



# NATIONAL CENTER FOR PERSONAL DATA PROTECTION OF THE REPUBLIC OF MOLDOVA

## ACTIVITY REPORT FOR THE YEAR 2019

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## CHAPTER I

## GENERAL PRESENTATION

## Year 2019 in numbers

## ACTIVITY OF CONTROL

376 initiated controls  
188 contravention cases  
105 minutes  
32 cessation/destruction decisions  
26 suspension decisions



## REQUESTS / COMPLAINTS

10468 processed documents  
4982 inbox  
4217 outbox  
526 internal  
743 examined complaints

ACTIVITY OF REPRESENTATION  
IN THE COURTS

852 court proceedings  
272 in administrative litigation  
580 in contravention proceeding



## SURVEILLANCE ACTIVITY

1652 examined notifications  
654 registered controllers  
944 registered personal data filing systems  
708 refused decisions

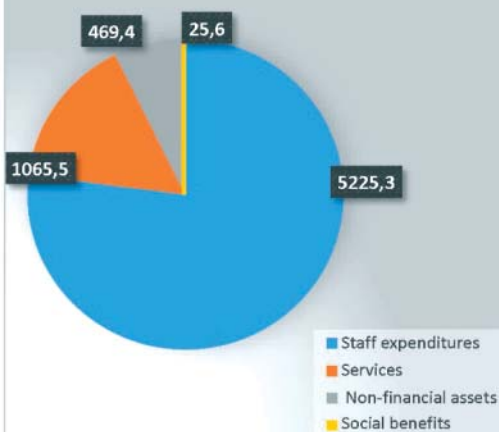
INFORMATION AND AWARENESS –  
RAISING ACTIVITY

1465 consultations for controllers  
75 training activities  
3442 trained persons  
129 articles/press releases on the web page  
6500 views on Facebook/Center web page



## HUMAN RESOURCES

33 out of 45 staff-limit  
23 training courses  
3 internal  
20 external

BUDGET ALLOCATIONS  
2019 (thousand, MDL)



*General presentation in figures and in dynamics of the year 2019,  
in comparison to the years 2017 and 2018*

No. ord	Category	2017	2018	Dynamics 2017-2018	2019	Dynamics 2018-2019
1.	Requests/complaints	554	637	↑15%	743	↑17%
2.	Processed documents inbox/outbox	6692	8361	↑25%	10468	↑25%
3.	Initiated controls	367	326	↓9%	376	↑15%
4.	Contravention cases	84	191	↑227%	188	↓1,6%
5.	Minutes on contravention drawn up	52	92	↑77%	105	↑14%
6.	Court proceedings on the administrative litigation and on contravention proceedings	357	426	↑19%	852	↑100%
7.	Decisions on suspension / cessation of data processing operations and destruction / erasure of data processed illegally	19	47	↑247%	58	↑23%
8.	Examined notifications	1142	1388	↑22%	1652	↑19%
9.	Registered controllers	500	639	↑28%	654	↑2%
10.	Registered personal data filing systems	843	938	↑11%	944	↑1%
11.	Decisions to refuse registration/ authorization in Register of evidence of personal data controllers	203	451	↑222%	708	↑57%
12.	Requests for cross-border transmission, including notifications submitted to the «one-stop-shop»	52	81	↑56%	81	–
13.	Consultation for legal entities	700	1144	↑63%	1465	↑28%



## CHAPTER II

EXAMINATION OF REQUESTS  
ADDRESSED TO THE CENTER

II

EXAMINATION OF REQUESTS ADDRESSED TO THE CENTRE

## 1. Examination of correspondence

*Comparative statistics of the Center's correspondence documents, for the years 2014-2019*

Year	Total correspondence	Inbox documents	Outbox documents	Complaints	Internal documents
2014	4361	1738	1836	302	485
2015	5408	2425	2098	420	465
2016	5654	2811	2055	410	374
2017	6692	3605	2455	554	316
2018	8361	4180	3113	637	431
2019	10468	4982	4217	743	526

During 2019, the activity of the Center determined the examination of **10468 correspondence documents**. The analysis of the information above reflects **the increase in the number of correspondence documents examined by the Center during 2019** compared to the figures of the same chapter for the previous reporting periods. On the one hand, this fact undoubtedly demonstrates the raising of the level of the society knowledge regarding the importance of the field of personal data protection and, on the other hand, determines the steady and substantial increase of the employees' workload.

*Information in dynamics on the correspondence of the Center, for the years 2014-2019*

Reference period	Total correspondence	Dynamics
2014-2015	4361-5408	↑24%
2015-2016	5408-5654	↑5%
2016-2017	5654-6692	↑18%
2017-2018	6692-8361	↑25%
2018-2019	8361-10468	↑25%
Dynamics between the years 2014-2019	4361-10468	↑140%

## 2. Examination of personal data subject's complaints

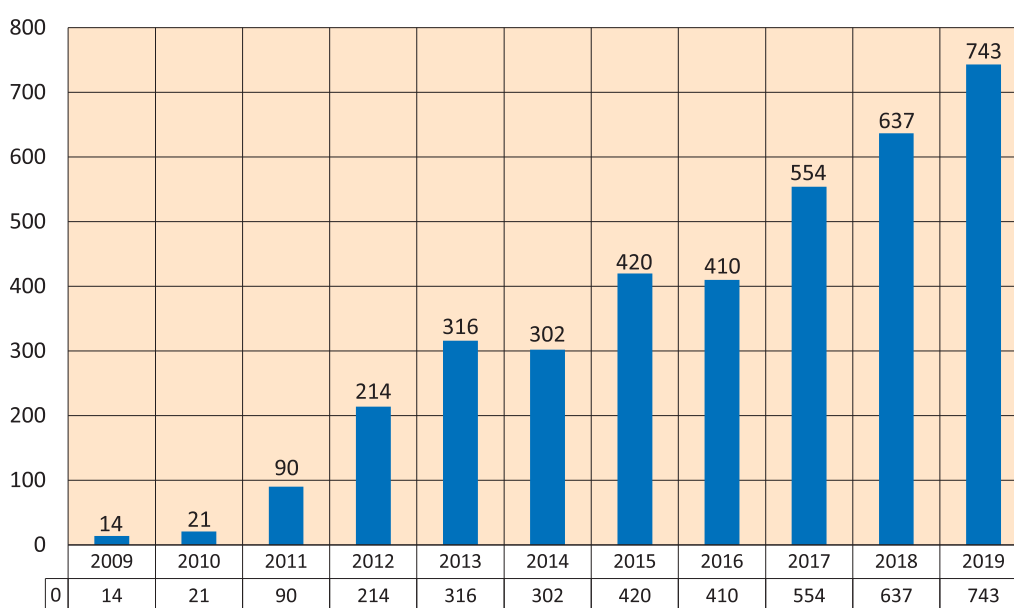
According to Art. 27 of the Law on personal data protection, the data subject, considering that his / her processing of personal data is not in accordance with the requirements of the law, may submit to the Center a complaint within 30 days from the date of the infringement.

During the referring period, the Center examined **743** complaints received from natural persons – subjects of personal data.

In this context, it should be noted that with the raising of the citizens information in the field of personal data protection, as a result of the multiple awareness-raising campaigns achieved during 2019, the number of complaints submitted for examination to the Center increased.

Compared to the previous reporting year (637 complaints registered), during 2019, the Center registered 17% increase in the number of complaints received.

**Number of complaints, 2009-2019**



At the same time, increasing the number of complaints addressed to the Center, as well as the diversity and complexity of the issues addressed, demonstrates the increased degree of importance of the field of personal data protection within the social framework. In this regard, the culture of the society in the field of personal data protection, being on the rise.

**Information in dynamics on the complaints addressed to the Center, for the years 2016-2019**

Reference period	Total complaints	Dynamics
2016-2017	410-554	↑35%
2017-2018	554-637	↑15%
2018-2019	637-743	↑17%
<b>Dynamics between the years 2016 – 2019</b>	<b>410-743</b>	<b>↑81%</b>

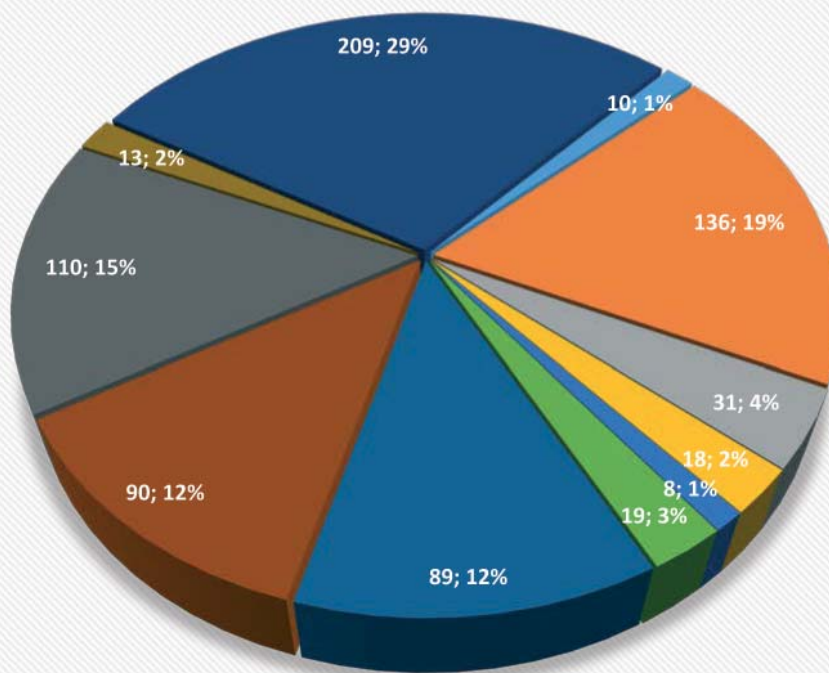
From the total number of complaints registered in 2019, 295 cases were examined in a complex way, regarding the control over the lawfulness of the processing of personal data.



From the specifics of the complaints addressed, the Center emphasized the following guidelines of the mentioned topics:

- ✓ Processing of personal data in the medical field: **10** cases;
- ✓ Processing of personal data through video / audio surveillance systems: **136** cases;
- ✓ Processing of personal data by unregistered controllers: **31** cases;
- ✓ Processing of personal data in the electronic communications sector: **18** cases;
- ✓ Processing of personal data of minors: **10** cases;
- ✓ Processing of personal data by the method of publication of court decisions without depersonalization: **8** cases;
- ✓ Processing of personal data in the financial sector, insurance companies: **19** cases;
- ✓ Processing of personal data in the on-line environment and the media: **89** cases;
- ✓ Processing of personal data in the public sector: **90** cases, which includes also law enforcement authorities (76 cases);
- ✓ Processing of personal data in the absence of the consent of the personal data subject, as well as in the absence of any other legal basis: **110** cases;
- ✓ Disclosure, transmission and dissemination of personal data admitted by controllers: **13** cases;
- ✓ Enforcement of personal data subjects' rights (access, information, intervention, opposition): **209** cases.

## General situation regarding complaints examined in 2019



- Processing of personal data in the medical field
- Processing of personal data through video / audio surveillance systems
- Processing of personal data by unregistered controllers
- Processing of personal data in the electronic communications sector
- Processing of personal data by the method of publication of court decisions
- Processing of personal data in the financial sector
- Processing of personal data in the on-line environment and the media
- Processing of personal data in the public sector
- Processing of personal data in the absence of the consent of personal data subject, as well as in the absence of any other legal basis
- Disclosure (dissemination) of personal data and violation of personal data subject's rights admitted by controllers
- Enforcement of personal data subjects' rights (access, information, intervention, opposition)



## CHAPTER III

## ACTIVITY OF CONTROL

## III

*Comparative information of the control activity, for the years 2016-2019*

Period	Number of controls initiated based on complaints / notification, requests for cross-border transfer	Acts issued as a reaction to controls				
		decisions on suspension of personal data processing	decisions on cessation of personal data processing	decisions on destruction / erasure of data processed in the breach of law	Cases of contraventions found and minutes issued	
					cases	minutes
year 2016	247	18	11	2	66	33
year 2017	367	10	3	6	84	52
year 2018	326	16	4	27	191	92
year 2019	376	26	8	24	186	105

The conformity control of personal data processing with the requirements of the Law on personal data protection is performed exclusively by the National Center for Personal Data Protection and may be initiated:

- on the basis of the complaint of the data subject,
- complaints /self-notification,
- request of cross-border transmission of personal data.

During the reference period, **376** control materials were initiated and examined, of which:

- **295** based on the complaints of personal data subject, notifications/ex- officio notifications,
- **81** based on the cross – border transmission of personal data authorization requests.

