Qazaqstan Respýblıkasy Zańnama jáne quqyqtyq aqparat ınstıtýtynyń

JARSHYSY

gylymi-quqyqtyq jýrnal №2 (73)-2023

Құрылтайшы және баспагер:
«Қазақстан Республикасының Заңнама және құқықтық ақпарат институты» ШЖҚ РМК
2006 жылдан бастап шығады
Журналдың материалдары
www.zqai.kz
сайтында орналастырылған
Заң ғылымдары бойынша диссертациялардың негізгі ғылыми нәтижелерін жариялауға арналған басылымдар тізіліміне енгізілген
(ҚР БҒМ БҒССҚК 14.02.2022 ж. №38 бұйрығы)

Редактор – **Колтубаева Г.Б.**
Беттеуші – **Оспанов М.Т.**
Тел.: 8 (7172) 26-61-29

Қазақстан Республикасы Ақпарат және коммуникациялар министрлігі Ақпарат комитетінің БАҚ есепке қою туралы куәлігі № 17761-Ж 25.06.2019 ж. (Алғашқы есепке қою кезі №6592-Ж. 07.09.2005 ж.)

Мекен-жайы: Қазақстан Республикасы, 010000, Астана қ., Жеңіс даңғ., 15А.,тел.: 8(7172)26-61-22
www.zqai.kz, e-mail: instzak-kz@mail.ru
institutzakonodatelstva@gmail.com

ВЕСТНИК

Института законодательства и правовой информации Республики Казахстан

научно-правовой журнал №2 (73)-2023

Учредитель и издатель:
РГП на ПХВ «Институт законодательства и правовой информации Республики Казахстан»
Издается с 2006 года
Все материалы журнала размещаются на сайте **www.zqai.kz**
Включен в перечень изданий для публикации основных научных результатов диссертаций по юридическим наукам
(Приказ КОКСОН МОН РК №38 от 14.02.2022 г.)

Редактор – **Колтубаева Г.Б.**
Верстка – **Оспанов М.Т.**
Тел.: 8 (7172) 26-61-29

Свидетельство о постановке на учет СМИ № 17761-Ж от 25.06.2019 г. Комитета информации Министерства информации и коммуникаций Республики Казахстан (Первичная постановка на учет №6592-Ж. 07.09.2005 г.)

Адрес: Республика Казахстан,010000, г. Астана, пр. Победы, 15А,
тел.: 8 (7172) 26-61-22
www.zqai.kz, E-mail: instzak-kz@mail.ru
institutzakonodatelstva@gmail.com

Bulletin of Institute of Legislation and Legal Information of the Republic of Kazakhstan

JARSHYSY

scientific and legal journal №2 (73)-2023

Founder and publisher:
RSE on the REM «Institute of Legislation and Legal information of the Republic of Kazakhstan»
Published since 2006
All journal materials are placed on the website
www.zqai.kz
Included in the list of publications of basic scientific results of dissertations on legal sciences (Order CCES MES RK №38 from 14.02.2022)

The certificate of registration of mass media №17761-G from 25.06.2019 from the Information Committee of the Ministry of Information and Communications of the Republic of Kazakhstan (Number and date of primary registration №6592-Zh.07.09.2005.)

Address: The Republic of Kazakhstan, 010000, Astana, Zhenis ave., 15A,
тел.: 8 (7172) 26-61-22
www.zqai.kz, e-mail: instzak-kz@mail.ru
institutzakonodatelstva@gmail.com

UDC 341.2

PERSONAL DATA OF LEGAL ENTITIES AS A POTENTIAL SPECIAL OBJECT OF LEGAL PROTECTION IN CYBERSPACE

Bissaliyev Marlen Sakenovich[1]
Ph.D. student, Department of International Law, Al-Farabi Kazakh National University, Almaty, Kazakhstan, e-mail: mbissaliyev@gmail.com

Shakirov Karimzhan Nurumovich
Doctor of Law, Professor at the Department of International Law, Al-Farabi Kazakh National University, Almaty, Kazakhstan, e-mail: kshakirov@gmail.com

Abstract. *The article examines the main approaches to the personal data of legal entities as a potential special object of legal protection in cyberspace. The arguments for and against providing legal protection to legal entities' data of this type are presented. The article proposes its arguments for the impossibility of protecting the personal information of legal entities through the existing system of legal norms regulating the protection of personal data of citizens, based on the recognized theory of the essence of a legal entity, the goals of its identification, and taking into account the ultimate beneficiaries of legal entities - individuals.*

The research focused on four ways of analyzing complex systems: system analysis and a comprehensive description of personal data as an independent phenomenon of legal reality and an object of legal protection; functional analysis, which enables the consideration of personal data in the legal regulation system; specific scientific research methods, primarily sociological and psychological, which determined the main parameters of the regulation and implementation of individual and legal entity rights; and an axiological approach that revealed the true significance of technology for protecting the right to personal data.

