimirovna. Legal regulation of personal data protection in the conditions of State Digital services development. Revista Inclusiones Vol: 7 num Especial (2020): 239-250.

Licencia Creative Commons Attribution Non-Comercial 3.0 Unported
(CC BY-NC 3.0)

Licencia Internacional



Introduction

It is impossible to imagine the modern urban environment as a part of public life without using electronic services. The rapid development of technologies naturally determines the appearance and development of electronic governments of states, including the provision of online services by them¹. This opens the way for the transformation of traditional forms of office management in all areas of state activity, contributing to the stable economic development of the country. Technologies such as the development of artificial intelligence, robotics, storage, and processing of large amounts of data, cloud computing, machine learning, geospatial data, broadband access, and others play an important role². Increasing the computing power of equipment and improving software expand the possibilities of working with information, which has a positive impact on society, since artificial intelligence provides very high speed of data processing and reliable and error-free operation due to the exclusion of the human factor. It replaces a person when performing many types of monotonous, routine and dangerous work. At the same time, the high speed of technological progress requires increased caution, since one of the most important aspects is ensuring cybersecurity. Thus, the development of digital communications should be based on the country's real readiness for this process, so that the costs justify themselves and reliability, openness, and security are ensured³.

Like any other political program, electronic services of public services have certain barriers and difficulties on the way to implementation. The intensive use of information technologies has led to the emergence and widespread use of a new type of personal security threat, namely, threats to the security of personal data. The security of personal data is protected by Russian law. However, Russian legislation on the protection of personal data is at the stage of formation. At the same time, the active development and improvement of information technologies, erasing the boundaries of data transfer, the use of new types of personal data (for example, biometric data) lead to the emergence of new challenges of the time that need to be addressed. In addition, there are frequent violations of existing rules by service operators that provide for the processing of personal data⁴.

¹ N. V. Borovskikh y E. A. Kipervar, "Digital Competences of Administrative and Management Personnel: Problems of Identification and Prospects of Formation in the Context of the Economy Digitalization", *Journal of Advanced Research in Dynamical and Control Systems* Vol: 11 num Special 11 (2019): 90-99; E. O. Tchinaryan; M. S. Lavrentieva; E. S. Kuchenin y A. A. Neznamova, "Digital Technologies of the European Union in Personal Data Protection", *International Journal of Innovative Technology and Exploring Engineering* Vol: 8 num 12 (2019): 3600-3604 y K. A. Lebedev; O. S. Reznikova; S. D. Dimitrieva y E. I. Ametova, "Methodological Approaches to Assessing the Efficiency of Personnel Management in Companies", *Journal of Advanced Research in Law and Economics* Vol: 9 num 4 (2018): 1331-1336.

² K. Pisenko y S. Botvinnik, "Protección contra la imposición de cláusulas abusivas por parte de la posición dominante en la legislación rusa: aspectos para garantizar un equilibrio de intereses", *Jurídicas CUC* Vol: 16 num 1 (2020): 251-268.

³ E. A. Kirillova; O. E. Blinkov; N. I. Ogneva; A. S. Vrazhnov y N. V. Sergeeva, "Artificial Intelligence as a New Category of Civil Law", *Journal of Advanced Research in Law and Economics* Vol: 11 num 1 (2020): 91 – 98 y S. M. Demezhanova; T. E. Kaudyrov y G. S. Demidova, "Analyzing the Litigation Practice Concerned with the Consideration of Intellectual Property Cases in Kazakhstan", *Journal of Advanced Research in Law and Economics* Vol: 10 num 1 (2019): 124-133.

⁴ A. P. Albov; L. M. Kupriyanova; Z. N. Gorbunov; V. V. Nasokin y V. P. Kamyshansky, "Harmonizing the customs laws of the European Union and the Russian Federation used for protecting intellectual property rights", *Revista Inclusiones* Vol: 7 num 2 (2020): 474-488 y A. Gurinovich; I. Afanasiev; V. Churin; V. Perekrestova y O. Tolmachev, "Development of Small and Medium-Sized Entrepreneurial

