



NATIONAL CENTER FOR PERSONAL DATA PROTECTION OF THE REPUBLIC OF MOLDOVA

ACTIVITY REPORT FOR THE YEAR 2021

CONTENTS

	GENERAL PRESENTATION	71
CHAPTER I	EXAMINATION OF COMPLAINTS AND OTHER REQUESTS	72
CHAPTER II	ACTIVITY OF CONTROL	75
CHAPTER III	ACTIVITY OF THE REPRESENTATION IN THE COURTS	79
CHAPTER IV	EXAMPLES OF CASES EXAMINED IN 2021	86



CHAPTER V

**RECOMMENDATIONS AND OPINIONS
OF THE CENTRE 94**

CHAPTER VI

**ACTIVITY OF SURVEILLANCE OF PERSONAL
DATA PROCESSINGS 103**

CHAPTER VII

**ENDORSEMENT AND DEVELOPMENT OF DRAFT
NORMATIVE ACTS..... 110**

CHAPTER VIII

INTERNATIONAL COOPERATION 116

CHAPTER IX

TRAINING AND AWARENESS ACTIVITIES 123

CHAPTER X

MANAGERIAL ACTIVITY OF THE CENTRE 126

**PROBLEMS AND OBJECTIVES IN THE
ACTIVITY OF THE CENTER 134**



GENERAL PRESENTATION

Year 2021 in numbers

REQUESTS / COMPLAINTS

11600 correspondence documents:
5083 inbox
4549 outbox
1108 internal
860 complaints



ACTIVITY OF CONTROL

243 initiated controls:
213 based on complaints /
notifications / self-notifications
30 based on requests for
cross-border transfer



RESULT OF CONTROLS CARRIED OUT

252 issued decisions
119 decisions of violations found
38 decisions of suspension/
cessation/erasure
148 cases of contraventions
found
117 minutes drawn up

ACTIVITY OF REPRESENTATION IN THE COURTS

571 court proceedings:
352 in contravention proceedings
219 in administrative litigation

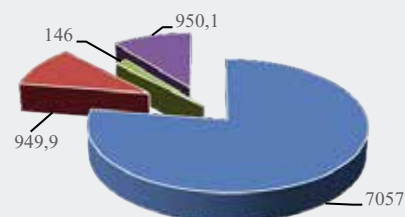


SURVEILLANCE ACTIVITY

1138 examined notifications,
including:
609 – compliant
529 – non-compliant



CENTER'S BUDGET ALLOCATION FOR 2021 (specified, thousand MDL)



■ Remuneration
■ Goods and services
■ Social benefits
■ Administrative expenditure

HUMAN RESOURCES

40 out of 45 staff-limit
5 competitions held
14 persons employed /
8 debutants
13 persons resigned
26 training courses



TRAINING AND INFORMATION ACTIVITY

1640 trained persons
2658 consultations for controllers
68 press realises/ placed articles





CHAPTER I

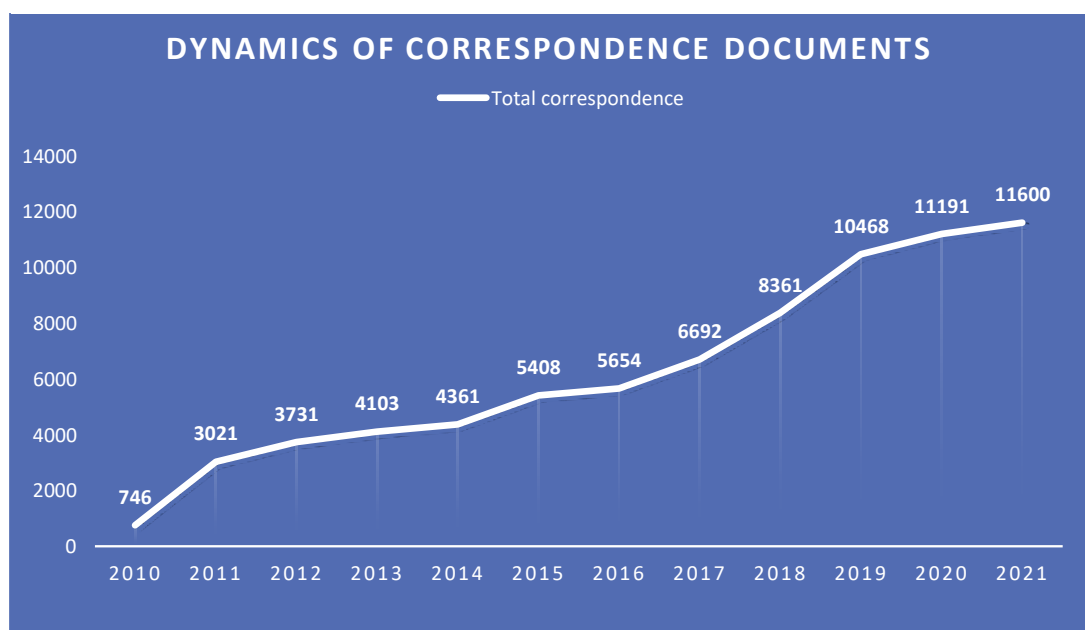
EXAMINATION OF COMPLAINTS
AND OTHER ADDRESSES

During 2021, National Center for Personal Data Protection of the Republic of Moldova (Center) examined **11600** correspondence documents, including **5083** inbox documents, **4549** outbox documents, **860** complaints of personal data subjects.

Comparative statistics of the Center's correspondence documents, for the years 2014-2021

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
2020	11191	5115	4564	833	679
2021	11600	5083	4549	860	1108

The ever-increasing dynamics of the number of correspondence documents examined annually by the Center, covering virtually the entire period from the founding of the National Authority for Personal Data Protection to the present, is further reflected:



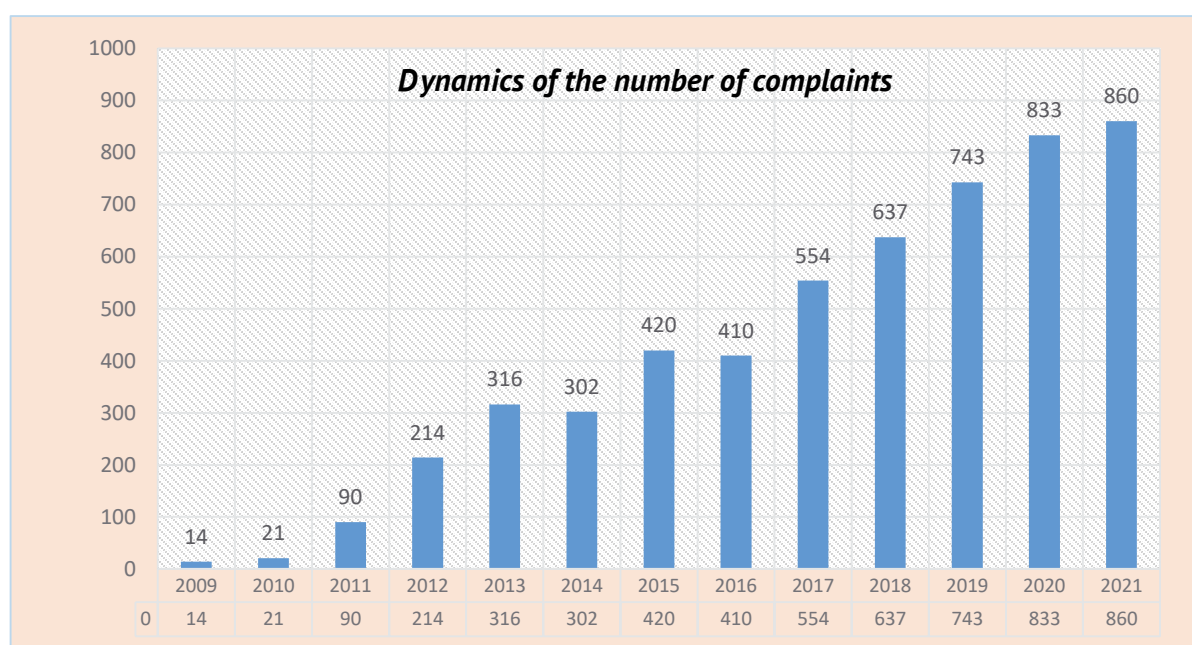


The significant increase, from year to year, in the number of correspondence documents examined by the Center, demonstrates the increased degree of importance of the field of personal data protection in the society. Moreover, there is an increase in the number of complaints submitted by personal data subjects, which clearly indicates an increase in knowledge of data subjects' rights established by the Law on Personal Data Protection and their intention to actually exercise these rights.

Activity of examination of personal data subjects' complaints

During the reference period, there is a slight increase in the number of complaints received by the Center from natural persons - personal data subjects, thus being examined **860** complaints during 2021.

From the total number of complaints registered in the reporting period, in **213** cases, controls on the compliance of personal data processing were initiated.



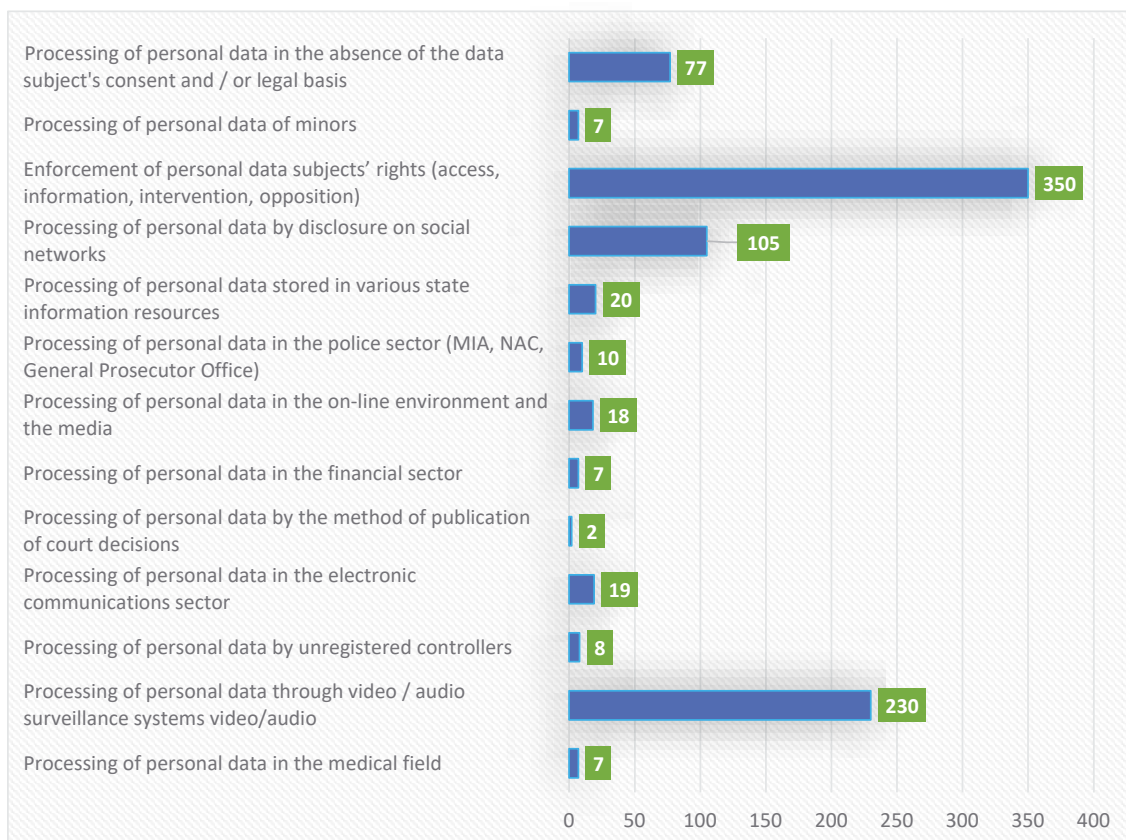
In 2021, the complaints received by the National Authority for Personal Data Protection mainly concerned the following topics:

- ✓ Processing of personal data through video / audio surveillance systems: **230** cases;
- ✓ Processing of personal data without notification and / or authorization of the control body in the field personal data processing, as well as processing of personal data by an unregistered controller: **8** cases;
- ✓ Processing of personal data in the electronic communications sector: **19** cases;
- ✓ Processing of personal data of minors: **7** cases;
- ✓ Publication of court decisions without their depersonalization: **2** cases;
- ✓ Processing of personal data in the financial sector, insurance companies: **7** cases;
- ✓ Processing of personal data in the on-line environment and the media: **18** cases;
- ✓ Processing of personal data stored in various state information resources: **20** de cases;
- ✓ Processing of personal data by disclosure on social networks: **105** cases;



- ✓ Processing of personal data in the absence of the data subject's consent, as well as in the absence of any other legal basis: **77** cases;
- ✓ Enforcement of personal data subjects' rights (access, information, intervention, opposition): **350** cases;
- ✓ Processing of personal data in the medical field: **7** cases;
- ✓ Processing of personal data in the police sector (MIA, NAC, General Prosecutor Office, etc.): **10** cases.

General situation regarding the complaints under examination in 2021, by areas





CHAPTER II

ACTIVITY OF CONTROL

Comparative information on the control activity, for the years 2018 – 2021

Period for comparison	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 / minutes issued
Year 2018	326	16	4	27	191/92
Year 2019	376	26	8	24	186/105
Year 2020	303	20	6	17	170/125
Year 2021	243	27	2	9	148/117

Despite the increasing number of complaints submitted in 2021 compared to the previous reporting period, there is a slight decrease in the number of controls registered by the Center during the reference period.

This fact is mainly due to the changes on the provisions of art. 27 of the Law no. 133 of 08.07.2011 on personal data protection, in force since 24 August 2020, amendments which, during the year 2021, significantly influenced the activity of the Center regarding the control over the legality of personal data processing. Or, the legal amendments established conditions for submitting the complaint to the Center, which indicates the prior realization by the data subject of the rights provided in art. 12, 13, 14, 16 and 17 of the Law on personal data protection and, in case of omission of this precondition or in case of omission of other important aspects related to the presentation of relevant evidence, the Center informs the data subject about this fact within 30 days from the date of the complaint receipt.

The above recitals explain the non-essential decrease in the number of controls initiated on the basis of data subjects' complaints during 2021, and also indicate that, at the implementation stage of realization by personal data subjects of the rights provided by law in relation with the data controllers, the latter, for the most part, solved / satisfied the claims of data subjects.

The conformity control of personal data processing with the requirements of the Law on personal data protection may be initiated: on the basis of the complaint of the data subject; complaints /self-notification; request of cross-border transmission of personal data.

The control activity consists in verifying the legality of personal data processing by the data controllers and / or processors, in order to clarify / ascertain the facts and circumstances



related to the processing of personal data and collect the evidence necessary for the objective examination of the claimed case.

In most of the cases examined, the purpose of the controls is to establish:

- the purpose and legal basis of personal data processing;
- proportionality, relevance and actuality of the processed data;
- respect for the rights of personal data subjects;
- respect for the degree of security and confidentiality of personal data processed;
- the legality of the cross-border transmission of personal data;
- compliance with the obligation to notify the Center, etc.

In order to clarify the facts and circumstances complained by the data subject, as well as in order to verify the compliance of the legal obligations, the Center carries out controls with or without on-the-spot exits. In accordance with Art. 27 para. (3) of the Law on personal data protection, the controls initiated shall end with the issuance of a reasoned decision, finding a non-violation or a violation of legislation in the field of personal data protection, with the provision, as appropriate, suspension, cessation of personal data processing operations, rectification, blocking or destruction of untrue or unlawfully obtained data. In the case of the absence or insufficiency of the evidence proving the infringement, the Center shall, by reasoned decision, find that there has been no infringement. In case of finding the violation of the provisions of the Law on personal data protection, the decision and the accumulated evidence serve as a basis for drawing up the minutes on the contravention, under the conditions of the Contravention Code.