Keywords: *information, cyberspace, Internet, legal entity, personal data, personal information, identification, legal protection of personal data*

ЗАҢДЫ ТҰЛҒАЛАРДЫҢ ЖЕКЕ ДЕРЕКТЕРІ – КИБЕРКЕҢІСТІКТЕ ҚҰҚЫҚТЫҚ ҚОРҒАУДЫҢ АРНАЙЫ ОБЪЕКТІ РЕТІНДЕ

Марлен Сакенович Бисалиев
Халықаралық құқық кафедрасының докторанты, әл-Фараби атындағы Қазақ Ұлттық университеті, Алматы қаласы, Қазақстан Республикасы,
e-mail: mbissaliyev@gmail.com

Каримжан Нурумович Шакиров
з.ғ.д., халықаралық құқық кафедрасының профессоры, әл-Фараби атындағы Қазақ Ұлттық университеті, Алматы қаласы, Қазақстан Республикасы, e-mail: kshakirov@gmail.com

Аннотация. *Аталған мәселе бойынша шетел әдебиеттеріне шолу жасалды. Заңды тұлғаларға қатысты арнайы объектілерді құқықтық қорғауды қамтамасыз етуіне байланысты «қолдау» және «қарсы» дәлелдер келтірілді. Автор теориямен танылған заңды тұлғаның мәніне, оның сәйкестендіру мақсаттарына және заңды тұлғалардың – жеке тұлғалардың түпкілікті бенефициарларын ескере отырып, азаматтардың жеке деректерін қорғауды реттейтін құқық жүйесі арқылы заңды тұлғалардың жеке мәліметтерін қорғаудың мүмкін еместігі туралы өзіндік дәлелді ұсынады.*

Зерттеу күрделі жүйелерді талдаудың төрт тәсіліне назар аударды: жүйелік талдау

1 *Author for correspondence*

және дербес деректерді құқықтық шындықтың дербес құбылысы және құқықтық қорғау объектісі ретінде жан-жақты сипаттау; құқықтық реттеу жүйесінде дербес деректерді қарастыруға мүмкіндік беретін функционалдық талдау; жеке және заңды тұлғалардың құқықтарын реттеу мен жүзеге асырудың негізгі параметрлерін анықтайтын, ең алдымен социологиялық және психологиялық зерттеудің нақты әдістері; және жеке деректерге құқықты қорғау технологиясының шынайы маңыздылығын ашқан аксиологиялық көзқарас.

Түйінді сөздер: *ақпарат, киберкеңістік, Интернет, заңды тұлға, дербес деректер, жеке ақпарат, сәйкестендіру, жеке деректерді құқықтық қорғау*

ПЕРСОНАЛЬНЫЕ ДАННЫЕ ЮРИДИЧЕСКИХ ЛИЦ КАК ВОЗМОЖНЫЙ ОСОБЫЙ ОБЪЕКТ ПРАВОВОЙ ОХРАНЫ В КИБЕРПРОСТРАНСТВЕ

Бисалиев Марлен Сакенович
Докторант кафедры международного права, Казахский национальный университет им. аль-Фараби, г. Алматы, Республика Казахстан, e-mail: mbissaliyev@gmail.com

Шакиров Каримжан Нурумович
д.ю.н., профессор кафедры международного права, Казахский национальный университет им. аль-Фараби, г. Алматы, Республика Казахстан, e-mail: kshakirov@gmail.com

Аннотация. *В статье рассматриваются основные подходы к персональным данным юридических лиц как возможному особому объекту правовой охраны в киберпространстве. Проведён обзор зарубежной литературы по указанному вопросу. Представлены аргументы «за» и «против» предоставления юридическим лицам правовой защиты объектов подобного рода. Предложена собственная аргументация невозможности защиты персональной информации юридических лиц посредством существующей системы норм права, регулирующих защиту персональных данных граждан, исходя из признанных теорией сущности юридического лица, целей его идентификации, а также с учетом конечных бенефициаров юридических лиц – физических лиц.*

Основное внимание было уделено четырем способам анализа сложных систем: системный анализ и целостное описание персональных данных как самостоятельного явления правовой действительности и объекта правовой охраны; функциональный анализ, позволивший рассмотреть их в системе правового регулирования; использование совокупности общенаучных методов исследования, основным из которых выступили социологический и психологический, определившие основные параметры регламентации и реализации прав физических и юридических лиц; аксиологический подход, предоставивший возможность раскрыть действительную значимость технологии защиты прав на персональные данные.

Ключевые слова: *киберпространство, киберсреда, Интернет, юридическое лицо, персональные данные, личная информация, идентификация, правовая защита.*

DOI: 10.52026/2788-5291_2023_73_2_42

Introduction

In legal science, the possibility of extending the category of "personal data" to legal entities remains open to this day. Most scholars consider this impossible, as evidenced by their references to relevant international and national legal norms. The reasons cited in this case include, in particular, the absence of a "psychological" relationship to one's own "personal" information on the part of a legal entity, the importance of distinguishing between a legal entity and physical entities from the standpoint of safeguarding the legal inviolability of the individual. Such an approach is absent in legal systems concerning legal entities.

One view scholars hold is that the fundamental equality of individual and collective entities in private law, along with their interdependent

interests, means that the possibility of such a development in the future cannot be dismissed. This question is, in our opinion, significant and fundamental since disseminating information about legal entities requires compliance with a mode of confidentiality no less than that for physical entities, which justifiably requires the same legal protection form for such information as for personal information about physical entities [1, P.19-27].

It is important to note that the increased attention to this issue is explained by the specificity of personal data in cyberspace, which changes the standards of understanding "classical" personal data, potentially allowing its mode to be applied to information that does not fall under personal data.

Our research concerns the legal regulations governing the protection of personal information for physical entities and the protection forms for commercial and other secrets belonging to legal entities in cyberspace.

