

June 11, 2015

“Right to be forgotten” may appear in Russian data protection law

Dear Sir or Madam,

We would like to inform you of recent legislative initiatives in the sphere of Russian personal data legislation.

We are referring to the draft bill No.804132-6 (“**Draft Bill**”), which is designated to implement so-called “right to be forgotten” in Russian law.

Below you may find a brief overview of the suggested amendments.

New obligations imposed on search engines

Under the Draft Bill, personal data subjects are provided with the right to request removal of their personal data from search engines (“**the right to be forgotten**”).

However, “the right to be forgotten” is not absolute one. It only applies in the following cases:

- information is inaccurate;
- information is accurate but no longer relevant due to the time passed, namely 3 years (with some exceptions);
- information had been disseminated in contradiction with the legislative requirements.

How will the “right to be forgotten” be exercised

The request on delisting search results submitted by a data subject (applicant) shall be in writing and contain certain information prescribed by the Draft Bill, in particular: full name, passport data, contract information of the applicant, reasons for delisting, links which shall be delisted, references to domain name and / or website address (if needed), consent on processing applicant’s personal data.

Within 3 (three) calendar days as of receipt of the delisting request search engine shall take one of the following decisions:

- to delist search results related to personal information of the applicant;
- to provide the applicant with substantiated written refusal to delist the said search results.

If the applicant does not agree with the decision made by search engine he/she is entitled to file a respective claim to a competent court.

Search engine shall keep confidential the information on filing the delisting request by the applicant.

Controversial issues concerning the Draft Bill

Introduction of the Draft Bill has raised a public debate over the reasonableness of the “right to be forgotten” in the digital age. The main point of criticism is how the application of the Draft Bill (in case of its final adoption) will be reconciled with the right to freedom of expression. Another question is how search engines will be able to substantiate their refusal to delist links (e.g., whether they would be able to refer to the journalist purposes).

Status of the Draft Bill

The Draft Bill has been submitted to the State Duma (lower chamber of the Russian Parliament) on 29 May 2015 and, may be considered in the first reading (of three) in the nearest future.

Liability issues

Along with the considered Draft Bill, another bill has been submitted to the State Duma on 29 May 2015.

Under the said bill, administrative fine in the amount of 100 000 RUR (approx. 1 580 EUR) might be imposed on a search engine for failure to delist the links related to data subject’s personal information upon his / her request or in the amount of 3 million RUR (approx. 47 619 EUR) for failure to comply with the court decision on delisting of such links.

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We hope you will find this information helpful. Should you have any questions, please do not hesitate to contact **Irina Anyukhina**, Partner of Intellectual Property and Data Protection practices.

Yours faithfully,

ALRUD Law Firm

Please note that this Newsletter should not be considered as a ground for making any decision regarding a particular issue. All the information for this Newsletter was taken from the public sources.