Thus, in 2021, **243** control materials were initiated and examined, of which:

- **213** based on the complaints of personal data subject, complaints /self-notification;
- **30** based on the cross - border transmission of personal data authorization requests.

It should be noted that, during the reference period, were carried out controls on the compliance of personal data processing with the requirements of the Law on personal data protection in connection with the following facts complained by data subjects:

- processing of personal data in the absence of the data subject's consent, or in the absence of a legal basis;
- violation of data subjects' rights, in particular the right to information, the right of access and the right of opposition;
- the legality of the installation and management of video surveillance systems by natural persons and legal entities;
- sending of unsolicited commercial messages;
- accessing of personal data from state information systems without a legal basis;
- publishing of personal data in the on-line environment, etc.

Also in 2021, especially in the view of the pandemic situation at national level, controls on the lawfulness of personal data processing were carried out, mainly through the written procedure for obtaining the necessary information to objectively examine the cases and issue by which the non- infringement or violation of the legislation in the field of personal data protection was found.

During the reporting period, 252 decisions were issued, of which 119 decisions finding a violation of the legal provisions in the field of personal data protection when processing personal data.



Thus, 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 seriousness of the violations of personal data protection principles found, the constraint measures were ordered manifested by:

- suspension of personal data processing – 27 cases;
- destruction / erasure of personal data processed regarding the infringement of legal provisions – 9 cases;
- cessation of personal data processing – 2 cases.

At the same time, according to the control activity carried out as an ascertaining body, according to the facts stated in Articles 74¹ - 74³ of the Contravention Code, regarding the violation of the legal provisions in the field of personal data protection, during the year 2021, **117** minutes on contravention were drawn up, **148** contravention facts being established and sent for examination in the Court, according to the provisions of the Contravention Code.

The spectrum of contraventions found in the reference year by the ascertaining agents of the Center, were manifested by:

- art. 74¹ para. (1): failure to comply with the requirements for ensuring the security of personal data when processing them within the personal data filing systems – 13 cases;
- art. 74¹ para. (2): processing of personal data without notification and / or authorization of the control body in the field personal data processing, as well as processing of personal data by an unregistered controller - 34 cases;
- art. 74¹ para. (3): violation of the personal data subjects' rights – 13 cases;
- art. 74¹ para. (4): infringement of personal data processing, storage and usage rules – 71 cases;
- art. 74¹ para. (5): cross-border transfer of personal data with violation of personal data protection legislation - 1 cases;
- art. 74² para. (1): refusal to provide the information or documents requested by the Center in the process of exercising control powers, presentation of inauthentic or incomplete information, as well as failure to submit the required information and documents within the deadline established by law – 14 cases;
- art. 74³: failure to comply, within the deadline, with the decision of the Center on the restoration of the personal data subject's rights, including on the suspension or cessation of personal data processing, on blocking, partial or complete destruction of personal data processed in breach of the legislation on personal data protection - 2 cases.



Activity related to the authorization of cross-border transmission of personal data

Proceeding from the provisions of art. 32 of the Law on personal data protection (in the wording in force since 2021), it is revealed 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, the Center focused its attention on the cross-border transfer of personal data, contributing to ensuring the compliance of these data processing operations and improving the quality of the documents underlying the cross-border transmission of personal data between data controllers from the Republic of Moldova and those of other states.

In 2021, 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 mentioned that the demarches and notifications examined by the Center were related to public and private entities from countries such as: Germany, Turkey, Romania, Latvia, Ukraine, Holland, Italy, Ireland, Finland, Russian Federation etc.

Thus, in 2021 the Center received **57** requests concerning the cross-border transfer of personal data, of which **30** - based on requests and **27** through notifications submitted at the Center's "One-Stop-Shop".

As a result of the examination of requests for authorization of cross-border transmission of personal data submitted through demarches (including 2 demarches since 2020), during 2021 were issued 21 decisions on authorizing cross-border data transfer and 11 refusal decision in authorizing the cross-border transfer.

At the same time, from the number of notifications submitted by data controllers at the Center's "One-Stop-Shop" on the intension of personal data cross-border transfer, **8** decisions were authorized and **19** were refused.

As in the previous reporting period, the refusal to authorize the cross-border transfer of personal data was determined by: the non-compliance with the basic 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, 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; the unjustified 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 outside the border of the Republic of Moldova, are highlighted.

At the same time, in the cases of refusal to authorize the cross-border transfer of personal data based on a notification submitted to the Center's "One-Stop-Shop", in the majority of cases it was noted: the description of the operations of personal data processing was not described; failure to indicate appropriate organizational and technical measures for the security and confidentiality of personal data in the filing systems or lack of controller's instructions designed to processor to act on its behalf, etc.



CHAPTER III

ACTIVITY OF REPRESENTATION IN THE COURTS

III

ACTIVITY OF REPRESENTATION IN THE COURTS

In civil and administrative litigation

During the year 2021, the Center's interests were represented in the administrative litigation courts in **121** court hearings, amongst which: **114** as a defendant; **7** as a public authority which draws conclusions.

Therefore, the representatives of the Center participated in **219** court hearings of administrative litigation, drafting **155** procedural documents necessary for an efficient examination of court cases.

At the same time, we note that in 7 court hearings the Center was called as a public authority that submitted conclusions, in accordance with the provisions of art. 74 para. (1) Code of Civil Procedure.

Furthermore, we mention that during 2021 the examination of **50** court files was completed, where the judgements / decisions of the courts remained final and irrevocable, of which:

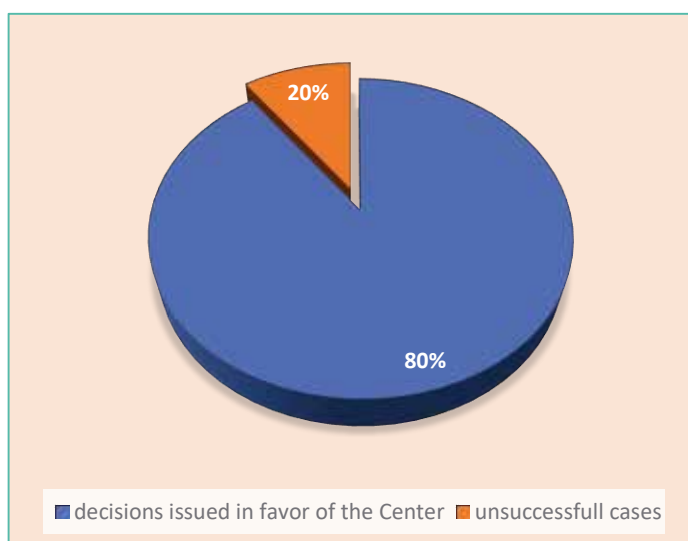
- 40 judgements/decisions of the court were issued in favor of the Center;
- 10 cases were unsuccessful for the Center.

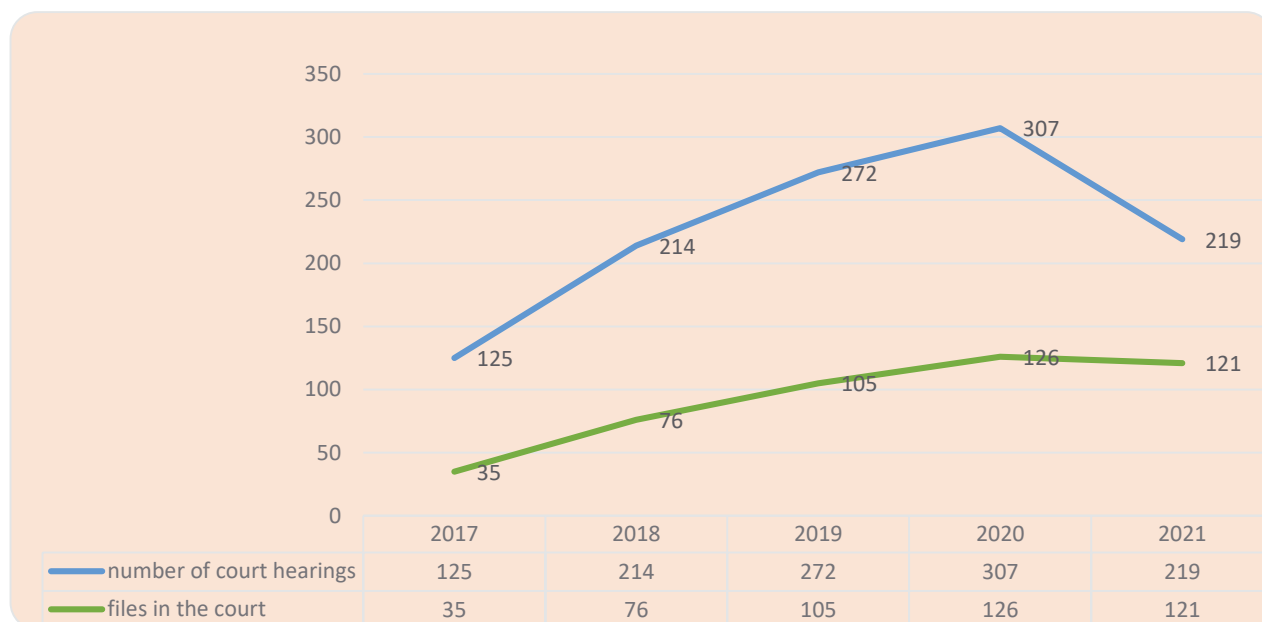
Thus, we find that in **80%** of the number of court cases finalized in 2021, the actions taken by the Center were considered legal and substantiated by the courts.

In this context, based on the specifics of the issues addressed in the lawsuits submitted in 2021, in 95% the object of the examination of actions in administrative litigation was the annulment of decisions issued following investigations conducted by the Center

on the finding or non-violation of personal data protection principles, 9% was the annulment of decisions regarding the refusal to register in the Register of evidence of personal data controllers, and in 1% of cases the alleged moral damage was claimed.

Dynamics of court decisions 2021



**Comparative dynamics of the number of cases and court hearings
in administrative litigation, for the period 2017-2021**

Regarding the representation of the Center's interests in the administrative litigation court, it should be mentioned as an example, the following cases being a success for the Personal Data Protection Authority in 2021:

– *The case of the National Integrity Authority (ANI) against the Center*, aiming to cancellation of the decision finding the violation of the legal provisions in the field of personal data protection when publishing an article on the ANI website, informing that it was identified a conflict of interests by a civil servant, who examined several complaints from a close relative. The published article contained information about his name, surname and position, being made available to the community prior to the publication of the finding, invoking the decision-making transparency of the public authority.

It should be noted that in accordance with the provisions of art. 4 of the Law no. 133/2011, personal data undergoing processing must be: processed correctly and in accordance with the provisions of the law, collected for specific, explicit and legitimate purposes, be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed, 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.

Thus, in the light of Article 4 para. (1) letter a) of the Law no. 133/2011, the infringement of the right to personal data protection must be provided by law. In this regard, the conglomerate of considerations issued by the European Court of Human Rights is relevant, as the phrase *according to law or provided by law* means that any restriction can only be imposed by an organic law, the provisions of which must be accessible and clear, and their wording must not allow extensive interpretation.

The Constitutional Court of the Republic of Moldova, by Decision no. 19 of 22 June 2015, emphasized that the greater is the interference in the case of a constitutional right, the more reasoned should be the premises on which it is based.



In this case, having analyzed the whole spectrum of legal provisions representing the institutional point of view of ANI's personal data controller, as well as the content of the regulation on the publication and updating of information materials on ANI's official website, the Center was unable to determine which specific legal provision authorizes the restriction of the constitutional right to inviolability of personal data subject's privacy, by the depersonalized publication of the communication/article concerning the control carried out on the infringement of the legal regime of conflicts of interest, incompatibilities, restrictions and limitations, prior to the publication of the act of finding, as provided for in Article 37 para. (4) of the Law no. 132/2016 on the National Integrity Authority (in force at the time of issuing the decision).

In the case, was found a violation of Article 4 para. (1) letters a), b), c), e), art. 5, art. 29, art. 30 and art. 31 of the Law no. 133/2011 on personal data protection by ANI.

As a result, the decision issued by the Center was upheld by the court of first instance, the Chisinau Court of Appeal and the Supreme Court of Justice.

– *Case of the Ministry of Internal Affairs (MIA) against the Center*: in another case, similar to the case described in the Center's activity report for the previous year, on 22 December 2021, the Supreme Court of Justice dismissed the MIA's appeal and upheld the Center's decision of 16 November 2018, which found that the processing of personal data does not comply with the requirements of the legislation in the field of personal data protection by the Ministry of Internal Affairs, in the Automated Information System "Register of forensic and criminological information".

The decision of the Center addressed the need to delete information that was collected / obtained from unrecognized authorities / institutions in the Transnistrian Region during the years 1991-2005.

We reiterate that the automatic processing of personal data of the Republic of Moldova's citizens based on information received from unconstitutional structures, which in fact cannot be considered authentic / truthful, as well as its use to the detriment of the data subject concerned, is a serious violation of human rights and freedoms.

In this sense, the Decision of the Superior Council of Magistracy (SCM) no. 209/14 of April 10, 2012 "on the approach of Mr. Oleg Efrim, Minister of Justice, regarding the opinion on the address of Mr. Eugen Carpov, Deputy Prime Minister, on approaching some legal issues", by which the SCM found: "that any act issued by the self-proclaimed authorities of the Republic of Moldova contravenes the Constitution and are considered illegal. This fact refers equally to any decisions, sentences handed down by the courts established in the region. Thus, the Council considers as unacceptable any collaborations, legal cooperation and proposals for legal solutions with the structures from the Transnistrian region."

Consequently, in the jurisprudence concerning the Republic of Moldova, the European Court of Human Rights in numerous cases (Ilascu and others vs. Moldova and Russia; Eriomenko against Republic of Moldova and the Russian Federation; Mozer against Republic of Moldova and Russian Federation; Catan and others against Republic of Moldova and Russia) found acts adopted by unrecognized and unconstitutional entities on the left bank of the Dniester as illegal.

It should be specified that, according to the Declarations submitted together with the instrument of ratification of Convention no.108 for the protection of individuals with regard to the automated processing of personal data, the Republic of Moldova has not declared reservations on the provisions of the Convention, regarding its application on the territory of the Transnistrian region.