The object of the study is the details of protecting information about legal entities from the perspective of personal data legislation. The following tasks were set: summarizing the theoretical materials; identifying the level of scientific development of the topic in general and in industry-specific studies; refining and resolving controversial issues; determining some methodological directions for further search for solutions to this problem; analyzing and synthesizing philosophical, psychological, sociological, linguistic, historical, managerial, legal, and other approaches to the study of the category of personal data belonging to both physical and legal persons in the system of international and national law.

Materials and methods

The research employs a methodological approach involving different scientific methods: general scientific, specific scientific, sociological, historical, psychological, formal-logical, and comparative-legal methods. The main focus of the study is directed toward four methods of analyzing complex systems.

Firstly, a systemic analysis and comprehensive description of personal data as an independent phenomenon of legal reality and an object of legal protection allows for a discussion on the possible applicability of personal data legislation to information about legal entities or the lack thereof.

Secondly, a functional analysis that allows the examination of personal data as a regulated system within the legal framework considers that the objectives of physical and legal entities in obtaining and protecting such information are different, and their determinants must be reflected in the study.

Thirdly, a combination of specific scientific methods of sociological and psychological analysis is applied to determine the basic regulation parameters and realize the rights of physical and legal entities to protect their "sensitive" information as legal subjects.

Finally, the fourth method study adopts an axiological approach, which allows for the exploration of the real significance of personal data protection technology, revealing the primary relationships between its development and the potential applicability of this institution to information about legal entities.

Our hypothesis for resolving our question is that any open or concealed (internal) information regarding a legal entity may not always be an object of legal protection since this type of information inherently has varying natures, forms, and purposes.

As an initial basis for our research, we proceed from the premise that a subject of personal data can be defined as a physical entity whose identity is possible through the exchange of personal data. The question arises whether legal entities can be included in the definition, as a positive answer would imply a different legal protection procedure for "personal data". It is also significant since it would require developing a legislative system for legal protection in the relevant field.

The issue was explored by reviewing the current legal provisions concerning safeguarding personal data privacy rights for individuals, safeguarding the lawful interests of legal entities in the same domain, and considering the relevant legal doctrines.

As a result of the research methods applied, we were able to establish with certainty, in our opinion, the priority trend of proclaiming the impossibility of attributing legal protection of personal data to legal entities in the legislation on personal data.

Findings and Discussion

The research has identified a variety of scientific positions regarding the possibility of the legal protection of personal data belonging to a legal entity. Some authors consider certain personal information about a legal entity to be properties of its identification [2, P.14], but they do not specify the composition of such information [3] or whether it is subject to legal protection [4].

Other authors argue that personal information about a legal entity should be protected [5, P.21], but only using the name (brand) of the legal entity for personal gain is illegal [6]. Still, other authors suggest that protecting such information is necessary to prevent potential harm to the legal entity due to its availability to third parties [7].

Whether the personal data of legal entities should be legally protected remains a subject of debate, and there is no clear consensus in the scientific community. Some researchers have been more specific in their opinions on the legal protection of personal data of legal entities. Some argue that the personal information of a legal entity is an object of its "economic and legal interest" [8], understanding such information as belonging to the broader category of trade secrets. They justify this position with court practice in cases related to this type of information.

However, there is also an alternative approach. Some scholars believe that personal data includes any "internal" information about a legal entity, including insider information [9, P.225], competitive intelligence, or even systems of corporate management accounting [10].

Two trends can be observed within this framework of our so-called "alternative" approach.

First, some scholars argue that personal data is any "internal" information about a legal entity (insider information, competitive intelligence, etc.) [11], thus considering personal information very narrowly, sometimes even reducing it to management accounting systems [12, P.47], or linking it to the secrets of the ultimate beneficiaries of the company [13].

Others relate personal data to the "goodwill" [14, P.161] of the legal entity and propose an expanded understanding of such "personal information" [15, P.288]. In all cases, the need for legal protection is based on the potential harm that can be caused to the legal entity if such information is accessible to third parties. However, it is questionable whether such information is considered personal in the same sense as the personal data of physical entities [16]. The link between such information, globalization, and the global market seems logically inconsistent. Interestingly, this view is shared by scholars in countries whose economic system is not highly integrated into the international division of labor [17].

In summary, some researchers have suggested that personal data belonging to a legal entity may be considered an object recognized by the law. However, they may not be legally protected as personal data under the legislation protecting personal data. Other researchers have argued that personal information about a legal entity should be protected to prevent potential harm to the entity due to its availability to third parties.

However, there is still no clear consensus on whether the personal data of legal entities should be legally protected. Some authors suggest that the personal data of legal entities could be protected, but they do not fall under the current legislation on protecting personal data. However, this argument has been criticized for not considering the changing nature of information in the modern world and the ability to identify it with specific individuals. Ultimately, there is still no clear answer to whether legal entities' data should be considered personal and protected accordingly.

Some authors strongly believe that the personal data of legal entities is "personal information" that deserves legal protection. However, an analysis of these works reveals that the authors are referring not to the personal data of legal entities but to the personal data of physical entities transferred to a given legal entity on various grounds.

Information transmitted to someone about someone else does not become informed about the person receiving it, as the recipient merely possesses the information for specific legitimate reasons. There are deficiencies and omissions in using accepted terminology rather than a new perspective.

