

The security of your personal data on the Internet

ABSTRACT

Subject of research: The issue of the protection of personal data is related to the constitutionally guaranteed human right to protect his privacy. Particularly important seems to be focusing on the protection of personal data on the Web, as with the development of new technologies, a large part of our activities both in private life and professional-in a natural way is transferred to the Internet.

Purpose of research: The aim of the article is to show the need to unify and systematize the legal regulations on the protection of personal data on the Internet. The aim of the research is the need to find answers to several important theoretical questions on the protection of personal data on the Web, the presentation of the basic principles for the correct interpretation and application of the institutions for the protection of personal data in this space and show the relationship of constitutional rules and relationships statutory standards on this issue.

Methods:

- 1) the analysis of the legal code
- 2) the analysis of documents
- 3) method of comparative law

Keywords: protection of personal data, the human right to privacy, Internet and new technologies

1. Introduction

Increasingly our activity in the real world is supplemented or even replaced by activity in the virtual world. The Internet gives us great

opportunities, but also entails many risks. The need for the existence of the network is so large, that new technologies are not only used in the work or as a tool for acquiring knowledge, but also private life increasingly takes place in the virtual world. Social networking sites, via email, websites, where registration is required-this Web space where used and processed are our personal data. Very important is the awareness of the threats posed by data in the Internet, as well as care for their safety. Human rights on such issues must be highlighted and adjusted to the constantly changing and evolving human needs. The author of the article focuses on issues such as the genesis and the analysis of the concept of 'personal data' and the discussion of the specific types of personal data used on the Internet such as email address and IP address.

The need for the protection of personal data and the regulation of their acquisition, collection and processing has grown with the increasing proliferation of the use of information systems. It was necessary to introduce such legal regulation, which involved to problem storing, sharing, and protection of personal data in the manner of a complete, comprehensive. This type of regulation is the law of 29 August 1997 o ochronie danych osobowych (u.o.d.o. -on the protection of personal data -consolidated text Journal of laws 2002 No 101, item. 926, as subsequently modified). The purpose of this Act is to establish legal protection of the sphere of privacy of citizens by ensuring the safety of the personal information that is stored in the systematic collection, held by the various institutions. Threats to privacy in this area derive not only from the very fact of collecting information, but also with the involvement of technique in the process of collection and processing. Automation and computerisation of data used by different types of institutions, on the one hand, facilitated the use of collections, on the other hand, contributed to the increase in the danger to disclose personal data to non-authorised or even accidental. Particular threat seems to be the common sharing of personal data on the Internet.

2. Genesis and the concept of personal data

The issue of the protection of personal data is related to the constitutionally guaranteed human right to protect his privacy. The right to privacy belongs to the first generation of human rights, and the privacy

sphere of life as separate legal welfare is now protected in most modern legal systems (Pryciak, 2010, p. 212). The relevant regulations have been introduced also to the Polish legal system. To ensure the safety of your personal data is a fundamental responsibility of all entities that collect and process, and the need for the protection of personal data and the regulation of their acquisition, collection and processing has grown with the increasing proliferation of the use of information systems that provide the ability to store data in massive quantities (Fleszer, 2008, p. 2.) In the Polish legal system there are currently a number of legal regulations on the protection of personal data and the security of information. The primary (though not the only) legal acts governing this issue is the Constitution of the Republic of Poland adopted on 2 April 1997 and the law of 29 August 1997 o ochronie danych osobowych (u.o.d.o. -on the protection of personal data -consolidated text Journal of laws 2002 No 101, item. 926, as subsequently modified). Guarantee of the right to the protection of information and right to privacy are first of all the provisions of the Constitution of the Republic of Poland. Guarantees it expressly general right to “legal protection of private life, family, honor, a good property, and the right to decide about your personal life” (Journal of laws of 1997, no. 78, item 483. as amended). Regardless of the article. 51 provides guarantees for the protection of personal data. Protection of the right to privacy so constant constitutional principle that only in exceptional cases, it may be repealed. In addition to the privileges of the citizen in the field of the protection of its privacy-art. 51 of the Constitution is a key variable to ensure him the right of access to information, that it applies to, and is in the possession of the authorities of the Member State and local government.