According to I.P. Miller, most often violations of working with personal data are manifested in the field of housing and communal enterprises, banks, mobile operators, and the media⁵. However, there are frequent cases of personal data leakage from information storage systems of electronic services of public services, and they affect quite a large number of users. Thus, according to the Rosbusinessconsulting news agency, the data of users of the public services portal in the Khanty-Mansiisk autonomous district in early December 2019 were publicly available on the Web. According to Kommersant, information about personal data appeared on one of the specialized forums. In total, the database contains data of 28 thousand users: passport data, TIN, SNILS, phone numbers, and email addresses. It is possible that authorization tokens for access to personal accounts of citizens from mobile devices fell into the wrong hands. According to the preliminary version, the database leak was possible due to an error in configuring the server located on the Rostelecom site⁶. Thus, the problem of ensuring the security of personal data, including its legal aspect, is currently one of the most urgent. This is of great interest to researchers who are trying to find the most effective legal regulation constructions that maximize the protection of personal data. At the moment, there are a large number of works devoted to this topic. The works of such authors as S.A. Shadrin⁷ V.I. Soldatova⁸, L.O. Gontar⁹, and others deserve special attention. However, there are still many issues that need to be resolved as soon as possible in the area of personal data protection. Therefore, research that will offer new solutions to legal issues that have not yet been clearly answered will have a scientific novelty. Research hypothesis. The current legislation on the protection of personal data in the context of the development of electronic services of public services needs to be supplemented with new elements of legal regulation that allow implementing the principle of priority of the user's interests.

Methods

A statistical method confirming the urgency of the problems, a method of analysis and synthesis, a method of transition from a general concept to a particular one, and a formal logical method were used in the presented study. Examples of international regulation of personal security protection were considered using the comparative legal method, which also allowed assessing the possibility of applying international experience in the Russian legal field. The legal terminology for suggesting solutions to the identified legal problems was selected using the formal-legal method.

Results

Businesses in The Energy Sector: Features of Highly Intelligent Projects' Evolution", Ad Alta: Journal of Interdisciplinary Research Vol: 9 num 1 (2019): 352-359.

⁵ I. P. Miller, Pravovye aspekty ispolzovaniya personalnykh dannykh pri polzovanii elektronnyimi uslugami. V sbornike: Bezopasnost gorodskoi sredey (Materialy V Mezhdunarodnoi nauchno-prakticheskoi konferentsii, 2018).

⁶ The media learned about the leak of data from users of the public services site. December 29, 2019. Retrieved from: <https://www.rbc.ru/society/29/12/2019/5e08a43d9a7947345490f23e>

⁷ S. A. Shadrin, "Sravnitelnyi analiz zakonodatelstva Evropeiskogo soyuza i Rossiiskoi Federatsii o zashchite personalnykh dannykh", Akademicheskii yuridicheskii zhurnal num 1(75) (2019): 54-63.

⁸ V. I. Soldatova, "Zashchita personalnykh dannykh v usloviyakh primeneniya tsifrovyykh tekhnologii", Lex russica (Russkii zakon) num 2(159) (2020).

⁹ L. O. Gontar, "O zashchite personalnykh dannykh kak institute mezhdunarodnoi informatsionnoi kiber-bezopasnosti na primere proektsii otdelnykh mezhdunarodnykh organizatsii", Zhurnal zarubezhnogo zakonodatelstva i sravnitel'nogo pravovedeniya num 1 (2020): 79.

At the present stage, one of the key areas of development of the sphere of state and municipal services is the formation and active development of a portal of unified state services along with MFC (multifunctional centers), which should provide a more convenient and less time-consuming process of obtaining documents required by a citizen of the Russian Federation. This is due to several factors, the most important of which are: electronic interdepartmental document flow and the absence of the need to visit various state structures to process documents required for obtaining state and municipal services. The active development of the program for the development of e-government and the MFC was received due to the Order of the Government of the Russian Federation of October 20, 2010 No. 1815-r "On the State Program of the Russian Federation, Information Society (2011-2020)"¹⁰. The document has lost force in connection with the publication of Decree of the Government of the Russian Federation of April 15, 2014 No. 313 "On approval of the state program of the Russian Federation, Information Society (2011-2020)"¹¹.

