



Personal Data in Russia: Regulations and Protection

The Russian Federation's Personal Data Law came into effect on Jan. 26, 2006, and followed on the heels of Russia's ratification of the European Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data. The need for such a law had been evident for quite some time prior to its adoption.

The law creates uniform requirements for processing individual personal data and the security measures surrounding the storage of such personal data.

Personal data is defined as any information associated with an individual allowing that person to be specifically identified. Such information includes: full name; date and place of birth; home address; information about marital, social, property and official status; education; profession; income; etc.

The law introduces the term "Operator," an entity which arranges or performs personal data processing, and defines "personal data processing." Employers are included among the legal entities identified as "operators." The law also defines other operations involving personal data, such as processing, distribution, use, blocking, erasure and "depersonalization."

The law establishes a number of underlying principles for personal data processing:

- ▶ Purposes and methods of processing must be legitimate
- ▶ Purposes of processing must correspond to the authority of the operator
- ▶ The amount and nature of personal data and the method of data processing must correspond to the purposes of processing
- ▶ Personal data must be authentic and sufficient for the purposes of processing
- ▶ Excessive personal data processing as related to specific purposes is prohibited
- ▶ Integration of personal databases created for incompatible purposes is prohibited

Thus, taking into consideration Articles 85 and 86 of the Labor Code, it can be concluded that employers may only process employees' personal data related to labor contracts, including related areas such as social insurance. Specifically, employers may only process individual personal data strictly related to:

- ▶ Ensuring compliance with the law
- ▶ Employment assistance
- ▶ Education and career assistance
- ▶ Employees' personal security protection
- ▶ Quantity and quality control of job performance
- ▶ Property preservation

In accordance with the general rule, processing personal data (including data collection) may be performed only with the consent of the individual. However, in special cases as enumerated in the law, such consent may not be required. For instance, an employer has the right to demand that an employee present certain



documents for employment. An employee's consent is not required for the employer to process personal data for corresponding tax payments (mandatory contributions) and accounting for the state retirement insurance system.

The operator (employer) must ensure personal data confidentiality in accordance with requirements for security and storage conditions established by Russian government. Exclusions constitute only depersonalized data and personal data for public usage. Personal data can become public upon the personal data bearer's consent. Public data include data that are not confidential under federal laws.

The law permits creation of public sources of personal data (directories telephone and address books). Such sources, upon written consent of personal data bearers, may include an individual's full name, date and place of birth, address, phone number, information concerning profession and other personal data provided by the individual. Such information, however, may be excluded from public sources upon request by the individual.

The law introduces special social categories of personal data, processing of which as per the general rule is prohibited. Such categories incorporate information related to racial and national identity, political, religious and philosophical views, state of health and intimacies. Such data are legal to process only upon the personal data bearer's consent or in cases determined by law. For example, according to Article 88 of the Labor Code of the Russian Federation, an employer has the right to request information regarding an employee's state of health, which is related to the employee's capability to perform a job.

The law also stipulates certain rules for the transfer of personal data outside Russia.

The law determines which state authorities will ensure compliance with the law. At the same time, general supervision over compliance with the law is delegated to the Federal Communications Supervision Service. Compliance with security requirements for personal data processing, established by government of Russia, will be controlled by the Federal Security Service.