

**Bekov Ikhtiy**

# RIGHT TO PRIVACY IN THE DEVELOPMENT OF DIGITAL TECHNOLOGIES

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# RIGHT TO PRIVACY IN THE DEVELOPMENT OF DIGITAL TECHNOLOGIES

## Abstract

This article analyzes the concept and legal nature of the right to privacy. From a comprehensive analysis of the right to privacy in the context of digitization and the specific features of its constitutional and legal regulation, as well as an analysis of the legal basis and specific aspects of the regulation of the right to privacy in foreign countries, and proposals for improving the legislation of Uzbekistan on privacy. We examined relevant legislation and policy documents from multiple jurisdictions, focusing on countries with advanced digital technologies (e.g., United States, European Union member states, and Japan). We compared different jurisdictional approaches to right to privacy, identifying commonalities, divergences, and best practices. The aim of the research is to develop relevant proposals, recommendations and conclusions aimed at improving the legal basis of the dialogue related to the constitutional-legal basis of the ensurance of the right to privacy in the condition of the development of digital technologies in Uzbekistan. The tasks of the research are to analyze the concept and legal nature of the right to privacy, to carry out an analysis of the constitutional basis of the ensurance if the inviolability of private life in the data space and give legal proposals for protection mechanisms for providing the inviolability of personal data in the condition of digitization. The subject matter of of this paper is theoretical and legal views on providing the right to privacy in the context of digitization, legislative acts related to the sphere, the law, the legislation and experience of foreign countries, the existing conceptual approach in legal science,

scientific-theoretical views and legal categories and issues related to the improvement of legal acts regulating these relations.

**Keywords:** *privacy, nature of the right to privacy, personal data, privacy rights, privacy laws, privacy regulation.*

## I. INTRODUCTION.

The development of digital technologies and artificial intelligence in the world has a direct impact on inviolability of private life, putting the task of revising the legal protection measures for the protection of personal data and providing the inviolability of private life of private life in a scientific and theoretical way on the agenda. According to the United Nations Conference on Trade and Development<sup>1</sup>, 57% of African and Asian countries have developed legal basis for right to the inviolability of private life and personal data protection that this situation causes a certain degree of concern. In accordance with the rules defined in Article 12 of the “Universal Declaration of Human Rights” and Article 17 of the “International Covenant on Civil and Political Rights”, conceptual legal basis have been created to provide privacy that others do not interfere in private life and personal or family information disclosed by others.

The issues are considered that all aspects of privacy are not protected by law. It is no accident that various problems are referred to as privacy violations. The aim is to define more precisely what the problem is in each context—how it is unique, how it differs from other problems, and how it is related to other types of privacy problems. We identified key areas where current legal and technical frameworks decline in addressing digital privacy challenges.

It is possible to classify the level of research of the topic within the framework of the following directions of theoretical-legal research carried out in connection

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<sup>1</sup><https://unctad.org>

with the constitutional-legal agreement of the ensurance of the inviolability of private life of the citizen

In the basis of this research theme in the national legal science, analytical-methodological and conceptual approaches have been observed in the scientific works, the lawyer scholar of the CIS countries who researched the legal problems related to the ensurance of the inviolability of private life in the context of digital technologies in a monographic research and number of major studies have been published in recent years by European and foreign scientists.

Although the issues related to the privacy of personal life are partially analyzed in the above-mentioned studies, the issues of ensuring the right to privacy in the context of the development of digital technologies need comprehensive research.

## DISCUSSION

Studying the psychological, sociological, legal and other aspects of private life in the work of scientists such as S.Smart[1], P.Miller, N.Rose[2], J.Eckler[3], W.A.Stroo, A.A.Kozyak[4], the definition of authorship has been put forward “Private life is the sum total of personal, sexual and family aspects of human life based on confidentiality and private life, which serve as a basis for personal freedom, self-expression and self-determination”.

Analyzing the views of scholars S.Warren and L.Brandeis[5], M.Kedzior [6], M.Rustad[7] and N.Whitty, D.Bonner, R.Austin, T.Murphy, S.Livingstone [8]who note that the right to privacy and its source, the development of the general human rights, the fact that the right to privacy, the right to protection from interference in private life is related to the universal legal acts.

The need to analyze the concepts of “private life”, “inviolability of private life” and “private life in the condition of the development of digital technologies”, their essence, scientific research related to the understanding of these concepts and

the need to conduct an analysis of various theoretical views related to their legal understanding.