The provisions governing the processing of personal data, were introduced to the Polish legislation the personal data protection act, which was a consequence of the international obligations of Polish. Significant impact on the content of the Act were, in fact, above all the appropriate international regulations, in particular: – the Convention No 108 of the Council of Europe of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data; (Convention No 108 of the Council of Europe of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data (Journal of laws of 2003 No. 3, item 25) Directive 95/46/EC of the European

Parliament and of the Council of the European Union (Directive 95\46\ EC of the European Parliament and of the Council of the European Union of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ. EU L 281 of 23 November 1995)

A key term in this relatively new area of law is the term “personal data”. Understanding of all aspects of the legal definition contained in the Act, as well as an explanation of the difference between data and information is necessary for the proper application of the provisions of the Act and perform operations on personal data fairly and lawfully. The term is used for a long time, but recently has been shaped in its importance. Yet several years ago representatives of the doctrine argued that the concept of personal data there is in almost constant, a fixed definition. The gap filled article 6 u. o. d. o. It provides that personal data is any information relating to an identified or identifiable natural person. In the article. 6 paragraph 1. 2 the legislature becomes that person possible to identify a person, whose identity you can specify, directly or indirectly, in particular referring to an identification number or one or more specific factors that determine its physical, physiological, mental, economic, cultural or social. Provision of art. 6 paragraph 1. 3 u. o. d. o. introduces a restriction, by requiring that the information is not considered to determine the identity of the person, if it would require excessive costs, time or activities. A key issue that must be addressed by analyzing the concept of “personal data” is to compare the concepts of “data” and “information”.

This is even more important, that in everyday language these terms are used interchangeably and often treated as synonyms. Consisting of two members, the term personal data does not occur in that statement in Polish language dictionaries. Dictionary to translate the word “data” -it: things, facts, on which you can rely in the above considerations, information, news; less often-rationale themes. There are data: autobiographical, biographical, personal, personal, experimental, empirical, observational, measurement, numerical, radar, statistical, technical, topography. In the terminology of it while “data” means any information processed by the computer. The word “data” occurs in the Polish language only in the plural. The word “a” occurs only as the past participle of the verb “give”, to

use upon order, as quoted, this referred to. In the literature of the subject meets reviews, that for this reason personal information is unfortunately selected a term that should be replaced with the words “personal information” or “information imiенno-passenger”, because the word information can be used for both plural and singular. Accented is also opposing the position that there is no need to change that terminology. The arguments for the appropriateness of this position is to some. First of all, the term “personal data” in the way the point captures the essence of this notion, and besides, it is the exact reflection of the terms that are used in Directive 95\46\EC and in foreign languages (English personal date and German Personenbezogene Daten), in which these terms appear only in the plural. The word “personal” translates as “people for people”. Personal data are therefore all kinds of information, news about the people. It is considered that this is the common understanding of the wording. So you can conclude that the common understanding of the term personal information has a slightly different scope than the legal definition contained in the Act, there is missing item identification of the natural person, binding it with a specific person. The ability to identify a specific person, determine its identity is a condition that the information must meet to be personal data within the meaning of u. o. d. o. of the possibility of establishing the identity of individuals often determines the context – sometimes information “out” from the context can not be considered legally protected personal information (although within the meaning of the ordinary can be considered as personal data), sometimes even in the absence of a common identifying information it is possible to identify the identify the person (within the meaning of colloquial, such information is not considered personal data).

