

RUSSIAN DESK

Large fines are coming for not complying with localisation requirements when processing personal data

On 2 December 2019, a law¹ came into force introducing substantial fines for non-compliance with requirements for localisation of databases that hold personal data. This is one of the vectors for the new policy of Roskomnadzor, the regulatory body for personal data. The head of Roskomnadzor acknowledged that website blocking is an ineffective means of fighting violations of localisation requirements. The new penalties are comparable in size to the fines established by the GDPR. Below, we shall answer the main questions that have come up in relation to this new law.

WHAT IS LOCALISATION OF PERSONAL DATA?

When collecting personal data (i.e. as a rule, when receiving it from the subjects of personal data themselves), including over the Internet, the personal data controller is obliged to ensure the entry, systematization, accumulation, storage, adaptation, extraction of personal data of Russian citizens primarily through databases located on servers within the Russian Federation.

HOW LARGE ARE THE FINES?

For the first violation of requirements, the amount of fines varies from **RUB 1 million to RUB 6 million** for companies and from **RUB 100 thousand to RUB 200 thousand** for general directors and other senior executives.

In the event of repeated violations (that is after penalties have been imposed for a first violation), the amount of fines varies from **RUB 6 million to RUB 18 million (i.e. up to approximately EUR 250 thousand)** for companies and from **RUB 500 thousand to RUB 800 thousand** for general directors and other senior executives.

These amounts are comparable to or even exceed the cost to the company of database localisation measures, especially since compliance with the statutory localisation requirements does not require decentralisation of the entire system – it is sufficient to save data initially in the Russian database as it is then possible to transfer the data to a foreign database for subsequent processing.

WHAT WILL ROSKOMNADZOR REVIEW?

We would assume that after the law comes into force, Roskomnadzor will in particular review the following areas:

1) Websites on which companies collect personal data, e.g. through contact forms, career sections, etc. Both the websites of Russian and foreign data controllers are reviewed. If a foreign website is also targeted to a Russian audience, among others (for example, providing contact information in Russia), then it will also be in the risk zone – there are precedents that Roskomnadzor has imposed fines on foreign companies, and these fines were actually paid.

If your website has a non-Russian IP address, there is a large risk that Roskomnadzor will see this alone as a violation of localisation requirements.

2) CRM systems (which contain, for example, client contact information).

3) HR systems (which contain, for example, information on employees and job applicants), and others.

WHO WILL BE LIABLE?

All data controllers shall be liable, not just major corporations that process personal data on a large scale.

This applies to companies that are subject to scheduled or unscheduled reviews are performed and violations are identified, as well as companies whose activities are reviewed by Roskomnadzor without their participation by means of remote monitoring of websites.

¹ Federal Law No. 405-FZ dated 2 December 2019.

If you use cloud systems as a data controller or otherwise commission third parties to process your data, you will be liable for the actions of these third parties, in particular for the lack of localisation of personal data.

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