



The idea of informational self-determination and personal data protection in Ukrainian law

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Abstract. The field of personal data protection is becoming increasingly important, as the processing of information that can identify an individual has become common. Such processing is highly automated, raising a question about the effectiveness of personal data protection in the age of artificial intelligence. The answer to this concern depends, in part, on understanding the fundamental reasons behind the special status of personal data. This article aimed to examine current legal frameworks for the relations regarding personal data protection in Ukraine. It focused on the idea of informational self-determination and explored why and how individuals can control the collection and processing of their personal information. To achieve this goal, the following research methods were used: analysis and synthesis, structural and logical generalisation, and formal legal method. The results of the study revealed that the concept of informational self-determination is related to the right of every person to independently decide whether their personal information can be processed. The study analysed the interrelation between informational self-determination and privacy, while the former serving one of the theoretical models for understanding the nature of rights regarding personal data and justifying the requirement of non-interference in personal and family life. It was found that although the idea of informational self-determination originated in 1983, it still remains an important theoretical basis for studying data protection issues. The study substantiated the need to improve Ukraine's legislation on personal data protection, as it has become more difficult for individuals to maintain control over personal data. The findings are significant for both law-making and law application within the field of personal data protection, as well as for advancing scientific research

Keywords: privacy; non-interference in private life; German Federal Constitutional Court; Law of Ukraine "On Personal Data Protection"; artificial intelligence; personal data processing

Introduction

Discussing issues related to safeguarding individual privacy and family life have become more relevant than ever, when the collection and processing of information that allows an individual to be identified has become widespread. In the era of artificial intelligence, this situation raises serious concerns about the effectiveness of protecting personal data. To address legal issues concerning personal data – specifically the conditions under which private companies and public authorities can process it – it is important to understand why personal data is considered a distinct object of legal protection. One of the most authoritative concepts justifying the

protection of personal rights, particularly in continental Europe, is informational self-determination, which this article focuses on. This idea was introduced by a landmark decision of the German Federal Constitutional Court and subsequently developed in legal doctrine.

Even more than 25 years after the decision, informational self-determination remains a topic of interest for scholars. A. Vivarelli (2020) characterised the current situation as a "crisis of information self-determination". It was explained that this crisis had emerged due to new risks for the protection of personal data, which, in turn, affected legislative rules, primarily

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General Data Protection Regulation (GDPR). The article examined the issue of consent for data processing – as people increasingly expect to receive detailed information about how their data will be used, the challenge of obtaining truly free and informed consent becomes more difficult. The author also investigated such phenomena as the privacy paradox, datafication, profiling and big data analytics. F. Thouvenin (2021) explored whether the idea of informational self-determination could be considered as a basis for justifying the protection of personal data. The article stated that the distinction between data controllers – public authorities and private companies – has significant implications for the legal framework governing the processing of personal data. If governments cannot compel individuals to provide personal information and public authorities are unable to process it without individuals' consent, then a different justification should be developed for private companies that would substantiate an individual's entitlement to control the activities of others. M. Gharib (2022) explained that consent for the processing of personal data had largely become automatic, as individuals often gave consent without realising the implications. At the same time, the author proposed the idea of informed consent, which stemmed from the concept of informational self-determination. L. Vardanyan *et al.* (2024) assigned a decisive role to informational self-determination in ensuring digital identity. The right to informational self-determination was considered as a mechanism that not only facilitated personal data management but also reflected an individual's identity in a digital context. N. Flayyih *et al.* (2025) highlighted the emergence of the right to informational self-determination as a right that enables individuals to control the collection, use, and dissemination of their personal data. The article argued that this right was not merely an extended interpretation of the right to privacy, but rather a way to express individual sovereignty in the digital space. In Ukrainian legal scholarship, the concept of informational self-determination has not been thoroughly researched yet, though scholars occasionally refer to it (Manzhosova, 2022; Radanovych, 2023; Manko & Tskhovrebov, 2025). This could indicate that the meaning of this concept is self-evident. However, such apparent simplicity becomes less evident in deeper consideration. There are even mentions of this concept in discussions about the right to be forgotten (Bielova *et al.*, 2024; Firman, 2025).