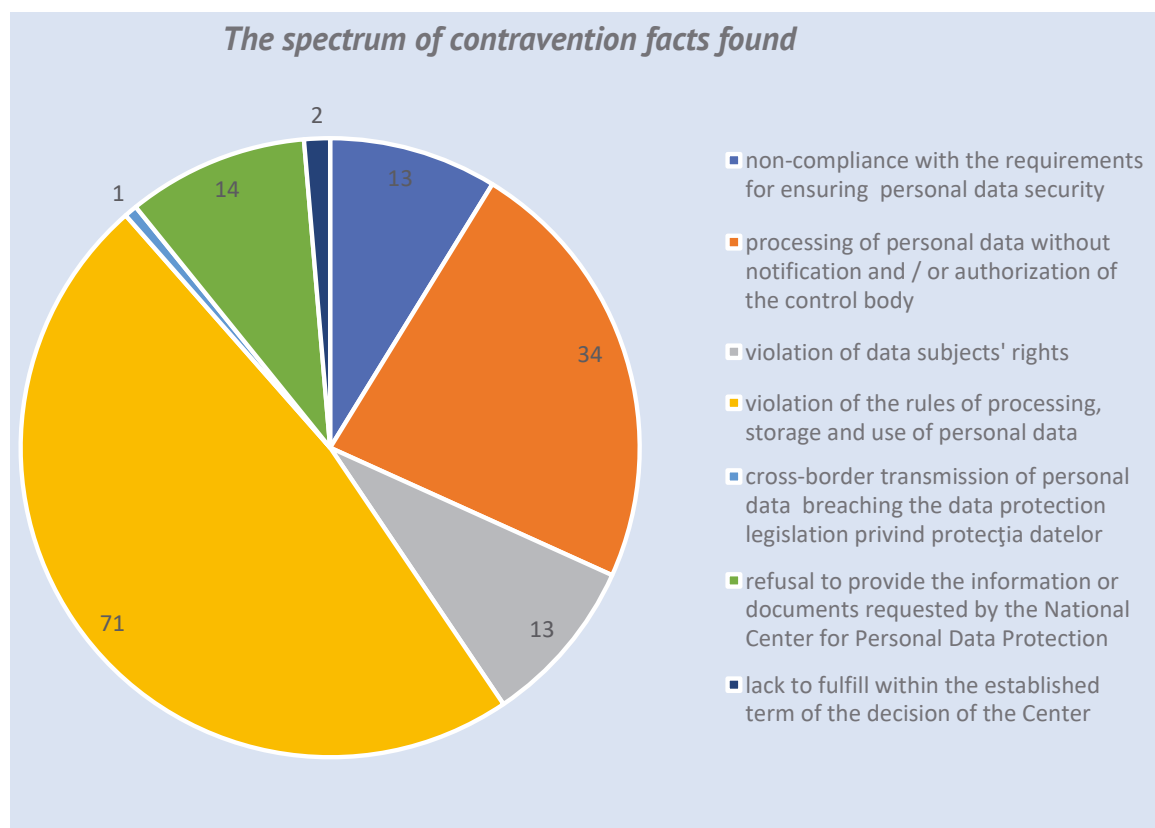


Thus, the Republic of Moldova has the obligation to ensure the protection of the fundamental rights and freedoms of its citizens with regard to the processing of personal data, especially the right to inviolability of intimate, family and private life, throughout its territory.

In the light of the above, we note that, in all cases examined by the Center, regarding the exchange of data between the constitutional authorities of the Republic of Moldova and unrecognized authorities and entities on the left bank of the Dniester (such as: CNAS against the Center; Eriomenco against MIA; Gușan against MIA; Tcacenco against MIA) the decisions of the Center have been legally recognized by the courts, stating that any use / disclosure of personal data from / or to unrecognized authorities and entities on the left bank of the Dniester, is outside the legal scope of the Republic of Moldova and represents a serious violation of the principles of personal data protection.

In contravention procedure

Based on the decisions issued by the Center by which violations of the processing of personal data were found, the ascertaining agents of the Center, during the reference period, drew up **117** minutes on contravention, being ascertained **148** contravention facts. In accordance with Art. 423⁴ of the Contravention Code, the minutes on contravention were submitted for examination in the competent court.



In the reference period, the Center's employees participated in more than **352** court hearings on contraventions under examination, both in the court of first instance and at the Chișinău Court of Appeal. It should be specified that in accordance with the provisions of art. 464¹ and 464² of the Contravention Code, the courts in some cases resort to the application of the written procedure to the examination of contravention cases.



Furthermore, it should be noted that out of the total of **117** contravention cases sent for examination in the court during the reference period, in **35** proceedings examined the Center won the case, the court acknowledging the guilt of the persons in respect of whom minutes on contravention were drawn up, establishing sanctions in the form of a fine.

In addition, it should be noted that another **113** proceedings are currently pending before the courts, including on some of the infringement cases initiated in 2020.

Cases regarding the representation in the courts, having a difficult character for the activity of the Center

✓ Regarding the activity of representing the interests of the Center in the courts, and during the reference period, the pressing issue persisted, which daily hinders the activity of the authority, manifested by the **double, contradictory and equivocal character aiming at the examination in the courts of authority's findings issued following the verification of the lawfulness of personal data processing**.

This essentially refers to the duplication of examination in the courts, during the same period, of the same acts and findings issued by the Center, both in administrative proceedings and in contravention proceedings. However, as a result of the examination of the control materials on the lawfulness of personal data processing, the Center issues reasoned decisions pursuant to Art. 27 para. (3) of the Law on personal data protection, by which it finds no violation or violation of the legislation in the field of personal data protection, ordering, where appropriate, the suspension of personal data processing operations, rectification, blocking or destruction of inaccurate data or obtained unlawfully. The decision regarding the finding of the violation of the legislation in the field of personal data protection and the accumulated evidence serves as a basis for drawing up the report on the contravention, under the Contravention Code of the Republic of Moldova.

Thus, the decision finding the violation of legal provisions in the field of personal data protection is liable to be challenged in order of administrative litigation.

At the same time, in accordance with Article 423⁴ para. (4) of the Contravention Code, as a result of the finding of violations committed in the processing of personal data, the Center draws up minutes of the contravention and sends them for examination to the competent court to resolve the cases, by pleading guilty and imposing a financial penalty, with the possibility of applying as an additional penalty the deprivation of the right to process personal data for a period of 3 months to 1 year.

Therefore, for committing the same act/violation, the personal data controller is subject to liability/sanctioning twice - circumstances contrary to the principles of individualization and subject to liability.

In particular, it should be noted that, according to the practice in this regard, there are situations where for the same act, in the contravention proceedings, the controller is found guilty by the court and in the administrative proceedings, the same controller is declared innocent by the court, with the annulment of the Center's decision or vice versa. The situation described is all the more bizarre in view of the fact that in both cases (in the contravention proceedings and in the administrative proceedings) there is one and the same decision finding that a violation of the personal data processing has occurred.

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 Center's sub-divisions, which is minimal in relation to the excessive volume of work.

✓ Another aspect related to the activity of representing the Center in the courts in order of administrative litigation, which negatively marked the activity of the authority and which was accentuated during 2021, **concerned the confusing situation related to the applicability of the rules on administrative litigation to the preliminary procedure.**

It should be noted that the court of first instance has issued several orders in which the applications for legal action against the decisions issued by the Center on the basis of Article 27 of the Law 133/2011 were declared inadmissible on the grounds that the complainants did not comply with the prior procedure, referring to Article 208 of the Administrative Code. The decisions in question were challenged by both the Center and the complainants and were ultimately upheld by the Chişinău Court of Appeal, thus becoming final and irrevocable.

According to art. 27 para. (5) of the Law 133/2011, *the controller, the processor or personal data subject may appeal the actions, inactions and the decision of the Center to the competent administrative court. Thus, the law expressly provides for the addressing in court, without the need to carry out the preliminary procedure, provisions that come in accordance with art. 163 let. c) of the Administrative Code.* However, this procedure was conceived as a way of offering the possibility to obtain the resolution of the dispute more quickly by recognizing the right or legitimate interest of the injured party.

In this case, the situation was confused and ambiguous regarding the applicability of the rules on administrative litigation, given that the opinions of the court were divided, being cases when the court examined the legality of administrative acts issued by the Center without complying with the prior procedure and the cases in which the court has indicated the obligation to comply with the prior procedure.

Moreover, even more confusing was the case found by the Center, manifested by the situation where the judge declared the request of summons inadmissible on the grounds of failure to comply with the preliminary procedure and, after the complainant had carried out the preliminary procedure and filed the request for summons repeatedly, this time the request was declared inadmissible but already on the grounds of exceeding the time limit for bringing the case to court, on the grounds that it was not necessary to comply with the preliminary procedure.

It should be noted that, in each case concerning situations tangential to those described above, the Center has highlighted that the Law no 133/2011 on personal data protection, in Art. 27 para. (5), states that the controller, the processor or personal data subject may appeal the actions, inactions and the decision of the Center to the competent administrative court, **thus guaranteeing the discretionary right to challenge the Center's decision in the administrative court.** In accordance with Article 163 let. c) of the Administrative Code, the preliminary application procedure is not carried out if the law expressly provides for direct recourse to the court. In this respect, the Law no. 133/2011 on personal data protection expressly provides for an application to the court, without the need to carry out the preliminary examination procedure, in accordance with Article 163 let. c) of the Administrative Code.



The circumstances highlighted, which clearly indicated the dual position of the courts in relation to the subject matter, certainly hampered the work of the Center in the part concerning the correct indication the appeal of the issued administrative acts. Moreover, this contradictory position of the court has led to accusations by citizens against the Center that the authority does not comply with court's decisions and that it is misleading the complainants in order to make them miss the deadline for appeal/contest.

Thus, in order to elucidate the situation described and, in particular, to deny the violation of the right to defense of the persons concerned, at the beginning of July 2021, the Center submitted a demarche to the Supreme Court of Justice (SCJ), requesting an opinion on the situation created, in the light of the provisions of Article 2 let. d) of the Law on the Supreme Court of Justice. As a result, in the reply received, the SCJ indicated that the Center, in the context of the arguments put forward by the SCJ, is not a subject entitled to make a referral.

However, it should be mentioned that, on 29 December 2021, the SCJ published the *Information Note on the judicial practice in the resolution of the issue of compliance with the prior procedure in administrative litigation*, issued in order to establish what is the factual and legal situation in the department of judicial practice and whether the courts correctly and uniformly apply the legislation on compliance with the prior procedure in administrative litigation.

The results of the generalization of the study carried out by the SCJ have shown that in all cases, when the special derogating legislative rules do not provide for a prior procedure, ***the hierarchically inferior courts incorrectly declare the actions inadmissible, pursuant to Art. 207 para. (2) let. f) of the Administrative Code, on the grounds that the conditions specified in Art. 208 of the Administrative Code are not met.***

According to the information systematized and presented in the Information Note on the judicial practice in the resolution of the issue of compliance with the prior procedure in administrative litigation, ***the SCJ expressly and unequivocally concluded that the Law no. 133/2011 on personal data protection is part of the laws related to the Administrative Code, which does not regulate the prior procedure.***

Thus, the explanatory reasoning highlighted above **demonstrated the legality and validity of the Center's actions, in the part concerning the indication of the procedure with regard to the exercise of the right to appeal against decisions issued.**



It should be noted that bringing to the attention of the general public the topics of the cases examined by the Center and, in particular, of infringements found within the control procedures carried out, 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, having at the same time a purpose of prevention - **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:

Non-compliant processing of personal data through video surveillance system

- An economic agent provided installation, monitoring and video recording services through video surveillance cameras located around and inside an apartment block in the capital.

During the control initiated by the Center, it was found that the procedure for joint decision-making on important issues concerning the management of common property in the housing stock, namely ensuring the security and integrity of tenants' property through the installation and management of a video surveillance system – was mimicked.

In this respect, the economic agent who provided the video surveillance services, together with a group of tenants who did not represent even a quarter of the people living in the apartment block, initiated the video surveillance procedure/operations around and inside that apartment block.

It should be noted that the apartment block in the perimeter and inside of which video surveillance cameras were installed did not have established/was not part of a condominium co-owners' association or a homeowners' association that would clearly express the desire of the tenants to independently manage their private property which is owned by several persons at the same time.

Analyzing the circumstances of the present case, the Center found that the video surveillance system managed by the economic agent was processing personal data of the tenants of the apartment block, as well as the fact that the processing operations, which were manifested by video surveillance of the privacy of the tenants - were contrary to the will of the majority of tenants.

The reasoning that led to the detection of violations of the Law no.133/2011, which were found by the Center, derives from the consideration that the so-called decision on the installation and operation of the video surveillance system exposed by some of the tenants, did not meet the required number of votes to be considered a unanimous majority. Consequently, this so-



called decision regarding the installation and operation of the video surveillance system was in contradiction with the will of the majority of the apartment building's tenants.

In this regard, it is noted that the protection of private property - carried out by monitoring, recording, storing video material obtained through the video surveillance system, does not constitute an action outside the law. Or, both Article 9 of the Constitution of the Republic of Moldova and as well as other normative acts in force provide/establish the way of use, management and protection of private property.

However, it should be noted that the right to intimate, family and private life, as well as other rights and freedoms recognized by national legislation, must be balanced and applied in strict accordance with their substance and content.

In other words, the crucial aspect which was important in the examination of the case submitted to Center derived from the fact that the so-called good intention of the economic agent and the group of tenants, who do not represent even a quarter of the people living in that apartment block, to initiate the video surveillance procedure inside and around the apartment block was not coordinated with the majority of the homeowners in the block of flats.

It should be noted that the homeowners in an apartment block, taken as a whole, have the right and the obligation to contribute to the maintenance and improvement of the private property owned in the condominium.

However, viewed individually, homeowners in the apartment block have the right to intimate, family and private life, and monitoring, recording, storing video recordings with their physical appearance - without their consent - constitutes interference and violation of their rights.

Proceeding from the above, the Center found a violation of the provisions of art. 4 para. (1) let. a) and art. 5 para. (1) of the Law no. 133/2011 and the existence in the actions of the economic agent of the constitutive elements of the contravention provided by art. 74¹ para. (4) of the Contravention Code, considering that the economic agent mimicked the procedure of making important decisions for the tenants of the apartment block, initiated the procedure for personal data processing of the tenants of the apartment block - without obtaining the majority consent of the data subjects concerned and without ensure that the will expressed by the group of tenants who requested video surveillance services - is in the interest of all data subjects concerned.

In conclusion, the Center points out that in the circumstances in which it is intended to initiate video surveillance operations of an apartment block - which does not have a tenant association, the economic agent intending to provide these services - will identify whether the desire to initiate the video surveillance procedure comes from most tenants of the apartment building. The intention to install the video surveillance system and to initiate the video surveillance process is to be established by a confirmation document in this regard.

- The Center received a request from a Police Inspectorate, which submitted for examination, in accordance with its competence, the materials accumulated on the basis of a complaint from a data subject concerning the lawfulness of personal data processing through a video surveillance system.



Following the examination of the materials submitted to the Center, it was found that the video surveillance system consists of two video surveillance cameras in working order. The first camera is installed on the gas pipe that crosses the street adjacent to the house belonging to the manager of the video surveillance system, and the second camera is installed in the yard of the last one. At the same time, examining the screenshots, it was noted that the video surveillance system, namely camera no. 1, includes and records a part of the private property of the video surveillance system manager, as well as the public road adjacent to his building where are traveling many people whose personal data are processed through the claimed system, but also complainant's fountain and fence.

It is noted that the processing of personal data through a video surveillance system aimed at the protection of property may take place under the following conditions:

- 1) If the video surveillance camera captures exclusively the private space of the owner/manager of the camera - the processing of personal data is deemed to take place for personal and family purposes and therefore, as long as the rights of the subjects whose data are processed through this system are not affected, it is exempted from the applicability of the Law on personal data protection.
- 2) If the capture angle of the video surveillance camera exceeds the private space of the camera owner, the applicability of the Law on personal data protection occurs.

Thus, considering that it was determined that through the video surveillance system claimed the public space is captured, the processing of personal data of the complainant, as well as other persons - neighbors, possible passers-by, etc., takes place contrary to the provisions of art. 4 para. (l) let. c) and art. 5 of the Law 133/2011, the personal and family purpose being exceeded.

Based on the above, to the manager of the video surveillance system was drawn up minutes on the contravention based on art. 74¹ para. (4) of the Contravention Code (in the wording in force since 2021).