The issue of personal data of legal entities is particularly relevant in light of the large-scale transfer of personal data in the global information space (cyberspace), as well as the active transnational interaction of legal entities, which is reflected in the disclosure of information about themselves on the Internet. Personal data in the global information space differs from "ordinary" personal data in form and content.

At first glance, it is evident that any personal data in the global information environment can only exist electronically, in the form of an electronic document. There is identifying information that can exist only in electronic form (user accounts in social networks, transactions and other services in electronic form, written appeals of citizens on the websites of government agencies, biometric or genetic information, etc.).

Some personal data can exist on electronic

media and in other physical environments. Personal data is "automatically" processed and enters the global space (actual or potential) from the moment it appears on a carrier accessible from the Internet. The Internet is still a little-studied legal environment. On the one hand, the Internet environment affects personal data regarding form and content, processing, reprocessing, and transmission. On the other hand, personal data requires unique methods to protect it, which is implemented technically.

From a legal perspective, the concept of civil law in any national legal acts does not consider the Internet as a legal subject, as noted in the literature on information law [18, P.114] and the general doctrine of international private law [19, P.412]. However, the Internet has specific characteristics of institutional and organizational nature. In this context, it is possible to discuss acquiring new properties and characteristics of legal relationships that were not previously inherent in legal subjects.

Among these, we see the anonymity of Internet-related subjects. From an etymological perspective, "anonymous" means without indicating the name of the person who is writing or communicating something, without a signature, and "anonym" means the author who has hidden their name. In this case, anonymity is expressed in the fact that anyone can receive and transmit information over the Internet without revealing their identity (in this case, we understand "disclosing their name to others"). N.A. Dmitrik notes that the term "user identification" is more appropriate than "anonymity": a subject can provide their name (or organization name). However, it is not trivial to verify its accuracy and to track whether the same person is performing actions or whether multiple people are acting under one identifier [20, P.75]. Thus, the main properties of Internet law subjects are only anonymity and, only at the subject's discretion, subsequent personalization or identification, which are understood more broadly in Internet law than in "ordinary" law.

This circumstance also influences the nature of users' personal data on the Internet. The Internet, as a global information space, can influence the content of the "personal data" category and the problems of their exchange. However, it is unlikely that one can agree with authors who state that "the rapid development of information technology has led to the appearance of information containing data about a specific person" [21]: such data subject to legal protection were considered an object of law before. At the same time, it is worth noting that the concept of "personal data" as information that allows for the identification of a person did indeed emerge in various legal systems in the second half of the 20th century in connection with the appearance of information and telecommunications technologies, primarily the Internet.

With the development of information technology, the exchange of personal data on the Internet has increased. Therefore, the need for citizens' self-control mechanisms in placing and processing information about them in information systems has arisen [22]. Thus, the necessity of using information systems is driven by the needs of modern society. The apparent advantage of the digital representation of information is the ability to search for information quickly across various verticals, depths, and densities [23].

In this connection, the problem of regulating the exchange of personal data becomes one of the systemic problems of regulating relations in the Internet environment [24]. Here, the authors note that the difficulty of regulating the exchange of personal data on the Internet is due to factors that determine the social, economic, cultural, and legal significance of the global network: the volume, speed, accessibility, simplicity, and global exchange of information [25]. A.I. Saveliev explains the concept of creating a "natural barrier" to a person's personal space [26, P.486]. It is also true that from an economic point of view, non-automated processing of personal data requires resources and becomes inefficient. Previously, it was mainly carried out by government agencies (such as law enforcement), and there was no possibility of easy and publicly available distribution of such data. However, the situation has changed since many Internet services have become interactive platforms (web applications) for exchanging user-generated content [27].

Arguments in favor. We believe that the issue is not only about the initial protection of individual interests but also about the disclosure of information about legal entities, which reveals data about physical entities, leading to a "process of identification" of such entities. As a result, such interrelation does exist. As arguments, it is usually pointed out that legal understanding today is moving further and further towards equalizing the legal statuses of physical and legal entities. While these statuses are becoming increasingly equal, attention should be paid to the following factors characterizing this tendency.

Firstly, equalization occurs at the most

significant ("painful" from the perspective of the continuing legal genesis of the situation) points, namely in the area of legal criminal [28] and administrative [29] responsibility, in the protection of intangible assets [30], in housing [31] and labor [32] law.

Secondly, from the principles of civil law regulation of social relations, formal and legal equality of statuses as subjects of civil law and participants in civil legal relationships does not exclude their justified differentiation within the framework and at the level of national law [33].

Thirdly, such convergence of statuses and specific legal opportunities should consider the different nature of these subjects of law and the particular derivative "designation" of such a subject of law as a legal entity [34].

Our outcome: the arguments presented above are derivative and cannot be foundational. In our opinion, protecting information about legal entities under the same form as protecting the personal data of physical entities is theoretically and practically impossible. However, the question here is not as evident as some authors believe.

Arguments against: present in doctrine and their critique. Various arguments are used in the literature against the positions of authors who consider it fundamentally possible to equate personal information about a legal entity with personal information about individuals. Direct analysis of these positions is not relevant to the purposes of our work. At the same time, it should be noted that the main arguments "against" such equating are two-fold. Firstly, the law does not provide for the equating of personal data of individuals with specific information about legal entities; secondly, a legal entity does not possess characteristics that would make its information "worthy" of protection.