Today, a citizen of the Russian Federation can receive electronic public services, for example, apply for a Russian or foreign passport or apply for a grant. Due to the successful development of the portal of public services, citizens have the opportunity to use municipal services online (improvement and landscaping, housing and communal services, and others). Widespread use of electronic services in the field of housing and communal services, the provision of medical services (appointments, electronic sick leave, etc.), and in other areas. Recently, the introduction of electronic workbooks, electronic passports, and other documents has also been frequently discussed. These features allow saving time and simplifying the lives of modern people. When providing public services through the portal, it is necessary to obtain and further process the user's data. Such personal data has a special value, as information that contains data about a person's personal, individual, or family life. The misuse of such information and its subsequent illegal use can cause significant harm to the individual and society. To protect it, states create doctrines of information cybersecurity, work on issues of individual institutions, such as state secrets, protect personal data (including biometric data)¹², and others, and develop comprehensive systems of national information security.

One example is the Russian security system, which was completed in 2013 in collaboration with research and development in the field of the nuclear power engineering industry. In this system, the main methods for ensuring information security are named – legal, organizational, technical, and economic. Legal methods include the development of regulatory legal acts regulating relations in the information sphere and regulatory methodological documents on ensuring information security of the Russian Federation. An important part of this work is editing and making amendments to the legislation of the law of the Russian Federation; legal differentiation of powers between federal bodies and constituent entities of the Russian Federation, an indication of the main goals, objectives, and systems of participation in this activity of public associations, organizations, and citizens; determination of the position of the enterprise providing the services of world information and telecommunication networks in the territory of the Russian Federation, and

¹⁰ Decree of the Government of the Russian Federation No. 1815-P. On the State Program of the Russian Federation "Information Society (2011-2020)" (no longer valid). October 20, 2010. Official gazette of the Russian Federation num 46 (2010) Article 6026.

¹¹ Decree of the Government of the Russian Federation No. 313-P. On approval of the state program of the Russian Federation "Information Society" (2011-2020). April 15, 2014. Official gazette of the Russian Federation num 18 (2014) Article 2159. Retrieved from: <https://rg.ru/2012/04/24/shifry-site-dok.html>

¹² L. O. Gontar, "O zashchite personalnykh dannykh kak institute..."

legal management of the activities of these enterprises¹³. Consider the legal basis for regulating personal data security.

Part one of Article 24 of the Constitution of the Russian Federation contains a provision according to which "the collection, keeping, use and dissemination of information about the private life of a person shall not be allowed without their consent". This article of the Constitution of the Russian Federation has a fundamental, system-forming character and should determine the meaning and content of a significant number of legal acts of different levels, highlighting the category of "private life" and its derivative "personal data". Article 2 of the Constitution of the Russian Federation establishes the basic principle of a modern democratic society: "Man, his rights and freedoms are the supreme value"¹⁴. Understanding the importance and value of information about a person, as well as taking care of the observance of citizens' rights, the state should ensure reliable protection of personal data at the legislative level and require organizations and individuals to observe legal norms¹⁵.

As stated in the Strategy for the Development of the Information Society in the Russian Federation for 2017-2030, approved by Decree of the President of the Russian Federation dated May 9, 2017 No. 203 "On the Strategy for the Development of the Information Society in the Russian Federation for 2017-2030", the above Program is aimed at creating conditions for the development of a knowledge society in the Russian Federation, improving the well-being and quality of life of citizens of Russia by increasing the availability and quality of goods and services produced in the digital economy using modern digital technologies, raising awareness and digital literacy, improving the availability and quality of public services for citizens, as well as security both within the country and abroad¹⁶.

Currently, Russia has a comprehensive system of legislation designed to ensure the proper level of protection of personal data of individuals. Its main link is the Federal law of July 27, 2006, No. 152-FL "On personal data"¹⁷ (hereinafter – the law on personal data).

The law on personal data includes six chapters and 25 articles. Based on the name, it is not possible to understand which personal data is referred to in the document: individuals (people and/or citizens of the Russian Federation), legal entities (Russian and/or foreign companies), or other categories (state/municipal authorities, etc.). The situation is aggravated by the fact that Article 1 ("Scope of this Federal Law") contains a rather vague

Legal regulation of personal data protection in the conditions of State Digital services development pág. xx

¹³ A. V. Aleksandrova y A. A. Shirokov, Metodologicheskie osnovy informatsionnoi bezopasnosti: mirovaya praktika. V sbornike: Integratsiya nauki, obshchestva, proizvodstva i promyshlennosti sbornik statei po itogam Mezhdunarodnoi nauchno-prakticheskoi konferentsii. 2019.