- The Center received a complaint from a data subject who requested verification of the lawfulness of personal data processing through a video surveillance device installed by his neighbor, the angle of capture of which would include the private space of the complainant's house.

From the content of the materials accumulated on the complaint, including the photographic images submitted to the Center by the video surveillance system manager, it was found that there were six video surveillance cameras, recording exclusively his private property.

Thus, from the photographic images, as well as from the video sequences submitted by the video surveillance system manager, it appears that, although visually within the angle of capture of the video surveillance camera complained of, the adjoining space belonging to the private property of the complainant is «blurred».

Therefore, the Center did not determine the fact of the direct personal data processing concerning the complainant, through the video surveillance system claimed, or, according to art. 2 para. (4) let. a) of the Law no. 133/2011, its scope does not extend to the processing of personal data carried out by controllers exclusively for personal or family needs, if this does not violate the rights of data subjects.

In this context, the Center found that the manager of the video surveillance system did not violate the provisions of the Law no 133/2011.



- The Center received a complaint from a data subject who complained about the alleged processing of his personal data through video surveillance cameras installed by a limited liability company.

According to the USB stick memory, stick attached to the petitioner's request, it was determined that the limited liability company was recording, through the video surveillance system, both the image and the voice of the employees and visitors.

The limited liability company indicated that the purpose of the video / audio recordings is primarily to protect the company's assets, confidential information, as well as the company's employees.

Thus, it was determined that the processing of the category of personal data such as voice (audio recording) through a video surveillance system is excessive in relation to the stated purpose of the data controller, considering that it represents a greater intrusion into the privacy of the persons monitored, namely, the employees and visitors of the private entity, which involves the recorded and reproducible documentation of the conduct of employees at work and / or visitors, in particular by collecting / processing their voice.

Following examination of this case, the Center found that the economic agent concerned as data controller is responsible for processing / collecting personal data (voice) of employees and visitors through the video surveillance system, contrary to the provisions of art. 4 para. (1) let. c) of the Law 133/2011.

Thus, regarding the respective entity, a report was drawn up regarding the contravention pursuant to art. 74¹ para. (4) of the Contravention Code (in the wording in force since 2021).

Non-compliant processing of personal data in the Real Estate Register

- The Center found the non-compliant processing of personal data stored in the Real Estate Register (RBI) by the mayor of a locality. The non-compliant processing of personal data was materialized by the multiple access by the mayor of the locality, of the data contained in the RBI, without having a purpose and legal basis, as well as in the absence of the data subject's consent.

During the examination of the audit of personal data accesses by the mayor, the Center found that the mayor made 134 personal data accesses, from 10 different IP addresses, of which multiple accesses were made outside the work schedule and on weekends.

Furthermore, the mayor disclosed the personal data of the data subject concerned by publishing images containing personal data extracted from state registers on his personal social networking page, Facebook.

By publishing the images containing the complainant's personal data online, the mayor has established the purpose and means of personal data processing, thus falling within the notion of a data controller and being responsible for these operations.

Thus, following the examination of the case, in corroboration with the provisions of the Law on personal data protection, the Center was unable to identify the purpose and legal basis that would justify the disclosure of personal data of the data subject by the mayor, by publishing them on his personal social networking page, Facebook.



At the same time, in accordance with Article 29 para. (1) and (2) of the Law no. 133/2011 on personal data protection, according to which controllers and third parties who have access to personal data are obliged to ensure the confidentiality of such data.

Following the control of those notified, the Center found the violation of Articles 4, 5 and 29 of the Law 133/2011. Therefore, the Center initiated the contravention proceedings against the mayor concerned in the light of the contravention provided by Article 74¹ of the Contravention Code.

- The Center received a complaint from a petitioner concerning allegedly improper processing of his personal data stored in the RBI by a real estate company.

As a result of the examination of the data subject's complaint and the attached materials, it was determined that the real estate company processed the personal data contained in the RBI concerning the real estate belonging to the complainant and the access is the result of an error made when entering the cadastral number, the purpose of which was to access the data in the RBI for the real estate in the same block of flats, allegedly belonging to a client of the real estate company, with which that company had a contractual relationship.

Following the examination of the sales intermediation contract, it was found that it was no longer valid at the time the complainant's personal data were accessed.

The Center didn't understand with certainty the specific, explicit and legitimate purpose, the causal link between the purpose and the identifiers of the data subject, the legal basis of the operations of accessing the personal data concerning the complainant stored in the RBI, the correctness and consistency with the legal norms of access, corroborated with the circumstances invoked by the authorized user, being retained the violation by the authorized user of the real estate company of Art. 4 para. (1) let. a), b), Art. 5 of the Law 133/2011.

At the same time, it was determined that the real estate company does not keep a record of the accesses made by its authorized users, thus not ensuring the record of accesses to personal data of applicants / beneficiaries, clients of services provided by the company, contained in the RBI, contrary to para. 45 of 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, which finally did not allow the real estate company to correctly identify/establish the circumstances of the processing of personal data of the real estate belonging to the petitioner (purpose and legal basis of the access).

Following the case, the Center intervened in the contravention order on the basis of Article 74¹ para. (4) of the Contravention Code (in the wording in force since 2021).

***Unauthorised access to personal data
stored in the IS «Social Protection»***

The National Social Insurance House (CNAS) notified the Center about a violation of the principles of personal data protection by a former employee of this entity, occurred through unauthorized access to personal data of some data subjects.

The Center found out that the former employee, while working in a subdivision of the CNAS, had access to the «Social Protection» Information System and, taking advantage of his work situation, accessed 13 times the personal data of data subjects without a legal basis justifying such data processing, which is contrary to the principles of personal data protection.



According to Article 4 para. (1) let. a), b) of Law no. 133/2011 on personal data protection, personal data, which are subject to processing, must be: processed fairly and lawfully; collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes.

In accordance with Article 5 para. (1) of Law no. 133/2011, the processing of personal data is carried out with the consent of the personal data subject, as well as under the conditions laid down in para. (5) of the same article.

Additionally, according to the provisions of Art. 29 para. (1) and (2) of Law No 133/2011, controllers and third parties having access to personal data are obliged to ensure the confidentiality of such data. Any person acting in the name of, on behalf of or otherwise under the authority of the controller may process personal data only on the instructions of the controller, unless they act under an obligation provided by law.

Thus, following the examination of the case mentioned above, the Center found an infringement of Article 4 para. (1) (a), (b), Art. 5 para. (1) and Article 29 para. (2) of the Law no. 133. Therefore, the Center initiated a contravention procedure against the former employee of the CNAS in the light of the contravention provided for by Article 74¹ of the Contravention Code.

Failure to comply with the requirements to ensure personal data protection

As a result of examining the request of a public institution, the Center initiated the verification of compliance with the provisions of Article 30 of Law no. 133/2011, by the respective authority, as well as compliance with the provisions of Articles 4 and 5 of the same normative act, by the former employee of that entity, when processing personal data concerning some personal data subjects.

As a result of the investigation, the Center found that the data subject has not complied with the Requirements for ensuring the security of personal data when processing personal data in the personal data information systems, approved by Government Decision No 1123 of 14 December 2010 (Requirements), namely: it has neither revoked the identification and authentication codes of the authorised user, at the time of termination of employment, according to para. 37 of the Requirements, nor has it taken measures to regularly review users' access rights to personal data information systems within the time limits set by the legislation, i.e. every six months and after any change in the user's status, as stipulated at point 48 of the Requirements.

Thus, the Center ordered the finding of violation of the provisions of art. 30 para. (1) of the Law on personal data protection and points 37, 48 of the Requirements for ensuring the security of personal data when processing them within the personal data information systems approved by Government Decision no. 1123 of December 14, 2010, by the respective public institution.

Proceeding from the above, the revealed circumstances determined the fact of the existence in the actions of the controller in question of the contravention provided by art. 74¹ para. (1) Contravention Code (in the wording in force since 2021).



Non-compliant processing of personal data in the context of identifying the presence or absence of SARS-Cov-2-Covid 19 virus

The Center received complaints from personal data subjects requesting verification of the lawfulness of the personal data by a private medical laboratory.

During the examination of the evidence gathered, it was found that the beneficiaries of the services of this medical laboratory, as well as third parties, by accessing the laboratory's link, followed by the electronic resource /qr/, following the modification of the order number and data of any link related to the results of laboratory investigations to identify the presence or absence of SARS-Cov-2-Covid 19 virus, could view information with limited accessibility, such as: first and last name, gender, IDNP, home/residential address, medical results of other patients/beneficiaries, these categories of personal data are thus available to third parties for viewing, collection, use, disclosure, etc.

The Center found that the medical laboratory processed the personal data of beneficiaries/patients breaching the requirements of Article 4 para. (1) let. (a), Art. 29 para. (1) and Art. 30 para. (1) of Law no.133/2011.

At the same time, it was found that the laboratory concerned, being aware of the need to comply with the legislation in the field of personal data protection, has taken the necessary measures to remedy the situation described and, as a result, together with the company serving the laboratory's information technology network, the possibility of unauthorised access to the data of other applicants for diagnostic services offered by the laboratory has been removed/excluded.

On this basis, the Center has drawn up a report on the legal person concerned, on the basis of Article 74¹ para. (1) and (4) Contravention Code (in the wording in force since 2021).

Infringement of the personal data subject's rights

The Center has received a complaint from a data subject concerning an alleged violation of his right to object. It refers to an economic agent, who ignored the data subject's request under Article 16, para. (1) of Law 133/2011, by which the latter requested the deletion of his personal data stored in the company's database and the cessation of sending commercial messages on his telephone number.

After examining the case, it was determined that the economic agent, by ignoring the data subject's request, did not realise the data subject's right to object, which was acknowledged by the personal data controller as an omission.

In this case, the Center found the infringement of Article 16 para. (1) of Law No. 133/2011 by the economic agent concerned.

Thus, on this case it was issued a minutes on contravention on the basis of Art. 74¹ para. (3) of the Contravention Code.



Excessive processing of personal data in relation to the stated purpose

IV

EXAMPLES OF CASES EXAMINED IN 2021

The Center was notified on the practice of submitting to the materials of the files examined by the courts, as evidence, documents containing personal data of individuals, which are not covered in the cases examined by the court, respectively, not being identified the existence of a causal link between the personal data disclosed and the case examined.

According to the case in question, the request for summons was accompanied by documents containing personal data (name, surname, IDNP, date and number of the contract, amount contracted, debts) of a large number of persons who had no connection with the case before the court. Consequently, the Center notified itself pursuant to art. 27 para. (4) of the Law on personal data protection with regard to the non-compliances mentioned above, in order to carry out a more extensive investigation into all the circumstances regarding the legality of the processing of personal data.

As a result of the control performed on the case, the Center issued the administrative act by which it found the violation of the provisions of art. 4 para. (1) let. c), art. 29 and 30 of Law no. 133/2011 on the personal data protection.



CHAPTER V

RECOMMENDATIONS AND OPINIONS OF THE CENTER

In order to ensure the prevention of personal data breaches similar to those found by the Center, as well as to ensure that the society is informed of priority issues and concerns in the field of personal data protection, annually, including through activity reports, the National Authority for Personal Data Protection presents, in addition to identified cases / issues, recommendations issued during the reference period related to the field of activity.

Based on the context addressed in the data subjects' requests and taking into account the spectrum of the most frequent cases of non-compliant processing of personal data found, during 2021, the Center issued recommendations and opinions regarding some situations of general applicability or major interest for society, amongst which are the following:

■ ***Guidelines on the access to information in the light of personal data protection legislation***

It should be noted that this position integrates guidelines which may be a point of reference in the adoption of the decision by personal data controllers, but does not constitute a binding solution for them, as in the light of the decision-making autonomy of public authority and in the light of the principle of responsibility of the personal data controller, they shall independently and individually decide on the provision or refusal to provide the information requested by natural or legal persons.

At the same time, it should be mentioned that the present case law implies two fundamental and constitutional rights, namely, the right to intimate, family and private life - enshrined in art. 28 of the Constitution of the Republic of Moldova and the right to information enshrined in art. 34 of the Supreme Law, which generates an approach based on balancing and reconciling the two constitutional rights.

According to art. 7 of **Law no. 982-XIV of 11.05.2000 on access to information**, the exercise of the right of access to information may be subject only to restrictions regulated by organic law and which correspond to the needs of: a) respecting other people's rights and reputation; b) protecting national security or public order, as well as public health or morals.

According to para. 1 of the present article, free access to any kind of official information may not be restricted except for the following cases:

- a) information falling under the category of state secrets, regulated by organic law and qualified as information protected by the state and related to its military, economic, technical-scientific, foreign policy, intelligence, counterintelligence and investigation activities, whose dissemination, disclosure, loss, theft may endanger the security of the state;
- b) confidential business information submitted to public institutions under conditions of confidentiality, and which is regulated by the legislation on trade secrets and is related to production, technology, administration, funding, other business activities, whose disclosure (transmission, leak) may affect the interests of businesses;
- c) personal data, the disclosure of which may be considered interference in one's private life, which is protected by the legislation on personal data protection;



- d) information related to the investigative activity of the corresponding bodies, but only in cases when the disclosure of such information might affect the investigation, interfere with a lawsuit, deprive a citizen of his/her right to a fair and impartial trial, endanger the life or physical safety of any person - cases which are regulated by the current legislation;
- e) information that represents the final or preliminary results of scientific and technical research, whose disclosure may deprive the researchers of their priority right of publication or have a negative impact on other rights protected by law.

If the access to the information, or requested documents is partially limited, the information providers are obliged to present to the applicants the parts of the document, the access to which does not contain restrictions according to the law, indicating in the places of the omitted portions one of the following phrases: "trade secret", "confidential information about the person". The refusal of access to information on the respective parts of the document shall be drawn up in compliance with the provisions of Article 19 of the Law on Access to Information, etc.

Restrictions on freedom of information shall not be imposed unless the information provider can demonstrate that the restriction is governed by organic law and necessary in a democratic society for the protection of the rights and legitimate interests of the person or the protection of national security and that the harm done to these rights and interests would be greater than the public interest in knowing the information. No one shall be punished for making public certain information with limited accessibility if the disclosure of the information does not affect and cannot affect a legitimate interest related to national security or if the public interest in knowing the information exceeds the harm that the disclosure of information could bring.

According to art. 8 of the Law on access to information, personal information is part of the category of official information with limited accessibility and consists of data related to an identified or identifiable natural person, whose disclosure would constitute a violation of private, intimate and family life. Access to personal information is made in accordance with the provisions of the legislation on personal data protection.

According to art. 10 of the Law on access to information, the person has the right to request, in person or through his/her representatives, from information providers, any information held by them, with the exception of cases specified by legislation. The right of a person to have access to information, including personal data, may not be restricted except for cases specified by legislation. Any person requesting access to information in accordance with the present law is under no obligation to justify his/her interest for the requested information.

Although art. 10 para. (3) of the Law on access to information provides that the person requesting access to information is acquitted of the obligation to justify interest in the requested information, this legal consideration lapses in the case of information that integrates personal data, due to the provisions of art. 8 of the mentioned legislative act which establishes that the access to personal information is made in accordance with the provisions of the legislation on personal data protection.

Thus, art. 4 of the Law on personal data protection, states that the personal data undergoing processing must be:



- processed **correctly and according to the provisions of the law**;
- collected for specific, **explicit and legitimate purposes**, and subsequently not to be processed in a manner incompatible with these purposes;

- **adequate, relevant and not excessive** in relation to the purposes for which they are collected and/or further processed;

- According to article 5 para. (1) of the Law on personal data protection, personal data shall be processed with the consent of personal data subject.

