



THE 13TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

**Implications of Legal Misuse of Personal
Data of Commercially Virtual Users**

Emil Alin Nedelcu¹, Ciprian Nicu Frangu,² Florin Lucian Botoșineanu³

Abstract: In the recent years, the Internet has had an enormous influence on society, changed our lives radically statement fully justified given that sources of information and communication has never been more readily available to the public, no doubt that we are in full digital revolution. Taking into account that the Internet has become accessible and relevant in the late 90s, we can say that in legal terms it is nowadays a relatively new field that requires a large number of regulations, both at national and at European or world. A controversy often a meet at this time is the storage, protection and accessibility of personal data navigation. It is well known that this data is stored, processed and used by various software companies, search engines, browser engines, social networks and Internet service providers. Many of these companies use this private data to provide users with advertising items and personalized recommendations stated aim to facilitate their web surfing and to protect personal data, which itself can be interpreted as a violation of privacy and not as protect it.

Keywords: personal data; web browsing; private life; human rights

1. Introduction

Protection of personal data is one of the most debated issues of the early 21st century, which is perfectly understandable given the technological advances of the past 30 years, the Internet reaching one of the main pillars modern society.

Given these circumstances, protection of personal data in online is a very sensitive issue, given the large number and are continually expanding the services and tools that to be used requires the collection of data identification and navigation user virtual.

Data collected online by diverse methods you shall go this presentation are used among others for campaigns pubic by analysing this information identifies the general interests of the user, their profile, goods purchased and services previously requested, age, sex, political and religious etc., Leading to display advertisements for goods and services for which the user is interested.

About data protection authorities in France and the Netherlands said that “Windows 10 users are not clearly informed what information Microsoft collects so that the agreement gave the company the use of their private data is not valid. Moreover, they do not know that their private information is used.” Another example violation of privacy by using navigation data is the navigation system “Chrome”

¹ Student, 3rd year, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: nedelcu.alin96@gmail.com.

² Student, 3rd year, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: nedelcu.alin96@gmail.com.

³ Student, 3rd year, Faculty of Law, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Tel.: +40372361102, E-mail: nedelcu.alin96@gmail.com.

whose users even have the option to choose not their personal data be stored and used, this application cannot be considered by websites you visit and the condition use navigation engine is specified that, does not provide details about websites and web services respect requests and how sites interprets requests. "In other words, the user can choose effectively to preserve intimacy of their data private, nor receive clear information whether or not they are collected and used. In these circumstances it may be doubted, legitimately user rights on the protection of private data.

2. Law

2.1. According to the Constitution

Right to intimate, family and private life is enshrined in the Constitution under Art. 26¹ So that state authorities are obliged not only to respect but vine intimate person and to ensure its protection by means of legislative, institutional and material.

2.2. In relation to the European Human Rights Legislation

Through article 8² the right to privacy and family is also specified person's right to benefit from respecting the right to private life.

2.3. Regulation (EU) 679/2016 Data Protection

The rapid development of technology, along with globalization have led over the past two decades a change in how personal data is collected, accessed, transferred and used³.

With the entry into force of this Regulation, on May 25 2018 a great deal of personal data protection issues will be resolved and the consent given by users will be offered by them a higher knowledge. Regulation clearer unambiguous consent character is one of the requirements listed in the statement of reasons given for making the said Regulation, as in paragraph 32⁴ it highlighted the need for proper information to users on how information will be used data indexed from this and the need to guarantee that there are no uses other than those mentioned and accepted by it unequivocally.

In light of the REGULATION (EU) 2016/679, in Articles 5⁵ listed a number of principal to be observed to protect the private lives of people, from which we can draw the following key ideas:

¹ Constitution Article 26 (1) public authorities shall respect and protect the intimate, family and private life. (2) Any natural person has the right to dispose of himself, if not violate rights and freedoms of others, public order or morals.

² European Convention on Human Rights, Article 8 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as it is required by law and constitutes a democratic society, a necessary measure to national security, public safety or economic well-being of the country, prevention of disorder and prevention of crime, protection of health, morals, rights and freedoms of others.