The aim of this article was to examine current legal frameworks for the relations regarding personal data protection in Ukraine, focusing on why and how individuals could control the collection and processing of their personal information. The primary objective of this study was to explore the idea of informational self-determination as elaborated by the previously mentioned decision by the Federal Constitutional Court of Germany (Bundesverfassungsgericht Decision..., 1983). Next, informational

self-determination was discussed in its further theoretical developments, searching for the explanation why personal data deserved legal protection as a subject of unique legal status. Various understandings of informational self-determination concept were identified as stemming from the idea articulated in the 1983 decision. The subsequent phase was dedicated to the legal research of Ukrainian legislation concerning data protection.

Materials and Methods

The main research methods were analysis and synthesis – to examine the provisions of the 1983 decision by the German Federal Constitutional Court, structural and logical generalisation – to assess the scope of the implementation of the idea of informational self-determination after it was originally suggested, formal legal method – to determine the legal frameworks for personal data protection in Ukraine, comparative law method – to evaluate the institution of personal data protection with respect to other legal concepts. The general methodology of legal research was used to demonstrate how the concept of informational self-determination is reflected in Ukrainian law, focusing on the legal frameworks for the protection of personal data. This methodology involved both a doctrinal study to select the primary legal sources based on published research (Obukhovska, 2014; Bem & Horodyskyi, 2021; Lehka, 2021; Yavor *et al.*, 2023) and a normative approach to identify and analyse the most relevant provisions of these sources.

In constructing graphic material, the criterion of legal authority was utilised explaining how various normative legal acts as sources of law relate to each other in their impact on social relations. The hierarchy of normative legal acts is typical of Ukrainian legal scholarship, holding that the lower a source is in the hierarchy, the more subordinate it is to other legal acts (Kosovych, 2011). The research materials include Article 32 of the Constitution of Ukraine (1996) as the supreme law, which defines the fundamental principle of respect for privacy, the Preamble and Article 1 of the Council of Europe's Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (2018), which is part of national legislation and occupies a very high place in the national hierarchy, and the Law of Ukraine No. 2297-VI (2010) as special for the field of personal data protection, in particular Article 2 – understanding the concept of personal data, Article 4 – distinguishing between data owners and managers, Article 6 – defining the principles of data processing, Article 8 – ensuring the fundamental rights of data subjects. These principles and rights are the primary mechanisms for monitoring compliance with the fundamental principle of respect for privacy. Among other important legal provisions are Article 21 of the Law of Ukraine No. 2657-XII (1992) and Article 10 of the Law of Ukraine No. 2939-VI (2011). The

materials of the study also contain the Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14 (2018), which, as the example of subsidiary legislation, also affects the relations in the field of personal data protection. The study employed the positivist approach to understanding law that prevails in the Ukrainian legal system. It views law as written rules, the binding nature of which is agreed upon by public authorities.

Results

Why could the German census of population impede exercising control over personal data

The idea of informational self-determination originates from the 1983 decision (Bundesverfassungsgericht Decision..., 1983) by the German Federal Constitutional Court on the legality of the amended Population Census Act (Volkszählungsurteil). The public expressed concerns that the data collected during the census could be used for unknown purposes, in particular for surveillance. As a result, many believed it would be better to refuse participation in the census and boycott it altogether, thereby preventing any unjust interference in their private life. The Court evaluated the legality of this law and, in its assessment, concluded that it was entirely reasonable for individuals to have a legally supported ability to control when and how information about one's private life should be disclosed to others (Hornung & Schnabel, 2008; Rouvroy & Poullet, 2009).

It is important to highlight a key aspect of the Court's decision. The decision referred to the articles of the German Constitution (Bundesverfassungsgericht Decision..., 1983) that addressed the inviolability of human dignity (Article 1) and the right to freely develop one's personality (Article 2). Consequently, the foundation of the idea of informational self-determination was recognised as derivative from a general personal right. The notion of a general personal right concerns the existence of a separate, personality non-property right. It became known to German legal science primarily through the works of Gareis, Gierke, and Kohler. This right was founded on the recognition of both the physical and spiritual-moral dimensions of a person's integrity, with each aspect deserving legal protection. Accordingly, this general personal right manifests itself in specific rights such as physical integrity, freedom, and dignity (Eberle, 1997; Neethling, 2005; Resta, 2014). Paragraph 144 indicates that it is this general personal right that empowers a person to decide independently whether to disclose certain aspects of their personal life and to what extent. Therefore, the well-accepted interconnection between the protection of personal data and the right to non-interference in personal life (inviolability) was highlighted.

