





Privacy and data protection, transparency and access to information in education (Kaunas Internship)





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International
 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948
 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966
 UN Convention on the Rights of the Child, 1989

European
 Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
 Charter of Fundamental Rights of the European Union (2000)
Directive 95/46/EC On Data Protection (Data Protection Directive)
Regulation (EU) 2016/679 (in force since 24.05.2016, shall apply from 25.05.2018)
Directive (EU) 2016/680 (in force since 05.05.2016, Member States have to transpose it into national law by May 2018)
 Council of Europe Convention for the Protection of Individuals with Regard to the Automatic Processing of the Individual Data (1981)

National
 Constitution of the Russian Federation (1993)
 Federal Law On Personal Data (2006)
 Federal Law On Information, Information Technologies and Data Protection (2006)
 Federal Law On Fundamentals of Healthcare of the Russian Citizens (2011)



Key Definitions




Privacy - someone's **right** to keep their personal matters and relationships secret


Privacy - **right** that determines the nonintervention of secret surveillance and the protection of an individual's information

VS.

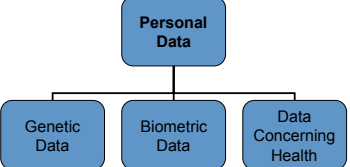
Confidentiality - an **obligation** to protect and hold in strict confidence all information concerning the person who is the subject of the professional relationship



Key Definitions



identifiable natural person - one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number etc.



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            graph TD
            A[Personal Data] --> B[Genetic Data]
            A --> C[Biometric Data]
            A --> D[Data Concerning Health]
            
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Key Definitions

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    graph TD
      Actors[Actors] --> Controller[Controller]
      Actors --> Processor[Processor]
      Actors --> Recipient[Recipient]
      Actors --> ThirdParty[Third Party]
    
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Key Definitions

I agree
 I disagree

Consent - freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her

Validity of consent:

- free (real choice)
- legal capacity
- unambiguous (no reasonable doubt)
- informed
- specific (relevant for each situation)

Key Definitions

Personal data breach - breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed

DATA RECORDS COMPROMISED IN 2016

1,378,509,261

3,776,738 records lost or stolen every day
157,364 records every hour
2,623 records every minute
44 records every second


Privacy in Education

<ul style="list-style-type: none"> •personal details (name, address, D.O.B.) •phone numbers •email addresses •gender •gender identity •photographs •financial information •academic marks •appraisals •references •disciplinary information 	<ul style="list-style-type: none"> •criminal offence or conviction information •health and disability information •ethnicity data •sexual orientation •dietary requirements •religious belief data •caring responsibilities •information regarding hobbies and interests •any other legitimate personal data relating to academic support
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Information about criminal offences, health, disability, ethnicity, sexual life and religion constitutes sensitive personal data and is afforded an extra level of security and confidentiality

Privacy Principles

- Lawful processing
- Purpose specification and limitation
- Data quality (relevancy, accuracy)
- Fair processing
- Accountability



Data Protection Legislation in the European Countries

Member States implement the Directive 95/46/EC On Data Protection (Data Protection Directive)

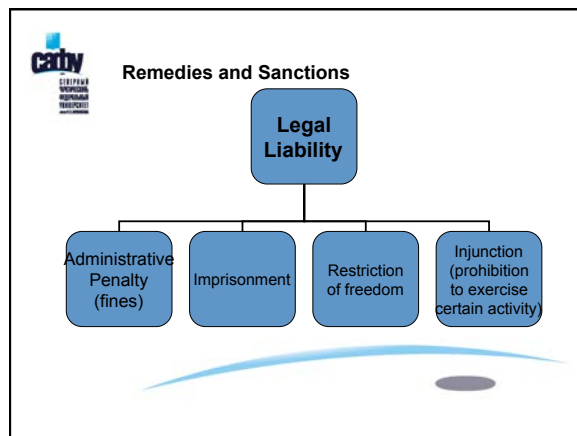
Belarus has the Law on Information, Informatisation and Information Protection of 2008 (455-Z)


Albania adopted the Law no. 9887 “On personal data protection” (2008)

Exemptions


The rights of data subjects might be restricted for the following reasons:

- national security, public security, and defense;
- prevention, investigation, detection, and prosecution of criminal offenses or violations related to codes of ethics of regulated professions;
- important economic or financial interests of the EU or a Member State; and
- the protection of data subjects or the rights and freedoms of others.