¹⁴ The Constitution of the Russian Federation (adopted by popular vote 12.12.1993) (as amended by the Laws of the Russian Federation on amendments to the Constitution of the Russian Federation of December 30, 2008 No. 6-FKZ, dated December 30, 2008 No. 7-FKZ). Official gazette of the Russian Federation num 4 (January 26, 2009) Article 445.

¹⁵ I. P. Miller, Pravovye aspekty ispolzovaniya personalnykh dannykh pri polzovanii elektronnyimi uslugami. V sbornike: Bezopasnost gorodskoi sredy. (Materialy V Mezhdunarodnoi nauchno-prakticheskoi konferentsii, 2018), 387.

¹⁶ Decree of the President of the Russian Federation N 203 "On the Strategy for the Development of the Information Society in the Russian Federation for 2017 – 2030" of May 9, 2017. Retrieved from: <http://kremlin.ru/acts/bank/41919>

¹⁷ Federal Law No. 152-FL (as amended on December 31, 2017) "On Personal Data". July 27, 2006. Official gazette of the Russian Federation num 31(1 part) (July 31, 2006) Article 3451. Retrieved from: <https://rg.ru/2006/07/29/personaljnye-dannye-dok.html>

wording: "This Federal Law regulates the relations associated with the processing of personal data carried out ...", etc., which also does not provide an idea about which categories of personal data the Russian Law on Personal Data is intended to protect.

Section 5 of the Personal Data Act includes the following principles for the processing of personal data: legality, fairness, and transparency; goal restriction; data minimization; accuracy and storage limitation. Another principle, namely the confidentiality of personal data, is set forth separately in Section 7 of the Personal Data Act. The most important element of the personal data protection mechanism is the legal status of the personal data subject, which includes the rights and obligations of the subject¹⁸. Chapter 3 of the Law on Personal Data is devoted to the rights of a personal data subject. Article 14, despite its title "Right of Access of a Personal Data Subject to Their Personal Data", also contains provisions that the data subject has the right to require the operator to clarify his/her data, block or destroy it if the personal data is incomplete, outdated, inaccurate, illegally obtained, or not necessary for the stated purpose of processing, and also take measures prescribed by law to protect their rights.

In view of the above, it seems that the main legal elements of the personal data protection mechanism (the principles and conditions for processing personal data, the legal status of the personal data subject, the duties of the personal data operator, state control and supervision of personal data processing and responsibility for violation of data processing requirements) are not elaborated in sufficient detail in the Law On Personal Data. The regulation of certain provisions of this Law raises questions and may give rise to discrepancies.

In the context of the spread of cybercrime, owners of electronic services are required to protect the information being processed. Thus, the personal data security policy of the public services portal supports the integrity and compliance with the law FL-152. User personal data is stored in the Unified system of identification and authentication (USIA), which is a federal-state information system created to provide authorized access for participants in information interaction to the information contained in state information systems, municipal information systems, and other information systems¹⁹. The law on personal data confers powers in the field of ensuring the protection of personal data to many authorities, most of which are authorized to adopt their acts to regulate this area. However, in some cases, it is not necessary to speak about the independent status of such bodies, since they are structural divisions of the Government of the Russian Federation and its ministries. Also, there is a problem in non-compliance by participants of information interaction and the norms of the Law itself.

One of the reasons for numerous violations in the field of personal data processing is the pitiful amount of the fine (the maximum amount is only 75 thousand rubles). It seems that this amount of liability does not correspond to the material (and not only) consequences of disclosure of personal data and information with restricted access²⁰. The amount of liability for violation of the rules for processing personal data established by the EU Directive is many times higher than the size of the fine stipulated by the Administrative Code of the Russian

¹⁸ I. A. Velder, *Sistema pravovoi zashchity personalnykh dannykh v Evropeiskom Soyuze*: dis. kand. jurid. nauk (Kazan: 2006).

¹⁹ On the protection of personal data. Retrieved from: <https://www.gosuslugi.ru/help/personal>

²⁰ V. I. Soldatova, "Zashchita personalnykh dannykh v usloviyakh primeneniya tsifrovyykh tekhnologii", *Lex russica (Russkii zakon) num 2(159) (2020)*.

Federation. Since May 2018, new personal data processing rules have been in force in Europe, established by the General Data Protection Regulation (EU Regulation 2016/679 of 04/27/2016, GDPR — General Data Protection Regulation)²¹. This regulation has a direct effect in 28 EU countries. An important feature of the GDPR is the extraterritorial principle of the new European rules for the processing of personal data, as well as increased responsibility for violation of the rules for processing personal data: fines reach 20 million euros (about 1.5 billion rubles)²². Hence, there is an obvious need to change the Russian legislation in terms of significantly increasing responsibility for violations of the law on personal data.

