

BIRCH

Legal alert

Increased liability for personal data violations

On 30 November 2024, Federal Law No. 420-FZ (“**Law 420**”), which exacerbates administrative liability for violations in the field of personal data, and Federal Law No. 421-FZ (“**Law 421**”), which introduces criminal liability in this area, were adopted.

New administrative fines

Part 1 Article 13.11

Processing of personal data in cases not provided for by legislation in the field of personal data, or processing of personal data that is incompatible with the purposes of collecting personal data.

Old fines	New fines
Individuals – from RUB 2 000 to RUB 6 000	Individuals – from RUB 10 000 to RUB 15 000
Officials – from RUB 10 000 to RUB 20 000	Officials – from RUB 50 000 to RUB 100 000
Legal entities – from RUB 60 000 to RUB 100 000	Legal entities – from RUB 150 000 to RUB 300 000
! For repeated violations:	
Individuals – from RUB 4 000 to RUB 12 000	Individuals – from RUB 15 000 to RUB 30 000
Officials – from RUB 20 000 to RUB 50 000	Officials – from RUB 100 000 to RUB 200 000
Individual entrepreneurs – from RUB 50 000 to RUB 100 000	Legal entities (+Individual entrepreneurs) – from RUB 300 000 to RUB 500 000
Legal entities – from RUB 100 000 to RUB 300 000	

Part 10 Article 13.11

Failure to notify or untimely notification of Roskomnadzor of the intention to process personal data.

Article 19.7 of the Code of Administrative Offenses of the Russian Federation (the “ Code ”) is applied	Individuals – from RUB 5 000 to RUB 10 000
	Officials – from RUB 30 000 to RUB 50 000
	Legal entities – from RUB 100 000 to RUB 300 000

Part 11 Article 13.11

Violation of the requirement to notify about a personal data breach.

Old fines	New fines
Article 19.7 of the Code is applied	Individuals – from RUB 50 000 to RUB 100 000 Officials – from RUB 400 000 to RUB 800 000 Legal entities – from RUB 1m to RUB 3m

Parts 12, 13, 14 of Article 13.11

Leakage of personal data.

Scale of the leak	New fines
from 1 000 to 10 000 personal data subjects and (or) from 10 000 to 100 000 identifiers	Individuals – from RUB 100 000 to RUB 200 000 Officials – from RUB 200 000 to RUB 400 000 Legal entities – from RUB 3m to RUB 5m
from 10 000 to 100 000 personal data subjects and (or) from 100 000 to 1m identifiers	Individuals – from RUB 200 000 to RUB 300 000 Officials – from RUB 300 000 to RUB 500 000 Legal entities – from RUB 5m to RUB 10m
more than 100 000 personal data subjects and (or) more than 1m identifiers	Individuals – from RUB 300 000 to RUB 400 000 Officials – from RUB 400 000 to RUB 600 000 Legal entities – from RUB 10m to RUB 15m

Part 15 Article 13.11

Repeated leakage of personal data.

New fines

Individuals – from RUB 400 000 to RUB 600 000

Officials – from RUB 800 000 to RUB 1,2m

Legal entities – from 1% to 3% of the total amount of revenue for the calendar year preceding the year in which the administrative offense was identified, or the amount of equity (capital) of the credit institution on the date of the administrative offense, but from RUB 20m to RUB 500m

Part 16 Article 13.11

Leakage of special categories of personal data.

Individuals – from RUB 300 000 to RUB 400 000

Officials – from RUB 1m to RUB 1,3m

Legal entities – from RUB 10m to RUB 15m

Part 17 Article 13.11

Leakage of biometric data.

Individuals – from RUB 400 000 to RUB 500 000

Officials – from RUB 1,3m to RUB 1,5m

Legal entities – from RUB 15m to RUB 20m

Part 18 Article 13.11

Repeated leakage of special categories of personal data or biometric personal data.

New fines

Individuals – from RUB 500 000 to RUB 800 000

Officials – from RUB 1,5m to RUB 2m

Legal entities – from 1% to 3% of the total amount of revenue for the calendar year preceding the year in which the administrative offense was identified, or the amount of equity (capital) of the credit institution on the date of the administrative offense, but from RUB 25m to RUB 500m

In addition to the increased and new fines described above, Law 420 also introduces a number of additions to the existing articles of the Code and provides for a number of new offences as well as establishes “mitigating circumstances” that must be taken into account when assessing violations and assigning penalties for the leakage of personal data.

Mitigating circumstances that may be taken into account when calculating the fine for repeated leaks data are affixed **in Article 4.1 of the Code**, which establishes the general sentencing rules for administrative offenses.

Mitigating circumstances:

- annual expenses (for the 3 years preceding the violation) related to ensuring information security are no less than 0.1% of total annual revenue from sales (work, services) or the amount of the credit institution’s own funds (capital)
- possession by the controller or the organization engaged by the controller of a mandatory license for performing work / providing services related to data encryption or for taking technical measures aimed at protecting confidential information
- documentation confirming compliance with the requirements for protecting personal data throughout their processing in personal data information systems for the year preceding the violation
- absence of aggravating factors

Fines can be significantly reduced if all of the abovementioned mitigating circumstances are **met simultaneously**.

Mitigating circumstances and new offenses

Fine without taking into account mitigating factors

Part 15 and part 18 Article 13.11

For individuals and legal entities, excluding credit institutions – from 1 to 3% of the total amount of revenue for the calendar year preceding the year in which the administrative offense was identified.

For credit institutions – from 1 to 3% of the credit institution's own funds (capital) as at the date the administrative violation was committed.

Part 15 Article 13.11

From RUB 20m to RUB 500m

Part 18 Article 13.11

From RUB 25m to RUB 500m

Fine taking into account mitigating factors

Part 15 and part 18 Article 13.11

From 1/10 of the minimum administrative fine provided for committing the relevant administrative violation.

Part 15 Article 13.11

From RUB 15m to RUB 50m

Part 18 Article 13.11

From RUB 15m to RUB 50m

In Article 3.5 of the Code, clarifications are listed regarding the amount of fines applicable to credit institutions, namely: the amount of the administrative fine calculated from the amount of the credit institution's own funds (capital) is set at **no more than 3%** of the amount of the credit institution's own funds (capital).

Criminal liability

Law 421 introduces criminal liability for special offenses in the sphere of personal data (Article 272.1 of the Criminal Code of the Russian Federation).

Illegal use / transfer / collection / storage of information containing personal data obtained illegally: a fine of up to RUB 300 000 or earnings for a period of up to 1 year / forced labor or imprisonment for up to 4 years

Moreover, more severe penalties (up to 10 years of imprisonment) are provided for in the following cases:

- similar actions in relation to data of minors/special categories of personal data/biometrics
- vested interest
- the presence of major damage or serious consequences
- crimes committed by a group of persons, an organized group or using the position of an official
- illegal cross-border data transfer

Creation and maintenance of a resource for the deliberately illegal storage / transfer of illegally obtained personal data: among other penalties, imprisonment for up to 5 years and a fine of up to RUB 700 000



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