At the same time, the consent of the personal data subject is not required in the cases provided exhaustively by art. 5 para. (5) of the same legislative act, namely, for:

- a) the processing is necessary for the performance of a contract to which the personal data subject is party, in order to take steps at the request of the data subject prior to entering into a contract;
- b) the processing is necessary for carrying out an obligation of the controller, under the law;
- c) the processing is necessary in order to protect the life, physical integrity or health of the personal data subject;
- d) the processing is necessary for the performance of tasks carried out in the public interest or in the exercise of public authority prerogatives vested in the controller or in a third party to whom the personal data are disclosed;
- e) the processing is necessary for the purposes of the legitimate interest pursued by the controller or by the third party to whom personal data are disclosed, except where such interest is overridden by the interests for fundamental rights and freedoms of the personal data subject;
- f) the processing is necessary for statistical, historical or scientific-research purposes, except where the personal data remain anonymous for longer period of processing;
- g) data exchange in accordance with the legislation in force on data exchange and interoperability.

At the same time, it is to mention that if the information does not constitute an aggregate information, statistics or information that refers for example to assets under the management of the public authority, but contains personal data such as: name, surname, position of data subject - employee, it benefits including the guarantees of the provisions of art. 91-94 of the Labor Code. Thus, according to the provisions of art. 92 of the Labor Code, the employer is obliged:

- a) not to disclose to third persons the employee's personal data without his written consent, except cases when this is necessary to prevent any danger to employee's life or health, as well as in the cases stipulated by the law;
- b) not to disclose the employee's personal data for commercial purposes without employee's written agreement;



- c) to prevent the persons who receive the employee's personal data about the fact that these data can be used only for the purpose of their communication and to request from the respective persons written confirmation of respecting this rule. Persons who receive the employee's personal data are obliged to respect the confidentiality regime, except the cases provided by law.
- d) to allow access to employee's personal data only to persons empowered for this purpose, at their turn, they shall have the right to request only the personal data needed for exercising some concrete obligations.

As mentioned above, based on the provisions of art. 8 of the Law on access to information, access to information containing personal data is to be made in compliance with the principles set out in art. 4 of the Law on personal data protection. In this context, the requester of information with limited accessibility shall indicate in his request for access, according to art. 4 and art. 5 or art. 10 (in case the journalistic purpose will be invoked) of Law no. 133 of 08.07.2011 on personal data protection the following:

- ✓ the concrete purpose for which the disclosure of these data is requested;
- ✓ the volume, categories and concrete structure of the personal data to which access is requested;
- ✓ the normative framework that substantiates the access request;
- ✓ the presence of the grounds provided by art. 5 para. (1), or paragraph (5) of the same article of the Law on personal data protection, which may justify the provision of information with limited accessibility, in the absence of consent of the subject of personal data;
- ✓ the manner and purpose of the subsequent use of this personal data;
- ✓ the guarantees of ensuring the security and confidentiality regime of the requested personal data, not using them for the opposite purposes and not transmitting them to unauthorized third parties.

Despite the fact that those targeted in the request may be civil servants, we emphasize that they are also guaranteed the protection of fundamental rights and freedoms as individuals, with regard to the protection of personal data, in particular the right to inviolability of intimate, family and private life, but also the need to ensure a balance between the right to personal data protection and the society's right to information / right to access information.

In the same context, with reference to art. 11 of the Law on Freedom of Expression and taking into account those set out in point 17 of the Decision of the Plenum of the Supreme Court of Justice no. 7 of December 24, 2012 on the practice of the application by the courts of certain provisions of the Law on Freedom of Expression, as well as according to the ECHR's reasoning, it is certain and cannot be denied that public persons must accept interference in their life to a higher degree than the ordinary people and the degree of careful and accessible research shall be as high as the importance of the position the public person in question holds.

Thus, although information on the actions / decisions of the employee at its workplace may constitute personal data, taking into account the need to ensure a certain regime of transparency and accountability from the public body, the public employee (especially the one holding public office or is responsible for public relations) must be aware from the outset that certain personal data concerning him may be disclosed to third parties.



On the contrary, in the part related to the information in the personal file regarding the state of health, disciplinary sanctions, salary level, etc. there must be certain guarantees that they will not be unduly disclosed to third parties (unless there is a well-argued major public interest).

We emphasize that, in the context of art. 11 of the Law on Freedom of Expression, information on the private and family life of the public person or the person exercising a public position, can be disclosed only if it is in the public interest (interest of society and not the simple curiosity of individuals about events related to the exercise of public power in a democratic state or to other issues which, normally, do not arouse the interest of society or any part of it).

According to art. 2 of the aforementioned law, the public person is the person exercising public functions or another person who, due to the status, social position or other circumstances, arouses the public interest.

The definition denotes the existence of the phrase “arouses the public interest”, from which it follows that the spectrum of public figures extends not only to persons who have a degree of notoriety in society but also to persons who, by virtue of objective circumstances, conjuncture and public context they are, they can generate a public interest in relation to their personality.

Therefore, contrary to traditional opinion, the status of public person refers not only to persons exercising the function of public dignity or persons exercising a public function, but also to civic activists, journalists, doctors and other persons who, due to their status, social position or under other circumstances, may arouse public interest.

On the other hand, certain data about privacy, such as information on benefits, bonuses, supplements, salary supplements, etc., may arouse the public interest in certain situations, even if there was no interest in the society until then to knowing this information. The greater the public interest is, the more interference in the right to respect for private and family life can be justified.

Thus, official information with limited accessibility concerning a civil servant could become information of public interest insofar it affects the capacity to exercise the public function of the given person, taking into account the existence of the right to respect for his private and family life.

Therefore, if the controller establishes that the requested information represents an increased interest or there is even a public interest for the information to be known, in this case the applicability of the provisions of art. 10 of the Law on personal data protection, according to which the provisions of art. 5, 6 and 8 do not apply in the situation where the processing of personal data is done exclusively for journalistic, artistic or literary purposes, if it refers to data that have been made public voluntarily and manifestly by the subject of personal data or to data that are closely related to the quality of a public person of the personal data subject or to the public nature of the facts in which he is involved, under the conditions of the Law on Freedom of Expression.

Respectively, taking into account the legal provisions stated above, it would be necessary for the requesters of information that contain personal data, to comply in advance with certain conditions and rigors, to motivate, in particular, the purpose of requesting official information with limited accessibility on legal grounds provided in art. 4 and art. 5 of Law 133/2011 and, respectively, proof of **public interest in disclosing** information containing personal data.



At the same time, given that only the controller has the right to decide on the possibility of providing personal data, as well as, possibly, volume / categories of personal data, it is recommended to examine the requests for access to information, in the light of the rules abovementioned and the jurisprudence of the Republic of Moldova.

■ ***Aspects regarding the practice of adding to the materials of the files examined by the courts, the documents that integrate personal data of natural persons, which are not covered in the examined case:***

In the context of the examination of the practice of submitting to the materials of the files examined by the courts, as evidence, documents containing personal data of natural persons, which are not covered in the cases examined by the court, respectively, the existence of a causal link between the personal data disclosed and the case under examination;

According to the case submitted to the Center, the request for summons was accompanied by documents containing personal data (name, surname, IDNP, date and number of the contract, contracted amount, debts) of **a huge number of persons who had no linkage to the case for examination before the court;**

It should be mentioned the following:

Any operation that is carried out on personal data shall be carried out under the conditions strictly established by the Law on personal data protection, without prejudice to the interests or fundamental rights and freedoms of personal data subjects.

Thus, a special weight is given to the principle of relevance and non-excess, which is oriented towards the processing only of data that are adequate, relevant and not excessive in relation to the purposes for which they are collected and / or subsequently processed. The categories of data selected for processing must be necessary to achieve the stated general purpose of the processing operations, and a controller should limit the collection of data strictly to that information which is directly relevant to the specific purpose of the processing.

We emphasize that according to art. 1 of Law no. 133/2011 on personal data protection, the purpose of the mentioned normative act is to ensure the protection of the fundamental rights and freedoms of the individual with regard to the processing of personal data, especially the right to inviolability of privacy, family and private life.

According to the notions defined in art. 3 of Law no. 133 of 08.07.2011 on personal data protection:

personal data - any information relating to an identified or identifiable natural person ('personal data subject'). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

processing of personal data – any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, keeping, restoring, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;



controller – a natural or legal person governed by public law, or by private law, including public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data expressly provided by applicable law [...].

In accordance with the provisions of art. 4 of the same law, the personal data undergoing processing must be:

- processed correctly and according to the provisions of the law;
- collected for specific, explicit and legitimate purposes, and subsequently not to be processed in a manner incompatible with these purposes;
- adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed.

Article 5 para. (1) of the aforementioned law, provides that the personal data processing operations are carried out with the consent of the subject of personal data.

At the same time, the consent of the subject of personal data is not required in the cases provided exhaustively in the art. 5 para. (5) of the same legislative act, namely:

- a) the processing is necessary for the performance of a contract to which the personal data subject is party, in order to take steps at the request of the data subject prior to entering into a contract;
- b) the processing is necessary for carrying out an obligation of the controller, under the law;
- c) the processing is necessary in order to protect the life, physical integrity or health of the personal data subject;
- d) the processing is necessary for the performance of tasks carried out in the public interest or in the exercise of public authority prerogatives vested in the controller or in a third party to whom the personal data are disclosed;
- e) the processing is necessary for the purposes of the legitimate interest pursued by the controller or by the third party to whom personal data are disclosed, except where such interest is overridden by the interests for fundamental rights and freedoms of the personal data subject;
- f) the processing is necessary for statistical, historical or scientific-research purposes, except where the personal data remain anonymous for longer period of processing.
- g) data exchange in accordance with the legislation in force on data exchange and interoperability.

Subsequently, it should be mentioned the provisions of art. 29 and 30 of Law no. 133/2011, according to which the controllers have the obligation to ensure the confidentiality of personal data and the security of their processing.

In this regard, in view of the above-mentioned practice, Center points out that the processing of personal data that have become known in certain circumstances (name, surname, home address, IDNP, etc.) is to be carried out in strict accordance with the provisions of the Law. no. 133/2011, based on a purpose and legal basis in this regard.



Related to the provisions mentioned above, it should also be mentioned the provisions of art.118 of the Code of Civil Procedure, according to which **each party must prove the circumstances it invokes as the basis of its claims and objections**, unless the law provides otherwise.

Subsequently, according to Article 166 of the Code of Civil Procedure, anyone claiming a right against another person or having an interest in the existence or non-existence of a right **must file a claim to the competent court**. In accordance with Article 167 of the Code of Civil Procedure **a number of documents, including documents certifying the circumstances on which the plaintiff bases his claim, shall be attached to the application**.

Under these conditions, the parties to a court case, or their representatives, shall achieve their rights and obligations in the court.

Therefore, we mention that such an operation of personal data processing does not contravene the principles of personal data protection, as long as it is necessary to achieve a legitimate interest by defending the rights in court, respecting the provisions of art. 5 para. (5) let. e) of the Law on personal data protection and, as long as this information (which constitutes evidence in the contravention / civil / criminal process) **is not disclosed to unauthorized third parties**.

Likewise, we communicate that in accordance with the notions established by art. 3 of the Law on personal data protection, **the recipients are not considered** the bodies in the field of national defense, state security and public order, criminal prosecution bodies **and courts to which personal data are communicated in exercising of powers established by law**.

In this context, the assessment of the evidence when examining the judicial cases is carried out in strict accordance with the provisions of the Code of Civil Procedure art. 130 par. (1), which stipulates **that the only body empowered to assess the necessity and relevance of evidence in the trial of the case is the court**. Even if the court is not addressed in relation to the personal data it receives for exercising its functional competences, it should assess, during the examination of the case, the relevance of the information presented as evidence.

However, it should be noted that often the documents presented as evidence in the case file include personal data of persons who, in fact, are not related to the subject matter of the case examined by the court.

In this regard, we note that the parties involved in the proceedings or their representatives, before presenting the documents as evidence on which they base their position, must first examine how relevant the personal data, reflected in these documents, are, concerning natural persons who have no connection with the case examined by the court.

On this matter, the Center notes that the provisions of art. 138 para. (3) Code of Civil Procedure, is **a guarantee for data protection in court hearings and in the process of presenting evidence in the court**. Thus, according to this article, **if only a part of the document is important for solving the case, the court receives an extract from it, authenticated in the manner established by law** (as the case may be, with the presentation of the original document in court in order to contrast it with the authenticated extract).



The same power of legal guarantee is presented by art. 117 Code of Civil Procedure, **which regulates the need for a causal link between the subject matter of the examination of a civil case and the evidence managed during the examination of the civil case.** The application of the mentioned article in practice means that all the evidence adduced during the examination of a civil case must serve to establish the circumstances justifying the claims and objections of the parties, as well as other circumstances important for the fair settlement of the case.

The concept of the relevance of the processed data and the non-excessiveness has a very strong significance for the establishment of a secure circuit of the personal data processing operation and for the security of the personal data subjects. In the present case, the application of the principle of relevance by lawyers would have consisted in limiting the volume of personal data to personal data that were relevant to the cases examined, **with depersonalization of data that are irrelevant to the case, according to art. 31 of Law no. 133/2011 on personal data protection.**

In addition, another case, which drew the attention of the Center, is the fact of transmission by the parties involved in the process or their representatives, to the addressees, through third parties, of various documents (summonses, prior requests), which were not enclosed (without envelope), for example, in the preliminary procedure.

Also, we note that in the case described above, there is a disclosure of personal data to unauthorized persons. Thus, such data may subsequently be used by third parties for purposes that could harm certain interests of the targeted personal data subjects, for example, for commercial purposes and may create risks such as identity theft, financial loss, loss of commercial or employment opportunities, physical damage, etc.

In these conditions, in order to be able to respond to the complaints of the personal data subjects concerned, Center warns about the need to implement mechanisms to ensure the confidentiality of personal data.

We note that the data controllers are responsible for enforcing the compliance / legality of the processing of personal data and are responsible for such operations, therefore, they must be able to demonstrate that the processing of personal data is carried out in accordance with the provisions Law on personal data protection.

Likewise, the Center addressed various other important issues to ensure the information of society in order to prevent and disallow the non-compliant processing of personal data, coming with recommendations for various areas of activity, which can be viewed on the institutional website: www.datepersonale.md, under the heading: Center Legislation/ Recommendations.



CHAPTER VI

ACTIVITY OF SURVEILLANCE
OF PERSONAL DATA PROCESSINGS

VI

Activity of registration of controllers and personal data filing systems

In accordance with the provisions of Article 28 of Law No. 133/2011 (the wording in force since 2021), for the purpose of recording the processing of personal data, the Center manages a register of personal data controllers. The register is public and maintained in electronic form.

In 2021, the tendency of personal data controllers to register online, including with a qualified electronic signature, has continued.

At the same time, in the context of the registration of controllers and personal data filing systems, **during the reporting period there were certain deficiencies related to the use of the Register of personal data controllers**, and since 26 May 2021, the Center has encountered technical deficiencies in the issuance/signing of automated decisions on registration or refusal of registration of controllers/personal data filing systems, which inherently conditioned the extension of the deadline for issuing/deferring the issuance of the aforementioned decisions. In this context, the Center, together with the Information Technology and Cyber Security Service - the entity responsible for the maintenance/operation of the Register of personal data controllers, have made enhanced efforts to address the technical deficiencies encountered, but it has not been possible to remedy them and resume the process of signing automated decisions through the mentioned register.