Another problem is the correlation between personal data protection and public interest. According to E.V. Talapina, this conflict can be considered as a special case of a general conflict of public and private law, since public interest involves a specific vision of the problem through the eyes of society itself. Many states provide special rules governing the storage of personal data of their citizens.

In this case, the private law freedoms are "opposed" by the public law interests of localizing personal data, including the interests of national security²³.

Any state is interested in obtaining the most complete information about citizens, and it is in the interests of citizens to ensure the protection of their personal data. The nature of legal regulation in the field of collection, processing, and use of personal data is determined by the position of the state in choosing the priority of interests. The literature correctly noted that in Russia the protection of the interests of the state is carried out successfully, in contrast to the protection of the interests of the individual²⁴.

The case of Edward Snowden is also significant, where the problem of the correlation between public and private interests (the so-called Snowden effect) is revealed. In the United States, there has been a tendency to contradict (clash) two regimes — civil liberties and national security. Edward Snowden, an American intelligence officer, passed on secret information about mass surveillance by authorities to the media. This was what manifested the "Snowden effect"²⁵ — prerequisites were created for setting personal rights and freedoms above national security. It is allowed to invade the exercise of civil rights, mainly the right to privacy, the secrecy of correspondence, etc., as well as to disregard civil liberties under the pretext of the need for national security, which is threatened by external enemies. National security, in this case, was more of a pretext for justifying the actions of the US special services not limited by legal limits.

²¹ Regulation No. 2016/679 of the European Parliament and of the Council of the European Union (adopted in Brussels on April 27, 2016) on the protection of individuals in the processing of personal data and on the free circulation of such data, as well as on the repeal of Directive 95/46 / EC (General Personal Data Protection Regulation). Official Journal of the European Union NL 119. 2016.

²² V. I. Soldatova, Zashchita personalnykh dannykh v usloviyakh...

²³ Regulation No. 2016/679 of the European Parliament and of the Council of the European Union (adopted in Brussels on April 27, 2016) on the protection of individuals in the processing of personal data and on the free circulation of such data, as well as on the repeal of Directive 95/46 / EC (General Personal Data Protection Regulation). Official Journal of the European Union NL 119. 2016.

²⁴ E. V. Talapina, "Zashchita personalnykh dannykh v tsifrovuyu epokhu. Rossiiskoe pravo v evropeiskom kontekste", Trudy Instituta gosudarstva i prava RAN Vol: 13 num 5 (2018): 137.

²⁵ N. I. Petykina, Pravovoe regulirovanie oborota personalnykh dannykh. Teoriya i praktika (Moscow: Statut, 2011).

It is noteworthy that the statement made by the former US President B. Obama²⁶ several years before the Snowden Case indicates that the principles laid down in the US Constitution must be respected, as well as the work of news agencies that are designed to create conditions for maintaining a balance between political goals and civil liberties.

In this context, the question of the ownership of personal data or, as provided for in the French Law on the Digital Republic of October 7, 2016, the freedom to use one's own personal data²⁷, more often arises.

The analysis of the legislation and opinions of various researchers conducted above allowed formulating the following suggestions for improving the current legislation on personal data protection. To establish a balance between public and private interests in the use of personal data, it is necessary to legally ensure a "private law" approach when preparing new regulatory legal acts in this area. Personal data must be provided with the same legal protection as the objects of property rights. It also seems appropriate to supplement the Law on Personal Data, as a basic regulatory legal act in this area, with some provisions that can be made out as chapters, sections in chapters, or separate articles. The provisions of the Law on Personal Data should reflect the principle of the integrity of personal data and the principle of accountability of the controller (operator), which are the core principles of the mechanism for protecting personal data in the European Union, established by the aforementioned GDPR Regulation. Considering the experience of applying European legislation on the protection of personal data, it is proposed to include the following principles in the Law on Personal Data: security; sensitivity; participation (involvement), and control of the data subject over the use of personal data; restrictions on the disclosure of personal data; develop details of the implementation of these principles in the relevant articles of the Law. Also, it is proposed to improve the legal mechanism for the protection of personal data in the Russian Federation by elaborating its elements such as Codes of Conduct for Personal Data Operators: the state should encourage the development of codes of conduct designed to promote the proper application of federal legislation, taking into account the particularities of various processing sectors. Certification mechanisms: the state should encourage the establishment of certification mechanisms for data protection and security seals and data protection signs to demonstrate compliance with federal legislation by personal data operators that process data. Certification of operators should be voluntary and affordable; the certification process should be transparent. Adherence to approved codes of conduct or certification mechanisms for electronic public services should be mandatory. Sanctions: the state should impose administrative fines and other sanctions applicable to violations of federal law. Such sanctions must be effective, proportionate, and deterrent.