3. Electronic mail address

The email address belongs to the category of information, which is not in the doctrine of conformity in the context of qualifying for personal data. The controversy come from here, that some email addresses meet all these criteria specified for personal data, and the other is not. This is an obstacle to the unconditional treatment of all email addresses as personal data. According to one accented position in literature “interpretation

of the definition of personal data gives rise to the timing as the personal information of certain email addresses, for example. have the form “name.surname@xxx.waw.pl”. The address points to a name and surname of the natural person the user the email box and the name of the company, for which the server has been established. The domestic domain “pl”, in which it was registered, it is suggested that the company operates in the Republic of Poland, and the regional domain “waw” clarifies that it carries out economic activity on the territory of Warsaw and the surrounding area. The use by a natural person this at suggests that she is an employee, whose name has been registered in the domain address. (...) There are also a ton of addresses that do not give virtually no guidance on people, that the address of the registered and it uses. For example, the email address “internet@yahoo.com” does not contain personal information. The only clue for people wishing to determine its owner is that the person who uses this address, use your email through an international Web portal Yahoo (Fleszer, 2008, p. 25). According to the second position while the email address should always be classified as personal data, regardless of whether they are in it featured additional features homing on the person who uses it. Same for the possibility of identification is a prerequisite necessary to pass this information to personal data that email address. Email address of the form eg. “xawery@kr.onet.pl” by itself does not allow, although the identification of the person, but the nature of the personal data it will have at least on the server from which it was founded the crate. This is due to the fact that the identification by the ISP is possible on the basis of data obtained earlier, when concluding the contract Subscriber (Konarski, 2001, p. 12.).

In the literature to support the fairness of the first position appear arguments proving that email address can be considered as information belonging to personal and legal protection, but it depends on his character and this should be led individually for each email address. For appropriateness, this post speaks of the fact that it happens that one email address is a group of people. a few people performing duties on its position (in the Office or registry of employers), which is assigned to business email. Such sharing one email address by a few people may also be accepted in social circles. The email address can indicate a variety of people who use it. Inspector General for the Protection of Personal Data information personal information that the e-mail address belongs to the category of

personal data only when it contains information about the named user or “similar information” (R. Cisek, 2003). Such a position also supports D. Fleszer claiming that the use by the pseudonym in the name of the e-mail address for the average user the network makes it impossible to determine its identity (Fleszer, 2008, p. 26).

The second post also has its supporters. According to X. Konarski e-mail address belongs to the category of personal data, if the user ID used in the his first and last name (e. g. jankowalski@xyz. pl), or service provider in the provision of electronic mail boxes has collected at the conclusion of the agreement for the provision of services the user’s personal data (X. Konarski, 2004, p. 165). According to W. Zimny “when the message arrives in the recipient’s email address, this means that it is identified by the address”. A. Drozd thrush notes, however, that in assessing the legal nature of the e-mail address information, account should be taken of the position of the Working Group, that relying on the judgment of the European Court of Justice of 6 November 2003 on the Bodil Lindqvist (C 101\01), considered the identification of physical persons through the names of only one of the possibilities of establishing the identity of the natural person. It is therefore assumed that the e-mail address is in the category of personal data regardless of the adopted name of the user or the fact that other information about the user and only exceptionally will not be counted in this category (e. g. If it is assigned to a non-natural person). Such a position is also a partial confirmation in art. 18 paragraph 1. 1 section 6 of the law of 18 July 2002 o świadczeniu usług drogą elektroniczną -on the provision of electronic services (Dz. U. Nr 144, poz. 1204). In accordance with that provision, the electronic addresses (and especially email addresses) are included in the recipient’s personal information. Under the law in force in the United Kingdom it is assumed that all personal Web addresses constitute personal data because of this, that each of them is connected only with one person, and therefore the electronic collection of data can be put together around the person designated by the address.

Opponents of assigning email addresses to your personal information in any situation they notice, that the fact that the message reaches the recipient, does not always mean that the sender has the option to establish the identity of the recipient. In addition to this there are email accounts

(and their assigned e-mail addresses) that are associated with a specific business function, not a specific person. In such cases, therefore, you cannot talk about the possibility of identification of the person to the recipient. Web addresses that refer not so much to the person as to the computer from which a lot of people in different locations can use. So the question of the possibility of indirect identification of an individual (Barta., Fajgielski, Markiewicz, 2004, p. 386).