A significant prerequisite for introducing the idea of informational self-determination was a shift in the

traditions surrounding personal data processing, as noted by the Court in para. 145. This shift occurred because computerised processing was increasingly replacing or supplementing manual processing. Therefore, personal information could be stored indefinitely and accessed instantly. The era of artificial intelligence has already impacted data processing even more due to a decrease of transparency, the potential for unexpected and unpredictable results, and the possibility of automated information gathering from social networks. Therefore, in 1983 individuals increasingly lack sufficient control over data accuracy and its usage, and of the 2020s – this lack has aggravated. In para. 146, the Court used another term, "individual self-determination", and described it as the freedom for individuals to decide whether to take certain actions or refrain from doing so, and then to act in accordance with those decisions. Thus, it was quite reasonable to assert that the likelihood of an individual's personal data being processed determined the extent to which they could express themselves and participate in social activities. This, in turn, affected the development of a free and democratic society, where individuals did not fear that "non-conformist behaviour" would lead to negative consequences because of their identification based on personal data (para. 146).

At the same time, the Court did not acknowledge absolute and unlimited control over personal data, mentioning overriding public interests. This highlighted the necessity of balancing public and private interests (para. 148). The decision emphasised the importance of defining the boundaries of permissible interference when the state required individuals to provide personal data: which types of information could be collected and used (that is related to the concept of personal data); for what purposes the data might have been used (grounds and methods of processing); how the available technical capabilities for utilising personal data were impacting personal data as a subject of unique legal status (para. 150). The decision demonstrated that various legal regimes might be implemented to protect personal data, in particular for personal information that had not been anonymised, as well as for statistical processing (para. 151). The Court also suggested there was a need to improve the institutional framework by establishing an independent public authority (data protection officer) to oversee compliance with the right to informational self-determination and put into effect preventive legal protection measures (para. 155). Additionally, the significance of ensuring data security and avoiding unauthorised external access was outlined (para. 161) (Bundesverfassungsgericht Decision..., 1983). Over time, this problem has also become increasingly threatening, as more and more valuable personal data is converted to electronic form and stored in appropriate digital repositories. Despite the formal prohibition in criminal codes, *de facto* cyber-crime remains a serious risk to the information security of individuals, private companies, and governments.

Informational self-determination in the XXI century: Idea, conception, right or principle

Based on the analysis of existing research, two crucial roles of informational self-determination should be observed – positive and negative. The concept of informational self-determination is used to positively describe other ideas (Fischer-Hübner *et al.*, 2011; Thouvenin, 2021), justifying what exists or should exist as part of the law (primarily, the protection of personal data). Informational self-determination is also considered a distinct concept, separate from other legal concepts. It is exploited to negatively explain what specifics other concepts, such as property rights, do not encompass. The coverage of the idea in scientific literature, as well as its interpretation, is quite broad and ambiguous. It is unlikely that all scholars using the term “informational self-determination” share the same understanding that was established in the Court’s decision. This allowed to conclude that the idea itself had evolved further and was connected to the term “informational self-determination” as used in research, the meaning of which was somehow related to control over personal data. However, there are strong doubts about whether a widely accepted conception of informational self-determination has been established (comparing to the idea or the concept – of individual’s control over personal data, the conception is a more structured, precise, well-developed notion that encompasses a system of related ideas and concepts).

Explanations of informational self-determination include those that relate to its understanding as the concept: an individual’s capability to identify without coercion which information about them is available and accessible (Buitelaar, 2017); both a right and an opportunity of an individual to determine which information about them is disclosed to others and for what purposes it may be used (Thouvenin, 2021); explanations related to the right: individuals’ authority of controlling and managing their personal data in the context of digital processing that result from a contractual or legal relationship (Flayihh *et al.*, 2025); individual’s right to control information from their privacy deciding what facts about them surroundings will get known, who owns them and how they can be used (Erdosova, 2019). One more understanding involves considering informational self-determination as the principle (Fischer-Hübner *et al.*, 2011; Magrani & Rodrigo de Miranda, 2024). A. Galetta *et al.* (2017) suggested that this principle referred to the idea that the freedom of individuals was jeopardised when they were unaware of what was known about them and which data was being processed.

