

UDC (УДК) 347.777  
JEL Classification: K10; K23

**Ковалів Мирослав Володимирович,**

кандидат юридичних наук, професор,  
завідувач кафедри  
адміністративно-правових дисциплін  
Львівського державного університету внутрішніх справ  
e-mail: mkovaliv@ukr.net  
ORCID ID: 0000-0002-9730-8401

**Яремко Віктор Ярославович,**

кандидат юридичних наук,  
провідний фахівець  
Інституту з підготовки фахівців для підрозділів Національної поліції  
Львівського державного університету внутрішніх справ  
e-mail: yvy75@i.ua  
ORCID ID: 0000-0001-5487-2371

**Головач Тетяна Миколаївна,**

кандидат філологічних наук,  
доцент кафедри іноземних мов та культури фахового мовлення  
Львівського державного університету внутрішніх справ  
e-mail: tetianaholovach@gmail.com  
ORCID ID: 0000-0002-6665-4416

## **ЗАХИСТ ПЕРСОНАЛЬНИХ ДАНИХ ЯК СКЛАДОВА ІНФОРМАЦІЙНОЇ БЕЗПЕКИ**

**Анотація.** Розкрито особливості захисту персональних даних як складової інформаційної безпеки. Проаналізовано поняття та зміст категорії захисту персональних даних, які спрямовані на попередження неправомірних дій з персональними даними, а також на захист і відновлення порушених прав. Розглянуто правове регулювання інституту захисту персональних даних та необхідність удосконалення способів та методів правового захисту інституту персональних даних. Проблема захисту персональних даних у сучасному суспільстві в якому домінують принципи визнання людини найвищою соціальною цінністю актуалізує питання розробки відповідної правової платформи, яка б гарантувала та забезпечила стабільність правовідносин, правових взаємозв'язків при реалізації та захисті інформаційних прав різних суб'єктів.

**Ключові поняття:** захист персональних даних, інформаційна безпека правове регулювання, способи та методи, конфіденційна інформація.

**Kovaliv Myroslav,**

Candidate of Law, Professor,  
Head of the Department of Administrative-Legal Disciplines  
Lviv State University of Internal Affairs  
e-mail: mkovaliv@ukr.net  
ORCID ID: 0000-0002-9730-8401

**Yaremko Viktor,**

Candidate of Law, Leading Specialist  
of the Institute of Training Specialists  
for Units of the National Police  
Lviv State University of Internal Affairs  
e-mail: yvy75@i.ua  
ORCID ID: 0000-0001-5487-2371

**Holovach Tetiana,**

Candidate of Philology, Associate Professor  
of the Department of Foreign Languages  
and the Culture of Professional Communication  
Lviv State University of Internal Affairs  
e-mail: tetianaholovach@gmail.com  
ORCID ID: 0000-0002-6665-4416

## PROTECTION OF PERSONAL DATA AS A COMPONENT OF INFORMATION SECURITY

**Abstract.** The article, based on the analysis of available research and personal observations, presents main approaches to the understanding of the notion of protection of personal data. Peculiarities of protection of personal data as a component of information security are revealed in the article. The concept and content of the category of protection of personal data, aimed at preventing misuse of personal data as well as protection and restoration of violated rights are considered. The legal regulation of the institute of personal data protection and the need to improve the methods and means of legal protection of the institute of personal data are analyzed.

**Key concepts:** protection of personal data, information security, legal regulation, methods and means, confidential information.

**DOI 10.32518/2617-4162-2020-1-47-52**

### Introduction

The problem of protection of personal data at the present stage of society development, dominated by the principles of recognition of the highest social value of human beings actualizes the issue of developing an appropriate legal platform that would guarantee and ensure the stability of legal relations, legal interrelations in the exercise and protection of information rights of different entities.

At present conditions of freedom and independence, the number of clandestine, illegal, illegally created information bases containing confidential information is increasing. Offenses in this area are growing rapidly. It seems clear that these facts will continue to exist until steps are taken to close loopholes in the legislation governing relations in this area – the sphere of personal data.