Notwithstanding the situation described above, the Center examined **1138 notifications** submitted for registration, both of personal data controllers and of automated and/or manually maintained filing systems in which personal data are processed. In the framework of the examination of notifications submitted for authorisation and registration, **775 prior checks** were carried out.

Thus, in order to ensure the continuity of the process of compliance of the activity related to the processing of personal data with the legal provisions in the field, the results of the examination of the notifications submitted to the one stop shop of the Center **were communicated to all controllers concerned by means of information letters.**

At the same time, in case of discrepancies in the notification form submitted or in the set of documents related to the notification, the circumstances that prevent the authorization and / or registration of personal data processing operations within the concerned filing systems have been thoroughly presented.

Thus, even if due to the technical lacks reported above, the data controllers could not receive automated decisions regarding the authorization / registration or refusal of authorization / registration of personal data processing operations, necessary to be issued through the Register of personal data controllers, the Center examined each notification / set of documents submitted by the data controllers and ensured, by informing them in writing, so that each controller knew the state of documents in examination. Moreover, in each case of identification of the reasons,



which would have been the basis for issuing the decisions to refuse registration / authorization, all these reasons were communicated to the controllers concerned, which allowed the latter to remove / adjust the discrepancies identified and thus ensure compliance of the processing of personal data with the legal provisions in the field.

As a result of the examination of the notifications submitted between January and May 2021 (the period in which the Register of personal data controllers was fully operational), **192 personal data controllers were registered** by issuing automated decisions and **266 filing systems**. At the same time, during the same period, **194 automated decisions regarding the refusal** of authorization / registration of personal data filing systems were issued.

Subsequently, in the period 26 May - 31 December 2021:

- **343 information letters** were sent to personal data controllers by which the Center informed that the notifications submitted and the related documents **correspond to the legal requirements** and, after fixing the technical deficiencies of the Register, the automated decision will be signed / authorization of the filing system indicated in the notification;

- **335 information letters** were sent to personal data controllers **indicating discrepancies identified** when examining notifications submitted by controllers for the authorisation/ registration of the personal data filing systems they manage.

Therefore, during 2021, out of a total of 1138 notifications submitted to the Center for examination, in 609 cases the outcome of the examination of the notifications was positive and in 529 cases negative.

The information regarding the registration in the Register of evidence of personal data controllers and filing systems where personal data are processed is shown, in dynamics for the years 2017-2021 in the following table:

Years	Total number of notifications examined	Number of registered controllers	Number of registered personal data filing systems	Number of filing systems refused to be registered	Number of contested refusal decisions in administrative contentious
2017	1046	500	843	203	0
2018	1388	639	938	451	1
2019	1652	654	944	708	1
2020	1472	504	710	762	2
2021	1138	192 (by decisions issued in the period January-May 2021)	609 (of which: 266 decisions issued and 343 letters sent)	529 (of which: 194 decisions issued and 335 letters sent)	1

From the information presented above, relating to the number of notifications submitted over the last few years, as well as taking into account certain technical problems related to the development of notifications via the Register of personal data controllers, it can be seen that during the reference period personal data controllers have been less active in notifying the managed filing systems.



It should be noted that, in addition to the situation related to the pandemic caused by COVID-19, the decrease in the number of notifications submitted, especially in the second half of 2021, was significantly influenced by the draft law No. 199 of 24 August 2021 on the amendment of some normative acts, as a result of the consideration of which was adopted Law No. 175 of 11 November 2021 on the amendment of some normative acts (published in the Official Gazette of the Republic of Moldova No. 302-306/431 on 10 December 2021, into force since 10 January 2022), by which it was abolished the obligation of personal data controllers to notify the Center. Also, article 28 of Law No. 133/2011 on personal data protection was repealed, which means the liquidation of the Register of personal data controllers, by an irreversible destruction of the documents and information stored on paper and those stored in electronic format, under the conditions provided by law.

Consequently, it should be noted that Law No 175/2021 introduces new legal obligations in terms of ensuring the compliance of the processing of personal data by controllers, namely:

- Conducting the data protection impact assessment;
- Prior consultation;
- Designation of the data protection officer.

In this context, we point out that the exclusion of the obligation to notify personal data processing operations does not exempt personal data controllers from fulfilling their other obligations under the legal provisions in the field of personal data protection, in particular those relating to ensuring the basic conditions for the processing of personal data, including the assessment of the impact on the protection of personal data; the designation of the person responsible for data protection; the realization of the rights of personal data subjects; the organizational and technical measures necessary to ensure the confidentiality and security of personal data.

At the same time, in the framework of the activity of providing methodological and advisory support from the Center, in order to comply with the activity related to the processing of personal data with the provisions of Articles 23 - 25 of the Law on personal data protection (in the wording in force since 2021), taking into account the pandemic situation and the need to comply with the rules in order to prevent the spread of the COVID-19 virus, by the responsible subdivision of the Center, during the reference period, **consultations and instructions** were provided: by telephone - **1074** and by e-mail - **1584**.

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

In order to prevent non-compliant personal data processing practices, during the reference period, the Center conducted multiple trainings on different areas of controllers' activity; it provided consultations to both personal data subjects in order to know and realize their rights as provided by law and to data controllers in order to comply with the activity related to the processing of personal data with the corresponding legal provisions. Also, the Center informed through the official website, the data controllers from various fields about cases of data security and confidentiality compromises from different countries, which resulted in significant fines imposed by data protection authorities on controllers who admitted non-compliant processing of personal data.

A significant weight in the context of measures to prevent non-compliance with the processing of personal data is the recommendations and opinions drawn up by the Center and published on the official website, which are of major use for both legal and practical reasons.

Thus, for preventive, informative and enforcement purposes, during the reporting period, the National Authority for Personal Data Protection issued recommendations/opinions to ensure the compliance of personal data processing, targeting the following aspects:

- ***Guidelines on access to information under data protection legislation;***
- ***Aspects relating to the practice of submitting documents containing personal data of natural persons, which are not covered by the case under examination, to the materials of the files examined by the courts.***

Also, in the context of ensuring the prevention of non-compliance in the processing of personal data, arising from the constant increase in the number of complaints related to the processing of personal data through video surveillance cameras, the Center has developed and published on the official website the **Authority's Opinion on the practical and legal aspects related to the installation and management of video surveillance camera**, to be taken into account by natural and legal persons intending to process personal data through video surveillance filing systems.



- ***Realisation of the rights of personal data subjects following the application of exceptions and restrictions***

In the context of preventing/denying the violation of the rights of subjects whose personal data have been/are processed by law enforcement bodies of the Republic of Moldova, it should be mentioned that the situation brought into focus by the Center over the past years, especially in the part concerning the implementation of the provisions of Article 15 (entitled “Exceptions and restrictions”) of the Law on personal data protection, has so far remained unchanged.

By way of providing clarity to the above-mentioned aspects, it should be noted that, according to Article 15 of Law No 133/2011, the provisions of *Article 4 para. (1), art. 12 par. (1) and (2), Art. 13, 14 and 28 do not apply where the processing of personal data is carried out in the context of the actions referred to in Art. 2 para. (2), let.(d) and Article 5, para. (5), let. (g), for the purposes of national defense, state security and the maintenance of public order, the protection of the rights and freedoms of the data subject or of other persons, if their application would prejudice the effectiveness of the action or the objective pursued in the exercise of the lawful powers of the public authority. The*



processing of personal data for the purposes laid down in paragraph (1) may not exceed the period necessary to achieve the objective pursued.

In accordance with Article 15 para. (3) of Law no. 133/2011, after the ending of the situation justifying the application of para. (1) and (2) of Article 15, the controllers shall take the necessary measures to ensure the respect of the rights of the personal data subjects provided for in Articles 12-14 (right to information of the personal data subject, right of access to personal data, right of intervention on personal data).

In the same context, according to Article 15 para. (4) of Law no. 133/2011, public authorities shall keep records of the application of the exceptions set out in para. (1) and inform the Center, within 10 days, of the personal data processed under the terms of this Article.

In the context of the failure, for the most part, to inform the Center under the terms of the above-mentioned rule, several legal bodies have been requested to provide the necessary information regarding: the application of Article 15 of the above-mentioned law, the procedures for the management of information subject to restrictions/exceptions in relation to data subjects and the regulated and implemented procedure to ensure the realisation of the rights of data subjects once the purpose for which the restrictions/exceptions in question were applied has ceased.

Following the information submitted to the Center, of a noticeably evasive nature, demonstrated the lack of a clear record of the number of cases of application of exceptions and restrictions in relation to personal data subjects, the lack of clear organisational and technical mechanisms and measures implemented in order to ensure the record of the persons in respect of whom restrictions to the realisation of rights have been instituted, as well as the persons in respect of whom rights have been/will be realised following the exhaustion of the purpose for which these restrictions were previously instituted.

In this regard, it is noted that, in practice, there is no record of whether personal data subjects who have been subject to special investigative measures have been given the right to be informed or whether their information has been restricted and the reasons that led to the postponement of information, etc. However, at the moment there is no mechanism for informing post-factum personal data subjects about their telephone tapping or about the carrying out of other special investigative measures against them, even though the obligation to realize the rights of personal data subjects (right to information, right of access to data, etc.), once the purpose for which these rights have been restricted has been exhausted, is provided for both by Article 15 of Law on personal data protection and by legal provisions specific to the field of activity (Code of Criminal Procedure, Law on special investigative activity, etc.).

This fact determines **the urgent need to put in place the appropriate legislative mechanisms and levers, including the undertaking by the entities concerned of the necessary measures to ensure and make effective the realisation of the rights of personal data subjects.**

In this context, it should be reiterated that **an effective solution to overcome the shortcomings indicated above lies in the establishment of an electronic register** of telephone interceptions, electronic communications and other special investigative measures, such as surveillance, etc.

- **Processing of personal data stored in the main automated state information resources**

Over several reporting periods, the Center has been analysing the situation with regard to the processing of personal data stored in the main state information resources, particularly in terms of statistical developments.



Thus, on the basis of the information gathered from the Public Services Agency, the statistics of access operations to personal data stored in various state information systems: *the State Register of Population, the State Register of Real Estate, the State Register of Vehicle Drivers, the State Register of Transport, the State Register of Legal Entities*, carried out in 2021 by users: Ministry of Internal Affairs, National Anti-Corruption Center, General Prosecutor's Office, National Integrity Authority, Ministry of Defence, Customs Service, State Tax Service, the entities identified as having the highest number of accesses to personal data.

The following table reflects information on the number of access operations to personal data in the above-mentioned state information resources carried out by authorised users of the above-mentioned authorities:

Institution concerned	Number of accesses made to state information systems: RSP, RBI, RST, RSCV, RUD via AIS «Access-Web» and COI			
	2018	2019	2020	2021
Ministry of Internal Affairs	3541231	20887797	11213170	13259515
Information and Security Service	93897	78939	65180	69196
National Anti-Corruption Center	96017	112235	86891	74493
General Prosecutor's Office	20109	24611	19985	22405
Customs Service	28509	25551	12381	14063
Ministry of Defence	347	2050	1002	503
National Integrity Authority	no information requested for 2018	20740	17217	18823
State Tax Service		3541231	3535927	3007799

The above figures show the huge number of personal data access and further processing operations by some of the entities indicated in the table.

It should be noted that the Center does not question the necessity of personal data processing, including through the method of accessing/viewing/verifying data stored in various state information resources, by representatives of control bodies and other public authorities, yet, the processing of personal data is an indispensable part of their basic activity which determines the use of data for the performance of their duties. At the same time, in view of the Center's findings over several reporting periods, concerning multiple operations of personal data access carried out without legal purpose and basis, in relation to the extremely high number of access operations, the situation in this chapter cannot be omitted from the content of the Center's report.

Thus, also during the reference period, following the verification of the lawfulness of personal data processing on the basis of complaints or referrals, the Center found violations of the legal provisions in relation to operations of access/display/extraction of personal data carried out abusively, without the purpose and legal basis, by representatives of some of the entities concerned above.

In this regard, it can be mentioned that, in the last period, it is noticed a higher level of knowledge/perception of legal rules and the importance of the field of personal data protection



by law enforcement officials. At the same time, the statistics of the access operations carried out and the circumstances found following the examination of the control material concerning the lawfulness of the processing of personal data, in most cases involving police employees, show that, regrettably, the phenomenon of multiple accesses carried out in the absence of a well-defined purpose and a plausible legal basis (criminal/contraventional file, material under examination), and in the absence of causality between the person whose data have been accessed and the material under examination, continues, which leads to the conclusion that the measures taken by the controllers concerned to ensure effective record-keeping of the operations of access to personal data stored in the various State information resources carried out by their authorised users are also inefficient/ineffective.

Moreover, in the context of the lawfulness of access to personal data, it is worth mentioning the continued use of Common Object Interface (COI) technology when processing personal data stored in various state automated information resources.

Thus, the problem of the use of COI remains one that has not been fully resolved by now, given that state authorities/supervisory bodies access personal data largely by means of this technology, which, in fact, does not meet the requirements of ensuring the security of personal data when processing them in automated information systems and does not ensure the nominal identification of users who have carried out data access operations, but who are required to justify the purpose and legal basis of these operations.

Addressing this issue becomes even more serious in the context of the alarming figures of accesses of personal data stored in state main information resources, carried out through the use of COI. Thus, according to the statistical data presented by the Public Services Agency, only during 2021, by the representatives of the above-mentioned entities, **in total, 15838456 data access operations were carried out using COI technology.**

This huge figure, in fact, denotes that about 96% of all personal data access operations carried out by law enforcement officials were carried out using the COI method.

In this context, it should be noted that for several years, the Public Services Agency has communicated to the Center that no web services are being developed for data exchange via COI technology, referring to Law No 142 of 19 July 2018 on data exchange and interoperability, according to which all information services owned by participants in data exchange must be accessed via the Mconnect interoperability platform. However, it should be noted that, according to Article 6 para. (3) of the above-mentioned law, *public authorities and institutions in the field of surveillance of entities in the financial sector, national defence, state security, maintenance of public order, counteracting crime, preventing and combating corruption, acts related to corruption and acts of corrupt behaviour are exempted from the obligation to exchange data through the interoperability platform and to ensure the technical conditions necessary for data exchange.*

This fact creates even greater impediments to overcoming the pressing problems of both using COI technology and minimising the number of operations to access personal data stored in information resources. Thus, even though at the stage of drafting the Law on Data Exchange and Interoperability one of the basic tasks of this legislation was to exclude the use of COI technology completely, it is noted that, so far, this goal has not been achieved, and the COI problem has not been solved.

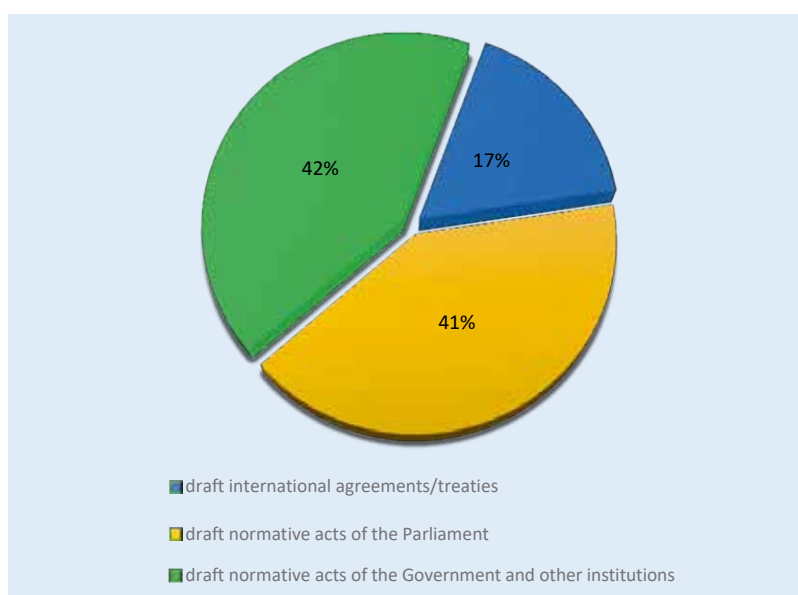
Subsequently, in the context of undertaking the necessary actions to overcome the situation described above, the Center intervened further with the Public Services Agency, including informing the Deputy Prime Minister for Digitisation and the eGovernment Agency of these considerations.