The comparative analysis in relation to the previous year reveals that during 2019 it was noticed an increase the number of controls initiated on the basis of the complaints submitted by personal data subjects. Here, it should be emphasized that, in many cases, the verification of the conformity of personal data processing based on the complaints of personal data subjects, was initiated due to the fact that the data subjects achieve their rights established by Art. 12-14 and Art. 16-17 of the Law on personal data protection including the right of access to personal data, directly to the personal data controllers, or in case the personal data controller / controllers refused, unmotivated, to comply with the legal provisions.



This shows the raising of the level of knowledge of data subjects' rights and the way to achieve them, as well as increases awareness regarding the importance of personal data protection by the actors involved.

It is relevant to mention, the tendency of increasing the complexity of the issues addressed in the complaints and the number of parties involved in the case, thus generating a variety of control actions to be taken in order to verify the lawfulness of personal data processing, which become more voluminous and complicated.

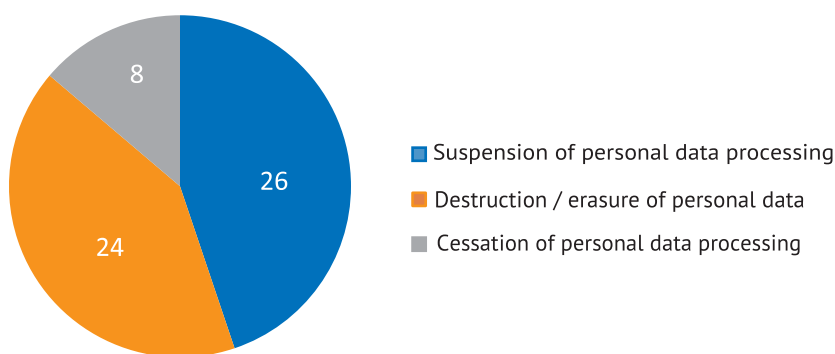
***Number of issued decisions / finalized cases during the years 2017-2019***

Reference period	Number of issued decisions	Dynamics
2017-2018	237-256	↑8%
2018-2019	256-367	↑43%
Dynamics between the years 2017-2019	237-367	↑55%

In 2019 controls on the lawfulness of the processing of personal data were carried out, in most cases ex officio being applied the written procedure for obtaining the necessary information to examine the non-compliance invoked and the settlement of the cases notified.

Thus, it should be mentioned that as a result of the control materials examined by the Center and finalized with the finding of a violation of the legal provisions in the field of personal data protection, depending on the consequences resulting from the admitted violations and the seriousness of the violations found, the following measures were ordered:

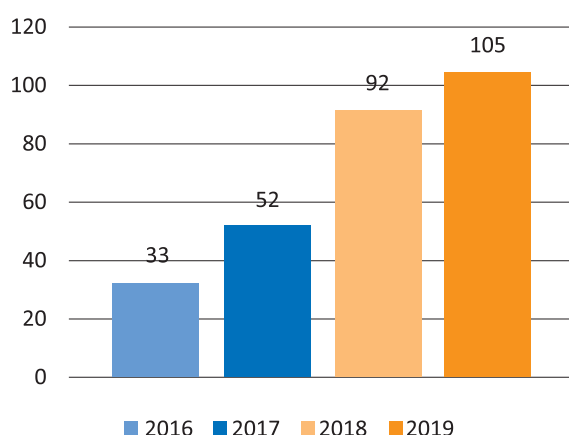
***Constraint Measures***



At the same time, according to the control activity carried out as an ascertaining body, according to the facts stated in Articles 74<sup>1</sup> – 74<sup>3</sup> of the Contravention Code regarding the violation of the legal provisions in the field of personal data protection, during the year 2019, **105** minutes were drawn up regarding the offense, **188** contravention facts being established, the contravention cases being sent for examination in the Court, according to the provisions of the Contravention Code. The dynamics of minutes on contravention number drawn up for the period 2016 and 2019 is reflected in the following diagram:

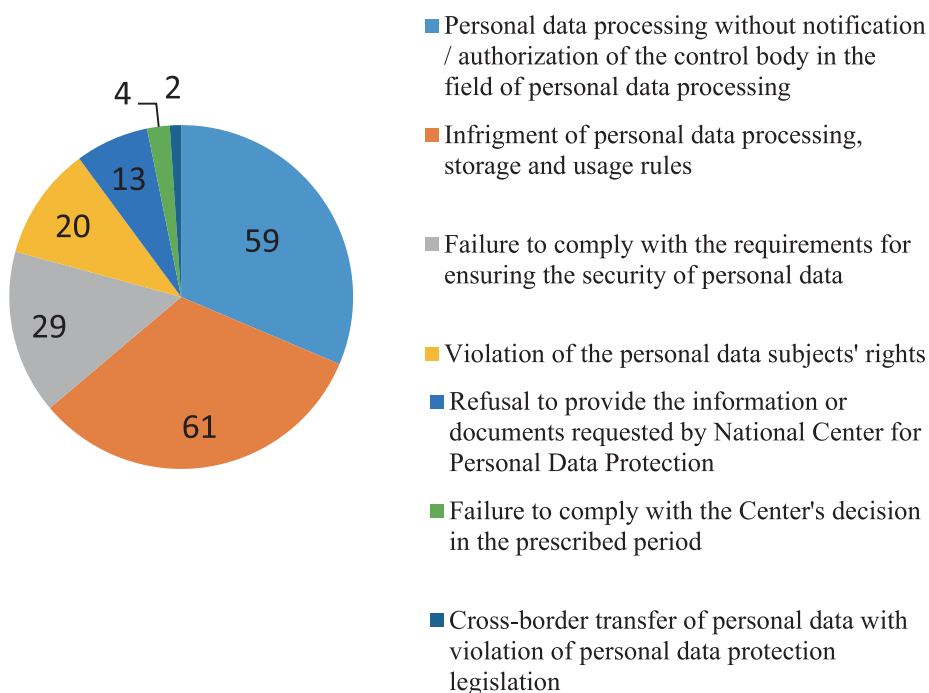


### *Dynamics of minutes on contravention drawn up*



The graphical table of contravention cases identified in the processing of personal data reflect the following aspects:

### *Contravention cases*



### **Authorization of personal data cross-border transfer operations**

Regarding the activity related to the authorization of personal data cross-border transfer, in the light of the provisions of Art. 32 of the Law on personal data protection, it is important to reiterate that the cross-border transfer of personal data which are object to processing or to be processed after transmission can only take place with the authorization of the Center, in the manner established by law and only in the case in which the state of destination ensures an adequate level of protection of data subjects' rights and data intended for transfer.

In this context, it is important to specify that the Center continues to pay particular attention to the cross-border flow of personal data of individuals on the territory of the Republic of Moldova, while also contributing to the improvement of the quality of the cross-border transmission



of personal data between the public authorities of the Republic of Moldova and the public authorities of other states.

In this respect, in 2019, the Center authorized the cross-border transfer of personal data only in cases of suitably documented requests made by the actors involved, focusing on respecting the principles of personal data protection and the rights of data subjects concerned, as well as on the proof of ensuring the optimal level of protection of the data transmitted and / or collected for the purpose of further processing outside the Republic of Moldova.

At the same time, in the context of the activity revealed above, it should be that the demarches and notifications examined by the Center were related to public and private entities from countries such as: Ireland, Romania, Germany, Italy, Latvia, Switzerland, Belgium, Hungary, Sweden, France, England, Russia Federation, Montenegro, Denmark, Greece, Holland etc.

Therefore, in 2019 the Center received **81** requests concerning the cross-border transfer of personal data, of which **52** – based on requests and **29** through notifications submitted at the Center's "one-stop-shop". Thus, from 52 demarches, in 26 cases, the cross-border transfer of personal data was authorized and in other 26 cases, the requests were resolved by issuing refusal decision in authorizing the cross-border transfer. Of the total number of notifications regarding the intention to cross-border transfer of personal data, 16 cases were authorized and 13 were refused.

The refusal to authorize the cross-border transfer of personal data was determined, as in the previous reporting period, by the non-compliance with the basis conditions of the requests submitted for examination and / or lack of authenticated copies of the documents confirming the circumstances and legal instruments on which the request for legal assistance is based.

In this context, in the part regarding the non-compliance with the basic conditions of the demarches / requests for cross-border data transfer, aspects such as: lack of consent of the data subject concerned; invalid consent for certain operations indicated in the request; the lack of a determined, legitimate and non-excessive purpose in relation to the data processing operations that were intended to be performed; the unjustifiably large number of targeted subjects or the excessive volume of data that the controller intended to process and transmit in the context of cross-border transfers of personal data, are highlighted.

Regarding the cases of refusal to authorize the cross-border transfer of personal data base on a notification submitted to the Center's "one-stop-shop", it was noted that the description of the operations of personal data processing was not described, that the data protection measures were not indicated within the filing systems or lack of controller's instructions designed to processor to act on its behalf, etc.

### The specific cases of 2019

The coverage of the examples of infringements found within the control procedures carried out by the Center aims to inform the personal data controllers and the society about the cases of infringements committed by entities from different fields of activity, based on concrete examples, **to ensure the non-admission of similar infringements by other actors involved in the processing of personal data.**

Thus, based on the multiple cases of infringements found by the Center as a result of the control procedures carried out during the reference year, we highlight the following cases / issues specific to the field of personal data protection:



### Personal data processing via Messenger, Instagram, Viber by the subdivisions of the Ministry of Internal Affairs (MIA)

In 2019, the Center carried out the control over the conformity of the processing of personal data by the Law Enforcement in Republic of Moldova (GPI and other subdivisions of the Ministry of Internal Affairs) via “Viber”, “Instagram”, “Messenger”, “Telegram”, etc., in exercising of their professional tasks.

On the basis being several complaints of personal data subjects who invoked the non-compliant processing of their personal data, by the representatives of the law enforcement bodies, via applications mentioned above.

The Center noted that, in the automated processing of personal data, the data controller and the processors must guarantee the implementation of measures capable of:

- deny unauthorized cross-border transfer of personal data;
- deny unauthorized persons access to data processing equipment used for personal data processing – *equipment access control*;
- prevent any unauthorized reading, copying and modification of personal data;
- prevent the storage of personal data on an excessive term for the purpose and under conditions that do not ensure their security – *storage control*;
- prevent unauthorized use of processed personal data – *use control, data access control*;
- ensure that it is possible to verify and identify to which bodies personal data may be available or may be transmitted – *communication control*;
- prevent the unauthorized reading, copying, modification or deletion of personal data during transmission of personal data or during the transport of data, from one server to another – *transport control*;
- ensure the functionality of the system, reporting the malfunctions (reliability) and the impossibility of corruption of stored personal data, due to the malfunctioning of the system – *integrity*;
- use only governmental communication platforms in exercising of their professional tasks, etc.

At the same time, through the Instructions regarding the processing of personal data in the police sector, approved by the Center, Order no. 17 of 31 May, 2013, in the case of the disclosure of the electronic format of personal data contained in the criminal, contravention and / or civil records, via communications networks or on other digital storage, it will be ensured the encryption of this information or it will be examined the possibility of using a bilateral connections via VPN secure channel. [...] If the communication networks pose a risk to confidentiality and security of personal data, there will be used traditional methods of transmission. Provision that was not respected by the personal data controller in the reference case.

As a result, the Center found the infringement of Art. 4, 5, 29 and 30 of the Law on personal data protection in the circumstances of the examined case and ordered the immediate and definitive cessation of personal data processing operations by Law Enforcement in the Republic of Moldova (GPI and other subdivisions of the Ministry of Internal Affairs), via “Messenger”, “Viber”, “Instagram” and via any other non-governmental platforms for virtual communication, in exercising of their professional tasks.

Moreover, following the examination of the case described above, the Center submitted demarches to: General Prosecutor's Office, Security and Intelligence Service, National Anticorruption Center, Ministry of Defense, Customs Service, State Fiscal Service, as well as Parliament and Government of the Republic Moldova, by which informed about the detected issues and requested the information regarding the method / connection of personal data transmission to third parties or recipients and if, in this regard, social networks or applications such as "Messenger", "Instagram", "Viber" are used.

In addition, the Center requested to the nominated entities proactive and continuous monitoring of the diagram regarding personal data security breaches, in order to detect and signal the possibility of incidents and the need of regulatory incidents management policy. However, it is remarkable that, given the current state of the technologies and the costs of their implementation, taking into account the nature, scope, context and purposes of the processing of personal data, as well as the risks with different degrees of probability and severity regarding the rights and freedoms of natural persons, personal data controllers and processors, must guarantee the implementation of appropriate technical and organizational measures to ensure a level of security appropriate to the risks, in particular, regarding the processing of special categories of personal data.

### Processing of personal data in the Local Documents Registry



The Center was notified by a data subject, who complained the non-conforming processing of his / her personal data by a local public authority of level II, manifested by publication in the Local Documents Registry (LDR) of administrative documents issued by the authority, in particular individual provisions, without depersonalization of personal data.