Research on the protection of personal data as a component of information security are complemented in publications of leading scientists, among them V. I. Aristova, V. Yu. Baskakova, V. M. Bryzhko, R. A. Kaliuzhnyi, A. I. Marushchak, T. I. Obukhovska, A. V. Paziuk, V. O. Seriohin, O. S. Sokolova, S. V. Yasechko, O. H. Yarema.

The purpose of the article is to reveal the issues of personal data protection as a component of information security.

### 1. The concept and content of the category of personal data protection

In the context of the formation of the national state policy of information security and the actualization of the issues on guaranteeing the confidentiality of personal life and protection of personified information of an individual, the problem of protection of the personal data institute becomes of great

importance. Such issues are constantly discussed in the media and are the subject of debate on television and radio, in the Internet and in public.

In order to solve these problems, all the authorities, who are participants in the informational legal relationship as well, are involved in information processes. In this regard new legislative and subordinate legal acts are adopted, separate specialized administrative bodies are created, and state concepts of targeted programs are often developed.

Such a scale of social resonance would seem to imply a clear definition of the content and nature of the personal data protection institute, the principles and laws upon which the institute is based, and the tasks which it is directed to.

The question of determining the essence of the category of protection of personal data is relevant and necessary, since the formation and qualitatively effective ways of protection of this institute depends on the features and the essence of this concept. It is only in the writings of few researchers that considerable attention is paid to analyzing and revealing the essence of this important category.

V. M. Bryzhko defines the category of protection of personal data as «the protection of information about an identified or identifiable person» [1, p. 55]. According to V. Kozak, protection of personal data is the processing of personal data solely for the purpose for which it was collected; minimizing the data, processing of which is required for a specific purpose; limiting the storage and processing of data, ensuring the relevance of personal data [2, p. 144].

Analyzing the protection of personal data through the lens of labor relations, A. M. Chernobai

considers it as: a set of organizational and legal, engineering and technical, cryptographic and other measures taken by the owner of this data or other persons upon his request, in order to prevent harm to the interests of the owner and the person concerned, its uncontrolled distribution. In her opinion, the protection of an employee's personal data includes the activities of the relevant state bodies, envisaged by the legislation, for recognition, restoration of rights, as well as the removal of obstacles that interfere with the exercise of the rights and legitimate interests of legal entities in the field of personal data [3, p. 40].

The essence of the concept of protection of personal data makes it possible to state their ambiguity, inconsistency, which creates differences in the correct interpretation of this important statement in the legal field.

The issue of personal data protection has long become relevant in European countries (Poland, France, the United Kingdom, etc.). In the legislation of modern Ukraine there are also many rules governing legal relations in the field of protection of personal data, although some of them do not meet the current conditions of development of information legal relations.

Thus, since the Law of Ukraine of July 6, 2010 «On Ratification of the Strasbourg Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data» came into force [4], the situation regarding the protection of personal data during their processing has changed significantly.

The provisions of this Convention have been incorporated into the national legislation of Ukraine and in so far as the protection of personal data is concerned.

Thus, the Law of Ukraine «On Protection of Personal Data» not only declares the idea of protection of personal data as a fundamental human and citizen right (Article 1), but also gives the function of control over its observance of the Ombudsman (Articles 22, 23) [5]. Although sometimes it seems that the provisions of this law still need improvement and updating.

The European integration vector of our country's foreign policy and the objective state of legal regulation of information relations make it possible to consider the protection of personal data as a sphere and industry that cover a wide range of legal, regulative and securing relationships [6, p. 129].

The category of personal data protection is a broad, complex and multifaceted phenomenon. However, whatever aspect of it is analyzed, in whatever sense it is interpreted (as a line of business, as a human right, as a legal institute), it is obvious that its effectiveness and efficiency depends on a

large number of subjects. In particular, they can be presented by the higher bodies of state power that create the legal base and are the basis of information policy. These are also the bodies of the state executive power, which exercise control over the protection of personal data through the exercise of «external» supervisory powers, and at the internal organizational level – as the owners and creators of relevant information bases. It is also the Commissioner of the Verkhovna Rada of Ukraine for Human Rights as the subject of parliamentary control over the observance of constitutional rights and freedoms of citizens. These are the courts which, in addition to certain powers, are entrusted with the functions of control over non-violation of the legislation on protection of personal data. Of course, these are all the individuals and legal entities involved in the processing of personal data. And so are the personal data holders themselves, since it is primarily their responsibility to protect the privacy of their private life.

