

Russia Practice

July 2017

Requests of the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor) to organisations, branches and representative offices concerning the processing of personal data

Recently, there have been more frequent instances of foreign companies (including representative offices and branches) and companies with foreign participation receiving letters from the regional offices of Roskomnadzor (the supervisory body for protection of personal data). In these letters Roskomnadzor demands that either a notice on the processing of personal data has to be sent (according to the procedure set forth in Article 22 of the Federal Law "On Personal Data") or that it has to be confirmed that the company (its representative office/branch) is eligible for the exemption allowing it not to send this notice.

BEITEN BURKHARDT has considerable practical consulting experience in the area of personal data (including the preparation and dispatch of such notices and assistance during the planned audits of Roskomnadzor in large companies with foreign participation), and based on this experience can confirm that 99 per cent of all companies (including representative offices/branches) that actively do business in the Russian Federation are not eligible for the aforementioned exemption. Consequently they are required to send the notice to Roskomnadzor.

The deadline for responding to Roskomnadzor's request is 30 days from the time of its receipt.

If your organisation has already received such a letter, we recommend the following:

- Perform a quick review of the operating procedures regarding the processing of personal data. This is important in order to determine the category of owners of personal data with whom your company works. In addition, you should review the legal grounds for and objectives of data processing, the information systems used to collect the personal data and other information required for the provision of a complete and reliable answer to Roskomnadzor.
- Take measures, if necessary, based on the results of the aforementioned review to bring the operations of the organisation (representative office/branch) into compliance with the legislative requirements on handling personal data. Our experience

shows that more than 80 per cent of all required measures have to do with local statutory regulation of the organisation.

- Prepare a draft notice based on the results of the review and the aforementioned measures to bring the operations of the organisation into compliance with the legislative requirements on personal data. For this purpose, we suggest using the form approved by the Regulations of the Ministry of Telecom and Mass Communications (MinComSvyaz). However, we do not recommend the use of the online form on Roskomnadzor's website, as it involves the collection of significantly more data than prescribed by law.
- The notice should be sent by the established deadline. If the deadline is missed, the risk highly increases that the organisation or its officials will be subject to administrative liability. In addition, the organisation's operations might be audited by Roskomnadzor.

The notice may be sent by mail, making it possible to postpone any possible follow-up notice by Roskomnadzor.

If your organisation has not yet received such a letter and has not sent the notice, we recommend the following:

You should perform a review and take the measures indicated above, as it is much more difficult to perform these actions within the 30-day period after the receipt of the request from Roskomnadzor. It is also recommended that the organisation sends the notice on its own initiative, since in case of the receipt of a request from Roskomnadzor you have no information on the aspects of your activity that led Roskomnadzor to decide that there was the need to send it a notice, which increases the risk of the provision of incomplete information.

We would be happy to provide you with the necessary assistance on all of the aforementioned issues.



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