Following the examination of the case it was determined that, during the process of placing in the LDR of administrative document containing personal data regarding the data subject, the authorized employee

of the controller – responsible for the registration and publication of the administrative documents of the authority in the LDR, was obliged to depersonalize the administrative acts – by concealing personal data, in accordance with the provisions of the Regulation regarding the Local Documents Registry, approved by Government Decision no. 672 of 28 August, 2017, thus ensuring the compliance with the principles of personal data protection established by Law no. 133 of 8 July, 2011 on personal data protection.

As the Regulation regarding the Local Documents Registry established clear rules regarding the publication of administrative document containing personal data, including the obligation of the authorized employee to comply with the requirements of the Law no.133 of 8 July, 2011 on personal data protection by depersonalizing the act, it was established with certainty that the employee had the legal obligation to process personal data concerning the data subject, contained in the administrative documents issued by the LPA, in accordance with the provisions of Art. 4 of the Law on personal data protection and to ensure the confidentiality and security of personal data in the Registry, as established in Art. 29 of the Law on personal data protection.

In this case was established the infringement of the provisions of Art. 4 par. (1) a) And Art. 29 of the Law on personal data protection by the authorized employee of the LPA, being drawn up minutes on contravention provided by Art. 74<sup>1</sup> par. (4) of Contravention Code.



### Processing of personal data in the electronic public procurement system „MTender”

A special case, examined during 2019, regarding the control competences of the Center aimed at publishing personal data on the *mtender.gov.md* platform. During the control of the compliance of personal data processing based on a complaint, the Center found that both on the informational web portal *www.mtender.gov.md* and on the platform connected to the electronic public procurement system MTender – *www.achizitii.md*, the following documents of data subject were available:

1. The complete copy of identity card without depersonalisation;
2. The complete copy of work card without depersonalisation;
3. The complete copy of Curriculum-vitae without depersonalisation;
4. The complete copy of study diploma, without depersonalisation etc.

It was also identified that the set of documents numbered above included the following personal data of the data subject that **became public on the Internet search engines**, through the platforms *mtender.gov.md* și *www.achizitii.md*:

1. Surname;
2. State identification number (IDNO)
3. Data regarding identity card;
4. Holographic signature;
5. Date of birth;
6. Home address;
7. Blood type;
8. Data regarding education and previous jobs.

According to the case, following the realization of the rights of personal data subject regulated by Law 133/2011 on personal data protection, the controller did not realize the rights of data subject and did not take the necessary measures to remove his / her personal data from the online environment and from the public availability environment.

During the examination, it was established that, when processing personal data within the Mtender system, the controller is obliged to ensure the practical implementation of the principles stipulated in Art. 4 of the Law on personal data protection, namely:

- a) to ensure the processing of personal data fairly and lawfully;
- b) to ensure the collection of personal data for specified, explicit and legitimate purposes;
- c) to ensure the processing of personal data in an adequate, relevant and not excessive way in relation to the purposes for which they are collected and/or further processed;
- d) to ensure the processing of personal data in an accurate way and, where necessary, kept up to date. Data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified;
- e) to ensure the storage of personal data kept in a form which permits identification of personal data subjects for no longer than is necessary for the purposes for which the data were collected and further processed.

From the point of view of the rights of personal data subjects and pursuant to Art. 14 of the Law on personal data protection, the controller was obliged to satisfy immediately the request of the data subject in the part concerning the deletion of personal data from the public space.

As a result of the case mentioned above, the Center ascertained the infringement of the provisions of Art. 4, 14, 23 and 30 of the Law on personal data protection by the controller, disposing:

- removing all non-conformities found,
- implementing the necessary organizational and technical measures to prevent cases of publishing personal data on public procurement system (for example: mtender.gov.md, www.achizitii.md), ensuring the right balance between the transparency of the public procurement process and the personal data protection,
- the establishment of the appropriate measures to guarantee the respect of the rights of data subjects provided by the Law on personal data protection.

### Cases concerning the unauthorized access of personal data from automated information systems managed by private entities

#### Case 1



The Center received a notification claiming the unauthorized disclosure, by unknown persons, from the information system managed by a company, of a file containing personal data (name, surname, IDNO, salary, etc.) of 338 natural persons, employees of a client, which is served by the given company.

During the examination of the case, it was established that the security incident occurred by stealing the file with the .pdf extension containing personal data of the citizens of Spain and other European Union States.

In the process of identifying the persons responsible for the disclosure of personal data, the Center requested the support of the General Police Inspectorate as well as of the telecommunications service provider for determining the IP address of the device from which the illicit action was committed.

In this case, as a result of legality verification of the processing of personal data, the Center found infringement of the provisions of Art. 30 of the Law on personal data protection by a former employee of the company that submitted the notification, thus violating the requirements regarding the security of personal data at their processing within information systems.

In addition, given the fact that the company concerned was not registered as data controller and did not notify the personal data filing systems, the Center found infringement of Art. 23 of the Law on personal data protection, being drawn up minutes on contravention provided by Art. 74<sup>1</sup> par. (2) of Contravention Code.

#### Case 2

Following the examination of the complaint of a data subject, as well as of the information accumulated by the Center over time, it was established that the *html code* of the mechanism for submitting online loans application by a non-banking credit organization, (hereinafter N.C.O), which was available on a web page (hereinafter web page 1), was subsequently taken from an older web page (hereinafter web page 2) of the company in question.

Thus, it was established that web page 2, easily allowed the viewing of copies of identity cards and other documents of potential clients and / or clients of the N.C.O, contrary to the principles of personal data protection.

Taking into account the circumstances, as well as the fact that this incident concerned an imposing number of data subjects, the Center carried out the rigorous checks.

As a result of examining the case, it was established the non-compliance of N.C.O. with the provisions of Art. 4 par. (1) a) and Art. 30 of the Law on personal data protection and the Requirements for the assurance of personal data security at their processing within the information systems of personal data, approved by Government Decision no.1123 of 14 December, 2010, being drawn up minutes on contravention provided by Art. 74<sup>1</sup> par. (1) and (4) of Contravention Code.

In this context, the Center obliged N.C.O. to increase the technical and organizational measures related to personal data protection and periodically verify the ability to monitor the events related to personal data filing systems containing personal data of clients or potential clients, in order to detect, at the right time, the attacks or intrusions on them.

### Publication of court decisions without depersonalization



During the reporting period, the Center registered more and more complaints regarding the violation of the principles of personal data protection when publishing court documents on the national web sites of the courts, further being reflected, as an example, one of the cases examined.

Thus, the Center registered the complaint of a citizen regarding the violation of the principles of personal

data protection, by publishing a sentence issued in a criminal file on the Courts' Web Portal, without having depersonalized the data regarding the domicile of the complainant. These actions contravene the provisions of the Law on personal data protection, as well as the Regulation on the publication of court decisions on the Courts' Web Portal and on the website of the Supreme Court of Justice, approved by the Superior Council of Magistracy.

As a result, the Center found the violation of Art. 31 of the Law on personal data protection by the judicial assistant, responsible for publishing the sentence in question on Courts' Web Portal, in the context being concluded a minute on contravention on the constitutive signs of the contravention provided by Art. 74<sup>1</sup> para. (4) of the Contravention Code.

*At the same time, as a result of the cases examined regarding the problem addressed, the Center disposed the Superior Council of Magistracy, the Court of Appeal of Chişinău, the Municipal Court of Chişinău, etc. to take organizational and technical measures to prevent the non-conformity of processing of personal data within the courts, including the warning of the presidents of all the national courts on the problems found in the examined cases, in order to ensure the compliance with the provisions of the Law on personal data protection, the Law on the judicial organization and the Regulation on the publication of the judgments on the Courts' Web Portal and on the web page of the Supreme Court of Justice.*

*In the same context, it should be mentioned that the Center organized with the Chişinău Municipal Court and other territorial courts, training courses for judges, judicial assistants, and registrars in*

order to ensure the proper processing of personal data in the judicial activity, including at publication of court documents on the Courts' Web Portal.

### Cases of non-compliant personal data processing of minors

#### Case 1



The Center received the demarche of the Ombudsman for Children's Rights, where the processing of personal data by a news portal was notified. The case was materialized by collecting, recording and disclosure by dissemination of video recordings, containing images of several children from a preschool institution.

According to the videos collected, recorded and disclosed by dissemination to the public through the online environment, video images of several children from the pre-school institution were captured, without taking

into account the danger to life, bodily integrity, mental health, as well as the human dignity of the children present in the video sequences.

At the same time, when posting video sequences on the news site, the blurring of the faces of the minors was not ensured, their image being clearly visible, which allows the identification of the minors, and can generate serious emotional consequences on the minors, as well as on their whole family. In addition, the mentioned post was taken over by other media sources and distributed on various social networks.

It is noteworthy that, through the disclosure by dissemination to the public of the video recordings that integrate the personal data of several children, the news portal admitted the disclosure of a certain volume of personal data, such as: the image, the voice, the gender, place of birth, address (residence) of children, contrary to the provisions of art. 4 paragraph (1) let. a), b) and c), Art. 5 paragraph (3), Art. 29 paragraph (1) let. a) and b) and para. (2) of the Law on personal data protection.

#### Case 2

The Center examined the complaint of a data subject, as a legal representative of the minor, by which it requested the examination of the legality of the processing of personal data by a natural person, manifested by posting on the social networks to its personal profile the image of the minor (photo/video) accompanied by a message, which contained categories of personal data, such as: first name, age, home address, place of study, private life events.

The Center found that the special law on personal data processing prohibits the processing of personal data of the minor by the natural person concerned, by distributing on the social networks the categories of personal data mentioned above, in the absence of the consent of the legal representatives of the minor.

Consequently, the Center established that the natural person was obliged to comply with Art. 29 of the Law on personal data protection, which establishes the requirements for ensuring the confidentiality of personal data.



In its decision, the Center also took into consideration the case law of the European Court of Human Rights, *Bogomolova vs. Russia* (application no. 13812/09), which examined the use of the image of a minor without the permission of the parents. In the present case, the European Court of Human Rights has admitted that the publication of the picture falls under “private life” of the applicant and her son. The Court has unanimously found that the article 8 (the right to respect for privacy and family life) of the European Convention on Human Rights has been violated.

In this case, the Center, in essence, found that the processing of personal data concerning the minor, contained in the photos and the video sequence, reflected by publishing on the personal profile page on the social networks and posting the message / communique, which revealed the first name, age, address, the place where he studies, etc., occurred contrary to the provisions of art. 4 paragraph (1) lit. a), Art. 5 paragraph (3) and Art. 29 paragraph (1) of the Law on personal data protection. As a result, a report on the contravention with regard to the data subject was concluded on the constitutive signs of the contravention provided by art. 74<sup>1</sup> par. (4) Contravention Code.

### **Disclosure of personal data by a municipal housing management enterprise by leaving the communal invoices in a public place**

The Center has initiated the verification of the legality of personal data processing based on a complaint, claiming alleged illegalities committed at the personal data processing by a municipal enterprise for managing the housing fund (MEMHF). Based on the content of the complaint, the representatives of the company concerned practiced leaving / placing payment invoices for communal services in the public place (the windows between the floors), these invoices containing personal data of the inhabitants, thus violating the right to respect the private and family life of the data subjects.

It was noted that, the personal data exposed in the content of the payment invoices includes the identifier of the payment notice, the personal account, which consists of the numerical code of the inhabitants' apartment, as well as the personal data indicating the names, first names and address of the inhabitants and placing these invoices in public space, represents an infringement of the fundamental right of the persons concerned to the intimate, family and private life, enshrined in Art. 28 of the Constitution of the Republic of Moldova and, therefore, cannot be legally classified into exceptions provided by Art. 5 paragraph (5) of the Law on personal data protection.

In this context, it was found that by leaving the bills / payment invoices for the communal services in the public space (the windows between the floors), the access of foreign persons to the personal data reflected in them is favored, and the dissemination of this information with limited accessibility in the public space from the housing block, constitutes a violation of the provisions of Art. 4 paragraph (1) let. a) and Art. 29 of the Law on personal data protection. Thus, being determined the existence in the actions / inactions of the employee of the MEMHF concerned, of the breach of Art. 74<sup>1</sup> par. (4) Contravention Code of the Republic of Moldova.



### Access to personal data stored in the state information resources by the police officers

In 2019, the Center received several requests from the General Police Inspectorate (GPI), based on which verification procedures on the compliance of personal data processing performed by the employees of a subdivision of the National Inspectorate of Investigation within the GPI were initiated.

Thus, from the content of the requests, it was established that the examination of the reported circumstances concerns approximately 12 000 operations of personal data accessing, stored within the Integrated Information System of the Tax Service, carried out by the employees of the subdivision of the National Investigation Inspectorate within the GPI.

The aspects notified to the Center denote the huge number of operations of personal data accessing, carried out by the employees of the law enforcement bodies that targeted an imposing number of data subjects. The Center has reasonable doubts to believe that most of these operations had no a well-defined purpose as well as an express legal basis and a causal link between the file under examination and the natural person whose personal data have been processed by accessing / viewing / printing etc.