The idea of informational self-determination, as articulated by the German Federal Constitutional Court (Bundesverfassungsgericht Decision..., 1983), was stated as arising from personal rights – inherently non-economic and inseparable from an individual. These rights

were not treated as commodities that private companies might want to buy or sell; they were not considered objects of commerce. Personal information in the context of this decision should be discussed in relation to the right to free development and respect for dignity. The Constitution of Ukraine (1996) highlights the right to free development of one’s personality in Article 23 and respect for one’s dignity in Article 28. Additionally, the concept being studied is similar to the idea of privacy, which was primarily understood in American legal scholarship. “Privacy” means that any use of personal information should occur in an appropriate manner, with an individual playing a central role in the process. An authoritative explanation was provided as follows: “Privacy is the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others” (Westin, 1967). In the Ukrainian legal system, the closest equivalent to the right to privacy is the right to non-interference in private life – the latter is also sometimes called “right to privacy” (Pankevych, 2017). Article 32 outlines the inviolability of personal and family life (Constitution of Ukraine, 1996).

Along with the studies of the concept itself or those that use the idea of informational self-determination to explain other issues, some scholars confidently employed the term “right to informational self-determination”. For example, S. Faraoni (2023) distinguished two components in the right to informational self-determination: the right of an individual to receive information about intrusions into their privacy and the right to decide when and how personal information (including their thoughts) can be shared. The author also confirmed its recognition at the official level by examples of the Council of Europe’s documents. P. Schwartz (1989), when discussing the right to informational self-determination within the German legal system, referred to the protection of individuals from the unrestricted collection, storage, use, and transfer of their personal data, which was essential for safeguarding personal autonomy and ensuring the ability to self-govern. In no case does this right grant complete control or ownership rights over personal information. For comparison, in one of the latest studies, a group of authors (Flayyih *et al.*, 2025) described the right to informational self-determination as a fundamental human right to the protection of personal data and, explaining its content, analysed the key rights of data subjects. A. Rouvroy & Y. Poullet (2009) characterised the right to informational self-determination as a foundational principle that justified data protection regimes.

What are the current legal frameworks for personal data protection in Ukraine

Based on the positivist approach to law, the legal system of Ukraine acknowledges only those rights which are grounded in provisions of national legislation

including international treaties. The primary legal acts of national legislation that govern personal data protection following the principle of the hierarchy of legal authority are shown in Figure 1. In addition to personal data, Ukrainian law also recognises the concept of confidential information as a subject of unique legal status, which was explained in the Law of Ukraine No. 2657-XII (1992) and encompassed different types of data. In the official interpretation, the Constitutional Court of Ukraine stated that information regarding an individual's personal and family life should be considered confidential. This includes any information and/or data about non-property and property relations, circumstances, events, relationships,

and other relevant details related to a person and their family members. The only exceptions are for information required by law that pertains to individuals holding positions associated with the performance of state or local government functions or other official duties. The collection, storage, use and dissemination of a person's confidential information without their consent by state or local government bodies, legal entities, or individuals constitutes an interference in their personal and family life. Such interference is allowed only in cases specified by law and solely in the interests of national security, economic well-being and human rights (Decision of the Constitutional Court of Ukraine No. 1-9/2012, 2012).

