The national legislation must make provision for a data retention within the same State

On July 21, 2014 the President of the Russian Federation signed Federal Law No. 242-FZ on "Amendments to Certain Legislative Acts of the Russian Federation for Clarification of Personal Data Processing in Information and Telecommunications Networks", which has become effective on September 1, 2016.

The new law amends the Federal Law No. 152-FZ "On Personal Data" dated July 27, 2006 (the "Personal Data Law") by introducing new obligations with regard to storage of personal data of Russian citizens: «*When collecting personal data, including by means of the information and telecommunication network "Internet" the operator must provide the recording, systematization, accumulation, storage, adjustment (update, alteration), retrieval of personal data of citizens of the Russian Federation with the use of databases located in the territory of the Russian Federation,[...]*». **In other words, personal data of Russian citizens collected by operators must be stored in the servers/data centers located in the Russian Federation**.

This obligation applies to all types of companies (branches and offices of foreign companies) regardless of the type of businesses they are involved in, e.g., tourism, transportation, e-commerce, banks, **telecommunication**, **IT-companies** etc., because the main criteria is collecting/processing of personal data of Russian citizens.

Implementation of the above obligation might work in the following way: personal data will be duplicated both in Russian and in foreign data centers. **Anyway the Russian law seems to have something in common with the judgment of Court of Justice of the European Union in joined cases C-203/15 and C-698/15**. In these cases Court affirms "*Given the quantity of retained data, the sensitivity of that data and the risk of unlawful access to it, **the national legislation must make provision for that data to be retained within the EU***" (Press Release No 145/16, 21 December 2016, http://www.curia.europa.eu).

In the Digital Rights Ireland judgment of 2014, the Court of Justice declared invalid the Directive 2006/24/EC on the retention of data, so on the day following the telecommunications company Tele2 Sverige informed the Swedish Post and Telecom Authority that it had decided that it would no longer retain data and that it intended **to erase data previously recorded** (Case C-203/15). In Case C-698/15, the Court is requested to state whether national rules that impose on providers a general obligation to retain data and which make provision for access by the competent national authorities to the retained data.

About retention, the Court states that the retained data is liable to allow very precise conclusions to be drawn concerning the private lives of the persons whose data has been retained. In order to ensure the full integrity and confidentiality of that data, the providers of electronic communications services must guarantee a particularly high level of protection and security by means of appropriate technical and organisational measures. **It can mean to store the data in the servers/data centers located in the same State**.

The data relating to subscribers processed within electronic communications networks to establish connections and to transmit information contain information on the private life of people. Today the service providers (the most important are American companies) have enormous databases which give the power instantly to catalogue people. The data retention enables the government to control the governed.

"*If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself*" (1788, James Madison, one of the authors of the United States Constitution). Alone data retention is not enough, it's also necessary to oblige the government to control itself. ©

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