The examination of the respective requests continues, fact determined by the huge number of operations of personal data accessed and, respectively, by the large volume of the actions necessary to be carried out within the initiated verifications, in order to issue an objective position on the case, as well as due to the extremely small number of employees of the Center, especially in the subdivisions competent to carry out the control of the legality of personal data processing.



## CHAPTER IV

## ACTIVITY OF REPRESENTATION IN THE COURTS

## IV

### • In administrative contentious orders

During the year 2019, the Center's interests were represented in 105 cases before the administrative litigation courts, among which:

- ✓ 100 as a defendant;
- ✓ 5 as a public authority concluding conclusions.

Thus, there is a significant increase in the actions submitted for examination in the courts that challenged the documents issued by the National Authority for personal data protection, which, in the reporting period, reached 105, in comparison to 2018 when 69 court applications were lodged.

This fact is also due to the increasing number of administrative acts issued by the Center, as well as the increasing awareness of the consequences and the significance of the recorded findings.

During the year 2019, the representatives of the Center ensured the participation in **272** court hearings in administrative contentious, drawing up **125** procedural acts necessary for examination of cases.

At the same time, we note that in 5 court proceedings, the Center was called as a public authority which submitted conclusions, in accordance with the provisions of Art. 74 paragraph (1) Code of Civil Procedure.

In this context, we inform that the Center's opinions on the compliance with the principles of personal data protection were requested by entities such as Information and Security Service, Ministry of Health, Labor and Social Protection, the General Police Inspectorate, General Inspectorate of Border Police, public association "Lawyers for human rights" etc.

Also, we mention that during the year 2019 it was completed the examination of 26 court files in which the decisions of the courts have been final and irrevocable, of which:

- 22 judgments/court decisions issued in favor of the Center;
- 4 cases were unsuccessful for the Center.

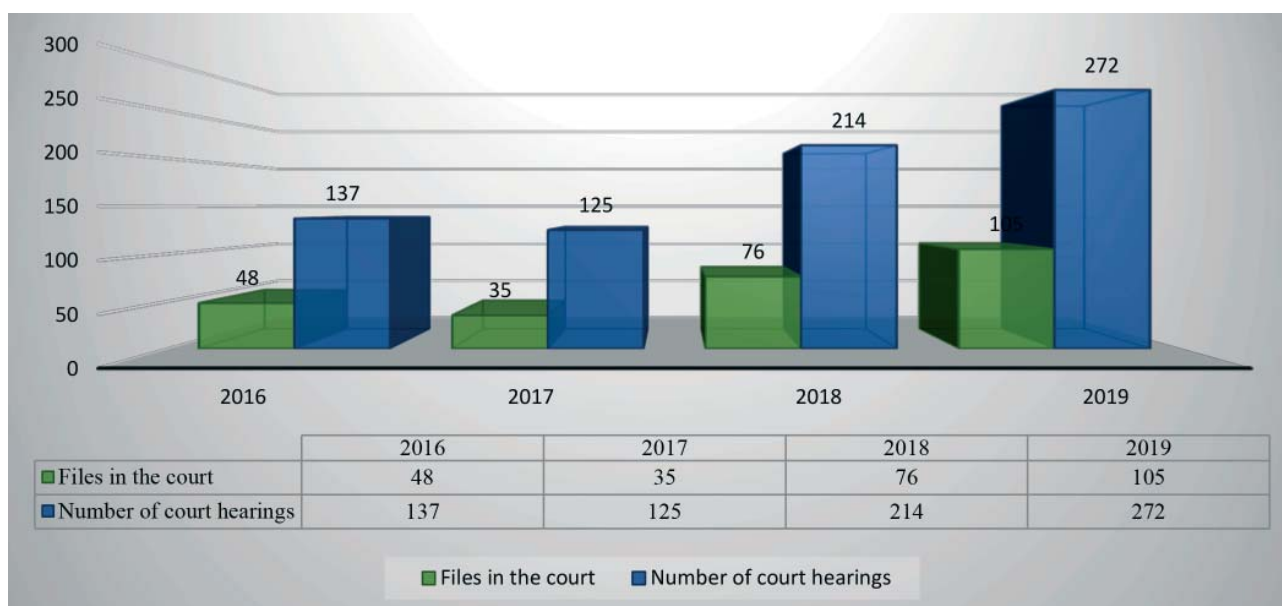
***Dynamics of the court decisions in 2019***



Thus, we find that, in 85% of the court cases whose examination was completed during 2019, the actions taken by the Center and the findings of the authority were considered legal and founded by the courts.

We would like to mention that in 90% the object of the action was the annulment of the decisions issued following the investigations carried out by the Center regarding the finding of infringement / lack of violation of the principles of personal data protection, 9% was the annulment of the decisions regarding the refusal to register in the Register of evidence of personal data controllers, 1% represents the alleged fact of violation of the right of access to information.

***Comparative dynamics of the number of cases and court hearings in administrative litigation, in the period 2016-2019***



**• In the order of the contravention procedure**

During 2019, the Center's employee drew up **105 minutes** on contravention, **188** contravention facts being found in relation to the facts stipulated in art. 74<sup>1</sup> – 74<sup>3</sup> of the Contravention Code related to the violation of the legal provisions in the field of personal data protection. The contravention cases being sent for examination in the court, in accordance with the provisions of the Contravention Code.

The spectrum of contravention facts found indicates that the most frequent violations committed in the personal data processing were manifested by:

- personal data processing without notification / authorization of the control body in the field of personal data processing, as well as the processing of personal data by an unregistered controller – 59 facts,
- violation of the rules for the processing, storage and use of personal data – 61 facts,
- non-compliance with the requirements regarding the security of personal data when processing them within the personal data information systems – 29 facts,
- violation of the personal data subject's right to be informed – 20 facts,
- refusal to provide the information or documents requested by the Center in the process of exercising its control duties, the presentation of non-authentic or incomplete information,



as well as the failure to present within the deadline established by law the information and documents requested – 13 facts,

- failure to comply within the established term of the Center's decision on re-establishment of the personal data subject rights, including by suspending or ceasing of the personal data processing, on blocking, partially or completely destroying personal data processed by violation of the legislation of personal data protection – 4 facts,
- cross-border transmission of personal data by violation of the legislation on personal data protection – 2 facts.

In this context, it should be noted that, during the reference period, the Center's agents participated in more **than 580 court hearings on the contravention**, cases under examination, both in the Court of the first instance and in the Court of Appeal.

At the same time, it should be mentioned that out of the total of **105** minutes on contraventions sent for examination in the court during the reporting period, 44 proceedings examined by the Center were successful, the court recognizing the guilt of the persons in respect to whom the minutes on contravention were drawn up, being established sanctions in the form of a fine, and **56** procedures are pending.

The number and dynamics of the minutes on contraventions drawn up since the Center acquired the status of ascertaining agent is reflected in the following tables:

Period of reference	Number of minutes on contravention	Period of reference	Number of minutes on contravention	Dynamics
2012	4	2012-2013	4-26	↑550%
2013	26	2013-2014	26-34	↑31%
2014	34	2014-2015	34-24	↓29%
2015	24	2015-2016	24-33	↑38%
2016	33	2016-2017	33-52	↑57%
2017	52	2017-2018	52-92	↑77%
2018	92	2018-2019	92-105	↑14%
2019	105	2016-2019	33-105	↑218%

Comparatively, during the last years, the number of minutes on contravention drawn up by the Center has essentially increased, only between 2016 and 2019, an increase of 218% being ascertained.

The continuous increase the numbers of the minutes on contraventions prepared by the Center's ascertaining agents demonstrate an increase in the volume of work, especially in the context where, at the base of performing the competences provided by the Contravention Code and the preparation of each minute on contravention stays the motivated decision, issued in accordance with the provisions of art. 27 of the Law on personal data protection, by which it was found the violation of legal norms when processing personal data.

This fact creates even more difficulties in carrying out the activity of the Center, which cannot have the status of a classical ascertaining agent, being simultaneously applicable the provisions of the Law on personal data protection (the obligation to issue a reasoned decision on the ascertaining of the violation – in which case it may be initiated the infringement procedure or the ascertaining of the non-infringement – in case of non-infringement, no contravention procedure can



be initiated), the Administrative Code (*the obligation to issue an individual administrative act at the end of the administrative procedure*) and the Contravention Code (*the contravention process starts right at the moment of the notification or self-notification of the ascertaining agent regarding the commission of the contravention*).

- Moreover, regarding the representation of the institution's interests in the courts, it is necessary to mention the huge problem that the Center faces daily, which is manifested by the double, contradictory and susceptible character of the procedures of examining the findings resulted after verifying the legality of the personal data processing. This fact refers to the doubling of the examination in the courts, during the same period, of the same acts and findings issued by the Center, both in administrative litigation and in contravention procedure.

However, as a result of examining the control materials regarding the legality of the personal data processing, the Center issues decisions according to the Art. 27 of the Law on personal data protection, which establishes, as the case may be, the fault of the personal data controller and may order the rectification, blocking or destruction of invalid or illegally obtained data. This decision is subject to appeal in administrative litigation.

At the same time, in accordance with the provisions of Art. 423<sup>4</sup> para. (4) of the Contravention Code, as a result of ascertaining the violations committed in the processing of personal data, the Center prepares minutes on contravention and sends them for examination in the court that is empowered to solve the case by recognizing the guilt and applying the sanction with the possibility to apply as a complementary sanction, the deprivation of the right to process personal data for the period from 6 months to 1 year.

Thus, besides the fact that for committing the same act / violation, the controller is subject to liability / sanction 2 times – circumstances contrary to the principles of individualization and subject to liability, there are also situations in which, same controller, for the same offense, in contravention order the controller was convicted by the court, while, in administrative contentious order, he was declared innocent, with the annulment of the Center's decisions or vice versa. However, the situation described is even more bizarre considering the fact that in both cases (the contravention procedure and the administrative contentious procedure) at the base there was the same decision to find the infringement committed in the processing of personal data.

In this context, the existence of such contradictory procedures led, in some cases, in determining the inefficiency of the actions taken by the Center to counteract non-compliant data processing and to prevent the committing of other violations concerning the right to the inviolability of the intimate, family and private life of personal data subjects.

However, the circumstances described are even more bleak and disarming for the National Authority for the control of personal data processing, taking into account the number of employees of the Centre's sub-division, which is absolutely minimal in relation to the excessive volume of work.



## CHAPTER V

## SURVEILLANCE OF PERSONAL DATA PROCESSING

**• The activity of supervision and evidence of personal data controllers: the registration of the controllers and the filing systems**

During the reporting year, the Center examined **1652 notifications** submitted for registration in the Register of evidence of personal data controllers, both personal data controllers and filing systems stored in automated and / or manual form in which personal data are processed.

The relevant normative framework, namely: Law on personal data protection, Requirements for the assurance of personal data security at their processing within the information systems of personal data, approved by Government Decision no. 1123 of December 14, 2010 and the Regulation on the Register of evidence of personal data controllers, approved by Government Decision no. 296 of May 15, 2012, impose the obligation that prior to the processing of personal data in an automated or manual filing system, these operations must be notified to the Center, with the presentation of the arguments of the necessity of collecting and processing each category of data.

As a result, during 2019, **654** personal data controllers and **944** personal data filing systems were registered.

During the examination of the notifications submitted to the “One-stop shop” of the Center, **990 pre-verification procedures** were carried out.

When analyzing the submitted notification forms, the following aspects related to the personal data processing were examined:

- Possession of the capacity of personal data controller or, as the case may be, of processor in relation to the notified filing systems;
- Existence of the legal basis for personal data processing;
- The compliance of the organizational and technical measures necessary for the protection of the personal data declared by the personal data controller with the provisions regarding the assurance of the personal data security when processing them within the personal data information systems;
- The existence of the instructions offered by the controller to the processor by a contract or other legal act that will be binding on the parties and establish the object and duration of the processing, the nature and purpose of the processing, the state in which the personal data will be processed, the type of personal data, the categories of the data subjects, the obligations and rights of the controller and processor, etc.;
- The method of personal data processing in case of providing information society services regulated by Law no. 284 of July 22, 2004 on electronic commerce;
- The conditions under which cross-border transmission of personal data takes place, taking into account their nature, the purpose and duration of the proposed processing or processing, the state of destination, its legislation, as well as the professional norms and security measures respected in the state of destination, etc.



The information for the years 2016-2019, regarding the registration of controllers and filing systems in the Register of evidence of personal data controllers is reflected in the following table:

Period of reference	Number of the registered controllers	Number of registered databases and information systems in which personal data are stored and processed	Number of refusal decisions of the requests for registration	Number of decisions to refuse the applications for registration, challenged in administrative litigations orders
2016	386	761	89	1
2017	500	843	203	0
2018	639	938	451	1
2019	654	944	708	1

The above information shows the increase in the number of registered personal data controllers and of the filing systems notified by them compared to the previous year.

