

Ensuring privacy right when using social networks

Roman Radeiko

Administrative and Information Law Department, Lviv Polytechnic National University, UKRAINE, Lviv, S. Bandery street 12, E-mail: natalius2008@ukr.net

Abstract – The article analyzes ensuring the right to privacy on the example of modern information technologies such as Social networks.

Keywords – guarantees, rights, minors, state, legal status.

I. Introduction

Discussion about privacy right enforcement started with the publication of Samuel Warren and Louis Brandeis's article in the journal Harvard Law Review in 1890 under the title «The right to privacy» [1]. The researchers stated that due to the importunate journalists' activity there is a «right to be alone» based on the principle of «personal immunity». Later there appeared the statements about the right of certain persons to determine the degree to which the other persons have the access to their information and requirement about the right of the society to know the information on the person.

We believe that modern achievements in the sphere of information technologies threaten the human privacy and cause the negative consequences in the issue of access to the personal data. It should be considered on specific examples more in detail Social networks.

II. Social networks

Social network is the Internet-service designed for the simultaneous communication of users and for their information posting and sharing.

As of January 2017, according to Alexa & SimilarWeb [7] the most popular social networks are as follows: Facebook, Twitter, LinkedIn, Instagram, Vkontakte, Odnoklassniki and QZone.

The users and resource owners are mostly interested in the personal data protection in the social networks. Some want to keep their life private and others want to get as many users as possible. Despite the confidentiality policy in the social networks, these are the users who are responsible for the content filling with the personal information. On the social networks servers the central storages are created of the personal data, the amounts of which grow each day depending on its filling by the users.

The analysis of [2] Facebook "Data use policy" testifies to the fact that, depending upon the services used by the person, the present social network received different types of information from the person or about the person, as follows: Sex, date of birth, place of resident (location), telephone number, credit cards numbers, IP-address, related accounts, name change data, political and religious views, list of deleted friends, language of communication, searching requests, etc.

On February 2011 Austrian media-tourist Maks Shrems suspected that Facebook stored all information on USA users and uses it without following the EU norms. After

many requests to the directorate of the social network, Shrems received CD-disc from Facebook with all information on him (information was on 1200 pages) stored at the corporation. When reviewing the data he found the messages deleted and closed against public view, stored in the company databases. Based on these violations the lawyer addressed the court twice in Dublin (Ireland) as to the personal data protection. According to the first claim consideration results, the court obliged the social network to be more responsible with regard to the personal data. The second claim was rejected.

In 2013 Shrems addressed the Court of the European Union (Equity court). In October 2015 this court passed a decision about cancellation of the transatlantic agreement about personal data use ("Safe Harbour" Agreement), which allowed American companies transfer the data on their European users in USA. The Agreement was acknowledged illegal as it did not allow the European regulators protect the EU citizens, whose rights to the personal data protection were violated.

In 2015-2016 the governments of some European Union states blamed the Facebook Corporation for not following the confidentiality principles with regard to these users. Thus, in February 2016 the National Committee for data processing and civil liberties of France which conducts the surveillance over following the personal data protection law, stated that Facebook should stop tracking the site visitors who are not its registered users [3]. According to the results of analysis conducted by the French regulator, the Facebook directorate decided that any site visitor accepted the social network using conditions on default, even if they were not authorized on the site. The commission states that social network, automatically transfers the cookie file into the browser of all site visitors and uses it for collecting the data necessary for the advertising. Apart from this the Committee blamed Facebook that the social network stores the data about religious beliefs, political views and sexual orientation of the users. The representatives of the regulator stated that this approach "violates basic rights and interests of the people, including the right to privacy".

In response, the Facebook stated that the statistics kept by the social network does not allow identifying anyone separately and that Facebook plugins are not installed through cookie by the user who has not had them before, i.e. they should have accepted the user agreement before that [4].

To ensure personal data protection on 14 April 2016 European Parliament ratified "General Data Protection Regulations (GDPR) [5], which come into effect on 04 May 2018.

This act presupposes the following:

- Right to forgetting or the right to delete the information (a person may demand the destruction of his/her personal data);
- right to claim (a person will be able to oppose the processing of his/her personal data, including the "profiling" [6]);
- right to the data transfer (people will be able to apply for sending personal data by one their owner to the other);

- fines for the data confidentiality violation (liability is established for the personal data confidentiality infringement, and, depending upon the type of violation, the companies may be brought to the administrative liability in the form of fine amounting to more than 20 million EUR or 4% from the annual world turnover).

Providers outside EU offering the goods and services for the EU citizens shall follow the norms of the said provision regardless of whether they hold the personal data or not. The companies outside EU conducting the monitoring of the EU citizens behavior (for instance, use of cookies on their websites which often contain the information on the users to track their behavior) will also be obliged to fulfill the requirements of the new law. Personal data may “quit” the European Economic Area (EU countries + Norway, Iceland, Liechtenstein) only on condition the EU laws on the personal data protection are valid outside the EU territory.

The reform is conditioned by the unification of the rules and necessity of creating the unified, reliable and efficient personal data protection mechanism for EU citizens, including in the Facebook social network. However, this is the user who is to be the personal data protector. You should always pay thorough attention to what you publish in the Network.

Conclusions

In the epoch of the steep development of information technologies, traditional legal methods and instruments are not enough for solving the privacy problems. However, the new technologies shall not be rejected, it is only important to solve the issue of regulation, accumulation,

storage, application and protection the information on the person. This will allow realizing the potential and advantages of the information technologies for the consumers and at the same time minimizing the risks of losing the security and confidentiality.

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