

Web publishing and privacy data protection

Abstract

The author gives the definition of personal data and the distinction of sensitive personal data and normal personal data. This distinction is important for the consequences for elaborating personal data.

Although there were some doubts, publishing data on Internet pages is considered elaboration of personal data by electronic means, and therefore it is subjected to the laws on personal data protection. These laws, within the European Union, are obliged to respect the provisions provided by the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

The other question that has been raised was whether publishing personal data on a web page should be considered as exporting data to third countries. A European Court of Justice preliminary ruling determined that export of personal data could not be judged just by the mere fact that certain data have been published on a web page, but also some other factors should be considered such as where the server is located, who is editing the web page in question etc. It is important to establish whether it is export of personal data or not to take adequate measures, in accordance with the Directive and national law, for exporting the data.

So called sensitive data are not allowed to be processed, except in precisely numbered situations. Legal consequences are rather strict; whether it happens intentionally or by accident (case happened in USA, when a system engineer allowed free access to patients' medical records of a hospital). That's why any system engineer is obliged to know what national law on personal data protection says and what is he or she allowed to do, or not.

Also, there are other personal data, that are allowed to be elaborated and published, but there are certain requirements that have to be satisfied. First of all is the written consent of the interested person. The precise content of this content will be elaborated in the paper. The next thing to do is to inform the national authority for personal data protection of the database that is to be made, or in case of Croatia, the data that are already processed and already on the web, because the law is quite a short period in use, and what are we obliged to do is legalise existing databases.

Simple contract of web hosting doesn't require all this paperwork and formalities. Web hosting provider doesn't have any responsibility for the personal data published at his server, but in case that web hosting provider is also the editor, than he has all the responsibility. At academic institutions (and other companies) there are usually staff biographies at the web pages. For these should be distinguished whether at the home page there are just links to personal pages or there is organisation in the way that personal pages are unified, and made as sub-pages of a main page named stuff, personal, teachers etc. Also, it should be considered who the person that publishes the materials on the web page is. If it is published by the interested person him / herself, no requirements are needed, as long as they are publishing their personal data. Every person is allowed to publish own even sensitive data. They should be warned not to offend the law by publishing other people personal data.

Specific groups are non profit organisations that are allowed to collect sensitive data concerning their members, but they are not allowed to publish it on the Net.

Personal data protection has to be balanced with the right to publish news, right to be informed, so the last chapter, after all forbidding mentioned above, is dedicated to the media law, and the right to publish personal data in the newspaper and also on the Internet pages.

Considering the fact that more and more personal data are stored on computers worldwide, this issue becomes more and more important. System engineers are not decently respected considering the responsibility they have and importance of their job. And even more with the spreading of technology and lowering prices of it, there is increasing number of “home made” web masters that are not educated enough to protect personal data in required way. Society requires a new approach to personal data protection issues and also education of the masses on what personal data are.