³ Nicholas cute Ploșteanu Andrei Mariș- Protection of personal data, impact protection of personal data on business-assessments Romanian experiences and new challenges of Regulation (EU) 2016/679, p. 78.

⁴ Position of the European Parliament of March 12, 2014 (not yet published in the Official Journal) and Council's position at first reading on April 8, 2016 (not yet published in the Official Journal). European Parliament position of 14 April 2016- (33) It is often not possible when collecting personal data, to identify the full order processing for purposes of scientific research. For this reason, the persons concerned should be allowed to express their consent to certain areas of scientific research when observed recognized ethical standards for scientific research. Data subjects should be able to express consent only for certain research areas or parts of research projects to the extent permitted by its intended purpose.

⁵ Regulation. 679 of April 27, 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General Regulation on Data Protection, Art. 5: Principles relating to processing personal data (1) personal data are: a) lawfully processed, fair and transparent to the subject ("legal, fair and transparent"); b) collected for specified, explicit and legitimate purposes and are not subsequently processed in a manner incompatible with these purposes; further processing for archiving purposes in the public interest for the purposes of historical or scientific research or statistical purposes is not considered incompatible with the initial goals, in accordance with

- The consent given by the person concerned must be fully informed and unequivocal.
- Data processing must be transparent and under the conditions accepted by the user
- The time period in which the data collected are stored should not be higher than reported
- Keeping data safe without permits modification, deletion or spoiling by taking appropriate technical and organizational measures

3 The influence of the Regulation

This regulation allows the user to be better informed and to have a better control over their personal information data. The managers of these IT platforms will be required to provide a more concise statement of the terminal and conditions of use. However, even after the entry into force the new regulation, in our opinion, will remain a number of issues that should be a concern for the legislative Romanian and European authorities, among them is the existence of the basic settings of the approval user to use its data for commercial reasons thus with the basic agreement that it provides simply by selecting a mailbox, enterprises dealing with management operating platforms or social networks.

4. Conclusions

Regulation (EU) 2016/679 is welcome and will solve a number of current issues with a more modern and realistic perspective on computer data domain of virtual users, significantly reducing the use of such data improperly, however, given that technology advancing constantly consider and legislation must keep pace with it.

In our opinion, given globalization and the fact that through the Internet information can get instant anywhere in the world and that these data can easily outside the European Union, so out of power regulation, consider the need for a global treaty universally accepted, through which he could make a more effective protection of personal data of virtual users.

Article 89 (1) (“limitations on purpose”); c) relevant and limited to what is necessary in relation to the purposes for which they are processed (“minimizing data”); d) accurate and, where necessary, kept up must take all necessary measures to ensure that personal data which are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (“accuracy”); e) kept in a form which permits identification of data subjects for a period not exceeding the period necessary to fulfill the purposes for which data are processed; personal data can be stored for longer periods to the extent that they will be processed solely for archival purposes in the public interest for the purposes of scientific research or historical or statistical purposes, in accordance with Article 89 (1) subject to the implementation of technical measures and organizational measures provided for in this Regulation to ensure the rights and freedoms of the data subject (“limitations on storage”); f) processed in a manner which ensures adequate security of personal data, including protection against unauthorized processing or illegal and against loss, destruction or accidental damage by taking appropriate technical and organizational measures (“integrity and confidentiality”).

Bibliography

Alexe, Irina; Ploeș, Nicolae-Dragos & Șandru, Daniel-Mihail, Protecția Datelor cu Caracter Personal. Impactul protecției datelor personale asupra mediului de afaceri-Evaluări ale experiențelor românești și noile provocări ale Regulamentului (UE)/ Protection of Personal Data. Impact of personal data protection on the business environment - Evaluations of the Romanian experiences and the new challenges of the Regulation (EU) 2016/679.

Kang, J. (1998). *Information Privacy in Cyberspace Transactions*. 50 *Stanford Law Review*, 1193-1294.

Applegate, L.M.; McFarlan, F.W. & McKenney, J.L. (1999). *Corporate Information Systems Management – Text and Cases*. International Ed. Irwin/McGraw Hill.

*** Bessen –Riding the Marketing Information Wave. *Harvard Business Review*.

<https://eur-lex.europa.eu>.

www.echr.coe.int.