The right one seems to be the interpretation recognizing that Web addresses that meet the criteria laid down for personal data only when identifying people by their father in law (e. g. by entering into your name) or combined with other processes, together with the address information (e. g. at “normal”) (Carey, 2000, nr 1, p. 10). Email address in most cases allows unambiguous identification of the account holder (the person) and should, in principle, be treated as personal data. There is however such reasons in the case of Web addresses that are assigned to specific functions, created as a contact mailbox. Cannot be considered as personal addresses allocated free of charge, with a random name, if their content does not allow for the identification of the owner (for example, if you used a pseudonym), and it is not possible to identify on the basis of other available information (when the service provider failed to collect information). In summary, just some Internet addresses can identify individuals who use them, and therefore should be treated as personal data. There are those who in their business base and harvest email addresses, contact addresses of their customers and are in the collections of both addresses, which can be thought of as a personal, as well as those that do not meet these criteria. The administrator is in this case the problem, or should I report a set of registration, or there is no such obligation. It seems that way (Barta., Fajgielski, M388).arkiewicz 2004, p. 386.

4. IP Addresses

A particular problem concerning the qualifications of the information to the category of personal data appears in relation to the so-called. dynamic IP addresses i. e. changing addresses allocated by network access provider to the end user in any case, the use of the network (Barta., Fajgielski, Markiewicz, 2004, p.386). IP addresses are unique identifier, which enables

the unambiguous identification of a computer and its user. True is the condition of possibility of the identification of the person, which speaks for the qualification of such identifiers as personal data. It should also be noted that the IP addresses of the computer allow without excessive effort to establish a user name by a provider of Internet access. Similarly, Internet service providers, who are on the server register IP addresses assigned to individual users, are able to determine the identity of the persons to whom it is assigned a specific IP address (Fajgielski 2008, p. 34).

They are, however, cases where the Internet service provider can say with absolute certainty that IP addresses are assigned to users that cannot be identified. This situation occurs when your ISP provides internet cafes only. In such cases, IP addresses can not be considered personal information (Fajgielski 2008, p. 34).

The issue of IP addresses as personal data has been the subject of analysis working group. She accepted IP addresses for details of the person identifiable. Stated that "Internet access and the local network administrators can use the ways by which you can use to identify Internet users, which allocated IP addresses, because it systematically record in the file date, time, duration and dynamic IP addresses assigned to Internet users. The same can be said about Internet service providers engaged in the registry on the server. In such cases, you can certainly talk about personal data (. . .)". In cases where the processing of IP addresses is to identify the users of the computer (for example, by copyright holders in order to prosecute users for violation of copyright), the administrator provides that the ways which you can use to determine the identity of the person who may become available, for example, by way of judicial review and, therefore, this information should be considered as personal data (Opinia 4/2007 w sprawie pojęcia danych osobowych, Grupy Roboczej ds. ochrony danych -Opinion 4/2007 on the concept of personal data appointed by virtue of art. 29 Working Group 95/46/WE, http://ec.europa.eu/justice/policies/privacy/docs/wpdocs/2007/wp136_pl.pdf).

The Working Group also points to the particular type of IP addresses, which in some circumstances does not allow identification of the user with various technical and organizational reasons. As an example, given IP addresses assigned to computers in Internet cafes, where user identification is not required. In such cases, it is not possible based on the

IP address identify the person could be so considered that such information may not be classified as personal data. While Internet service providers do not know most of what IP addresses allow you to identify and what not-process so they data associated with an IP address, which does not allow to be identified in such a way as information associated with IP addresses registered users and identifiable. They must therefore (except when it is assured that the data subject users to identify) for security reasons, treat all information related to IP addresses as personal data.