ENDORSEMENT AND DEVELOPMENT
OF DRAFT NORMATIVE ACTS**Approval of normative acts**

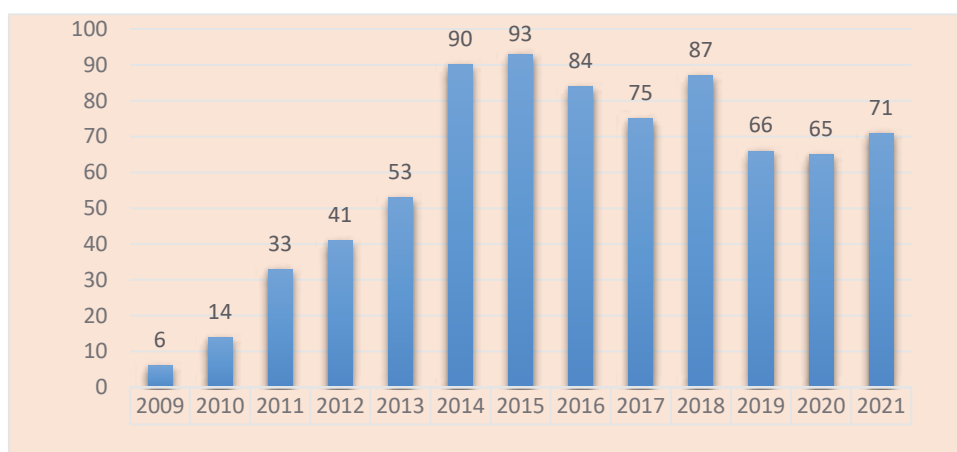
In accordance with Article 32 para. (2) of the Law no. 100/2017 on normative acts, during 2021, the Center received **71** draft national/international normative acts for endorsement in terms of protection of the rights and freedoms of individuals with regard to the processing of personal data, of which:

- **12** draft international agreements/treaties;
- **29** drafts for amending laws, codes;
- **30** draft regulations of the Government and other authorities.

Percentage of opinions given by the Center during 2021



Dynamics of drafts submitted for approval, 2009-2021





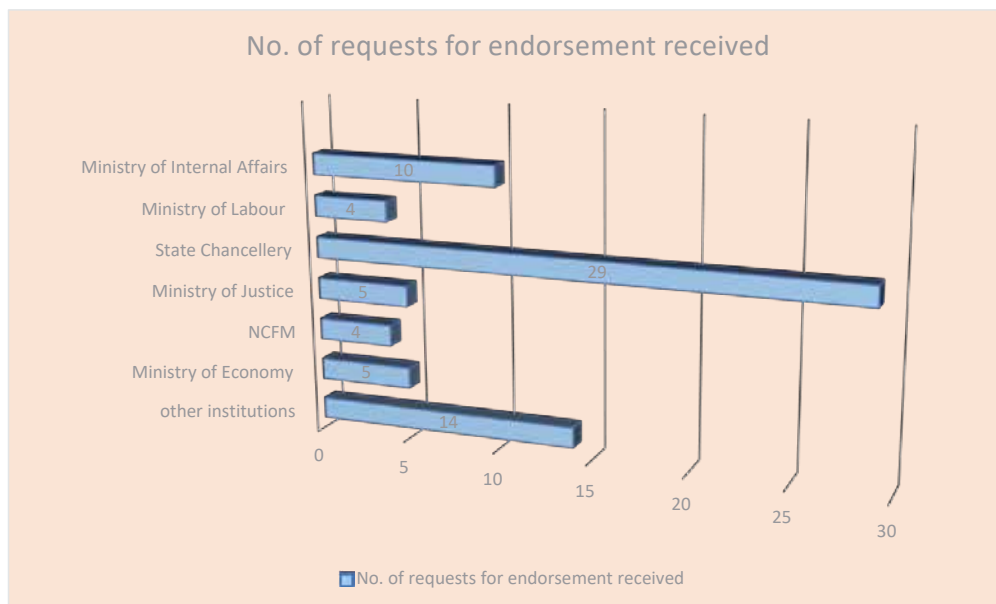
Therefore, on most of the drafts submitted for approval, the Center intervened with proposals / recommendations to ensure compliance with the rights of personal data subjects.

Separately, for example, we present some of the most relevant draft normative acts approved during the reference period, as follows:

- *draft on the approval of the Technical Concept of the Automated Information System “Management of Judicial Expertise Files”;*
- *draft on the approval of the Concept of the Information System “Demographic and Social Statistics”;*
- *draft Government Decision on the signing of the Cooperation Agreement between the European Investment Bank, the Ministry of Infrastructure and Regional Development, the Energy Efficiency Agency and the Consolidated Unit for the Implementation and Monitoring of Energy Projects on technical assistance for the development and implementation of the project “Energy Efficiency in the Republic of Moldova”;*
- *draft Memorandum of Understanding between the United States Diplomatic Security Service and the Ministry of Internal Affairs of the Republic of Moldova;*
- *draft Agreement between the Republic of Moldova and the Italian Republic in the field of social security;*
- *draft law on some measures related to the selection of candidates for administrative positions in the self-administrative bodies of judges and prosecutors and amendment of some normative acts;*
- *draft Government Decision on the approval the Concept of the Automated Information System “Determination of Disability and Work Capacity” and the Regulation on the organisation and functioning of the Automated Information System “Determination of Disability and Work Capacity”;*
- *draft Government Decision on the approval of the draft law on amending the Contravention Code of the Republic of Moldova No 218/2008;*
- *draft Government Decision on the approval of the Concept of the Automated Information System for the Recording of Contraventions, Contravention Cases and Offenders and the Regulation on the Single Recording of Contraventions, Contravention Cases and Offenders;*
- *draft law on participatory financing services.*



***Number of requests for endorsement per entity received
by the Center during 2021***



Following the examination of the draft legal acts, the Center proposed to include in their text provisions that will be stating:

- safeguards to ensure not admitting violation of principles of personal data protection;
- the obligation of the parties to take the necessary technical and organisational measures to protect personal data against unlawful actions and to ensure an adequate level of security and confidentiality with regard to the risks presented by the processing and the nature of the data processed;
- the obligation of the parties to analyse the necessity/the adequacy of personal data in relation to the purpose for which the data are processed/transmitted, including the conditions and terms of storage and destruction of data in case of achievement of the purposes;
- safeguards to protect the rights of personal data subject, including in the case of data intended for cross-border transfer.

Similarly, in the context of the endorsement of normative acts, it should be mentioned that, still during 2020, the Center has endorsed the Government Decision on the approval of the draft law on the amendment of some normative acts, by which was proposed, including, the amendment of the Law on personal data protection, more exactly art. 23, 24 and 25, by which was intended to replace the obligation to notify personal data processing controllers with other procedures, such as: data protection impact assessment, prior consultation, appointment of the data protection officer. Thus, in the light of the considerations set out in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing the Directive 95/46 / EC (GDPR), which sets out the reasoning behind the need to repeal the obligation to notify the processing of personal data and replace it with certain effective procedures and mechanisms, the Center considered the proposal as being appropriate.



At the same time, given that the changes proposed by the author of the draft did not cover all the procedures to be implemented by the controller and the processor, following the exclusion of the notification, the Center came up with a series of proposals to improve the draft law.

Thus, during 2021, analysing the above-mentioned project in the process of additional endorsement, it was noted that the proposals of the Center, for the most part, were not taken into account, for which reason, the Center repeatedly submitted the relevant arguments on the project.

Afterwards, the draft law on the amendment of some normative acts (legislative initiative No 199 of 24 August 2021) was voted, in final reading by the Parliament of the Republic of Moldova on 11 November 2021, being adopted the Law No 175/2021, which was published in the Official Gazette of the Republic of Moldova on 10 December 2021, entering into force on 10 January 2022.

In this context it should be noted that, even if the amendments made by Law 175/2021 on the legal provisions in the field of personal data protection were essentially necessary and expected by both the Center and civil society, **these amendments do not meet all the requirements to be implemented and do not effectively ensure the adjustment of the national legal framework to the European provisions from personal data protection field.**

However, with the amendments made, only some important aspects for the field have been resolved, such as - the exclusion of the procedure for notifying the Center of personal data processing operations and registration as controllers; the amendment of the procedure for cross-border transfer and free movement of personal data. For the rest, the problems related to the national legislation in this area remain to be unsolved, in particular, as regards the practical application of the legal provisions by the actors involved in the process of processing personal data.

Law no.133 of 08.07.2011 on personal data protection, even with recent amendments, is outdated and must be repealed in its entirety, as it does not guarantee sufficient conditions for business to grow, including not creating the premises for ensuring compliance of data processing.

For example, only with regard to the obligation of controllers to ensure the security of personal data processed, an obligation set out in Article 30 of Law 133/2011, para. (4) of the given article, which provides that the Requirements for ensuring the security of personal data when processing them within the framework of personal data filing systems shall be established by the Government - has been repealed, fact, that determined inapplicability/caducity of the Government Decision no. 1123/2010 - the only normative act that established requirements/criteria to be implemented/ complied with for ensuring the security of data when processing them within the framework of personal data filing systems, without introducing any new regulations in this regard. Thus, at present, on the one hand, controllers/processors do not have any guidance on the measures to be implemented in order to ensure the security of personal data and to prevent data security incidents from occurring and, on the other hand, the Center does not have clear rules/ certifications to be followed in case of the need to examine data security cases. Thus, being notified about the uninsurance the security of personal data (security incident manifested, for example, by the leaking information recording personal data from automated or non-automated evidence systems), the Center does not have any levers/regulations to determine and impute with certainty the exhaustive rule/certainty that has been breached/not complied with, which are imperative in order to ensure objective verification of the material under the Center's examination.



Therefore, it is imperative, that the draft laws on personal data protection and of the National Center for Personal Data Protection be put back on the agenda of the Parliament of the Republic of Moldova, as they will ensure the implementation of a complex and non-fragmented legal framework, incorporating all the rules and approaches currently laid down by European regulations in this field.

Activity of drafting normative acts

During 2021, **the Center continued its work on the adjustment and promotion of the draft laws on personal data protection and on the National Center for Personal Data Protection, projects that are extremely necessary to ensure compliance of national legislation in the field of personal data protection with the rules and requirements of the European data protection community.**

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 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 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, generates a multitude of shortcomings and impediments both in terms of the development of the field at national level and the correct and unequivocal implementation of the requirements relating to the processing of personal data.

It should be noted that, the Republic of Moldova currently has a major lack of regulations that resonate with the regulations of European Community law on personal data protection and that provide secure protection for individuals with regard to the processing personal data and respect for the right to inviolability of privacy. In this regard, it is necessary for the Republic of Moldova to harmonise its internal legal framework with the international provisions on personal data protection, namely the provisions of Regulation (EU) 2016/679 and Directive (EU) 2016/680.

This legislative harmonisation is necessary to ensure the upward trend in personal data protection, as well as to further ensuring genuine respect for the rights of personal data subjects and a legally secure territory for personal data controllers.

Moreover, in terms of adjusting the national legal framework to the European regulations in the field of data protection and strengthening the National Authority of Personal Data Protection, **our state registers arrears** in relation to the fulfilment of these assumed commitments by the Republic of Moldova through the National Action Plan for the implementation of the Association Agreement between the Republic of Moldova and European Union.

In the context of the above, the draft laws previously elaborated by the Center was voted by the Parliament of the Republic of Moldova on 30 November 2018 in first reading.

Subsequently, with a view to finalising the second reading of the above-mentioned drafts, the Committee on National Security, Defence and Public Order of the Parliament of the Republic of Moldova set up an inter-institutional working group for further analysis with a view to finalising the drafts concerned. In the framework of this initiative, a number of comments and proposals for adjustments to these drafts were submitted by the private sector (European Business Association, American Chamber of Commerce in Moldova, Moldovan Banks Association, Moldovan



Association of ICT Companies), the e-Government Agency, as well as by the independent experts contracted, aiming at a faithful and complete transposition of the EU regulations on personal data protection, which were analysed and taken into account by the Center, as author of the drafts.

Moreover, during 2021, in the framework of the EU *“Support for structured policy dialogue, coordination of the implementation of the Association Agreement and enhancement of the legal approximation process”*, the analysis of the draft laws on personal data protection and on the National Center for Personal Data Protection was carried out, with the amendments proposed after the approval in the first reading by the Parliament of these drafts. European experts in the field carried out the analysis, and working meetings were organised during which these draft laws were further discussed with representatives of the Economic Council under the Prime Minister of the Republic of Moldova and civil society.

It should be noted that the adoption of new regulations at national level in the field of personal data protection will contribute to the fulfilment of the commitments undertaken by the Republic of Moldova in relation to the European Union and, eventually, to the recognition of the adequate level of personal data protection in the Republic of Moldova, which will generate a wide range of benefits, including: increasing the credibility of the state, strengthening the economic strategy, developing the business environment, attracting investment, etc.



The strengthening of international cooperation in 2021 was materialized through the active participation of Center's representatives at the plenary meetings of the European Data Protection Board (EDPB) and of the Council of Europe. It is worth mentioning that since 2017 the Republic of Moldova has been a member observer within the EDPB.

Pandemic conditions have imposed their rules on the possibility of organizing events at European level with physical presence, respectively, and in 2021, international meetings and, for the most part, could not be organized in the format in which they took place previously of the pandemic COVID-19. Thus, the events that were not cancelled were conducted online.

- **Plenary meetings of the European Data Protection Board**





During 2021, the Center's management participated in 9 plenary meetings, which took place online and one with physical presence - on November 18, 2021 in Brussels, Belgium.

In the Plenary meetings of the European Data Protection Board, a number of important documents were adopted, including:

- Guidelines 01/2020 on processing personal data in the context of connected vehicles and mobility related applications;
- Guidelines 02/2021 on virtual voice assistants;
- EDPB-EDPS Joint Opinion 1/2021 on standard contractual clauses between controllers and processors;
- EDPB-EDPS Joint Opinion 2/2021 on standard contractual clauses for the transfer of personal data to third countries;
- Opinion 15/2021 regarding the European Commission Draft Implementing Decision pursuant to Directive (EU) 2016/680 on the adequate protection of personal data in the United Kingdom;
- EDPB-EDPS Joint Opinion 5/2021 on the proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act);
- Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data;
- Opinion 32/2021 regarding the European Commission Draft Implementing Decision pursuant to Regulation (EU) 2016/679 on the adequate protection of personal data in the Republic of Korea;
- Guidelines 10/2020 on restrictions under Article 23 GDPR.

The importance of these meetings is reflected in the attempt to develop mechanisms for international cooperation in order to facilitate the effective enforcement of personal data protection legislation. Also, the provision of international mutual assistance in the implementation of personal data protection legislation, including by notification, assistance with investigations and the exchange of information, subject to adequate safeguards for the protection of personal data and other fundamental rights and freedoms.

