

Personal Data Localisation Requirements Will Be Tightened



Русская версия

On 26 February 2025 the Federation Council approved draft law No. 416441-8 which proposes the imposition of more stringent requirements on the localisation of databases containing personal data from **1 July 2025**. It is anticipated that the President of the Russian Federation will sign the draft law soon.

Part 5 of Article 18 of the Law "On Personal Data" (the Personal Data Law) reads as follows at present: "By collecting personal data, including through the Internet, **the data controller is required to arrange** for the recording, classification, accumulation, storage, clarification (updating, change), and the extraction of the personal data of Russian citizens, **using databases located in the Russian Federation**, except in the instances indicated in Clauses 2, 3, 4 and 8, Part 1 of Article 6 of the Personal Data Law."

The new version of the Personal Data Law states: "By collecting personal data, including through the Internet, the recording, classification, accumulation, storage, clarification (updating, change), and the extraction

of the personal data of Russian citizens, **using databases located outside the Russian Federation, is not permitted**, except in the instances indicated in Clauses 2, 3, 4 and 8, Part 1 of Article 6 of the Personal Data Law."

The following represent some of the key questions which arise after reading the new version of Part 5 of Article 18 of the Personal Data Law:

1) During such collection, will it be possible after 1 July 2025, as is the case at present, to store the data of personal data subjects in Russian databases, and then arrange for the cross-border transfer of such data to a foreign database?

In our opinion, such an interpretation is possible if the phrase "by collecting" in the new wording of the Personal Data Law is considered as a time limit: the use of a foreign database is not permitted specifically at the time of the data collection (in other words, when they were received directly from the personal data subject or their representative). Accordingly, based on such an interpretation, the new version of the Personal Data Law aims merely to clarify/confirm established practice.

However, the first unofficial comments of statesmen would appear to contradict such an interpretation, for example, the head of the State Duma Committee on Information Policy Sergey Boyarsky declared that "the implication of the amendment is that databases containing the personal data of our citizens must be located exclusively in our country and may not have copies outside its territory, except for the data of diplomatic staff and the employees of Russian mass media who work abroad". Similar comments have also been received from Russian Government officials.

To date there have been no comments from Roskomnadzor (the Federal Service for Supervision of Communications, Information Technology and Mass Media) which will monitor practical compliance with this requirement and draft protocols on administrative offences if it identifies breaches of the requirements (which will subsequently be considered by Russian commercial courts).

2) Is the cross-border transfer of personal data stored by collection on a Russian server permitted after 1 July 2025?

Yes, provided that Roskomnadzor does not object to such cross-border transfer after receiving the notification of the data controller on its intention to carry out a cross-border transfer. At the very least, a transfer in a form of **access** should be possible – for example, it will be possible to obtain from abroad access to data stored on the Russian "cloud".

As to a transfer in a form of **provision** of data which implies providing data (through complete or partial copying) for storage on a foreign server, the ability to exercise this option after the collection of data in a Russian database will be contingent on the interpretation that will prevail in practice (see point 1 above).

3) Who will be deemed responsible for preventing by collection the storage of personal data using databases located outside the Russian Federation?

According to the current version of the Personal Data Law, the use of Russian databases should be ensured by the data controller collecting the data.

The new version of the Personal Data Law is worded in such a way that no particular party is specified. Accordingly, there is a risk that, in view of the extraterritorial nature of the Personal Data Law (Part 1.1 of Article 1), this requirement might be addressed not only to the Russian data controllers collecting the data and persons acting on the instructions of such data controllers, but also to the **foreign companies** receiving the data from Russian data controllers.

At present administrative liability for non-compliance with the localisation requirements in the form of a fine of not less than RUB 1 million is imposed on a company if the data controller by collecting personal data, including through the Internet, does not comply with the obligation stipulated by Russian personal data legislation to arrange for the recording, classification, accumulation, storage, clarification (updating, change), or the extraction of the personal data of Russian citizens, using databases located in the Russian Federation (Part 8 of Article 13.11 of the Russian Code on Administrative Offences). It is highly likely that the indicated norm of the Russian Code on Administrative Offences will be brought into line with the new version of the Personal Data Law (as it would otherwise be difficult to impose liability from 1 July 2025). However, for the time being the draft of respective amendments has not been published.

Prior to the entry into force of the new version of the Personal Data Law and the appearance of clarifications from Roskomnadzor, we recommend that data controllers (in particular, the subsidiaries of foreign companies which use extensively global information systems) address first and foremost the following issues:

- As demonstrated by court practice, the greatest risk of fines exist if localisation requirements are not observed when personal data are collected through **websites**. At present Roskomnadzor effectively does not perform scheduled inspections and instead primarily monitors

remotely online the activities of data controllers in the Internet. That is why it is important to check that the contact forms, registration forms and other similar forms used to collect the data of Russian citizens through websites are located on domains with a Russian IP address.

- We assume that it is highly likely, as was the case in 2015 when the personal data localisation requirement first appeared in Russian legislation, that the new version of the Personal Data Law will not apply to **data transferred abroad before 1 July 2025**, provided that there have been no subsequent updates of such data. At the same time, we would like to remind you that any cross-border transfer should be covered by a previously filed or new preliminary cross-border transfer notification filed with Roskomnadzor.

- If we proceed from the worst-case scenario (the need to stop using foreign databases storing data), then a Russian company shall have in Russia not a "dead" database (created in order to formally comply with the current version of localisation requirements), but rather specifically an **operational database** which is suitable for the use of data based on the company's current activities. Accordingly, we recommend analysing the local solutions available on the market (including cloud computing) in such areas as HRM, CRM, ERP, SRM and others, and their possible implementation/implementation deadlines (*inter alia*, along with the global databases that the company already uses).

We would be happy to assist you with the analysis and preparing recommendations on how to mitigate legal risks with account of the personal data processing specifics at your company.

Kind regards,

Andrey Slepov

Partner

Andrey.Slepov@advant-beiten.com



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