We intentionally do not reference such opinions, as most legal scholars in this area support them, as finding an author who would argue otherwise is difficult. Nevertheless, we believe that such arguments are superficial a priori, as they do not consider the essence of the legal relationships in question and offer a negative answer to the question solely based on two factors (together or separately): the existing legal regulation of the issue in question and the apparent differences between individuals and legal entities.

These arguments, both separately and in their entirety, cannot be considered sufficient by us, as they do not provide an evaluation of the substantive characteristics of the theory of personal data concerning legal entities but instead follow the not-always-perfect results of the legislative process and obvious conclusions of civil law doctrine.

Arguments against, proposed by us. The arguments presented above are not convincing, although we do not deny their partial validity. However, the nature of the distinction between information about a legal entity and personal data characterizing physical entities appears to us to be deeper and more substantive. Given these circumstances, we propose the following positions as additional arguments in this area, not previously mentioned in the literature.

Traditionally and historically, a legal entity is only a fictitious independent subject of law. Today, it is widely believed that a legal entity, regardless of its creation and content theory, only "covers up" individuals who benefit from its existence and activities. In particular, in modern economic and legal realities, the concept of the secondary nature of the legal entity as a subject of entrepreneurial activity is prevalent. The legal entity acts as an "intermediary" between the market and the beneficiary of that legal entity [35, P.3].

For the reasons mentioned above, concepts such as piercing the corporate veil, bankruptcy, and corporate responsibility have gained significant influence in developed countries, which to some extent, allow for holding controlling persons, parent and sister companies, and others responsible for the obligations of companies [36, P.195; 37-38]. Such tendencies also clearly reduce the level of independence of the legal entity as a "collective person."

Outcome: what is significant is not information about the legal entity but its ultimate beneficiaries. Therefore, a distinction should be made between information about the legal entity and information about the legal entity itself. The latter may be the subject of protection concerning commercial or other legally protected sensitive information. At the same time, the former, on the contrary, in conditions of a civilized market and effective democratic state governance (when it comes to public law legal entities), should be as open and accessible as possible.

Conclusion

Based on our research, we have arrived at the following main conclusions and outcomes. Firstly, the question of the possible inclusion of information about legal entities under the scope of legal protection in personal data legislation remains unresolved in legal doctrine. This problem is compounded by the significant

exchange of personal data in the global information space - the Internet (cyberspace) - due to a thorough understanding of anonymity, personalization, and identifiability.

Secondly, we have presented the primary author's positions and reviewed relevant literature. We concluded that there is insufficient scientific argumentation to support the impossibility of protecting personal information about legal entities under personal data protection legislation. The absence of a clear recommendation to the legislature creates a deficiency in future legal regulation in this field. Additionally, we have identified flaws in the legal reasoning of supporters of this type of legal protection.

Thirdly, we have provided our arguments regarding the fundamental impossibility of extending the legal protection of personal data to information about legal entities, as provided for under the law for physical entities. Our argumentation is based on the following - the existence of legally protected personal information about legal entities is directly impossible, based on modern theories of legal entities, including the most common theory in civil law doctrine, the theory of fiction. The essential characteristics of legal entities recognized in law and legal doctrine do not suggest the possibility of such protection and, on the contrary, are inconsistent with it. We also established that creating a legal entity as a new subject of law initially implies its simplified identification in civil engagement through analyzing and comparing information about it. Accordingly, the necessity for not concealing but rather disclosing the information about the legal entity relevant to other civil law subjects stems from its inherent characteristics.

However, in order to expand the definition of personal data as a possible way to protect legal entities, we propose to make the following improvements to the Law of the Republic of Kazakhstan dated May 21, 2013, N 94-V "On Personal Data and their Protection"[2] :

1. Provide clear definitions regarding legal entity data, such as company registration numbers, tax identification numbers, and other unique identifiers.

2. Define individual privacy rights for legal entities that differ from the rights of individuals. These rights may include the right to rectification, objection to data processing, and requests for access to data, thus ensuring that legal entities have appropriate control over their data.

3. Expand the definition of consent requirements and information for legal entities, ensuring that informed consent is obtained when transferring data to third parties, especially for purposes other than the original processing. Legal entities should receive clear information about the purposes of the processing, the types of data being processed, the duration of the processing, and any third parties involved in the processing.

4. Strengthen the responsibility of legal entities to ensure transparency and accountability for data processing. This may include keeping records of data processing.

These proposals will increase trust and confidence in the digital ecosystem, corresponding to paragraph 6 of clause 3.1. "Information Doctrine of the Republic of Kazakhstan" dated March 20, 2023[3] .

We believe the information about the ultimate beneficiaries is more significant than the information about the legal entity itself as well as it is necessary to differentiate between information related to the legal entity and the legal entity itself. Moreover, this does not contradict the conclusion that the latter may be the object of protection in terms of being classified as commercial or other legally protected sensitive information. At the same time, the former, on the contrary, in the conditions of a civilized market and effective democratic government management (concerning public law legal entities), should be as open and accessible as possible. These circumstances imply changes to the country's current legislation to introduce the concept of "personal data" in relation to legal entities, which will create conditions for their proper protection.

REFERENCES

1. Максуров А.А. Персональные данные: правовое регулирование и защита [Книга]. Кишинёв: Palmarium Academic Publishing. 2020. — 136 с.