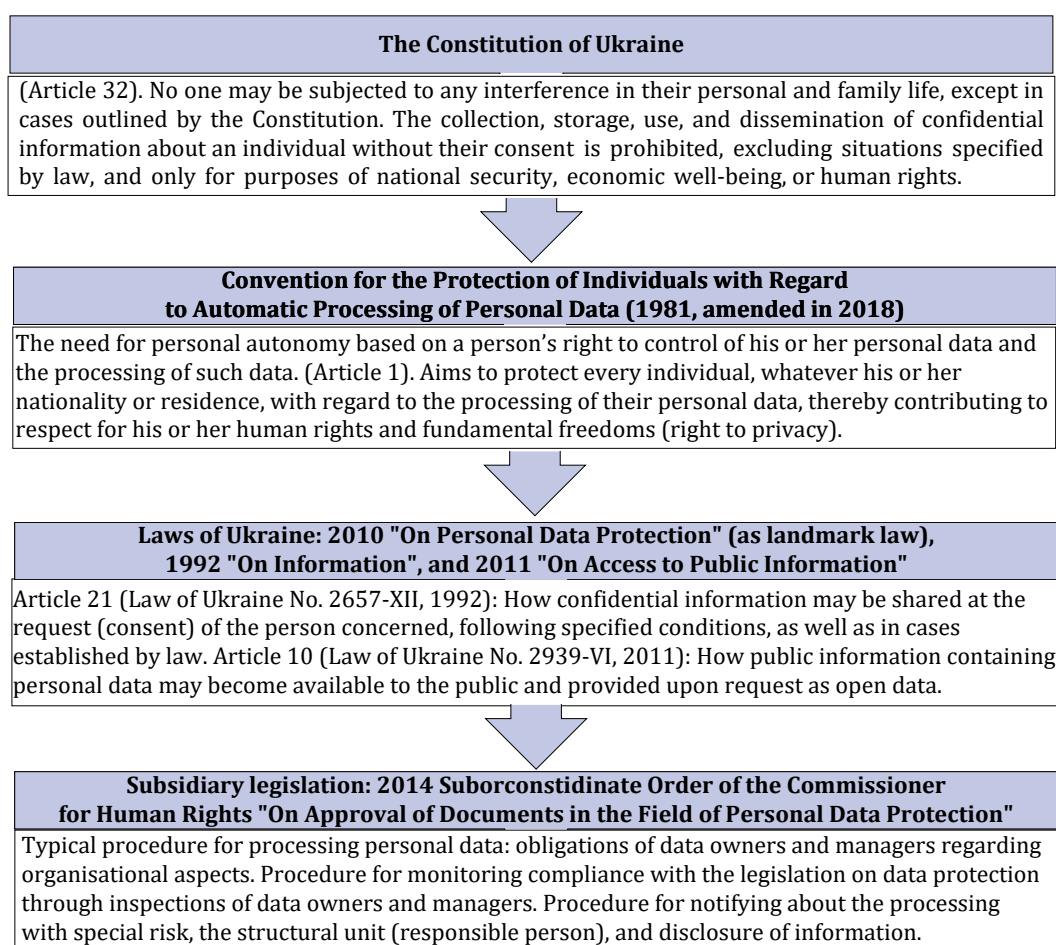


Figure 1. Primary legal acts for personal data protection in Ukraine

Source: created by the author based on Law of Ukraine No. 2657-XII (1992), The Constitution of Ukraine (1996), Law of Ukraine No. 2297-VI (2010), Law of Ukraine No. 2939-VI (2011), Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14 (2018), Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (108+) (2018)

The features of personal data protection in Ukraine, which align with the concept of informational self-determination, can be summarised under the framework of the Law of Ukraine No. 2297-VI (2010). The protection of personal data is grounded in the right to non-interference in one's personal life and is approximated

to confidential information safeguarding. The rules established by this law apply to both public authorities and private companies. In this context, the terms "data owners" and "data managers" refer to those responsible for fulfilling its provisions. The notion of personal data processing covers a wide range of activities, from

collection to destruction. General requirements include important principles such as openness and transparency in processing, accuracy and reliability of data, proportionality in the purpose of processing, and a prohibition on processing confidential information unless in exceptional circumstances.

Furthermore, as another primary mechanism for monitoring compliance with the fundamental principle of respect for privacy, the Law of Ukraine No. 2297-VI (2010) determined the fundamental rights of data subjects. Individuals have the right to know the sources and purposes of their personal data collection and processing, as well as information about data owners and data managers, receive information about access conditions and third-party transfers, and access their personal data. They should obtain a response regarding the processing of their data within thirty days, including its content, and can submit objections to the processing or request changes or destruction of their data if processed unlawfully or inaccurately. They are entitled to protection against unlawful processing and loss of their personal data, file complaints with the Verkhovna Rada of Ukraine's Commissioner for Human Rights or court regarding its processing, seek legal remedies for violations of data protection laws, make reservations concerning the restriction of their consent to data processing, be aware of mechanisms related to automatic processing of personal data, and reject the automated decision-making legally impacting them.