It is generally believed that the protection of personal data belongs to the exclusive powers of the public authorities. It is also impossible to agree with those who, by absolutizing the role of the owner of personal data, believe that the protection of personal data is carried out only by him personally or in accordance with his initiative. After all, the vast majority of entities involved in the personal data protection mechanism exercise such protection by virtue of their functional duties and legal powers, and not by the will of specific persons [7, p. 19].

Therefore, the scientific understanding of the concept and content of the category «protection of personal data» is the idea of its multi subjective nature.

As for the sources of regulation of the relevant sphere of social relations, obviously, such are not only the rules of law, as some scholars insist, but also other social regulators. The protection of personal data is a phenomenon, an institution existing at the «intersection», at the joint of social, legal and technical spheres of human life. It is manifested not only in law and objectively not only by law it is regulated. Along with the law, technical and technological rules play a significant role in regulating personal data protection institute (it is known today that the primary object of protection is personal data that can be processed automatically). One should not dismiss the influence of moral standards and corporate ethics. In future, it may become possible to form customs of information circulation, etc. [6, p. 119].

Therefore, the question of determining the content of the category of protection of personal data is relevant and necessary, because the formation and qualitatively effective ways of protection

of the institute depends on the features and essence of this concept.

The analysis of the views, visions and conclusions of scientists about the essence of the concept of personal data protection makes it possible to ascertain their ambiguity, inconsistency, which creates differences in the correct interpretation of this important in the legal field statement.

In order to better understand the nature of personal data, it is necessary to constantly, thoroughly investigate the functional orientation of this category. Many scholars interpret the category of «personal data protection» rather narrowly, considering it in the light of a set of measures aimed at identifying, suppression of offenses, punishing guilty persons and restoring violated rights, often identifying this concept with the securing of personal data. However, securing and protection are two different categories.

## **2. Legal regulation of the institute for personal data protection**

As part of modern state information policy, the institute for the protection of personal data requires development and implementation of a perfect and effective regulatory framework that will ensure the stability of legal relationships in the field of personal data protection and the efficiency of its enforcement.

First of all, the quality of proper legal regulation of relations depends on the state of information security of society, the state and the individual in particular. A perfect legal framework will strengthen and optimize the sphere of public information relations, making it resistant to external and internal threats or harmful and dangerous influences. At the same time, the imperfection of the legal regulation of the problematic interconnections between the subjects of information relations in the field of personal data protection contributes to the destructive influence. It provokes conflicts between members of the legal relationship, creates a basis for manipulation, destabilizes existing social ties, and promotes abuse, harassment and wrongdoing.

Legal regulation of relations in the field of personal data protection is ensured by a wide range of legal acts: the Constitution of Ukraine, laws of Ukraine, by-laws of the Cabinet of Ministers of Ukraine, the President of Ukraine, central and local executive authorities, local self-government bodies, as well as international agreements of Ukraine, mandatory application of which is provided by the Verkhovna Rada of Ukraine.

The above mentioned laws are worth consideration in details. In particular, Principal Law – the Constitution of Ukraine, the rules of which regulate the most important social relations. All

the aspects of information activity are based on the Constitutional norms. They guarantee the citizen's right to protection against interference with privacy and family life, to discredit false information about himself and his family members, to compensate for material and moral damage caused by the collection, storage, use and dissemination of false information. Due to its impact on the system of legal, state and public institutions, the Constitution lays the foundations for ensuring information security and the realization of information interests.

In particular, Art. 32 of the Constitution reads: «No one may experience interference with his personal and family life except in cases provided for by the Constitution of Ukraine. It is prohibited to collect, store, use and disseminate confidential information about a person without his / her consent, except in cases specified by law and only in the interests of national security, economic well-being and human rights. Every citizen has the right to get acquainted in state authorities, local self-government bodies, institutions and organizations with information about himself that is not a state or other law-protected secret». At the same time in Art. 34 of the Principal Law, along with the right to freely collect, store, use and disseminate information, it is determined that its implementation may be restricted by law to prevent the disclosure of confidential information [8].

