



ЦИФРОВЫЕ
ТЕХНОЛОГИИ
И ПРАВО

DIGITAL IDENTITY AND ITS PROTECTION IN FRANCE

Цифровая идентичность и ее защита во Франции

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Digital identity is and remains an elusive and above all constantly evolving concept for the law.

There is currently no satisfactory legal definition of digital identity to understand the richness of the concept, indeed, the few legislative or regulatory texts that refer to digital identity ultimately deal only with the notion of "personal data", and only with this notion.

For example, the **French law called "Law for a Digital Republic" of 7 October 2016** is limited in its final version to linking this concept to that of the "digital safe", without providing the precise contours of this identity.



Three areas of the guarantee of legal protection

- Protection of personal data



- Banking secrecy, as an element of protection of the identity of customers and third parties



- Theft of digital identity as a crime



A digital person is part of the concept of a legal entity, digital identity cannot radically differ from legal identity

The digital identity suffered by the individual Legal identity has traditionally been designed in relation to the civilian police function assigned to it. Each person is identified and individualized on the basis of biological and social characteristics, the list of which varies from country to country.

According to French law, the composition of the status of persons is mainly a matter of civil and family status transcribed within the acts of civil status.



European Parliament of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market (EIDAS)

Regulation 2019/1157 of the European Parliament and of the Council of 20 June 2019 is transposed into national law



Digital identity mastered

Ways to change digital identity :

1. Change of surname and name (the person himself can change)
2. Change in sex (in accordance with the procedures of French law on November 18, 2016)
3. Using pseudonym
4. Using avatar on social networks
5. The use of special filters to correct photos
6. Formation of a personality profile in social networks in accordance with the target audience, etc.

Digital personality

The person has a right of access to personal data, "rectification", "erasure", "limitation of processing", "data portability", opposition to data processing.

A digital person realizes the fundamental ability of a person: the ability to conclude a contract. In addition, he must be able to answer for his contract as soon as liability expresses the ability to oblige.

There is nothing to exclude the application of a general civil liability regime for damage caused in the digital sphere, since digital damage remains damage.

Protection by banks and banking secrecy

Banks have long been the reference for identity and financial information. To open an account, obtain a loan or approve a mortgage application, banks must have accurate information about the person's creditworthiness and employment.

Banks hold valuable insights into revenues and consumption patterns over decades.

The second European Payment Services Directive (PSD2), in force in the European Union since 13 January 2018, includes a set of regulatory provisions aimed at regulating the provision of payment services and strengthening the security of payments at European level.

Banking institutions must improve their infrastructure of identification and authentication

Removing fingerprints: Determine the user authentication device using the time zone of the IP -address, the operating system, browser, browser fonts and screen sizes.

Behavioral analytics: the use of data on previous transactions of customers to determine the risk of fraud for each new transaction.

Behavioral biometrics: monitoring of key keys, mice dynamics and a set of users when viewing banking to establish a behavioral biometric profile and detect a change in profile.

Banking secrecy

The banker is responsible for checking the personality and contact details of the owner of the account within the framework of his duty.

The bank is responsible to third parties in case of violations, even in case of simple negligence.

Banking secrecy in France was introduced by the Law of January 24, 1984 and falls into the category of professional secrets.

Violation of banking secrecy is punishable by criminal law (1 year of prison and 15,000 euro). Banking secrecy is a means of ensuring personal data and digital identity

Спасибо за внимание !

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