2 The Law of the Republic of Kazakhstan dated 21 May, 2013, N 94-V "On Personal Data and their Protection" https://online.zakon.kz/Document/?doc_id=31396226&pos=3;-106#pos=3;-106 (date of access: 31.03.2023)

3 Information Doctrine of the Republic of Kazakhstan dated March 20, 2023, approved by Decree of the President of the Republic of Kazakhstan No. 145 dated March 20, 2023. URL: https://www.akorda.kz/ru/ob-utverzhdenii-informacionnoy-doktriny-respubliki-kazahstan-2025248 (date of access: 31.03.2023)

2. Cohen T., van Nispen C.J.J.C., Huydecoper T. European Trademark Law: Community Trademark Law and Harmonized National Trademark Law. — Alphen aan den Rijn: Kluwer Law International, 2010. — 312 p.

3. Preinreich G.A.D. The Law of Goodwill. — Florida: The Accounting Review, 2016. Vol. 11. N 4 (Dec). — P. 317-322.

4. Gurlit E. Verfassungsrechtliche Rahmenbedingungen des Datenschutzes. — Munich: Neue Juristische Wochenschrift (NJW), 2010. H. 15. — P. 1035-1041.

5. Schechter Frank I. The Historical Foundations of Law Relating to Trademarks. New York: Columbia University Press, 2015. — 188 p.

6. Rogers E.S. Comments on the Modern Law of Unfair Trade. — Illinois: Illinois Law Review, 2009. № 3. — P. 551-559.

7. Calboli I. Trademark Assignment "With Goodwill": a Concept whose Time Has Gone. — Florida: Florida Law Review, 2005. — P. 542-551.

8. Bone R.G. Hunting Goodwill: a History of the Concept of Goodwill in Trademark Law. — Boston: Boston University Law Review, 2006. Vol. 86:547. — P. 583-585.

9. Spence M. Intellectual Property. Oxford: Oxford University Press, 2007. — 468 p.

10. Simon S.I. Court Decisions Concerning Goodwill. — Florida: The Accounting Review. Vol. 31. N 2 (April), 2019. — P. 272-283.

11. Yelnik A. Commercial Value of Trademarks: Do Current Laws Provide Brands Sufficient Protection from Infringement. — London: European Intellectual Property Review. Vol. 32. Issue 5, 2010. — P. 203-211.

12. Sakulin W. Trademark Protection and Freedom of Expression: an Inquiry into the Conflict between Trademark Rights and Freedom of Expression under European Law. Alphen aan den Rijn: Kluwer Law International, 2010. — 290 p.

13. Kniffin F.W. The Modern Concept of Marketing Management, Its Implications and Problems. — Indiana: Bureau of Business Research, 1958. — 22 p.

14. Catlett G.R., Olson N.O. Accounting for Goodwill. — New-York: AICPA. 1968. — 180 p.

15. Cox R. Distribution in a high-level economy. — New-Jersey: Prentice Hall, 1965. — 384 p.

16. Nelson R.H. The Momentum Theory of Goodwill. — Florida: The Accounting Review, 1953. Vol. 28. № 4. — P. 491-499.

17. Marcus R.L. Putting American Procedural Exceptionalism into a Globalised Context. — Oxford: The American Journal of Comparative Law, 2005. Vol. 53. — P. 710-718.

18. Рассолов И.М. Право и Интернет [Книга]. — М.: Норма, 2010. — 422 с.

19. Бабаев В.К. Общая теория права. Курс лекций / Под ред.В.К. Бабаева [Книга]. — Нижний Новгород: Изд-во Нижегор. ВШ МВД РФ, 1993. — 544 с.

20. Дмитрик Н.А. Осуществление субъективных гражданских прав с использованием сети Интернет [Книга]. — М.: Волтерс Клувер, 2006. — 388 с.

21. Соколова О.С. Персональные данные как информация ограниченного доступа: проблемы правового регулирования [Журнал]. — М.: Современное право. 2004. № 2. — С. 18-25.

22. Соколова О.С. Защита персональных данных посредством права на забвение [Журнал]. — М.: Современное право. 2016. № 9. — С. 69-72.

23. Корчемкина О.А. Понятие и признаки базы данных как объекта права [Журнал]. — Екатеринбург: Российский юридический журнал. 2012. № 1. — С. 120-128.

24. Азизов Р.Ф., Архипов В.В. Отношения в сети Интернет формата Web 2.0: проблема соответствия между сетевой архитектурой и правовым регулированием [Журнал]. — М.: Закон, 2014. № 1. — С. 90-104.

25. Архипов В.В., Килинкарова Е.В., Мелащенко Н.В. Проблемы правового регулирования оборота товаров в сети Интернет: от дистанционной торговли до виртуальной собственности [Журнал]. — М.: Закон, 2014. № 6. — С. 120-143.

26. Савельев А.И. Электронная коммерция в России и за рубежом: правовое регулирование [Книга]. — М.: Статут, 2014. — 516 с.

27. Баринов С.В. О криминализации преступного нарушения неприкосновенности частной жизни, совершаемого в форме распространения баз персональных данных [Журнал]. Москва: Российский следователь, 2017. № 4. — С. 35-38.

28. Минязева Т.Ф., Серебренникова А.В. Уголовная ответственность юридических лиц в России и Германии: к постановке проблемы [Журнал]. — М.: Lex russica. 2017. № 2. — С. 147-154

29. Панов А.Б. Административная ответственность юридических лиц: монография [Книга]. — М.: Норма, 2013. — 232 с.