An important role in the system of legal protection of personal data is played by the laws of Ukraine, which define the basic principles of the processing, collection, storage, dissemination, and protection of information. State authorities, their officials, subjects of local self-government bodies and other authorized persons who are empowered with authoritative functions in the field of protection of the personal data institute are obliged to carry out their activities exclusively on the basis of the current information legislation.

In present-day, only the laws of Ukraine «On information» [9] and «On protection of personal data» [5] regulate the most essential aspects of the problem of protection of personal data in the current conditions of development of the information society. At the same time, it should be mentioned that they interact in the genesis of the institute of personal data protection and the reflection in the legal acts of a system of norms of protection of different branches of law. Such interaction by itself forms a hierarchical system, in which detailing of interaction regarding protection corresponds to each level of information [10, p. 207].

The Law of Ukraine «On information» regulates the relations related to the creation, accumulation, collection, receipt, distribution, storage,



use, securing and protection of information. In fact, for the first time at the highest legislative level the following notions were defined (specified): the concept of information, its types and branches; principles of information relations; priority directions of the state information policy; guarantees of the right to information; main types of information activities; modes of access to information; information inquiry procedure; participants of information relations, their rights and responsibilities; information security issues; grounds for liability for information offenses; legal forms of international cooperation in the field of information; guarantees of information sovereignty of Ukraine [1, p. 117].

The Law of Ukraine «On protection of personal data» regulates public relations related to the process of protection and processing of personal data, protection of fundamental rights and freedoms of a person and a citizen: the right to non-interference with privacy, the right to demand the removal of any information about oneself and members of their family, the right to get acquainted in state authority bodies, local self-government bodies, institutions and organizations with information about himself that does not constitute state or other secrets protected by law [5].

## Conclusions

At the present stage of the development of information legal relations, there is a significant transformation of all information institutions, which due to the rapid development of information processes acquire qualitatively-new characteristics, features, which accordingly leads to the search for new methods of protection of personal data.

Any legal relationship in society requires the use of effective and efficient methods of legal regulation in order to avoid abuses, offenses and other negative consequences, which can lead to the development of relationship beyond the deliberate influence of the relevant legal regulators. The Institute for the protection of personal data constituting a part of modern state information policy, requires the development and implementation of a perfect and effective regulatory framework that will ensure the stability of legal relationships in the field of personal data protection and the efficiency of law enforcement. After all, the state of information security of society, the state and the person in particular depend on the quality of proper legal regulation of relations. A perfect legal framework will strengthen and optimize the sphere of public information relations, making it resistant to external and internal threats or harmful and dangerous influences.

## Список використаних джерел

1. Брижко В. М. Правовий механізм захисту персональних даних : монографія / за заг. ред. М. Я. Швеця та Р. А. Калюжного. К. : Парламентське видавництво, 2003. 120 с.
2. Козак В. Защита персональных данных в Украине: практика и проблемы. *Персональные данные*. 2013. № 7 (60). С. 136–144.
3. Чернобай А. М. Становлення та розвиток законодавства України про захист персональних даних працівника. *Підприємництво, господарство і право*. 2005. № 8. С. 40–43.
4. Про ратифікацію Страсбурзької Конвенції про захист осіб у зв'язку з автоматизованою обробкою персональних даних : Закон України від 01.01.2014 URL: <https://zakon.rada.gov.ua/laws/show/2438-17>
5. Про захист персональних даних : Закон України від 06.07.2010 № 2438-VI. URL: <https://zakon.rada.gov.ua/laws/show/2297-17>
6. Основи інформаційного права України : навч. посібник / В. С. Цимбалюк, В. Д. Гавловський, В. В. Грищенко та ін. ; за ред. М. Я. Швеця, Р. А. Калюжного та П. В. Мельника. К.: Знання, 2014. 274 с.
7. Правове регулювання інформаційної діяльності : навч. посібник / В. Ю. Жарких, О. С. Білоусов, І. Б. Кривдіна, Д. Д. Татакі, І. М. Чістякова, Б. Г. Шевченко, С. Х. Яворський. К. : Каравела, 2015. 232 с.
8. Конституція України : Прийнята Верховною Радою України 28 червня 1996 р. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
9. Про інформацію : Закон України від 02 жовтня 1992 р. № 2657-XII. URL: <https://zakon.rada.gov.ua/laws/show/2657-12>.
10. Єсімов С. С. Захист персональних даних у контексті розвитку динамічних інформаційних систем. *Науковий вісник Львівського державного університету внутрішніх справ*. Серія юридична. 2013. Вип. 3. С. 198–208.