Conclusion

The current legislation has several shortcomings related to the protection of personal data in the provision of public services since regulations are focused more on the interests of the service provider than on the consumer, and the civil concept of personal data as an object of civil rights has not been developed. Currently, society is confronted with problems of modernization of regulation of public services, one of the main directions which should lead to an improvement of the current legislation governing the protection of personal data

²⁶ B. Obama, "Security and Privacy: In search of balance", Vital speeches of the day Vol: 80 num 30 (2014): 104.

²⁷ V. I. Soldatova, "Zashchita personalnykh dannykh v usloviyakh primeneniya tsifrovoykh tekhnologii", Lex russica (Russkii zakon) num 2(159) (2020): 38.

technology services, the formation mechanism of the quality of services, development of concepts of the interaction of state and society, the availability and efficiency of public services. Thus, the research hypothesis is fully confirmed. The directions proposed for the modernization of public services require a comprehensive solution, which should primarily be related to international requirements and examples of successful approaches to regulating the protection of personal data at the national level. The prospect of further research is seen in a comparative analysis of European and Russian legal norms, bodies that monitor compliance with legislation on personal data protection.

References

Albov, A. P.; Kupriyanova, L. M.; Gorbunov, Z. N.; Nasokin, V. V. y Kamyshansky, V. P. "Harmonizing the customs laws of the European Union and the Russian Federation used for protecting intellectual property rights". *Revista Inclusiones* Vol: 7 num 2 (2020): 474-488.

Aleksandrova, A. V. y Shirokov, A. A. Metodologicheskie osnovy informatsionnoi bezopasnosti: mirovaya praktika. V sbornike: Integratsiya nauki, obshchestva, proizvodstva i promyshlennosti sbornik statei po itogam Mezhdunarodnoi nauchno-prakticheskoi konferentsii. 2019.

Borovskikh, N. V. y Kiperpar, E. A. "Digital Competences of Administrative and Management Personnel: Problems of Identification and Prospects of Formation in the Context of the Economy Digitalization". *Journal of Advanced Research in Dynamical and Control Systems* Vol: 11 num Special 11 (2019): 90-99.

Decree of the Government of the Russian Federation No. 1815-P. On the State Program of the Russian Federation "Information Society (2011-2020)" (no longer valid). October 20, 2010. Official gazette of the Russian Federation num 46 (2010) Article 6026.

Decree of the Government of the Russian Federation No. 313-P. On approval of the state program of the Russian Federation "Information Society" (2011-2020). April 15, 2014. Official gazette of the Russian Federation num 18 (2014) Article 2159. Retrieved from: <https://rg.ru/2012/04/24/shifry-site-dok.html>

Decree of the President of the Russian Federation N 203 "On the Strategy for the Development of the Information Society in the Russian Federation for 2017 – 2030" of May 9, 2017. Retrieved from: <http://kremlin.ru/acts/bank/41919>

Demezhanova, S. M.; Kaudyrov, T. E. y Demidova, G. S. "Analyzing the Litigation Practice Concerned with the Consideration of Intellectual Property Cases in Kazakhstan". *Journal of Advanced Research in Law and Economics* Vol: 10 num 1 (2019): 124-133.

Federal Law No. 152-FL (as amended on December 31, 2017) "On Personal Data". July 27, 2006. Official gazette of the Russian Federation num 31(1 part) (July 31, 2006) Article 3451. Retrieved from: <https://rg.ru/2006/07/29/personaljnnye-dannye-dok.html>

Gontar, L. O. "O zashchite personalnykh dannykh kak institute mezhdunarodnoi informatsionnoi kiber-bezopasnosti na primere proektsii otdelnykh mezhdunarodnykh organizatsii". *Zhurnal zarubezhnogo zakonodatelstva i sravnitel'nogo pravovedeniya* num 1 (2020): 79.