The research of scientists from a number of foreign countries (N.M.Richards[9], Murphy M. C., Wilds M. R.[10], D.Solove[11], P.Schwartz[12] and S.Simitis[14]) in the condition of the development of digital technologies, it depicts that in providing the constitutional right of a person to the inviolability of private life of private life, it is integrated with the right to privacy and the right to the inviolability of personal data .

Following trends regarding the guarantees of the right to privacy, analyzing the doctrinal views and international standards regarding the stages of development of guarantees related to the provision of the right to privacy: formation of right to privacy; protection of human rights and development of international law; development of national legislation; technological changes and development of digital space and international cooperation and standards.

The “right to privacy” as a natural right that belongs to a person from birth, which represents a personal and family life of people, living environment, residence, physical and mental inviolability.

The main principles of private life as follows:

1. The principle of non-interference (Laissez-faire) means that the state and other persons should not interfere in private life without its consent or legal basis. It provides that an individual has the right to be free from illegal interference, including illegal wiretapping, surveillance, searches or interrogations without due process and without due process of law. Non-interference is a fundamental principle of private life protection, meaning that an individual’s private sphere, private life and private affairs must be respected.

2. The principle of protection is related to guaranteeing and providing the right to privacy. It means that a one’s private life and private sphere are protected from possible violations. Protection means that legal rules and mechanisms must be



4 in place to prevent any form of illegal gathering, using or disclosing of personal data, except in cases provided for by law.

3. The private life principle guarantees that everyone has control over what data and personal data on them is collected, used and disclosed. This rule represents protection against illegal collection of personal data, access to personal documents or correspondence without consent, as well as limitation of public disclosure of personal affairs and data without legal basis.

4. The principle of confidentiality states that personal data, as well as confidential data, must be protected from illegal gathering, using or disclosing without the consent of the individual.

5. The principle of self-determination and independence means the right of every person to independence, freedom of choice, liberty from interference in personal decisions, as well as freedom of thought, belief and speech.

6. The principle of protection against discrimination refers to the obligation of society and legislation to fight against any form of discrimination based on the unique characteristics of each person, including age, gender, nationality, religion, disability.

175 The importance of the right to privacy as a fundamental right in the context of digital technologies and emphasized that the collection, storage and use of personal data should be carried out in the cases specified by the law, in particular, to provide the public interest and the rights of the individual and with the consent of the individual. Therefore, the notion of the right to privacy is not the right to take care of one's environment free of interference from others, but the right to control personal data.

12 Along with the constitutional, administrative-legal and civil-legal, criminal-legal means of providing the right to privacy, an independent sphere of law, such as the right to privacy, is undergoing the process of formation in the sphere of law.

The notion of “private life”, the need to approach it based on the definition of general criteria of private life that can be applied individually to each person. Particularly, the author depicted following features:

**Firstly**, the boundaries of the right to privacy are subjective and the concept of private life can vary dramatically in different cultures. In particular, the boundaries of private life are not the same in Western and Eastern countries.

**Secondly**, the boundaries of the notion of private life may vary depending on the circumstances. For instance, data that we consider personal at home may be classified as professional data at work.

**Thirdly**, the notion of private life may also experience changes in the scope of private life over time. For instance, data that we currently consider personal data may become less personal over time.

**Fourthly**, the private life of public officials may be monitored within the scope of public civil service or by taking into account exceptions related to measures aimed at preventing corruption.

International legal acts aimed at providing the right to privacy in the context of the development of digital technologies, in particular, the Resolution on the Right to privacy in the Digital Age (UN) [14], Artificial Intelligence Act(EU)(15), The European Data Protection Regulation[16]

The problems arising in the full protection of the right to privacy of citizens in the condition of the development of digital technologies, the conclusion that the use of data and communication technology in the provision of inviolability of private life has not been phased out[17].

M.Alessandro’s views on the right to be forgotten, putting forward his independent approach that this right is a one’s desire to delete the data, he has posted on social networks or on various platforms when his lifestyle changes and that this information is no longer used.[18]

Sholahuddin Al-Fatih mentions that Indonesia has taken some steps to modify its laws in preparation for the digital age and gives recommendations for

the Indonesian government to make particular regulations concerning AI. [19] EIT Law & PDP Law relating data privacy and protection should be taken into consideration for further development of law “on personal data” in Uzbekistan .