Death of Privacy



Dataization leads to intrusions and exposures
Lack of wisdom or ability to handle data fairly and justly
Dependance on the Internet to carry out daily activities

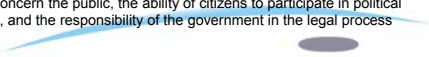




TRANSPARENCY
IS GOOD

Transparency - quality of being done in an open way without secrets
Transparency - the clarity of the regulations and procedures within the organization on one hand, and between the organization and the citizens using their services on the other hand. Open procedures, goals and targets in the work of the institution

VS.



Secrecy means to hide actions intentionally and deliberately, whereas transparency is considered an instrument, which provides information on the facts that concern the public, the ability of citizens to participate in political decisions, and the responsibility of the government in the legal process

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Dimensions of transparency:


- clarity
- openness
- accuracy
- ease of access to information
- participation in decisions made at the various administrative levels


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It should be transparent to natural persons that personal data concerning them are collected, used, consulted or otherwise processed and to what extent the personal data are or will be processed





Legal Framework





Regulation (EU) 2016/679

UN General Assembly, Calling of an International Conference on Freedom of Information Resolution 59(1), 1946


UNESCO resolution on "International Day for the Universal Access to Information"

UN General Assembly, Universal Declaration of Human Rights, 1948



UN General Assembly, International Covenant on Civil and Political Rights, 1966


Bologna Transparency Tools



- quality assurance, recognition, ECTS credits system, qualifications frameworks, learning outcomes
- higher education institutions' websites
- study guides, registers of accredited programmes/institutions
- annual reports, university self-evaluation reports
- information on the degree of employability of the graduates etc.






Interplay of Privacy and Transparency



Right to information VERSUS Right to privacy

Viability and access of personal information to the public should not be in violation of individual privacy







Russian legislation

Constitution of the Russian Federation
Article 71
The jurisdiction of the Russian Federation includes:

- c) regulation and protection of the rights and freedoms of man and citizen;

Federal Law «On Personal Data»
Federal Law «On Information, Information Technologies and Data Protection»
Federal Law «On Fundamentals of Healthcare of the Russian Citizens»
Federal Law «On protection children from information, causing harm to their health and development»





Definitions and main principles

The same like in EU

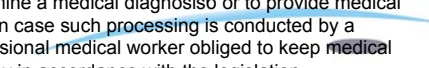

Publicly accessible sources of information are created for the purposes of information support. Such information sources might include data subjects' names, dates and places of birth, as well as their addresses, phone numbers, information about their occupation, or other personal data obtained only upon valid consent of the data subjects.

The above-mentioned data shall be excluded from the publicly accessible information sources at any time upon request of the data subject, or under the decision of the court or other appropriate state authorities.

It is prohibited to collect and process such data unless:



- there exists a prior written consent of the data subject;
- this data is made publicly accessible by the data subject;
- such processing is conducted to protect data subject's or other persons' life, health or other crucial interests in case it is impossible to acquire the data subject's consent;
- such processing is conducted for medical purposes, or to determine a medical diagnosis or to provide medical care, in case such processing is conducted by a professional medical worker obliged to keep medical secrecy in accordance with the legislation

Conflict of laws



Article 41 of the Federal Law *On Education in the Russian Federation* ensures student's healthcare including maintaining special conditions to prevent diseases and foster healthy lifestyle, conducting medical examinations, anti-epidemic and preventive activities etc


However, educational institution cannot retrieve information about student's health condition without consent of the students or their legal representatives.