There is no independent body specifically responsible for supervising the protection of personal data in Ukraine. This role has been delegated to the Verkhovna Rada of Ukraine's Commissioner for Human Rights. Until 2014, Ukraine had a dedicated agency, the State Service of Ukraine for Personal Data Protection, to handle these matters (Bem & Horodyskyi, 2021). The processing of "sensitive" personal data is prohibited unless in exceptional circumstances. Ukrainian legislation improvements have been ongoing since 2012 and still continue. Discussions are underway regarding a new version of the law on personal data protection that will both correspond better to the General Data Protection Regulation (Holovatskiy, 2024) and take into account amendments to Convention 10 of the Council of Europe. primary mechanisms for monitoring compliance with the fundamental principle of respect for privacy.

By analysing the current legal frameworks for personal data protection in Ukraine in light of the concept of informational self-determination, several important considerations can be presented. The connection between the institution of personal data protection and the right to non-interference in one's personal life in the Ukrainian legal system differs from the original idea of protecting the so-called general rights of the individual, embodied in the rights to respect for dignity and free development. However, this approach is consistent with the legal traditions of the Council of

Europe and the European Union, and also resonates with the idea of privacy that was primarily understood in American legal scholarship. Moreover, the examination of the 1983 Court's decision may lead to a statement that the protection of personal data is related to other rights guaranteed by the Constitution of Ukraine, including the right to information, freedom of demonstration and assembly, etc.

In Ukrainian law, control over an individual's personal data is based on the principle that the data subject can influence how both public authorities and private companies access and process their information. This is primarily exercised through the rights of data subjects, while an individual's consent remains the predominant form of control over personal data. However, this control is not absolute. In addition to other grounds for processing as stated in Article 11, Article 14 specifies that the dissemination of personal data without the consent of the data subject or their authorised representative is permitted only in cases defined by law. Such cases may pertain to national security, economic welfare, human rights, or the conduct of the All-Ukrainian Population Census as necessary (Law of Ukraine No. 2297-VI, 2010). Ukrainian law has not yet established an independent supervisory authority to monitor compliance with personal data protection legislation. Meanwhile, the Verkhovna Rada of Ukraine's Commissioner for Human Rights is actively engaged in this field (Order of the Verkhovna Rada of Ukraine's Commissioner for Human Rights No. 1/02-14, 2018). In the past, the Commissioner appointed a separate representative for personal data protection (Ozel, 2020). At the present, however, among his representatives, there is one who specifically addresses information rights (Ombudsman of Ukraine, 2025).

The conditions of the ongoing war have made the protection of personal data in Ukraine more complex. Alongside this, Ukraine faces challenges, which are not only relevant to Ukraine but also to many other countries. Among these challenges, subjective and objective issues can be distinguished. Subjective issues include a lack of public awareness regarding personal data and the fundamental principles of its legal protection. People often provide unaware and rather automatic consent for the processing of their personal information, and there is a careless exchange of various types of information on the Internet. Objective issues involve the opacity of data processing methods, the unscrupulous use of personal information by private companies, and unauthorised interference in information systems, which can lead to data leaks. Unfortunately, during the years of war, the personal data of Ukrainians has frequently been exposed to unauthorised access and theft (Poirier, 2024). The German Court's decision also pointed out that technological developments and computerisation strongly affected data processing. This statement is now seen as highly relevant in Ukraine's

legal system, 40 years later. As Ukraine is recognised for its innovations in e-government including Diia (abbreviation from “State and me” in Ukrainian) and several other digital services that access personal data (Tymchenko, 2022), to prevent in the XXI century eventual personal data violations about which the 1983 decision warned, measures aimed at data security of Ukrainians should be strengthened.

Discussion

This study examined the application of the concept of informational self-determination to justify individual rights regarding personal data within the Ukrainian legal system. This is the first study of its kind in Ukrainian academia and contributes to the idea of informational self-determination, proposed by the German Federal Constitutional Court when examining the legality of conducting a census and developed at the doctrinal level. The article defined informational self-determination as an individual's control over the collection, storage, and use of personal information. It raised the issue of balancing the scope of such control with the need for processing data by public authorities in public interests. An analysis of the 1983 decision demonstrated that the legal institution of personal data protection had much deeper roots than in the principle of respect for private and family life. In addition to the connection of informational self-determination with the ideas of privacy and self-development, as well as fundamental democratic values of human dignity, as elaborated by A. Rouvroy & Y. Poullet (2009), findings discovered in the current study also highlighted that the former originally derived from the general personal right known in German legal science.