30. Гаврилов Е.В. Компенсация морального вреда юридическим лицам в Российской Федерации: прошлое и настоящее. [Журнал]. — М.: Судья, 2016. № 11. — С. 59-62.

31. Мыскин А.В. Юридическое лицо - собственник жилого помещения [Журнал]. — М.: Нотариус. 2016. № 6. — С. 17-20.

32. Хаваяшхов А.А. Группы юридических лиц в коллективном трудовом праве зарубежных стран [Журнал]. — М: Актуальные проблемы российского права, 2016. № 10. — С. 118-123.

33. Парыгина Н.Н. Компенсация в защиту нематериальных благ юридических лиц: подводные камни терминологии [Журнал]. — М.: Юридический мир. 2016. № 9. — С. 59-62.

34. Качалов В.В. Уголовная ответственность юридических лиц: критический анализ аргументов против [Журнал]. — М.: Lex russica, 2016. № 12. — С. 32-40.

35. Antunes J.E. The Liability of Parent Corporations and Their Directors. Paper to be presented at the Universidade Autonóma de Madrid (Preliminary draft). Madrid, 2004. — 344 p.

36. Easterbrook F.H., Fischel D.R. The Economic Structure of Corporate Law. Cambridge (Massachusetts): Harvard University Press, 1996. — 322 p.

37. Bainbridge S.M. Corporate Law. N.Y., 2009; Idem. Abolishing Veil Piercing. — Iowa: Journal of Corporate Law. 2000. № 26. — P. 16-25.

38. Dearborn M. Enterprise Liability: Reviewing and Revitalizing Liability for Corporate Groups. — California: California Law Review, 2009. Vol. 97. № 1. — P. 195-201.

REFERENCES

1. Maksurov A.A. Personalnye dannye: pravovoe regulirovanie i zashchita [The personal data: legal regulation and protection]. Kishinev: Palmarium Academic Publishing. 2020. — 136 p. [in Russian].

2. Cohen T., van Nispen C.J.J.C., Huydecoper T. European Trademark Law: Community Trademark Law and Harmonized National Trademark Law [Книга]. — Альфен-ан-ден-Рейн : Kluwer Law International, 2010. — 312 с.

3. Preinreich G.A.D. The Law of Goodwill [Журнал]. — Флорида: The Accounting Review, 2016. Vol. 11. N 4 (Dec). — С. 317-322.

4. urlit E. Verfassungsrechtliche Rahmenbedingungen des Datenschutzes [Журнал]. — Мюнхен: Neue Juristische Wochenschrift (NJW), 2010. H. 15. — С. 1035-1041.

5. Schechter Frank I. The Historical Foundations of Law Relating to Trademarks [Книга]. Нью-Йорк: Columbia University Press, 2015. — 188 с.

6. Rogers E.S. Comments on the Modern Law of Unfair Trade [Журнал]. — Иллинойс: Illinois Law Review, 2009. № 3. — С. 551-559.

7. Calboli I. Trademark Assignment "With Goodwill": a Concept whose Time Has Gone [Журнал]. — Флорида: Florida Law Review, 2005. — С. 542-551.

8. Bone R.G. Hunting Goodwill: a History of the Concept of Goodwill in Trademark Law [Журнал]. — Бостон: Boston University Law Review, 2006. Vol. 86:547. — С. 583-585.

9. Spence M. Intellectual Property [Книга]. Оксфорд : Oxford University Press, 2007. — 468 с.

10. Simon S.I. Court Decisions Concerning Goodwill [Журнал]. — Флорида: The Accounting Review. Vol. 31. N 2 (April), 2019. — С. 272-283.

11. Yelnik A. Commercial Value of Trademarks: Do Current Laws Provide Brands Sufficient Protection from Infringement [Журнал]. — Лондон : European Intellectual Property Review. Vol. 32. Issue 5, 2010. — С. 203-211.

12. Sakulin W. Trademark Protection and Freedom of Expression: an Inquiry into the Conflict between Trademark Rights and Freedom of Expression under European Law [Книга]. Альфен-ан-ден-Рейн: Kluwer Law International, 2010. — 290 с.

13. Kniffin F.W. The Modern Concept of Marketing Management, Its Implications and Problems [Журнал]. — Индиана: Bureau of Business Research, 1958. — 22 с.

14. Catlett G.R., Olson N.O. Accounting for Goodwill. — Нью-Йорк: AICPA. 1968. — 180 с.

15. Cox R. Distribution in a high-level economy [Книга]. — Нью-Джерси: Prentice Hall,

1965. — 384 с.

16. Nelson R.H. The Momentum Theory of Goodwill [Журнал]. — Флорида: The Accounting Review, 1953. Vol. 28. № 4. — С. 491-499.

17. Marcus R.L. Putting American Procedural Exceptionalism into a Globalised Context [Журнал]. — Оксфорд: The American Journal of Comparative Law, 2005. Vol. 53. — С. 710-718.

18. Rassolov I.M. Pravo i Internet [The Internet and Law]. — Moscow: Norma, 2010. — 422 p. [in Russian].

19. Babaev V.K. Obshchaia teoriia prava. Kurs lektsii / Pod red.V.K. Babaeva [The general theory of law. Course of lectures Edited by V.K. Babaeva]. — Nizhny Novgorod: Izd-vo Nizhegor. VSh MVD RF, 1993. — 544 p. [in Russian].

