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Perspectives on the strategic partnership for the protection of human rights and the problem of using digital personal data

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Abstract. The current and probable consequences of digitalization standards implementation into various personal data collection programs are analyzed. China's example demonstrates the risks concerning business ethics and practices adherence while the analysis and processing of personal data. It is emphasized that the issues of the human rights and freedoms observance and their possible violations are urgent in the context of the total use of algorithms for processing personal behavior and personal trajectory of existence data.

Keywords. digitization, digital economy, protection of rights, personal data, big data, China

Introduction. Digitization is a global trend today. Networking, the internet market, the digital economy, e-government, the growing role of information in the trajectory of everyday human behavior are becoming the phenomena that have no geographical boundaries. From America to China, crossing borders from metropolitan areas to small towns, digital reality is seizing an ever-expanding geographical space, creating a virtual version of it. Apart from openness and convenience, it contains a lot of controversial aspects for human existence, the social, legal and political status of which is, at present, poorly or in no way defined. Accordingly, the issues of rights and freedoms of a person in this space of global digitalization and global implicit control remain open to professional debate.

Discussion. Significant examples of the digital world impact on the system of rights and freedoms are, at present, the policies of the People's Republic of China as to social and cultural protocols based on observing citizens' behavior. The so-called Social Credit System (Kostka & Antoine, 2019), which is a part of public policy and participation in which from 2020 will become mandatory for the citizens of the state, is formally called to strengthen control over the observance of law and security. However, it formally contains the principles of the so-called “trust rating” based on monitoring citizens' behavior which, in its turn, is grounded on the analysis of their (citizens’) daily activities in the digital world: shopping online; location at this or that lapse of time; friendship; the number of hours spent streaming or video games; payment or non-payment of bills and taxes, etc.

In fact, this situation is not unique to other states as “the most of the described activities is due to regular collection of user information through Google, Facebook, Instagram, Fitbit fitness trackers, etc.” (“Big data meets Big Brother: as China moves to rate its citizens”). Every

application on a mobile phone, every request in a web browser, every sympathy and preference expressed on social networks is the subject of careful tracking and collection of digital data, on the basis of which various direct radars form our news feed, promotional offers, communication centers. But until recently, personal data protection and personal digital security were considered to be a common legal trend. Of course, recent years disclosure such as public information leaks through WikiLeaks or the collection and targeting of Cambridge Analytica information have caused fair indignation and general public condemnation of all parties to the exposed relationship.

But it is purely Chinese innovations today not simply obtain digital data on citizens' behavior to target demand and services. It is about the state initiative to form a social portrait of a citizen in terms of his or her trustworthiness, loyalty, probable inclination to criticize the authorities or commit offenses. Moreover, this portrait is formed by way of applying a variety of radar algorithms, the principles of which are not fully understood and made public.

The following tips for travelers or nationals when browsing the Internet in China – to remember to avoid registering between 2am and 4am, stay away from websites that offer fast loans and be careful changing one's mobile phone too often look like beyond a joke. As a general rule it is to use the Internet, mainly for cosmetics purchases, innocent kitchen gadgets, and while ordering online, say, photographic equipment, take advantage of a parallel offer and purchase travel gear. The obvious hint is that your behavior in the Internet should not resemble a tendency to reflect on social processes or a desire to “spy” – it is better to demonstrate a complete predisposition to innocent entertainment content, trip, nature hobbies, everyday affairs, environmental protection, etc.

What is the reason for these suggestions and tips on the trajectory of behavior? All of these options can affect your credit score. And your credit score, which is determined by several experimental algorithms (Johns & Compton, 2018), that are tested by China's largest online companies, may at one time affect not only your ability to obtain a credit. Some believe that this may determine in the future the fullness of your access to the health system, education, employment and the status of a “trusted” citizen. These credit ratings are becoming a gateway not only to loans but also to a broader range of non-financial activities. Higher ratings can give you access to faster airport security clearance, faster foreign visas obtainment, utility or transport preferences, and more. The new rating systems are announced as “part of a government-backed effort to increase lending to hundreds of millions of Chinese who want to get access to small business or consumer loans but do not have a positive history of mortgage or finance” (“China: When big data meets big brother”).

To solve similar challenges, selected private information corporations rely on “unconventional” indicators, such as Internet browsing history and mobile phone purchases to determine who is credible. In other words, private corporations acknowledge that they have access to the records of the Chinese Internet users through licenses issued by the central bank last year to develop experimental credit ratings. Thus, the state controls not only its own citizens but also determines which of the private companies can exercise such control. Such a digital franchise, for the time being, does not adequately fit into any legal system in the world, although the development of rules that would begin to regulate this space is likely to begin to develop and take hold soon.

It is worth mentioning that, like any other government initiative, the Social Credit System posits its focus on maintaining law and order and the benefits to its target audience, potential beneficiaries. At the same time, we are not talking about the citizens who will not go through the slim and incomprehensible sieve of systematic algorithms reliability, and which will be the ethical and legal consequences of implementation of such a valuation policy. The non-

transparent draft plan speaks of the intention “to use encouragement to preserve trust and restrictions against breach of trust as a mechanism of incentive”, and sets out the goal of raising “an honest mentality and lending to the whole community.” At the same time, it essentially introduces unethical social standards, increases the risk of legal conflicts, enables misuse of data, and the like.

Conclusions. Increasingly, there is criticism that the march of technology, combined with lucrative private companies, authoritarian policies and weak civil liberties, is creating a completely toxic mix in China. There are no safeguards that would prevent the use of behavioral data obtained to promote dominant ideology, manipulate political choices, generate rhetoric of hatred against certain social groups and other violations of civil rights and freedoms. China does not belong to states with a stable democracy and traditions of tolerating liberal values. And the first results of the application of technologies of citizens’ trustworthiness finding have already become the subject of resonant investigations by foreign analysts of examples of total rights violations in the Xinjiang Uygh Autonomous Region (SSAR) of China. In this region of compact residence of an ethnically non-Chinese population with a strong religious dominant (majority of the population professing Islam), due to the introduction, in effect, of a total state program of monitoring the behavior of citizens through electronic devices and external surveillance cameras, a social situation has emerged, which by the experts’ assessment is equal to the atmosphere of the modified and modernized concentration camps.

To paraphrase Robert Zoellick, the President of the World Bank Group of Organizations, who made his keynote speech “The End of the Third World?” back in 2010 by saying that security and international policy scholars have been discussing the emergence of a multipolar system for decades, it's time to admit the existence of its new digital parallel (Zoellick). Digitization and implementation of e-government standards, and in the future the e-state, is now identified as one of the priorities of development in Ukraine. Therefore, to summarize, it is worth emphasizing the problems and risks that already exist in the world in the context of the legal uncertainty of the status of electronic personal data obtained on the behavior and trajectory of a citizen's existence. A thorough study of the issue and its legal conceptualisation, the legal consolidation of the rules and statuses regarding the protection of personal data, rights and freedoms of citizens arising from the digital revolution is seen urgent for our state nowadays.

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