When asked what information self-determination is – an idea, a concept, a right, or a principle – the answer should be summarised from the state of research, which traces its origins to the suggestion for individuals' expected control over their personal data. It became a widely used concept in foreign research, without becoming a single conception due to different interpretations and applications. The results section outlines various approaches to understanding informational self-determination, emphasising the existing diversity. Among the examples of applications, the following works can be mentioned. J.C. Buitelaar (2017) applied the concept of informational self-determination to personal data of deceased individuals, addressing the issue of post-mortem privacy. On the one hand, a deceased person cannot exercise control over their personal information or assert human autonomy. On the other hand, in an age when modern technology allows individuals' digital presence to persist, this debate must shift from an ethical-moral framework to a legal one, similar to discussions of personal rights. In a separate article, this author also examined the protection of children's personal data through the lens of

informational self-determination (Buitelaar, 2018). In this concept, C. Kodde (2016) found the rationale of a right to be forgotten, which allows individuals to request the deletion of certain personal data. Analysing the legal frameworks in Germany, the author applied both informational self-determination considered as a right and the freedom of expression to explain in legal terms why individuals could control the accessibility of personal information via the Internet. Although this author and other authors (Schwartz, 1989; Faraoni, 2023; Flayyih *et al.*, 2025) even perceived informational self-determination as a separate right, according to the positivist approach, rights are primarily enforced at the level of national legislation. Therefore, informational self-determination is more of a doctrinal asset than a legislative rule – it is premature to call it a right in some legal systems (e.g., Ukrainian one). A more acceptable position is to classify it as a principle (Fischer-Hübner *et al.*, 2011; Stamatellos, 2011), which in its meaning reflects the existence of an individual's informational autonomy. Ultimately, it might be also described as both a right and a principle (Voigtmann *et al.*, 2010).

The concept of informational self-determination can be a useful tool for studying law application practice of Ukrainian courts, especially those at the highest levels of the national judicial system. This concept can be the basis for examining among others the decision of the Supreme Court of Ukraine Decision No. 806/3265/17 (2018). G. Hornung & C. Schnabel (2008; 2009) demonstrated how informational self-determination might serve as a framework for examining more recent decisions from the German Federal Constitutional Court that were directly relevant to maintaining control of personal data – specifically, online searches for computers (surveillance), automatic number plate recognition, and the matter of data retention. The legal frameworks for personal data protection in Ukraine, as presented earlier regarding judicial force, reflect the implementation of the concept of informational self-determination in national legislation. These frameworks share common features with those in other European countries due to the adoption of international standards, particularly those established by the 1981 Council of Europe's Convention (Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, 2018). Furthermore, the organisation of legal sources into a hierarchy – comprising the Constitution of Ukraine, which outlines fundamental rights, specific laws related to the field, and acts of subsidiary legislation – indicates that the processes concerning the collection, storage, and use of personal data are governed by relevant obligations assigned to database owners and managers due to the fulfillment of the principle of respect for individual's privacy.

In addition to the legal acts mentioned earlier, personal data protection is also supported by several criminal law provisions that criminalise identity theft

and other offenses related to personal data. There are three relevant articles in the Criminal Code of Ukraine No. 2341-III (2001) – Article 163, which addresses violations of the secrecy of writing, telephone conversations, telegraph communications, and other correspondence transmitted through communication means or computer systems, Article 182, which pertains to the violation of private life, and Article 361, which concerns unauthorised interference in the operation of computers, automated systems, computer networks, or telecommunications networks, particularly in cases where personal data breaches result from hacking. The Code of Ukraine “On Administrative Offenses” (1984) imposes administrative penalties for illegal processing of personal data (Article 188-39). The amount of the fines associated with violations of personal data protection rules varies depending on whether the offender is an individual, a public official, or a business. The concept of informational self-determination might be helpful for clarifying the determination of legal responsibility in both criminal and administrative law as well as for classifying relevant offenses.

