

Almaty, February 20, 2016

Localization of Personal Data in Kazakhstan 5 Actions steps required now

Dear Business Partner,

As of January 1, 2016, an amendment to the Law "On Personal Data Protection" came into force. The amendment introduced the requirement to localize personal data, which has to be stored in databases located in Kazakhstan. Under the Law, any systemized personal data is deemed to be a "database of personal data". This probably means, that personal data stored in a database at the headquarter or on a cloud server abroad has to be transferred to a local database in Kazakhstan.

Open issues

There is no official interpretation of the state authorities on this matter and therefore, the extent the applications have under the Law remains unclear. Currently, there are a number of open questions and uncertainties remaining in connection with the amendments to the legislation:

- What is meant by "systemized personal data"?
- Must representative offices and branches of foreign legal entities registered in Kazakhstan and also foreign legal entities not present in Kazakhstan in any form, but which engage in collection and storage of personal data (internet companies, online shops), adhere to the new regulations?
- It is unclear if the application of the law extends to personal data collected prior to the date the law comes into force on January 1, 2016. The Ministry on Investment and Development expressed that the law *does* extend to data collected before 2016 (meaning that companies are not given a transition period) but also noted that the Ministry of Internal Affairs is the final authority. So far, Internal Affairs has not provided an official interpretation.
- Is it permitted to copy personal data (create backups) in databases located abroad?
- What exactly is understood as the 'collection of personal data'?
- To what extent is it possible to use cloud technologies in the processing of personal data of Kazakhstani citizens?
- Is it lawful to provide cross-border remote access (VPN-access) to databases which are located in Kazakhstan?

Moscow

ul. Bakhrushina 32/1
115054 Moscow, Russia
t +7 / 495 / 956 55 57
info@schneider-group.com

St. Petersburg

Business Center Petrovskiy Fort
Office 801-803, Finlyandskiy pr. 4a
194044 St. Petersburg, Russia
t +7 / 812 / 458 58 00
spb@schneider-group.com

Aktau

Business Centre Grand Nur Plaza
Office 46, Microdistrict 29 A
130000 Aktau, Kazakhstan
t +7 / 7292 / 201 151
aktau@schneider-group.com

Almaty

Tole Bi Street 101, Block 9 B
050012 Almaty, Kazakhstan
t +7 / 727 / 355 44 48
almaty@schneider-group.com

Astana

Syghanaq Street 29, Floor 12
Office 1201
010000 Astana, Kazakhstan
t +7 / 7172 / 249 319
astana@schneider-group.com

Berlin

Ritterstr. 2B
10969 Berlin, Germany
t +49 / 30 / 615 08 918
berlin@schneider-group.com

Hamburg

Alstertor 15
20095 Hamburg, Germany
t +49 / 40 / 226 33 760
hamburg@schneider-group.com

Frankfurt

THE SQUAIRE at the Airport
Entrance 12, Office 616
60549 Frankfurt, Germany
t +49 / 69 / 959 32 51 78
frankfurt@schneider-group.com

Kyiv

Horizon Office Towers
vul. Shovkovychna 42-44
01601 Kyiv, Ukraine
t +380 / 44 / 490 55 28
kyiv@schneider-group.com

Minsk

ul. Surganova 29
220012 Minsk, Belarus
t +375 / 17 / 290 25 57
minsk@schneider-group.com

Warsaw

ORCO Tower, Office 17.02.
Al. Jeruzolimskie 81
02-001 Warsaw, Poland
t +48 / 22 / 695 03 10
warsaw@schneider-group.com

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Currently, there are no explanations regarding the localization requirements in the form of an official document.

Violation of the Law

The amendments to the Law did not introduce a separate liability for infringement of localization of personal data requirement. The general clause on liability for infringement of laws on personal data provided in the Code of the Republic of Kazakhstan “On Administrative Offences” will be applicable in a case of failure to store personal data in Kazakhstan. Fines ranges from 300 to 600 US dollars.

5 Actions you should take and how we can help you

SCHNEIDER GROUP can offer the following support to clients:

- **Analysis** of business processes and IT infrastructure;
- Temporarily or permanently **take over salary and / or travel expenses processing** in Kazakhstan (1C);
- **Support in system cleansing** (SAP, 1C, MS Dynamics NAV / Axapta) and general system support.
- **Support in transferring personal data** to a local database in Kazakhstan

For further information please contact:

Dina Jazyzbekova

Legal Team Leader

Tel. + 7 (727) 355 4448

JazyzbekovaDN@schneider-group.com