In Uzbekistan, the right of every person to the protection of personal data is defined as the constitutional rule, in the Article 31 of the Constitution stipulates that everyone has the right to the protection of personal data. The uniqueness of this provision is that it is recognized as a legal precedent and the means of providing the inviolability of private life of a person’s honor and dignity[20].

However, law “on personal data” doesn’t apply to relations arising from the processing and protection of personal data, regardless of the means of processing used, including information technology, in Uzbekistan. So, it is time to introduce measures to provide privacy in this area as follows:

**Firstly**, transferring handling of physical data from OneID system to FaceID identification system to provide inviolability of personal data;

**Secondly**, applying the owner of the personal data and the operator of the processing to close the system of recording identification data (IP-address, MAC-address and other identifiers) about the device used in the process of personal data processing;

**Thirdly**, creating the structural unit responsible for providing the electronic security of personal data in state and governmental organizations or the introduction of a system of assigning such security tasks to one of the structural units.

**Fourthly**, introduction of artificial intelligence such as “internet inviolability of private life officer” in order to prevent early dissemination of data on the person who violates inviolability of private life via the Internet networks.

The view that the right to the privacy of a one’s family and sexual relations, the right to be protected from external interference in a one’s life in the spiritual and medical spheras, including the disclosure of information on the private life through digital technologies should be included, in addition to the 8 principles

governing the right to privacy developed by W.Hartzog [21] and L.A.Bygrave[22], based on the fact that privacy is a set of certain areas of human life.

In the condition of the development trends of data technologies, it is necessary to implement the mechanisms for regulating relations in the sphere of personal data protection at two levels (international and national levels). Development of specific ruleative legal acts related to this sphere at the national level; and at the international level, there is a need to conclude agreements on legal assistance with other countries and cross-border companies (mainly IT companies).[23]

The law enforcement practice confirms that the question of determining the content of these concepts is always a problem. Therefore, the legislation of the Republic of Uzbekistan has developed copyright definitions in order to introduce a new personal “concept of inviolability of private life”, to protect the constitutional right of the citizen to personal and family secrets and to form the law enforcement practice the single right.

Private secrets – any data on events, facts, conditions in a one’s life that a person himself does not want to disclose.

Family secrets – data containing any information on the events, facts, conditions in a one’s family life that two or more members do not want to be disclosed;

Special data – data on racial or social origin, political, religious or worldview beliefs, political party and trade union membership data, as well as data on physical or mental (psychic) health, private life and criminal records.

The scientific-theoretical analysis of the issue of improving the constitutional and legal basis of private life from a scientific and theoretical point of view and solving the tasks set before the research served to come to the following scientific and practical conclusions, as well as suggestions and recommendations for further improvement of the normative legal basis.

5 The right to control personal data is the activities of the owner, operator and subject of personal data or other authorized entities regarding to control measures to collect, systematize, store, change, complete, use, process, distribute, transfer and destroy personal data.

Guarantees of the right to privacy are required to include the following: the right to protect rights, the effective functioning of institutional foundations for the restoration of violated rights, the full development of the compensation mechanism, the establishment of the accountability mechanism, various forms of rights protection (administrative, procedural), procedures are fully developed.

1 The following promising directions for the improvement of the system of providing private life in the Republic of Uzbekistan have been determined:

1 firstly, the controlling personal data by the operator and the relevant subject, increasing the transparency of the process of processing personal data, introducing modern information and communication technologies to optimize information exchange;

1 secondly, to increase the knowledge and skills of the relevant officials in the storage and processing of personal data, Liability in the selection of operators;

thirdly, to develop a clear mechanism for the use of personal data in the public interest by forming a data registry on private life;

fourthly, it is proposed to develop qualification requirements for individuals, experts and specialists who work with data related to private life.

## Conclusion.

it is suggested that developing theoretically and methodologically understand the legal nature and characteristics of private life, an author's definition of the concepts "right to freedom and private life", "private life", "personal data" and proposed for scientific and practical application. Defined the two characteristics of private life are the essence of non-interference and

2 protection. With a framework for identifying and understanding privacy problems, law enforcement officers can balance privacy considerations against countervailing interests.

2 it is scientifically explained that the legal basis aimed at the legal regulation of social relations related to the private life in the conditions of digitization was analyzed, the stages of formation of the relevant legal basis and the dynamics of development. This Article is thus the beginning of what will hopefully be a more comprehensive and coherent understanding of privacy.

## **Bibliography**