Priorities for the development of Ukrainian legislation on personal data protection are primarily determined by the need to harmonise national law with the EU *acquis communautaire*, in particular the General Data Protection Regulation (Regulation (EU) 2016/679, 2016). The adaptation of the legal frameworks of Ukraine to EU requirements should include organisational and institutional changes, such as the foundation of an independent body to oversee compliance with personal data legislation, ensuring key safeguarding mechanisms law involving processing principles and data subject rights (as defined in articles 5, 12-22 of the GDPR), the establishment of various legal regimes for protection – in the activities of public authorities, solely for law enforcement purposes, for a business, etc. Ukrainian legislation regarding personal data protection needs to be enhanced – it is not a matter of just amending the Law of Ukraine No. 2297-VI (2010), it is a matter of enacting a new version of the law for the field of personal data protection.

Conclusions

The idea of information self-determination is interconnected with the notion of general personal right, the

right to privacy, and the concept of confidential information. On the one hand, an individual's control over personal data should not be absolute – assuming its important role of a prerequisite for the development of the democratic society and the preservation of personal autonomy. On the other hand, the introduction of informational self-determination to explain relevant provisions in law and the various interpretations from its proponents raise doubts about the concept's clarity and consistency. However, informational self-determination contributes to a theoretical foundation for the existence of the legal institution of personal data protection. In the Ukrainian legal system, the protection of personal data is rooted in the fundamental human right to privacy and is encompassed by safeguarding confidential information. A specific law outlines the essential guarantees for protection – the principles of data processing and rights of data subjects. It also establishes the obligations of personal data owners and managers. Acts of subsidiary legislation provide guidance on how to effectively comply with these obligations in practice. Application of data protection legal acts plays an important role in the process of ensuring and safeguarding the effective enjoyment of human rights related to the maintaining the control over personal data. However, there is no independent body dedicated to this purpose, and the existing legislation requires improvements to be aligned with the EU *acquis communautaire*. The concept of informational self-determination is valuable for Ukrainian legal scholarship, given that it is one of the well-known theoretical foundations for personal data protection in global jurisprudence. Further research in this field should involve the commercial aspects of individuals' rights to their personal data, the improving of personal data control when it is processed by modern technologies, and a more detailed criminalisation of personal data breaches.

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Ідея інформаційного самовизначення та захист персональних даних у праві України

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Анотація. Сфера захисту персональних даних набуває все більшого значення в умовах, коли обробка відомостей, за якими може бути ідентифікована особа, стала звичним явищем. Для такої обробки характерний високий рівень автоматизованості, що актуалізує питання про те, наскільки ефективною є охорона персональних даних в епоху штучного інтелекту, відповідь на яке залежить серед іншого від розуміння першопричини особливого статусу персональних даних. Мета статті полягала в тому, щоб у світлі ідеї інформаційного самовизначення розглянути наявний стан правового регулювання відносин у сфері захисту персональних даних в Україні та з'ясувати втілені у ньому особливості здійснення контролю фізичною особою над персональною інформацією. Для досягнення цієї мети використано наступні методи дослідження: аналізу та синтезу, логічне-структурного узагальнення, а також формально-правовий. Визначено, що ідея інформаційного самовизначення пов'язана з обґрунтуванням права особи самостійно приймати рішення з приводу того, чи та яким чином буде доступною для обробки інформація про неї. Проаналізовано, що інформаційне самовизначення, узasadнюючи вимогу невтручання у особисте та сімейне життя, близьке за значенням до приватності як ідеї, та є однією з теоретичних моделей для пояснення природи прав щодо персональних даних. Встановлено, що хоча витоки ідеї інформаційного самовизначення сягають 1983 р., вона досі отримує істотне теоретичне підкріплення для вивчення проблематики захисту даних. Обґрунтовано необхідність вдосконалення законодавства України про захист персональних даних в умовах, коли громадяни України опиняються у ситуаціях, в яких здійснення ними контролю над персональною інформацією стає все складнішим. Результати мають значення для правотворчої та правозастосувальної діяльності у сфері захисту персональних даних, а також – подальших наукових досліджень

Ключові слова: приватність; невтручання у приватне життя; федеральний конституційний суд Німеччини; закон України «Про захист персональних даних»; штучний інтелект; обробка персональних даних