In particular, there is a significant increase in the number of refusal decisions issued by the Center following the examination of the notifications submitted to the “One-stop shop”. For the most part, the reasons for issuing the decisions to refuse the registration of personal data controllers and / or personal data filing systems were the following:

- the gap between the information indicated in the notification submitted for examination and those provided in the documents attached to the notification;
- failure to present the information necessary for examining the notification, such as: the documents that establish the personal data processing of the data subjects (for example, contract, consent, etc.), the document that would record the necessary instructions offered by the controller to the processor, etc.;
- failure to indicate in the notification and / or in the documents related to it the fact / intention of the cross-border transmission of personal data,
- failure to present the documents that would establish the organizational and technical measures necessary for the protection of personal data or the non-compliance / insufficiency of the measures described in the provisions of the Requirements for the assurance of personal data security at their processing within the information systems of personal data, approved by the Government Decision no. 1123 of December 14, 2010, etc.

The largest share of the number of controllers registered in 2019 is consisted of: economic agents (319 controllers), persons exercising liberal professions, such as notaries, lawyers, judicial executors (126 controllers), public authorities (36 controllers), medical institutions (16 controllers). This fact demonstrates the raised awareness of personal data controllers aimed at the need to comply with the legal provisions in the field of personal data protection and the risks generated by the non-compliant personal data processing, including their special categories.

At the same time, as in the previous years, the controllers mostly notified the auxiliary filing systems, which are not strictly linked to their basic activity, such as: accounting, human resources, video surveillance, access control in the premises, etc., systems that certainly contain personal data and are to be notified to the Center. However, these do not determine the processing of personal data performed in order to fulfill the tasks assigned to the public / private entities concerned.

Thus, a large share of the filing systems of national importance, referring here especially to the



systems managed by public entities, which record an imposing volume of personal data, including special category data, continue to be outside verification on the conformity of the principles of personal data protection.

As examples of personal data filing systems of state importance that are not registered / unauthorized up to the present time can be mentioned: State Automated Information System "Elections", SIA "Primary Health Care", Information filing system of human resources in the health system, SIA „Transplant", Information Integrated Customs System, Educational Management Information System, Visa Management Information System, etc.

It is worth mentioning that during 2019, a number of personal data filing systems of state importance were notified / registered / authorized, even if they had been working long before the corresponding notifications were submitted, in order to comply with the provisions of Art. 23 of the Law on personal data protection, such as: State Register of Controls, Local Documents Registry, State Fiscal Service Information System, Medical Leave Certificates Portal.

The conformity of the activity related to the processing of personal data of the controllers and / or processors to the legal provisions regarding the notification of the filing systems and the registration as a controller in the Register of evidence of controllers has always had the maximum support offered by the employees of the Center in order to train all the applicants. Thus, during the year 2019, only the employees responsible for the registration of controllers and filing systems (only 3 persons), besides the other duties performed in order to raise awareness, offered **over 1465 consultations and instructions** at the headquarters of the Center.

As an example, it should be mentioned that, a significant part of the notifications submitted for examination concerned the means of video surveillance. In 2019, 123 such filing systems were registered. Thus, a special attention was drawn during the examination of the notifications submitted and / or the consultations offered when recording / intending to record the video surveillance systems, to the following aspects:

1. the purpose and legal basis of the management / use of the video surveillance system;
2. the location of the video surveillance devices and their capture angle;
3. positioning the video surveillance means in such a way that the angle of capture of the video images includes the surface owned by title of property or use, being reduced to the maximum capture of the public or private space;
4. the way of informing the personal data subjects, including by displaying the distinctive signs about performing the video surveillance. It is important to remember that, by the Decision of the Center no. 581 of September 10, 2015 was approved the standardized information form regarding the surveillance by video means (pictogram) within the filing systems managed by the personal data controllers, which establishes the obligation to display the mentioned form, in the supervised area, at a distance reasonable for image capture devices, in order to ensure sufficient their visibility.

At the same time, a large part of the notifications submitted for the purpose of recording video surveillance systems were refused, including on the grounds of monitoring the common spaces in a condominium. Considering the large number of requests for registration in the Register of evidence of personal data controllers, the systems for video surveillance, as well as in order to provide benchmarks that come to give clarity to the legal issues to be taken into account in the cases of installation / management of video surveillance systems in the common spaces, below are some legal norms related:

1. Article 4 paragraph (1) of the Law on personal data protection according to which, the personal data that are the object of the processing must be processed correctly and according



to the provisions of the law; collected for specific, explicit and legitimate purposes, and subsequently not processed in a manner incompatible with these purposes [...].

2. Article 5 of the Condominium Law in the housing fund, provides that the common property in the condominium includes all parts of the property in common use: the land on which the block (s) is built, the walls, the roof, the terraces, the chimneys, the stairs, the hallways, basements, cellars and technical floors, garbage pipes, elevators, machinery and engineering systems inside or outside the houses (rooms), which serve several houses (rooms), the gardens of the houses, other objects designated to be in the use of real estate.
3. Article 546 paragraph (1) and (2) of the Civil Code establishes that, each co-owner has the right to use the common property asset on shares inasmuch as it does not change its destination and does not prejudice the rights of the other co-owners, and the use of the common good is established by the agreement of the co-owners or, in case of divergences, by a court decision based on a fair assessment of the interests of all the co-owners.

Thus, based on the above, we mention that, if video surveillance of the common space in the condominium is performed (eg. in the apartment blocks), then only the association of co-owners in the condominium will have the legal basis for processing the personal data for this purpose and, respectively, the obligation to notify in order to register the filing system concerned. The way of adopting the decisions by the association of co-owners (including the required number of votes in this regard) is provided by the Condominium Law in the housing fund.

#### • The activity of preventing the non-compliance of personal data processing

During the year 2019, the Center informed various public entities regarding the menace to the security and confidentiality of the personal data aimed at the citizens of some EU member states, as a result of multiple cyber-attacks on the information systems managed by legal persons. As an example, in this respect, we can mention the requests submitted by the Center to: Ministry of Health, Labor and Social Protection, State Tax Service, P.I. "Information Technology and Cyber Security Service".

In this context, the Center asked the relevant entities to set up / intensify the organizational and technical measures appropriate to the personal data processing, including taking the necessary actions to fulfill the obligations provided by Art. 23, 29 and 30 of the Law on personal data protection and the Requirements for the assurance of personal data security at their processing within the information systems of personal data, approved by the Government Decision no. 1123 of December 14, 2010. Also, the security level of the information systems that record personal data to be reassessed in relation to the online attacks on the security and confidentiality of personal data, as well as to establish concrete actions to react to possible security incidents etc.

In order to exemplify the situation related to the degree of compliance with the legal norms in the field of personal data protection, by the public institutions in particular, it may be mentioned the Ministry of Health, Labor and Social Protection, which processes an imposing volume of personal data, including special categories (health status), targeting practically the entire population of the country, but which, until now, has not notified / registered / authorized most of the managed filing systems that are part of the Medical Register (according to the Government Decision no.586 of July 24 2017), namely:

- Automated information system "Primary Health Care" (SIA AMP);
- Automated information system "Hospital Medical Assistance" (SIA AMS);



- Human resources information system in the health field (SIERUSS);
- Automated information system “Transplant” (SIA Transplant).

However, in relation to this authority, the Center has repeatedly warned that the lack of notification / non-registration of the automated state information systems, in which personal data are processed, including the category of personal data that may present special risks for the rights and freedoms of individuals, creates imminent risks for the confidentiality and security of the personal data processed.

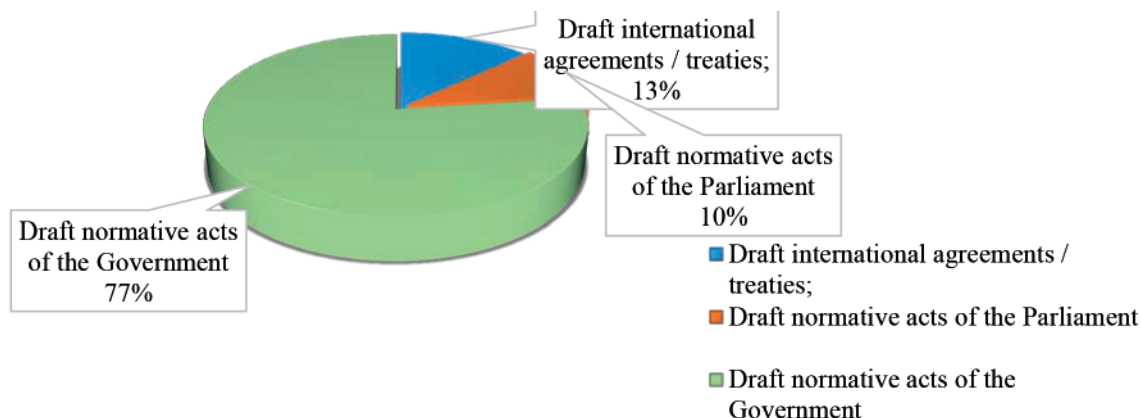
We would like to emphasize that the absence of concrete measures to ensure the security and confidentiality of personal data, in the practical way, as well as the lack of a rigorous control of the access to the special categories of personal data, may lead to unauthorized access of personal data of any patient from any institution of primary medicine in the Republic of Moldova. Such actions would generate major risks of non-compliant processing of personal data, possible civil litigations in order to cover material and moral damages. The Center might be imposed to issue decisions of suspension and / or cessation of the operations of personal data processing and, last but not least, the loss of the confidence of the citizens of the Republic of Moldova in the digitization of the public services in the medical field.

Pursuant to the provisions of Art. 32 paragraph (2) of the Law on normative acts, the draft normative acts pertaining to the field of personal data protection are transmitted for approval to the National Center for Personal Data Protection.

As a result, during the year 2019, 66 drafts of national / international normative acts were submitted to the Center for approval, which were examined in terms of respecting the principles of personal data protection, as well as ensuring the rights and freedoms of individuals in the processing of personal data:

- 8 draft international agreements / treaties;
- 6 draft normative acts on amending laws, codes;
- 52 draft normative acts of the Government and other authorities.

*The percentage of opinions offered by the Center during the year 2019*



Subsequently, even if there is a slight increase, by about 12%, in the number of opinions offered by the Center compared to previous years, it should be noted at the same time that they involved much more complex aspects regarding the processing of personal data in different fields, that are necessary to be studied in detail.

Therefore, it was considered that in view of the diversity of aspects regulated by the normative acts transmitted to the Center for the approval, in most cases, it is necessary to complete and revise those texts, being submitted the appropriate objections and proposals, taking into account the need to respect the legal regulations in the field of personal data protection.

We present below some examples of the most relevant draft normative acts approved:

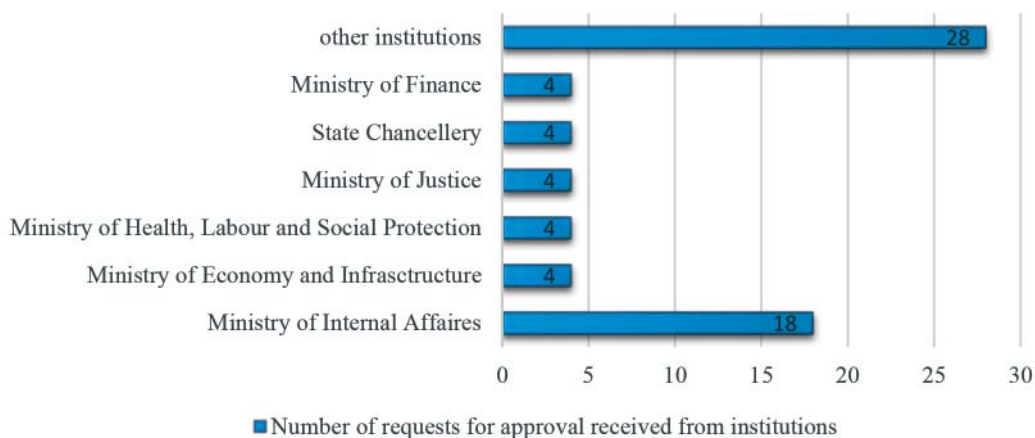
- draft decision on the approval of the Regulation on the creation and functioning of the information system “e-Transport authorization”, where it was proposed to revise the mentioned regulation, in order to establish a specific term for personal data storing;



- draft decision on the amending of Regulation on electing the representatives of the civil society in the Integrity Council, where the modification of the draft Regulation above mentioned was proposed. The amendment was required because of the excessive character of personal data, subject to collection (such as those recorded in the identity card) when participating in the competitions. It was set to be sufficient to collect the data strictly necessary to be presented by the personal data subject, from the corresponding documents, through standardized forms;
- draft Government Decision on the approval of the draft law on the amendment of certain legislative acts on child protection, where it was proposed to supplement Law no. 140/2013 on the special protection of children at risk and separated children by an article on personal data protection;
- draft Government Decision on the National Cancer Registry, where the Center intervened with recommendations on how information providers shall access the information system, the procedure for providing information, their rights and obligations in relation to the personal data processing;
- draft Government Decision on the amendment of the Government Decision no.885 / 2005 on approving the Concept on the State Register for Resource Mobilization, where it was proposed to exclude some terms with the reassessment of the relevance and the need to collect information on the blood group, nationality and social status of the person.

