


07.09.2022

Personal Data: New Regulation and Practice



Changes in Personal Data Processing on Instruction

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Associate

Personal Data Processing on Instruction

- Operator has a right to instruct other individual or legal entity to process personal data upon the consent of subject of personal data by concluding a contract with an individual or legal entity
- Person processing personal data by order of the operator is not required to receive consent of the subject of personal data to process it
- Operator is liable for actions of a person processing personal data on behalf of operator. Person processing personal data by order of operator shall be liable towards the operator
- **Starting from 1 September 2022:** if operator instructs a foreign person to process personal data, operator and persons processing personal data by order of operator shall be liable to for actions of these persons towards subject of personal data



Article 6 (3) of the Federal
Law 152-FZ

Requirements for Consent to Transfer Personal Data

- Consent to transfer personal data to third parties should include an **explicit list of entities** which will have access to the subject's personal data, otherwise unnamed parties **(a)** in fact become operators, or **(b)** persons who have access to consumer personal data and not obliged to maintain confidentiality of such data
- Employer has a right to transfer the employee's personal data without their consent in cases stipulated by clauses 2-11 of Article 6 (1) of 152-FZ



Decision of the Arbitrazh
Court of the Moscow District
dated 13.04.2021 case No
A40-190422/2020



Resolution of the Ninth
Arbitrazh Court of Appeal
dated 09.02.2022 case No
A40-163911/2021

Fines for Failure to Meet Localization Requirements



1 mln



2 mln



1 mln



15 mln



18 mln



2 mln

New Regulations of Personal Data Processing on Instruction



Before

List of actions (operations) with personal data

Processing purposes

Obligation to protect confidentiality of personal data and ensure security of personal data

Requirements for protection of personal data

Now

List of actions (operations) with personal data

Processing purposes

Obligation to protect confidentiality of personal data and ensure security of personal data

Requirements for protection of personal data

NEW

List of personal data

Compliance with measures for operators under Article 18.1 of the 152-FZ

Compliance with “localization” requirements

Reduction of Time for Response to Requests of Subjects



Before

30 calendar days upon a request or receipt of a request

Now

10 business days upon a request or receipt of a request

5 business days upon receipt of a letter from operator with grounds for prolongation

***Response form should copy form of a request**

Thank you for your attention

Questions and answers



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