Gurinovich, A.; Afanasiev, I.; Churin, V.; Perekrestova, V. y Tolmachev, O. "Development of Small and Medium-Sized Entrepreneurial Businesses in The Energy Sector: Features of Highly Intelligent Projects' Evolution". *Ad Alta: Journal of Interdisciplinary Research* Vol: 9 num 1 (2019): 352-359.

Kirillova, E. A.; Blinkov, O. E.; Ogneva, N. I.; Vrazhnov, A. S. y Sergeeva, N. V. "Artificial Intelligence as a New Category of Civil Law". *Journal of Advanced Research in Law and Economics* Vol: 11 num 1 (2020): 91 – 98.

Lebedev, K. A.; Reznikova, O. S.; Dimitrieva, S. D. y Ametova, E. I. "Methodological Approaches to Assessing the Efficiency of Personnel Management in Companies". *Journal of Advanced Research in Law and Economics* Vol: 9 num 4 (2018): 1331-1336.

Miller, I. P. Pravovye aspekty ispolzovaniya personalnykh dannykh pri polzovanii elektronnyimi uslugami. V sbornike: Bezopasnost gorodskoi sredy. Materialy V Mezhdunarodnoi nauchno-prakticheskoi konferentsii. 2018.

Obama, B. "Security and Privacy: In search of balance". *Vital speeches of the day* Vol: 80 num 30 (2014): 104.

On the protection of personal data. Retrieved from: <https://www.gosuslugi.ru/help/personal>

Petrykina, N. I. Pravovoe regulirovanie oborota personalnykh dannykh. Teoriya i praktika. Moscow: Statut. 2011.

Pisenko, K. y Botvinnik, S. "Protección contra la imposición de cláusulas abusivas por parte de la posición dominante en la legislación rusa: aspectos para garantizar un equilibrio de intereses". *Jurídicas CUC* Vol: 16 num 1 (2020): 251–268.

Regulation No. 2016/679 of the European Parliament and of the Council of the European Union (adopted in Brussels on April 27, 2016) on the protection of individuals in the processing of personal data and on the free circulation of such data, as well as on the repeal of Directive 95/46 / EC (General Personal Data Protection Regulation). *Official Journal of the European Union* NL 119. 2016.

Shadrin, S. A. "Sravnitelnyi analiz zakonodatelstva Evropeiskogo soyuza i Rossiiskoi Federatsii o zashchite personalnykh dannykh". *Akademicheskii yuridicheskii zhurnal* num 1(75) (2019): 54-63.

Soldatova, V. I. "Zashchita personalnykh dannykh v usloviyakh primeneniya tsifrovyykh tekhnologii". *Lex russica (Russkii zakon)* num 2(159) (2020).

Talapina, E. V. "Zashchita personalnykh dannykh v tsifrovuyu epokhu. Rossiiskoe pravo v evropeiskom kontekste". *Trudy Instituta gosudarstva i prava RAN* Vol: 13 num 5 (2018): 137.

Tchinaryan, E. O.; Lavrentieva, M. S.; Kuchenin, E. S y Neznamova, A. A. "Digital Technologies of the European Union in Personal Data Protection". *International Journal of Innovative Technology and Exploring Engineering* Vol: 8 num 12 (2019): 3600-3604.

The Constitution of the Russian Federation (adopted by popular vote 12.12.1993) (as amended by the Laws of the Russian Federation on amendments to the Constitution of the Russian Federation of December 30, 2008 No. 6-FKZ, dated December 30, 2008 No. 7-FKZ). Official gazette of the Russian Federation num 4 (January 26, 2009) Article 445.

The media learned about the leak of data from users of the public services site. December 29, 2019. Retrieved from: <https://www.rbc.ru/society/29/12/2019/5e08a43d9a7947345490f23e>

Velder, I. A. Sistema pravovoi zashchity personalnykh dannykh v Evropeiskom Soyuze: dis. kand. jurid. nauk. Kazan. 2006.

CUADERNOS DE SOFÍA EDITORIAL

Las opiniones, análisis y conclusiones del autor son de su responsabilidad y no necesariamente reflejan el pensamiento de **Revista Inclusiones**.

La reproducción parcial y/o total de este artículo
Puede hacerse sin permiso de **Revista Inclusiones, citando la fuente**.