***The number of draft acts received for approval by the Center during the year 2019***

**Number of the requests for approval received from institutions**





The establishment and development of cooperation relations with other states in the field of personal data protection represents one of the basic elements of the process in capacity building of data protection field, in order to face the challenges and opportunities of the XXI century. In this context, the Center is constantly promoting a broad and consistent policy of intensifying cooperation in the field of data protection, both internally and internationally.

In the field of international cooperation, in 2019 the Center focused its activity on boosting bilateral relations with external partners and multilateral cooperation within international organizations, in the meetings, which we are participating regularly. Promotion of international cooperation during the reporting period was carried out by participating in study visits, exchange of experience, and take over good practices, as well as trainings provided by European Union experts.

At the same time, during 2019 the representatives of the Center participated in various conferences, meetings and working groups.

#### • Plenary meetings of the European Data Protection Board

During 2019, representatives of the Center participated in eight plenary meetings organized by the European Data Protection Board (EDPB) held in Brussels, Belgium on: 22-23 January 2019, 12-13 March 2019, 14-15 May 2019, 4 June 2019, 10 September 2019, 8-9 October 2019, 12-13 November 2019, 2-3 December 2019.

These meetings summarized the data protection activities at European level and analyzed the practical application of the guidelines developed by the Board. The guidelines provide assurances that citizens' rights of personal data protection are always respected, including when their data are found among other types of data, or when their data are anonymised. In addition, the guidelines also have an informative value for public authorities, which constantly process data and are directly involved in the elaboration of legislative and administrative rules on personal data protection.

During the reference period, Member State recommendations and best practice reports were examined within the EDPB. At the same time, during the plenary sessions there was an intense discussion about the binding decisions and their impact on the EU states. Another aspect of increased interest was the level of data protection of natural person in the EU and, where relevant, in third countries and within international organizations.

#### • Plenary meetings – Council of Europe

##### **Consultative Committee of the Convention for the protection of individuals with regard to automatic processing of personal data (Convention 108)**

Convention 108 is currently going through a process of modernisation and adaptation to the challenges on data protection posed by the new technologies in the communications field. The Consultative Committee T-PD initiated the Protocol amending the Convention 108



The modernisation of Convention 108 addresses the challenges to privacy resulting from the use of new information and communication technologies, and strengthens the convention's mechanism to ensure its effective implementation. The process of modernisation of Convention 108 has as purpose fullness its transformation into an international legal instrument with a universal value applicable also to the States outside the Council of Europe. Until now, 38 states had signed the Protocol amending Convention 108.

Thus, the Consultative Committee of Convention 108 in 2019 organised five plenary meetings, during which Center representatives participated as members of the Committee.

### **Committee of experts on Human Rights dimensions of automated data processing and different forms of artificial intelligence**

During the reporting period, were held the last two meetings of Committee of experts on Human Rights dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT) attended by representative of the Centre as national expert.

- 3<sup>rd</sup> meeting MSI-AUT, (Strasbourg)
- 4<sup>th</sup> meeting MSI-AUT, (Strasbourg).

The main topics discussed during the MSI-AUT meetings were focused on the draft Committee of Ministers recommendation on the human rights impacts of algorithmic systems, draft study of the implications of advanced digital technologies (including AI systems) for the concept of responsibility within a human rights framework, as well as creation Ad Hoc Committee on Artificial Intelligence – CAHAI. The mandate of CAHAI was to examine the feasibility and potential elements based on broad multi-stakeholder consultations, of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law.

#### **• International conferences**

##### **Spring Conference of European Data Protection Authorities held in Tbilisi, Georgia.**

Between 8-10 May 2019, the representatives of the Center participated at the 29th edition of the Spring Conference of the European Data Protection Authorities, held in Tbilisi, Georgia. During the work sessions, topical issues in the field of data processing were presented, such as: one year since General Data Protection Regulation came into force (GDPR), the principles and rules of harmonization of data protection in Europe as well as the main features of the Modernized Convention ("Convention 108+") and the importance of the entry into force of the Amending Protocol, the protection of child's data and data protection in international organizations.

GDPR has become a gold standard, motivating some non-EU states to harmonize national legislation with GDPR in order to qualify as a state with adequate level of protection.

The event was attended by representatives of the Central and Eastern European Data Protection Authorities, including the Council of Europe representatives, with the opportunity to exchange the experiences and the best practices in the field of personal data protection.

#### **• Study visits**

On 23 – 27 September 2019, the EU Twinning Project "*Capacity Building of the National Center for Personal Data Protection of the Republic of Moldova*" organized a study visit for a group of Parliamentary Members of the Republic of Moldova in Germany and Latvia. The study visit



was organized in order to familiarize the Parliamentary Members of the Republic of Moldova with the legal framework in the field of personal data protection in European countries, in the context of the new draft law on personal data protection, voted in the first reading by the Parliament of the Republic of Moldova.

### • Implementation of the provisions of the RM-EU Association Agreement

In this chapter it is mentioning that in the reporting period, Center continued the implementation of the National Action Plan for the Implementation of the Association Agreement 2017-2019 (NAPAA). In this context, Center elaborated and submitted to the Ministry of Foreign Affairs and European Integration quarterly, half-yearly and annual reports on the general implementation. Carrying out the actions from Title V of NAPAA has been regularly reported to the Ministry of Economy and Infrastructure.

On 14 November 2019, the representatives of the Center participated in the V<sup>th</sup> meeting of the Republic of Moldova-EU Sub-Committee on Justice, Freedom and Security, held in Chişinău.

The subjects discussed during the mentioned event included the justice sector reform, prevention and combating corruption, prevention and combating money laundering and terrorist financing, cooperation on migration, asylum and border management, personal data protection, prevention and combating organized crime and other illegal activities.

The agenda of the meeting set a series of subjects of common interest for both the Republic of Moldova and the European Union, for which the heads of the specialized institutions of the country presented the recorded progress since the previous meeting of the Sub-Committee of June 2018. The representatives of the Center presented the information reflecting the developments on the personal data protection field.

Thus, in the context of Implementation of the RM-EU Association Agreement, of ensuring national security by promoting a rule of law, of democratic values, good governance, justice reform, strengthening of human rights in general and the right to the inviolability of privacy, in particular, but also in view of the new EU data protection regulations aimed at restoring citizens' control over their personal data and creating a high and uniform level of data protection in Europe, adapted to the digital age and it continues to be current and absolutely necessary the achievement of the objectives aimed at:

- Harmonization of the national legal framework in the field of personal data protection to the EU law with a particular focus on Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties;
- Strengthening the institutional and functional capacities of the Center, in order to ensure the possibility of efficient implementation and monitoring the provisions of the national legislation in the field of personal data protection;
- Raising awareness of data subjects, controllers and processor of personal data regarding the national legislation in the field of personal data protection and their rights and obligations.

### • Cooperation with European Union agencies

In the context of cooperation with EU agencies, it should be noted that according to the provisions of Article 19 (2) of the Cooperation Agreement between the Republic of Moldova



and Eurojust, according to which the Data Protection Officer of Eurojust and the Data Protection Authority of the Republic of Moldova shall report to each other, at least once a year, on the implementation of the provisions of the Agreement, was presented at Eurojust the information regarding the activity of the Center and the implementation of the legal provisions of personal data protection, as well as the collaboration with the General Prosecutor's Office.

The collaboration of the Republic of Moldova with Eurojust represents a key point regarding the relations of international legal assistance in criminal matters in compliance with the European standards and in the sense of European integration vector of the Republic of Moldova, in general.

### • Cooperation with other foreign authorities in the field of personal data protection

On 18 December 2019, the Center and the Data State Inspectorate of Latvia signed a Cooperation Agreement in the field of personal data protection. The agreement stipulates the development of cooperative relations between the two institutions in order to achieve constant progress in the field of personal data protection, as well as promoting good practices that will create favorable conditions for efficient protection of personal data of the citizens of the Republic of Moldova and the Republic of Latvia.

### Activities within the EU Twinning Project “Capacity Building of the National Center for Personal Data Protection of the Republic of Moldova”



Throughout 2019, the Center, as a beneficiary, continued the implementation of the Twinning Project, funded by European Union and implemented from 2 October 2017 till 2 January 2020 by the German Foundation for International Legal Cooperation (IRZ) and the Ministry of Justice of the Republic of Latvia. The project was an important contribution to both the Association Agreement between European Union and the Republic of Moldova as well as to the full roll out of the Single Support Framework for EU support.

Numerous activities have been carried out during the reporting period in order to achieve the overall objective of the Project: to harmonize the Republic of Moldova national legislation of personal data protection field with the European Union's legal framework and standards – in particular the EU Regulation 2016/679 and Directive EU 2016/680. Thus, the planned actions were carried out with the support of EU experts focusing on:

- Assistance in developing and/or harmonizing sectoral laws and secondary legislation with a view to rendering them compliant with the new draft law on personal data protection;
- Assistance in drafting 7 Codes of Conduct and/or guidelines, in accordance with EU Directive 2016/680 and EU Regulation 2016/679 in specific sectors (health, finance, media, electoral process, video surveillance, law enforcement and electronic communications) and published on the Center website;
- Organization 24 training courses in the field of medical, telecommunications, financial, banking, education, human resources, video surveillance, for retail companies, for lawyers, with the generic “*Personal data protection requirements*”. In total, about 1158 people participated in these training;
- Organization of training sessions for Center's staff on “*Investigation procedures*”;
- Organization of training sessions for Center's staff regarding “*Rapid response procedures to personal data protection security incidents*”;



- Organization of the training sessions “Train the Trainers” in the field of personal data protection. At the respective course was attended and was trained 12 Centre employees as well as representatives from within Ministry of Internal Affairs, the General Prosecutor’s Office, the National Anticorruption Center, the Customs Service and the General Police Inspectorate;
- Organization of the study visit for a group of Parliamentary Members of the Republic of Moldova in Germany and Latvia. The study visit was organized in order to familiarize the Parliamentary Members of the Republic of Moldova with the legal framework in the field of personal data protection in European countries, in the context of the new draft law on personal data protection, voted in the first reading by the Parliament of the Republic of Moldova.
- Assistance in developing a communication and awareness raising action plan for the Center;
- Assistance in developing a national Strategy on personal data protection for 2020-2024;
- Assistance in modernizing the Center new web site;
- Elaboration an ex-post survey on the perception of the right to and enforcement of personal data protection in the Republic of Moldova;
- Organization of the trainings on personal data protection legislation and requirements for public authorities from the following sectors: justice – 64 persons were trained; education – 84 persons; finance – 60 persons; medical/social – 60 persons; State Chancellery/local public authorities – 63 persons; Law enforcement authorities – 62 persons. In total, about 400 people were trained at these events;
- Organization and development of the five Steering Committee Meeting of the Twinning Project. The Committees were attended by: European Union Delegation Project Manager, Resident Twinning Adviser, Member State Project Leader – the German Foundation for International Legal Cooperation (IRZ) and Member State Junior Project Leader – the Ministry of Justice of the Republic of Latvia.

On 18 December 2019, the official Closure conference of the Twinning Project “Capacity Building of the National Center for Personal Data Protection of the Republic of Moldova” took place at the “ARTCORE” – Creative Industries Center in Chişinău.



## CHAPTER VIII

## TRAINING AND AWARENESS ACTIVITIES

## VIII

In 2019, the Center registered a remarkable evolution in terms of training and awareness activities. It was the year in which most actions and information campaigns were organized, including at the republic level.

Thus, during the reporting period, the activity of informing the pupils within the “Personal Development” discipline continued, by organizing educational hours about the importance of the protection of personal data, paying greater attention to the training including the teachers who teach this discipline.

It was launched a broad campaign of informing citizens across the country, titled “*We inform you in your city!*” with the social message – “*Take care of your data!*”.

In 2019, the Center continued the trainings conducted inclusive with the support of EU Twinning Project, in the public and private sectors, in Chişinău and in the republic.

#### • Raising awareness actions

Thus, during 2019, were organized 16 activities to inform and raise awareness of citizens about the importance of the personal data protection. During the educational hours and the discussions organized within the educational institutions, were informed approximate 350 students and pupils.

At the same time, about 100 teachers teaching the “Personal Development” discipline in the districts of Ungheni, Cahul and Rezina, were trained as “messengers of the Center” within the campaign “*We inform you in your city!*”, action started in May 2019. About 1000 citizens were informed through the street actions carried out both within the campaign “*We inform you in your city!*” as well as within the annual event “*European town!*”, event dedicated to Europe Day.