## References

1. Bryzhko, V. M. (2003). *Pravovyi mekhanizm zakhystu personalnykh danykh* [Legal mechanism for protection of personal data] : monohrafiia. za zah. red. M. Ia. Shvetsia ta R. A. Kaliuzhnoho. K. : Parlamentske vydavnytstvo, 120 [In Ukr.].
2. Kozak, V. (2013). *Zashchyta personalnykh dannukh v Ukraine: praktyka y problemu* [Protection of personal data in Ukraine: practice and problems]. *Personalnue dannue*, 7 (60), 136–144 [In Ukr.].
3. Chernobai, A. M. (2005). *Stanovlennia ta rozvytok zakonodavstva Ukrainy pro zakhyst personalnykh danykh pratsivnyka* [Formation and development of the legislation of Ukraine on protection of personal data of the employee]. *Pidpriemnytstvo, hospodarstvo i pravo*, 8, 40–43 [In Ukr.].

4. Pro ratyfikatsiiu Strasburzkoï Konventsiiu pro zakhyst osib u zviazku z avtomatyzovanoiou obrobkoiu personalnykh danykh : Zakon Ukrainy vid 01.01.2014 [On the ratification of the Strasbourg Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data : Law of Ukraine on 06.07.2010 No. 2438-VI]. Retrieved from <https://zakon.rada.gov.ua/laws/show/2438-17> [In Ukr.].
5. Pro zakhyst personalnykh danykh : Zakon Ukrainy vid 06.07.2010 № 2438-VI. [On the protection of personal data : Law of Ukraine on 06.07.2010 No. 2438-VI]. Retrieved from <https://zakon.rada.gov.ua/laws/show/2297-17> [In Ukr.].
6. Osnovy informatsiinoho prava Ukrainy (2014). [Fundamentals of Information Law of Ukraine] : navch. posib. / V. S. Tymbaliuk, V. D. Havlovskiy, V. V. Hryshchenko ta in. ; za red. M. Ya. Shvetsia, R. A. Kaliuzhnoho ta P. V. Melnyka. K. : Znannia, 274 [In Ukr.].
7. Pravove rehuliuвання informatsiinoï diialnosti (2015). [Legal regulation of information activities] : navch. posib. / V. Yu. Zharkyykh, O. S. Bilousov, I. B. Kryvdina, D. D. Tataki, I. M. Chistiakova, B. H. Shevchenko, S. Kh. Yavorskyi]. K. : Karavela, 232 [In Ukr.].
8. Konstytutsiia Ukrainy : Pryiniata Verkhovnoiu Radoiu Ukrainy 28 chervnia 1996 r [Constitution of Ukraine : Adopted by the Verkhovna Rada of Ukraine on June 28, 1996]. Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80> [In Ukr.].
9. Pro informatsiiu : Zakon Ukrainy vid 02 zhovtnia 1992 r. № 2657-XII [On information : Law of Ukraine of October 2, 1992 No. 2657-XII]. Retrieved from <https://zakon.rada.gov.ua/laws/show/2657-12>. [In Ukr.].
10. Yesimov, S. S. (2013). Zakhyst personalnykh danykh u konteksti rozvytku dynamichnykh informatsiinykh system [Protection of personal data in the context of development of dynamic information systems]. *Naukovyi visnyk Lvivskoho derzhavnoho universytetu vnutrishnikh sprav*. Seriiia yurydychna, 3, 198–208 [In Ukr.].

*Стаття: надійшла до редакції 27.02.2020  
прийнята до друку 18.03.2020*

*The article: is received 27.02.2020  
is accepted 18.03.2020*