Federal Law On Fundamentals of Healthcare of the Russian Citizens, which provides for keeping confidential the information (data) constituting medical secrecy of a person without right to disclose it unless:




- such data is necessary to conduct medical examination of a person, who is unable to express his/her will due to his/her medical condition;
- there exists a threat of spreading an infectious disease;
- upon request of appropriate authorities;
- medical care is provided for a minor**
- in a number of other cases.






An educational institution shall produce its own local regulations concerning processing of pupils'/students' personal data. Such document shall include:

- general provisions;
- definition and scope of personal data of pupils/students and their parents (legal representatives);
- procedures of access to and processing of personal data;
- ways of personal data protection;
- rights and obligations of parents (legal representatives);
- responsibility for disclosure of personal data.

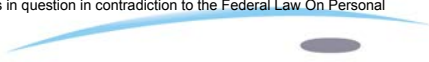

Cases

A first-grader's mother complained to the Prosecutor's Office of the Kazan Privolzhskiy District that her phone number was given to the third parties without her consent. In fall, a classroom was redecorated, and the help of parents was needed to perform the works. Some of the parents received text messages on behalf of the parents' committee asking for assistance.

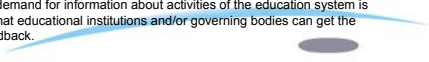
Cases


In the course of examination conducted by the Prosecutor's Office it turned out that an official website of the Loukhskaya Secondary School contains a program of professional upbringing, which not only includes general information, but also discloses children's and parents' names, addresses, phone numbers and places of work. Moreover, the website, enumerated pupils from incomplete or underprivileged families, and indicated some of the pupils' bad habits and chronic diseases. These data were made publically available without consent of the persons in question in contradiction to the Federal Law On Personal Data.

The present-day use of the term in Russian education practices tends to be distributed among three models:

- operational transparency*, i. e. equal accessibility of education for everyone, independent from inherent characteristics (age, current knowledge level), which is provided, inter alia, by means of distance learning and non-system educational services; possibility of learning at a pace which is comfortable for the student;
- institutional transparency*, i. e. trying to consider interests of all education process participants; providing to education consumers the possibility of taking active participation in building and developing the education system, in assessing and managing the quality of educational services (including through governance boards: governing councils, community councils, etc.); consideration of external sociocultural conditions and demands of contemporary society by the education system;
- information transparency*, i. e. providing a two-way exchange of information among different players of the education process or any other parties concerned to ensure that stakeholders' demand for information about activities of the education system is satisfied and that educational institutions and/or governing bodies can get the necessary feedback.






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An educational institution shall post on its official website, among other information provided for by the law:

a) information concerning:

- date of incorporation of an educational institution, its address, opening hours, phone numbers and e-mails;
- structure and governing bodies of an educational institution;
- names of its structural units (governing bodies);
- names and positions of the administrative persons;
- addresses, website URL's, e-mails of structural units and branches (if any);
- level of education provided by an educational institution;
- modes of study available;
- set duration of training provided;
- period of validity of state accreditation of an educational program;
- description of an educational program (with its copy attached);
- syllabus (with copy attached);
- academic calendar/schedule (with copy attached) etc.



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b) copies of:


- charter of educational institution;
- license for exercising educational activities;
- certificate of state accreditation with annexes;
- approved plan of financial activities;

c) self-assessment report;

d) sample agreement for educational services against payment;

e) orders of controlling authorities and reports on fulfillment/following those orders;


e) other information posted upon decision of an educational institution of in correspondence to the current legislation.



Federal Law «On protection children from information, causing harm to their health and development»

Variants of such information:

- starts threatening children's life or health;
- inducing children to alcohol or drug use, smoking, gambling, prostitution, other types of deviant behavior;
- justifying violence or inducing children to apply violence towards other people or animals;
- denying family values or promoting non-traditional sexual relationships;
- justifying illegal behavior;
- containing obscene language;
- containing pornographic materials;
- containing personal data of a minor victim of an accident that directly or indirectly leads to identification of that minor



Thank you for attention!