The main information and awareness-raising activities of the company on the importance of the field of personal data protection carried out by the Center during the reporting period are indicated below:

- 28 January 2019, street action for disseminating informative materials, jointly with 10 students from Legal Clinic of the Free International University of Moldova (ULIM), event organized in the context of the European Day of data protection;



- 30 January 2019, informational stand in the ULIM hall, action to promote the message “Take care of your data!”, event organized in the context of the European Day of data protection;



- 31 January 2019, dialogue with about 70 students of the Faculty of Business Management and Administration within Academy of Economic Studies of Moldova (ASEM), event organized in the context of the European Day of data protection;



- 5 February 2019, public debate with pupils from the High School „Spiru Haret“ from Chişinău, event organized in the context of the European Day of data protection;



- 6 March 2019 – Educational hour “Personal development” for the pupils of the 10<sup>th</sup> grade of the Theoretical High School “Petre Stefanuca” in Ialoveni;



- 18 May 2019 – Educational hour for the pupils of the 9th grade of the “Ion Creangă” Theoretical High School in Chișinău;



- 24 May 2019, first day of the campaign “We inform you in your city!” in Ungheni, training for teachers who teach the subject “Personal development” from Ungheni district;



- 24 May 2019, Street action “Take care of your data!” in center of the city Ungheni, dissemination of informative materials;



- 11 May 2019 – informational stand of Center situated in European town, event organized annually on the occasion of Europe Day;





- 28 August 2019 – the second day of the campaign “We inform you in your city!” in Cahul, training for teachers who teach discipline “Personal development” from Cahul district;



- 28 August 2019 – Street action “We inform you in your city” in Rezina, dissemination of informative materials;



- 8 October 2019 – the third day of the campaign “We inform you in your city!” held in Rezina, training for teachers who teach discipline” Personal development” from Rezina district;



- 8 October 2019 – Street action “We inform you in your city” in Rezina, dissemination of informative materials;



- 12 November 2019 – Lecture on personal data protection for 100 students of “Alexei Mateevici” College, Chișinău;



- 9 December 2019 – the Center informative stand within the National Anticorruption Conference, organized by the National Anticorruption Center at the Republic Palace.



### • Training activities

During the period January-December 2019, at the headquarters of the Center **100** working sessions were organized with representatives of public and private institutions on the issues they were dealing with: assistance in the elaboration of codes of conduct in various spheres of activity, examination of sectoral laws, guidance and consultancy, etc.

At the same time, representatives of the Center, with support of the EU Twinning Project, organized about **75 trainings** for a total of **3442 participants** from Chișinău and districts from the Republic of Moldova.



- On 18 March 2019, the representatives of the Center participated as trainers in a training course for civil servants, entitled “Depersonalization of personal data in the context of publishing local documents”, which took place in Comrat city hall.



- During 3-4 April 2019, EU Twinning experts, in collaboration with Center, organized a training entitled: *Data protection requirements in the financial sector*.



- During 27-29 March 2019, EU Twinning experts in collaboration with Center organized trainings entitled: *Personal data protection requirements in the Telecommunication and Health Sectors*.



- On 16 May 2019, representatives of the Center participated as trainers in the training course entitled “*Ensuring the protection of personal data in the activity of public services provision*”.



- On 23 May 2019, training course on personal data protection organized by the Center for Secretariat of the Parliament of the Republic of Moldova.



- During 27 – 28 June 2019, EU Twinning experts, in collaboration with Center, organized a training entitled: *Data protection requirements for the education sector*. The General Directorate of Education, Culture, Youth and Sport from Chişinău hosted the event.



- During 04 – 05 July, 2019, EU Twinning Project “Capacity building of the National Center for Personal Data Protection”, organized a training course for Centre staff , on investigation procedures, conducted during the controls performed on the lawfulness of the processing of personal data.



- On 27 September 2019, at the invitation of the Ministry of Education, Culture and Research, the representative of the Center conducted a training course about the importance of personal data protection in the educational field.



- On 5 November 2019, at the invitation of Comrat Court of Appeal, the representatives of the Center conducted a training course about personal data protection in the judicial activity.
- On 15 November 2019, the management and the representatives of the Center held an active dialogue with the representatives of the Chişinău Court, on aspects aimed at applying the provisions of the legislation in the field of personal data protection in the judicial activity.
- During 20-22 November 2019, EU Twinning experts, in collaboration with Center, organized a training course regarding the activity of central and local public administration. State Chancellery of the Republic of Moldova hosted the event.



- During 30 October – 1 November 2019, EU Twinning experts in collaboration with Center organized a training course in the financial sector entitled: *“Personal data protection legislation and requirements”*.





- During 12 – 13 December 2019, EU Twinning experts, in collaboration with Center, organized a training course “Personal data protection and video surveillance”. The event was hosted by IT Center, Tekwill.

#### • Center activity highlighted in the media

During 2019, were published 129 press releases, articles and announcements on the [www.datepersonale.md](http://www.datepersonale.md), official page of the Center.

During the reference period, for the first time, since May, with the support of the EU Twinning Project, **2 quarterly newsletters** has been elaborated, containing statistical information on the activity of the Center for a period of 3 months.

During 2019, about the activity of the Center was mentioned in about 134 media articles, the figure being double compared to the previous reporting year, when 55 articles of this kind were published. The most frequent activity of the Center was reflected in the following media sources: Moldpres, TVR Moldova, Moldova 1, Bizlaw, Mesager, Sputnik Moldova, privesc.eu, News Agency – Info Prim Neo, Curentul.md, Noi.md, tribuna.md, Radio Chișinău, realitatealive.md, democracy.md, newspaper Moldova Suverană, publika.md, TV8.md, agora.md, adevarul.ro, Channel 2, Primul în Moldova TV, deschide.md, zugo.md, diez.md, Publika TV, prime.md, unimedia.md, Canal 3, justicemoldova.md, unghiul.com, TVN, protv.md, jurnal.md, etc.

The increasing interest of the citizens towards to the activity of National Authority for personal data protection is also deduced from the online environment. Or, the official Facebook page of the Center – has a significant increase in the number of followers. If in 2018 the number of followers represented about 1200 people, in 2019 it increased to about 1700. The impact of the posts on the Center’s Facebook page increased by 108% – 6500 views.



### • Human resources management

The staff is the most valuable resource of the Center, which actively contributes to increase the efficiency and effectiveness of the institution.

We emphasize that human resources are the creative, active and coordinating element of the activity within the entity, these decisively influencing the efficiency of the use of material, financial and informational resources. Thus, the support, stimulation and appreciation at the fair value of the employed staff is essential.

The National Authority for the control of personal data processing consists of management (director and deputy director) and 8 structural subdivisions, effective limit of staff, approved by Law no.182 / 2008, is 45 units, of which:

- 2 functions of office holders;
- 42 public functions; including 11 – management functions, 31 – execution functions;
- 1 – auxiliary staff.

At the end of 2019, the total number of the Centre employees constituted 33 staff units, with an occupation rate of 73%, increasing by 2 percentage points compared to the level registered in the previous year.

Year	Approved units	Effectively, employees	Share, %
2018	45	32	71
2019	45	33	73

In particular, it highlights the stringent insufficiency of the specialists in the basic subdivisions of the National Authority for the control of personal data processing – the General Department of surveillance and conformity and the Legal Department, which have the powers to carry out the verification of legality of personal data processing. The number of employees in these departments, at the end of 2019, being 19 units out of 28 approved according to the staff status, which constitutes 68%.

The recruitment policy of the Center focuses on a well-determined process, which aims to ensure the optimal staffing needs based on the following principles: open competition, transparency, equal opportunities, professional merit.

These principles are necessary for the recruitment of a staff that will provide, in the future, depending on the institutional needs and requirements, its competences, potential, experience, skills and abilities related to the achievement of the objectives proposed by the authority. During 2019, in order to ensure an efficient and professional activity within the Center were organized and carried out 5 contests to fill vacant positions.



It should be emphasized here that competitions for some vacant public positions, such as those for state inspectors in the General Department of surveillance and conformity and the Legal Department, have been extended numerous times, both because of the lack of candidates and because of the refusal of some winners of the competition to be appointed to the position, the reason being the unattractive salary.

During the reporting period, it were open for competition 11 vacant public positions. To participate in these competitions were submitted 54 files (candidates). In order to ensure the transparency of the process of organizing the competition, on the web page ([www.datepersonale.md](http://www.datepersonale.md)) and on the governmental one ([www.cariere.gov.md](http://www.cariere.gov.md)) by the Center was placed 41 informations on the organization and conduct of competitions.

As a result of the competitions that took place, 9 people were hired, of which 4 were debutants. During 2019, 2 civil servants debutants were confirmed in the public functions, obtaining the qualification “good” and “very good” when evaluating the activity spent at the end of the probationary period, at the same time being conferred with the qualification degree “counsellor of the class III “. It should be mentioned that the other 2 civil servants debutants will be confirmed, as the case may be, in the public positions held, in the first semester of 2020.

The low level of occupancy of the vacant public functions within the Center is due, in particular, to the lack of qualified specialists in the field of personal data protection, as well as to the level of net lower pay, both in relation to the volume and the specificity of the tasks, and in relation to the much higher level of pay established for the authorities exercising competences similar to those of the Center and which, in fact, are subject to the control of the legality of the processing of personal data by the Center.

It should also be mentioned that the Center staff is a relatively young one, the average age of employees in the Center is 36 years. Compared to the previous year, the average age of staff increased by 2 percentage points. In the age structure, the highest weight is made up of persons between the age of 35-45 (45.5% in total) and those aged 25-35 (36.4% in total), the rest of the age categories having much lower weights.

#### *Center staff by age categories*

Year 2019	Total effective persons	Functions of office holders	Public management positions	Public execution functions	Auxiliary staff
<b>Number of persons</b>	<b>33</b>	<b>2</b>	<b>11</b>	<b>19</b>	<b>1</b>
• < 25 years old	2	–	–	2	–
• 25-35 years old	12	–	2	10	–
• 35-45 years old	15	2	7	6	–
• 45-55 years old	2	–	1	1	–
• 55-63 years old	1	–	1	–	–
• 63 years old <	1	–	–	–	1

The youngest employee in 2019 was 23 years old and the oldest corresponding – 64 years old. According to the gender profile, analyzing the staff structure it is observed that the number of women working in the Center is higher compared to the number of men (60.6% women and 39.4% – men).

*Center staff by gender*

Gender	Functions of office holders	Public management positions	Public execution functions	Auxiliary staff	Totally effective staff
Women	1	9	10	–	20
Men	1	2	9	1	13

It should be reiterated that, an acute problem faced by the National Authority for the control of personal data processing in the human resources chapter is the staff fluctuation, a concern about which the Center has repeatedly communicated, especially during 2019, inclusive to the Parliament and Government of the Republic of Moldova. However, during 2019, 8 persons resigned from the Center.

Even more alarming is the fluctuation of the staff with control attributions within the Center, which increased compared to 2018, thus registering a weight of 12.5%. This increase was mainly caused by the level of salary irrelevant in relation to the volume and complexity of the activities, especially those of verifying the legality of the processing of personal data.

Also, the Center is facing at the institutional level with the problem of internal auditor lack and the impossibility of filling that vacant position. However, for several years, including 2019, the function of internal auditor was permanently exposed to the competition, but without results, due to the disproportionate correlation between the level of pay, the workload and the responsibilities required in the job description.

The same reason – the unattractive salary, is the basis of the total lack of interest from the qualified IT specialists, or in particular the Department responsible for prevention, evidence and surveillance, which directly participates and performs the verification of the legality of processing of personal data in the case of automated information systems and in situations of security incidents, it is imperative to have qualified specialists from this branch, but, under the current wage conditions, this problem cannot be overcome.

### Professional development

The continuous professional development of civil servants is carried out by training activities of different types and forms in order to deepen and update the knowledge, develop the skills and modelling the attitudes / behaviors necessary for the efficient exercise the duties of the service. An efficient system of continuous professional development is necessary to obtain and maintain a discounted level of performance.

In this respect, was drawn up the annual professional development plan, according to which the Center's employees attended 3 internal training courses and 20 external training courses, organized in different forms (trainings, workshops, study visits) by State Chancellery, Academy of Public Administration, Ministry of Finance, Center of Information Technologies in Finance, etc. The number of training hours for the Center amounted 580 astronomical hours.

The Center has established effective collaborative relationships with the Academy of Public Administration (APA), which is a provider of training services, being the elite center for promoting state policy in the field of training and professional development for civil servants of all levels. Therefore, the employees of our authority, participated in the reference period to 14 professional development courses, organized by the APA.

Separately, we note the participation of the Centre employees on the trainings organized within the EU Twinning Project "Capacity Building of the National Center for Personal Data Protection



of the Republic of Moldova”, obtained the quality of accredited trainers in the field of personal data protection.

For the insurance of an effective human resources management, in 2019, was developed 404 administrative acts related to the employment relationships of employees.