5. Personal information in online stores

In the case of stores and websites, the registration database and the relevant administration already from the very nature of the business i. e. trade, service orders, as well as marketing activities. Already at the time of the order by the buyer, it is the registration number, and the store becomes the administrator of personal data. – At this point, you must accept the terms and conditions, agree to the processing of personal data, and sometimes also collect them for marketing purposes. The obligation to protect the personal data of the users websites and data security appropriate to this basic task administrators operate on the Internet (<http://www.serwisprawa.pl/artykuly,102,15624,e-commerce-chron-dane-osobowe-swoich-klientow>).

Ways of securing personal data in the network describe the guidelines regulation of the Minister of Internal Affairs and administration of 29 April 2004 on the transfer of personal data documentation and technical and organisational conditions, which should correspond to the device and it systems for the processing of personal data (Journal of laws 2004 No. 100, item 1024). In the case of information systems, data administrators, who have access to the public network security measures are appropriate for “high level”. The main requirements of a high level of safety should be:

- the application of logical security, including control of the flow of information between the information system of the controller and the public network,-the application of the control activities are initiated from the public network and computer system administrator, data-use of cryptographic protection to the data used for authentication (login) that is transmitted on a public network (for example, SSL).

- the use of “difficult” passwords for authentication, which is a password consisting of at least 8 characters long, containing the uppercase and lowercase letters, and numbers or special characters.
- password changes every 30 days a detailed description of the safety conditions for levels: high and higher can be found in part C of Annex VIII-C XIV of the Minister of Internal Affairs and administration of the Council of 29 April 2004 (OJ 2004, no. 100, item 1024) (<http://www.memex.pl/ochrona-danych-osobowych-w-sieci/>).

To sum up – By registering on the various social networks we decide to share your personal information. By accepting the terms of service, we agree to the processing of such data. However, you might want to pay attention to the privacy and security issues (protection of personal data), to our data were not used in the wrong order. Social care about their users and are trying to build. privacy policy ([http://www.infor.pl/prawo/prawo-karne/ciekawostki/298879, Ochrona-danych-osobowych-w-serwisach-spolcznosciowych.html](http://www.infor.pl/prawo/prawo-karne/ciekawostki/298879,Ochrona-danych-osobowych-w-serwisach-spolcznosciowych.html)). However, it is largely from the users themselves depends on how their data will function on the Internet. You only need to follow a few basic rules to keep our data secure. First of all you need to predict the consequences of ill-considered actions on the network. In addition, it must be to make only those data that are necessary (not very detailed) to use with your website. It is also important cultural behavior in the network, since any efforts to breach someone’s dignity or reputation, and also of a vulgar meet with instant reaction network administrator ([http://www.infor.pl/prawo/prawo-karne/ciekawostki/298879, Ochrona-danych-osobowych-w-serwisach-spolcznosciowych.html](http://www.infor.pl/prawo/prawo-karne/ciekawostki/298879,Ochrona-danych-osobowych-w-serwisach-spolcznosciowych.html)).

So important is that knowledge on the protection of privacy Knowledge on the protection of privacy and personal data and the principles of safe use of the Internet is an essential part of education and school education, in accordance with the basis of software-pre-school and general education in different types of schools. Each student should have not only awareness of the risks and limitations associated with the use of the benefits of new technologies, but also possess the knowledge and ability to protect your privacy and the use of rights in this respect (http://www.giodo.gov.pl/1520061/id_art/8510/j/pl).

You should also have in mind that the dynamic technological development (including computer networks and information systems used in public administration) poses new challenges for effective protection of privacy and personal data. The rapid development of mass communication, new forms of communication and sharing of materials increase the risk of violations of personal rights and unlawful processing of personal data (Barta, Markiewicz, 2001). The source of the specific threats become global computer networks. In this connection, that the increased prevalence of the use of information systems (which is associated with the development of technology) more and more personal data is collected, processed, and then made available to other entities. It is therefore necessary to constantly updating and customizing legal regulations on the protection of personal data, so that in the most effective, ensure the security of personal data.

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