20. Dmitrik N.A. Osushchestvlenie subieektivnykh grazhdanskikh prav s ispolzovaniem seti Internet [The implementation of subjective civil rights using the Internet]. — Moscow: Volters Kluver, 2006. — 388 p. [in Russian].

21. Sokolova O.S. Personalnye dannye kak informatsiia ogranichennogo dostupa: problemy pravovogo regulirovaniia [The personal data as information of limited access: problems of legal regulation]. — Moscow: Sovremennoe pravo. 2004. № 2. — P. 18-25. [in Russian].

22. Sokolova O.S. Zashchita personalnykh dannykh posredstvom prava na zabvenie [The protection of personal data through the right to be forgotten]. — Moscow: Sovremennoe pravo. 2016. № 9. — P. 69-72. [in Russian].

23. Korchemkina O.A. Poniatie i priznaki bazy dannykh kak obieekta prava [The concept and features of a database as an object of law]. — Yekaterinburg: Rossiiskii iuridicheskii zhurnal. 2012. № 1. — P. 120-128. [in Russian].

24. Azizov R.F., Arkhipov V.V. Otnosheniia v seti Internet formata Web 2.0: problema sootvetstviia mezhdu setevoi arkhitekturoi i pravovym regulirovaniem [Relationships in the Web 2.0: the problem of correspondence between network architecture and legal regulation]. — Moscow: Zakon, 2014. № 1. — P. 90-104 [in Russian].

25. Arkhipov V.V., Kilinkarova E.V., Melashchenko N.V. Problemy pravovogo regulirovaniia oborota tovarov v seti Internet: ot distantsionnoi torgovli do virtualnoi sobstvennosti [The problems of legal regulation of the circulation of goods on the Internet: from distance trading to virtual property]. — Moscow: Zakon, 2014. № 6. — P. 120-143. [in Russian].

26. Savelev A.I. Elektronnaia kommertsiia v Rossii i za rubezhom: pravovoe regulirovanie [The electronic commerce in Russia and abroad: legal regulation]. — Moscow: Statut, 2014. — 516 p. [in Russian].

27. Barinov S.V. O kriminalizatsii prestupnogo narusheniia neprikosnovennosti chastnoi zhizni, sovershaemogo v forme rasprostraneniia baz personalnykh dannykh [On the criminalization of the criminal violation of privacy committed in the form of distribution of personal databases]. Moscow: Rossiiskii sledovatel, 2017. № 4. — P. 35-38. [in Russian].

28. Miniazeva T.F., Serebrennikova A.V. Ugolovnaia otvetstvennost iuridicheskikh lits v Rossii i Germanii: k postanovke problemy [The criminal liability of legal entities in Russia and Germany: to the problem statement]. — Moscow: Lex russica. 2017. № 2. — P. 147-154. [in Russian].

29. Panov A.B. Administrativnaia otvetstvennost iuridicheskikh lits: monografiia [The administrative responsibility of legal entities: monograph]. — Moscow: Norma, 2013. — 232 p. [in Russian].

30. Gavrilov E.V. Kompensatsiia moralnogo vreda iuridicheskim litsam v Rossiiskoi Federatsii: proshloe i nastoiashchee. [The compensation for the non-pecuniary damage to legal entities in the Russian Federation: past and present]. — Moscow: Sudia, 2016. № 11. — P. 59-62. [in Russian].

31. Myskin A.V. Iuridicheskoe litso - sobstvennik zhilogo pomeshcheniia [The legal entity - the owner of the premises]. — Moscow: Notarius. 2016. № 6. — P. 17-20. [in Russian].

32. Khavaiashkhov A.A. Gruppy iuridicheskikh lits v kollektivnom trudovom prave zarubezhnykh stran [The groups of legal entities in the collective labor law of foreign countries]. — Moscow: Aktualnye problemy rossiiskogo prava. 2016. № 10. — P. 118-123. [in Russian].

33. Parygina N.N. Kompensatsiia v zashchitu nematerialnykh blag iuridicheskikh lits: podvodnye kamni terminologii [The compensation for the protection of intangible benefits of legal entities: pitfalls of terminology]. — Moscow: Iuridicheskii mir. 2016. № 9. — P. 59-62. [in Russian].

34. Kachalov V.V. Ugolovnaia otvetstvennost iuridicheskikh lits: kriticheskii analiz argumentov protiv [The Criminal Liability of Legal Persons: A Critical Analysis of the Arguments Against]. —

Moscow: Lex russica, 2016. № 12. — P. 32-40. [in Russian].

35. Antunes J.E. The Liability of Parent Corporations and Their Directors. Paper to be presented at the Universidade Autonóma de Madrid (Preliminary draft). Мадрид, 2004. — 344 p.

36. Easterbrook F.H., Fischel D.R. The Economic Structure of Corporate Law. Кембридж (Массачусетс): Harvard University Press, 1996. — 322 с.

37. Bainbridge S.M. Corporate Law. N.Y., 2009; Idem. Abolishing Veil Piercing [Журнал]. — Айова: Journal of Corporate Law. 2000. № 26. — С. 16-25.

38. Dearborn M. Enterprise Liability: Reviewing and Revitalizing Liability for Corporate Groups [Журнал]. — Калифорния: California Law Review, 2009. Vol. 97. № 1. — С. 195-201.