### • Economic-financial activity

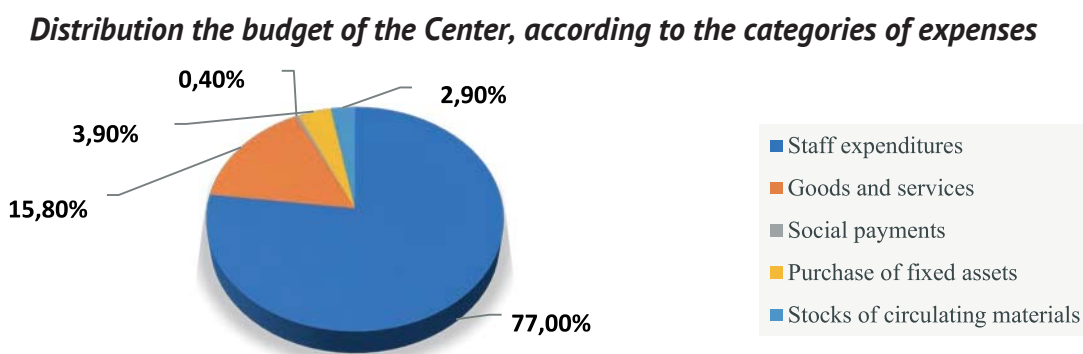
#### The budgetary aspects of the Center

According to the State Budget Law 2019 no. 303 of 30 November 2018 (published in the Official Gazette no.504-511/842 of 22 December 2018), for the Center was approved the total budget of **7 665,00 thousand MDL**.

At the same time, during the budget year, were made budget adjustments by Law no. 112 of September 4, 2019 regarding the amended and supplemented of the State Budget Law for the year 2019, in the sense of increasing the budgetary allocations for the Center with the amount of 133,2 thousand MDL in the chapter on staff expenditure.

Thus, the total budget of the Center in 2019 constituted **7 798,2 thousand MDL**.

As of December 31, 2019, the Centre's budget was executed in the amount of 6 785,8 thousand lei, which constitutes 87,02% of the specified budget, with the following structure:



It is necessary to mention that also in the reporting year, the highest weight in the structure of the total expenses, constituted the staff expenses, including the medical and social insurance payments paid by the employer, for which 5 225,3 thousand MDL were used.

The financial means related to the purchase of goods and services constituted 1 065,5 thousand lei, out of the total funds allocated, including the expenses for ensuring the maintenance of the Center, which include: the expenses of the headquarters tenancy, maintenance of the technical equipment and of the information programs, of the means of transportation necessary in the process of carrying out the controls, ensuring the institution's building security, the expenses destined to ensure the participation of the Center representatives in the working groups, forums and international conferences.

In the category of expenses for social benefits, 25,6 thousand lei were used, and in the part regarding the purchase of fixed assets and stocks of circulating materials, correspondingly, 469,4 thousand MDL.

It should be mentioned that, during the years 2017 – 2019, the Center has repeatedly requested the support of the Government in order to allocate the necessary additional space for the good performance of its activity and to perform the basic tasks with which the authority is invested,



for which financial means have been planned, such as: space repair, which were allocated for the extension of the security system, the video and access control system, the procurement of the computing technique, the furnishing of the spaces that were to be used. Given the fact that, to date, the Center's requests in this regard have not been fulfilled, the planned financial means could not be executed, which led to the non-execution of the budget.

In this regard, we note that the allocations have been distributed and used, respecting the principles of legality, transparency, opportunity, continuity and efficiency.

### Public procurement

The public procurement plan for 2019 has been elaborated and published on the web page: <http://www.datepersonale.md/file/Planul%20de%20achizitie%20201999.pdf>.

In order to carry out this plan, during the reference period, 32 contracts of low value public procurement regarding the purchase of goods and services were concluded, of which a contract – by negotiation without publication, with their subsequent registration with the State Treasury.

The application of public procurement procedures ensured the contracting of qualified and experienced economic operators in the field of executing public procurement contracts.

All procurement contracts concluded to ensure the Centre's needs were executed in due time. Disputes regarding the execution of the contracts concerned did not exist.



## PROBLEMS AND OBJECTIVES OF THE CENTER

### • Problems faced by the Center

Analysis of the situation regarding the problems faced by National Authority for personal data protection denotes, regrettably, continuous character of them, or, during the last years, the spectrum of the Center's concerns, which have practically become constant, is highlighted generating impediments that are increasingly accentuated both in the institutional and organizational activity, as well as in the development of personal data protection field at national level.

It is noted that, for the most part, solving stringent problems that the Center faces it exceeds the competence of this authority, which is why it becomes even more difficult to prevent the stagnation, at the moment, of developing the field of competence.

In this regard, it stands out **stringent issues of legal, institutional, perception and applicability, etc.**, as follows:

- **disparity between the national legal framework in the field of personal data protection and the new regulations existing at European level**, namely, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.
- **discriminatory salary level of the civil servants within the Center** as compared to the one provided to other supervisory bodies, with similar status, and taking into account the specific activities that undoubtedly presume the processing of personal data, are subject to verification of legality of data processing by the Center. As example may be mentioned the following entities: Security and Intelligence Service, Ministry of Internal Affairs, Prosecutor's Offices, National Anti-Corruption Center, National Integrity Authority, Anti-Money Laundering Service, etc.;
- **massive workload compared to the small number of Center's staff**, in particular in the basic subdivisions of the Authority: the General Department for Surveillance and Conformity, the Legal Department, especially in the context of investing authority over the last several years with multiple additional tasks (for example by: the Law on electronic communications, the Law on the prevention and combating money laundering and terrorism financing, the Law on the prevention and combating of terrorism, etc.), without being created / assured and reliable institutional mechanisms for carrying out the prescribed tasks;
- **staff turnover** and lack of specialists in personal data protection field;
- **the absence of adequate safeguards** for employees of the Center regarding the risks generated by the control activity;



- **the inefficiency and insufficiency of the coercive levers for the unlawful processing of personal data**, the reason being the double, contradictory and susceptible character of the procedures for examining the findings resulting from the checking lawfulness of the processing of personal data, manifested by doubling examination in court, in the same period, the same documents and findings issued by the Center, both in administrative order and in contravention procedure. Or, the decisions issued by the Center according to art. 27 of the Law on personal data protection, which establishes a violation of the legal provisions in the field of personal data protection, on the one hand are subject to challenge in administrative litigation order, and on the other hand, they serve as a basis for establishing the contraventions facts and the preparation of the minutes regarding the contravention, which is sent for examination in the court.

Thus, besides the fact that for committing the same act / violation, the controller is subject to liability / sanction 2 times – circumstances contrary to the principles of individualization and subject to liability, there are also situations in which, same controller, for the same offense, in contravention order the controller was convicted by the court, while, in administrative contentious order, he was declared innocent, with the annulment of the Center's decisions or vice versa. However, the situation described is even more bizarre considering the fact that in both cases (the contravention procedure and the administrative contentious procedure) at the base there was the same decision to find the infringement committed in the processing of personal data.

In this context, the existence of such contradictory procedures led, in some cases, in determining the inefficiency of the actions taken by the Center to counteract non-compliant data processing and to prevent the committing of other violations concerning the right to the inviolability of the intimate, family and private life of personal data subjects.

However, the circumstances described are even more bleak and disarming for the National Authority for the control of personal data processing, taking into account the number of employees of the Centre sub-divisions, which is absolutely minimal in relation to the excessive volume of work;

- low level of public awareness on the importance of processing personal data under the Law on personal data protection, caused by insufficient institutional and financial capacities;
- reluctance of controllers, particularly those from the public domain in respect of the effective implementation of the principles of personal data protection, including the premeditated failure to consult the Center's opinion/position, especially before elaborating and puts it into operation automated information systems that record personal data, both in the lawmaking process and in the correct interpretation / application of the legal provisions in the field. Consequently, automated information systems, do not comply with the principles of personal data protection;
- abusive use, in particular by representatives of public authorities, of the legal provisions in the field of personal data protection, the alleged argumentation of the refusal to present the requested information through the realization of the right of access to information;
- lack of mechanisms, procedural guarantees and effective control by law bodies and courts when conducting and authorizing telephone intercepts and other special investigative measures, which would ensure a fair balance between the interest of the criminal prosecution body to accumulate certain evidence and the rights of the concerned subjects. For example, there is no record of the fact whether personal data subjects who have been subjected to special investigative measures have been granted the right to be informed in this regard or if it was restricted informing them and the reasons that led to the postponement of informing, etc.



- non-compliance of legal obligations regarding depersonalization of court decisions, a problem that remains one that generates the submission of complaints to the Center, being invoked violation the principles of personal data protection, in the part concerning the publication of judgments / sentences issued in criminal, contravention, civil cases on the Courts' Web Portal, without having depersonalized the data regarding: domicile, IDNO, data concerning minors, health, criminal convictions, etc., actions that contravene the provisions of the Law on personal data protection, and the Regulations regarding the publication of court decisions on the Courts' Web Portal and on the web page of the Supreme Court of Justice, approved by the Superior Council of Magistracy;
- continued use of technology Common Object Interface (COI), when processing personal data stored in different state-owned automated information resources. The problem of using the COI remains unresolved until now, provided that the state authorities access personal data, in the vast majority of cases, through this technology, which, in fact, does not meet the requirements regarding the security of personal data when processing them within the automated information systems and does not ensure the nominal identification of users who have performed data access operations, but which, they have the obligation to justify the purpose and the legal basis of these operations. The solution to this problem becomes even more stringent in the context of alarming figures of stored personal data access, the main state information resources, exemplifying only the State Register of Population, where, during the last years, according to the official statistical data, there have been carried out just through the COI technology many operations to access personal data, some of these figures being further reflected:

Entity	Reference period (year)	Number of views carried out <u>just through COI</u>
Ministry of Internal Affairs	2018	18 535 791
	2019	18 935 028
Security and Intelligence Service of the Republic of Moldova	2018	54 037
	2019	32 270
National Anticorruption Center	2018	1539
	2019	16 491
Public Services Agency	2018	6 868 087
	2019	20 548 469
State Tax Service	2019	2 613 935

In the context, at the end of 2018, the Public Services Agency informed the Center that, for the exchange of data through the COI technology, no web services developed anymore, referring to Law no. 142 of July 19, 2018 regarding data exchange and interoperability, according to which all information services held by the participants in the data exchange is mandatory access through the Mconnect interoperability platform. However, it is obvious that the situation did not improve even after a year, however, the state authorities continue to use this method (accessing information stored in the main state information resources through the COI) as the only source to verify the authenticity of personal data. Thus, even if at the elaboration stage of the Law on data exchange and interoperability one of the basic tasks of this legislative act it was the total exclusion from the use of COI technology, it is found that, up to now, this goal was not achieved, the COI problem has not been solved.



Moreover, according to the provisions of Art. 6 paragraph (3) of the aforementioned law, public authorities and institutions with attributions in the field of activity of supervision of entities in the financial sector, national defense, state security, maintaining public order, countering criminality, preventing and combating corruption, acts related to corruption and the facts of corruption behavior are exempted from the obligation to perform the data exchange through the interoperability platform and to ensure the technical conditions necessary to perform the data exchange, which generates even greater impediments in overcoming the stringent problems aimed at both the use COI technology as well as minimizing the maximum number of operations to access personal data stored in information resources.

### • Objectives for the year 2020

For 2020, the Center intends to concentrate its efforts in order to achieve the following objectives, without being limited to them:

- ensuring the compliance of the national legal framework in the field of personal data protection with the new regulations at European level, by approving by the Parliament of the Republic of Moldova in final reading two draft laws: the draft law on personal data protection and the draft law on the National Center for Personal Data Protection. At the same time, following the achievement of the objective, it is necessary to elaborate and implement the normative and internal framework related to the implementation of the new legal provisions;
- further implementation of the results of Twinning project funded by European Union and implemented by the German Foundation for International Legal Cooperation (IRZ) and the Ministry of Justice of the Republic of Latvia.
- ensuring the salary increase of the Center's staff, linked to that provided for other control bodies of similar status, which, having regard to the specific nature of the activity, are subject to verification of the data processing legality by the Center;
- increase of the staff limit of the National Authority for the control of personal data processing;
- further fulfilling of the National Action Plan for the implementation of the Association Agreement Republic of Moldova – European Union;
- continuation and enhancement of actions to raise awareness of the importance of personal data protection, both from the point of view of respecting the rights of the data subjects and from the perspective of ensuring the implementation of the obligations related to the personal data controllers;
- insurance with offices /sufficient spaces, indispensable for good activities of the Center's work;
- contributing to raising the level of correct interpretation and compliance with the legal provisions in the field of personal data protection by the actors involved in the processing of personal data, including by ensuring the balance between the legal provisions related to the rights of access to information, the freedom of expression and the personal data protection;
- contributing to the creation of an uniform judicial practice on the application of provisions of legislation on personal data protection.

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