- **Plenary meetings within the Council of Europe**

The Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108)



During 2021, the Center's management participated in 2 meetings of the Bureau of the Convention Committee 108 and 2 meetings of the Consultative Committee of the Convention 108. Due to the global pandemic situation, all the meetings took place online.

During the meetings a wide range of topics were discussed, such as: work on the future evaluation and tracking mechanism under Convention 108+, digital identity, inter-state data exchange for anti-money laundering/combating the financing of terrorism and tax purposes, interpretation of Article 11 of the modernised Convention 108, contractual clauses in the context of cross-border data flows, exchanging views with experts working on these topics.

At the meetings approved documents, opinions, guidelines, recommendations, etc., such as:

- Guidelines on facial recognition;
 - Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns;
 - Opinion on Recommendation 2185 (2020) of the Parliamentary Assembly of the Council of Europe "*Artificial Intelligence in Health: Medical, Legal and Ethical challenges ahead*";
 - Opinion of the Bureau on the draft recommendation of the Committee of Ministers to the Member States on election communication and media coverage of election campaigns.
- **Implementation of the provisions of the Republic of Moldova – European Union Association Agreement**



On October 12, 2021, in mixed format, the 7th meeting of the Moldova-EU Subcommittee on Freedom, Security and Justice took place, with the participation by videoconference of the representatives of the EU Delegation in the Republic of Moldova. During the working meeting, the representatives of the Center presented the main achievements in the field of personal data protection in the reporting period.

Topics covered in the meeting included justice sector reform, preventing and combating corruption, preventing and combating money laundering and terrorism financing, personal data protection, preventing and combating organized crime and other illegal activities.

The Republic of Moldova-European Union Dialogue is a platform for interaction with EU representatives in order to monitor the developments registered by the national authorities



deriving from the commitments assumed following the signing of the Moldova-EU Association Agreement.

As a remaining to this chapter it is to be reiterated that, to date, national legislation has not transposed 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 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 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.

The Republic of Moldova has also not signed Protocol No 223 amending Convention No 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data. The necessity for the Republic of Moldova to sign Protocol No 223 also follows from the provisions of Article 13 of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the EAEC and their Member States, on the other hand, according to which the parties have agreed to cooperate to ensure a high level of personal data protection in accordance with the legal instruments and international standards of the EU and the Council of Europe.

• Cooperation with European Union agencies

In accordance with 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 send to 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.

We mention that the cooperation with Eurojust represents a key point in the development of 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.

• Cooperation with European Union Authorities





On 18 November 2021, Center and the Office of the Information and Data Protection Commissioner of Malta signed a Collaboration Agreement in the field of personal data protection, during the Plenary Session of the European Data Protection Board, Brussels, Belgium.

The Agreement provides for the development of cooperation relations between the two institutions in terms of achieving constant progress in the field of personal data protection and the promotion of good practices that will create favourable conditions for ensuring effective protection of personal data of Malta's and Moldova's citizens.

Another important aspect is that, in 2021, the Center requested the opinion and experience of several Data Protection Authorities (DPAs) from European Union countries such as Romania, Austria, Belgium, Bulgaria, Italy, France, Germany, Greece, Spain, Portugal, the Netherlands, Malta, etc. on the implementation of the national legislation of Article 85, paragraphs 1 and 2 of the *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 personal data and on the free movement of such data, and repealing Directive 95/46/EC*, in the context of additional examination of draft laws prepared by the Center with a view to bringing national legislation into line with new European regulations on personal data protection.

At the same time, taking into account the vast experience of the EU DPA in the field of activity, as well as in order to integrate the practice of EU countries in the activity of Center, was requested their opinion on non-compliant processing of personal data regarding the secretly audio / video recording of conversations, through the mobile phone.

The information received from DPA on the exposed topic was systematized in order to study the good practices and their implementation at national level.

In conclusion, we mention that the consultative support provided is very necessary and of considerable utility for the Center, also aiming at applying the information received in order with fairly examine the files and addresses received by the Data Protection Authority of the Republic of Moldova.

• International Projects

Proiect
TAIEX
obținut

During 2021, the Center applied and received support from the **TAIEX project - the Technical Assistance and Information Exchange** instrument in the organization of workshops and national conferences, for the public sector, namely:



✓ **“Processing and protection of personal data in the field of public health in the context of possible global challenges (pandemic COVID – 19)”**

Between 26 and 28 January, 2021, the Center in collaboration with TAIEX project experts organized the workshop – ***“Processing and protection of personal data in the field of public health in the context of possible global challenges (Pandemic COVID – 19)”***.

The aim was to strengthen and enhance the skills of public health representatives on possible challenges that may arise globally (in the context of the pandemic COVID – 19), while respecting the fundamental rights and freedoms of individuals on personal data protection, when the processing is necessary for reasons of public interest in the area of public health. The event was organized for representatives of the Ministry of Health, Labour and Social Protection as well as medical institutions, the Ministry of Justice, the Ministry of Internal Affairs and the General Inspectorate of Police. Based on the global situation of the SARS-COV-2 pandemic, the event took place online. The workshop was conducted by personal data protection experts from Croatia, Slovakia and representatives of the Center and was organized for three regions of the country: central, northern and southern. About 200 persons attended the event.

✓ **„The impact of new technologies, caused by the COVID-19 pandemic, on personal data protection in the public sector”**

On July 7, 2021, the Center benefited from the support of the EU TAIEX project in organizing the national conference ***“The impact of new technologies, caused by the COVID – 19 pandemic, on personal data protection in the public sector”***. The aim of the workshop is to present the aspects of the impact of technologies in the field of personal data protection. The event will serve as an opportunity for a sharing of experience and good practices on raising awareness and informing the public sector about cybersecurity and the impact of new technologies caused by the COVID-19 pandemic on personal data protection.

Personal data protection experts from Italy, Latvia and Lithuania conducted the workshop. Amongst the topics addressed by the experts are: current challenges regarding personal data protection for the public sector (EU experience); requirements of data protection legislation at international level; the difference between data privacy and data security; steps taken by public institutions to protect citizens from personal data breaches, data breach notifications; obligation of secrecy; national cyber security governance framework (NIS Directive), as well as overview of cyber security incidents that has impact on personal data. About 70 representatives of the public sector attend the event.

✓ **“Challenges of international data transfers from the perspective of the Convention 108+ and GDPR”**

In September, the Center applied and obtained support from the EU TAIEX project in organizing the national conference, ***“Challenges of international data transfers from the perspective of the Convention 108+ and GDPR”***. In the context of globalization, the increasing of the need for information exchange through the various means made available by current technology, as well as the rapid technological developments widely used by both EU and other countries, underlines the urgent need for personal data protection. The automated processing of personal data, which



allows the transmission of a large volume of data in a relatively short period across national borders, has made it necessary to take into account the protection of confidentiality with regard to personal data. The cross-border transfer of personal data needs to be regulated by new instruments, designed to facilitate the international circulation of data, with the guarantee of respect for the fundamental rights of data subjects. The aim of the conference is to present information, examples of good practices and innovative solutions on raising awareness and informing the public sector about the challenges of cross-border data transfer. The proposed date for organizing the event is 28 January 2022, European Data Protection Day, an event celebrated by all member states of the Council of Europe.



CHAPTER IX

TRAINING AND AWARENESS
ACTIVITIES

IX

During the reporting period, the COVID-19 pandemic had a significant impact on awareness-raising and training activities, influencing both the number of activities carried out and the way of development of organized events. Thus, also in 2021, most of the training and awareness-raising activities organised by or in collaboration with the Center were conducted in online format.

Raising awareness actions

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

- On January 28, for the Data Protection Day, was organized street action - *"Protect personal data"*. Thus, several employees of the Center distributed to walkers, near the Cathedral Square, information materials on the importance of personal data protection and knowledge of the rights of data subjects.



- On July 10 - the day when the Center celebrates the establishment of the institution as an autonomous and independent public authority that aims to respect the fundamental rights and freedoms of individuals with regard to personal data processing, in particular the right to inviolability of intimate, family and private life. On this occasion, the representatives of the Center organized another action to raise awareness among the public about importance of the field and the need to ensure the protection of personal data.



- On November 19, near Ialoveni District Council, was held the Public Action - *"Protect personal data"*. The target audience - the inhabitants of Ialoveni district, were informed about the importance of personal data protection.

The aim of these actions was to educate, motivate and encourage Moldovan citizens to pay more attention to the protection of their personal data.

Similarly, during 2021, 68 press releases, articles and announcements were developed and published on the Center's website www.datepersonale.md. At the same time, during the reporting

period, the Center developed and published newsletters, including statistical information on the Center's activity, as well as useful and current information at national and international level on personal data protection.

Training activities

During the reporting period, the representatives of the Center organized 16 trainings attended by about 1640 participants from Chisinau and districts of the Republic of Moldova.

Despite the national pandemic situation, during 2021, the Center has seen progress in training activities. The series of trainings continued organised for representatives of central and local public institutions as well as for representatives of private institutions, higher education institutions, non-governmental organisations, with the aim of strengthening the capacities of the representatives of these entities by familiarising them with and raising awareness of the field of personal data protection. The topics covered in the training included: definition of personal data; legal grounds for processing personal data; realization of the rights of personal data subjects, measures to ensure confidentiality and security of personal data, filming and online transmission of local council meetings; approval of security policy and instructions on the management of record systems storing personal data, etc.

Among the training activities carried out in 2021, the following can be mentioned:

- On February 17, 18 and 19, the Center trained local public authorities from the north, center and south of Moldova. The training took place online and was attended by about 300 representatives of local public authorities (mayors, councilors, secretaries).



- On February 17, the Center trained employees of the State Tax Service on personal data protection. 400 people attended the event.

- At the beginning of March, the students of the Faculty of Law of the State University of Moldova were informed about the mission of the Center. The event took place online and was attended by over 50 students.

- On March 11, the Center offered a training course for 50 lawyers from the Republic of Moldova. The training was performed within the Council of Europe's HELP online meeting.

- On March 16, the Center offered a training course on personal data protection to employees of the National Health Insurance Company, at the request of the institution. About 100 people attended the event.





- On March 30, the Center trained the Secretariat of the Parliament of the Republic of Moldova. The training took place online at the request of the Parliament Secretariat and was attended by 51 staff.
- On July 1, at the request of AmCham Moldova, the Center offered a webinar on the processing of personal data through video surveillance. About 40 members of AmCham Moldova attended the webinar.
- On September 6, the Center provided online training to approximately 30 employees of the National Administration of Penitentiaries.
- On October 7, at the initiative of the Center, training was organized in the Causeni District Council. About 40 people attended the event.



- On November 5, at the initiative of the Center, the training was organized in the District Council Rascani. About 60 people attended the event.
- On November 11, at the initiative of the Center, a training was organized in the Falesti District Council, attended by about 55 people.



- On November 19, at the initiative of the Center, a training was organized in the Briceni District Council, with about 50 participants.
- On November 26, at the initiative of the Center, the training was organized in the Glodeni District Council. About 50 people attended the event.
- On December 3, at the initiative of the Center, the training was organized in the Cahul Raion Council. About 50 people participated in the event.



Human resource management

The Center's performance and effectiveness is directly dependent on the success of its employees, their knowledge and professionalism. At the same time, the achievements and successes of the employees depend on ensuring a strategic approach to the effective management of staff, the creation of appropriate conditions for the proper conduct of business, including professional and personal safety.

By Law No 182/2008 on the approval of the Regulation of the National Center for Personal Data Protection, the structure, staff limit and financing of the National Center for Personal Data Protection, the structure of the authority was approved, consisting of 8 structural subdivisions, as well as the staff limit of the authority, in the amount of 45 units, which are distributed as follows:

- 2 functions of office holders (director and deputy director) ;
- 42 public functions; including 11 – management functions and 31 – execution public functions;
- 1 – auxiliary staff (driver).

At the beginning of 2021, 37 employees were actually working at the Center. During 2021, 13 employees resigned, while another 14 were hired. At the end of the reporting year, out of 45 approved units, 40 people were active in the Center, with an occupancy rate of approximately 89%.

In 2021, is maintained the average age of the Center's employees – of 36 years.

In the field of human resources, the National Authority of personal data Protection applies a policy of equal opportunities between men and women. However, there is a prevalence of female employees over male. Proportion of women is higher than that of men in both executive and managerial positions.

As in previous years, in the age structure, the highest share of people aged between 35-45 (37.5% of the total) and those aged 25-35 (32.5% of the total) is maintained.

In the context of the above, the table below shows the proportion of the Center's employees by age and gender in positions of public dignity, management and executive positions.



Center staff by age and gender categories

Year 2021	Total effective persons		Functions of office holders		Public management positions		Public execution functions		Auxiliary staff	
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men
Number of persons	23	17	1	1	8	2	14	13	-	1
• < 25 years old	2	3	-	-	-	-	2	3	-	-
• 25-35 years old	7	6	-	-	-	-	7	6	-	-
• 35-45 years old	11	4	1	-	5	2	5	2	-	-
• 45-55 years old	2	2	-	1	2	-	-	1	-	-
• 55-63 years old	1	1	-	-	1	-	-	1	-	-
• 63 years old <	-	1	-	-	-	-	-	-	-	1

The employment rate of functions/posts within the Center also continued to increase during the reporting year, being approximately 11 percentage points higher than in the previous year.

Degree of employment with staff in the period 2018-2021

Year	Approved units	Effectively, employees	Share, %
2018	45	32	71
2019	45	33	73
2020	45	35	78
2021	45	40	89

Recruitment policy of the Center:

In order to ensure efficient and professional work within the Center, during 2021, were organized and developed 5 competitions to fill 13 vacant public positions, for which 91 candidates' applications were submitted, approximately 3 times more than in 2020. It should be noted that two competitions were extended, one was initiated in 2017 for the position of internal auditor and the other for the position of state controller in the Conformity Department, initiated at the end of 2020.

The competitions held in strict compliance with the Regulation on the filling of public vacancies by competition, approved by Government Decision No 201 of 11 March 2009.

In order to ensure the transparency of the contest organization process, the information on the organization and conduct of the contests was published on the institution's website (www.datepersonale.md) and on the government website (www.cariere.gov.md)

As a result of the competitions held, 13 people were hired, of which 8 were civil servants debutants. During the reporting year, 2 civil servants debutants were confirmed in public functions, obtaining the qualification "good" when evaluating the activity spend of the probationary period, at the same time being awarded the qualification degree "counselor of the



class III". The other 6 civil servants debutants are to be confirmed in their public positions in the first semester of 2022.

A success in terms of filling public vacancies is considered the hiring of the internal auditor, a position that from 2017 until March 2021 was permanently exposed to competition.

In the year under review, as the Director's term of office expired on 23 December 2021, the new Director of the Center, appointed by Decision of the Parliament of the Republic of Moldova No 224.

Staff turnover:

The phenomenon of turnover has a number of disadvantages, such as additional costs related to recruitment; disruption and stagnation of the institution's business process; risk of loss of institutional memory; wasted investment in staff development and training; difficulties in attracting new staff. Last but not least, the procedure for selecting and employing staff should also be noted, a procedure which, in the case of the Center, is difficult and complicated due to the lack of qualified and experienced specialists in the field of personal data protection.

In 2021, the staff turnover rate in the Center was 33%, twice as high as in 2020 (17%).

It should be noted, **that the staff turnover with control tasks and duties within the Center has increased significantly this year, accounting for 84% of the total number of resignations (11 inspectors).**

The basic reason for staff turnover within the Center is the level of remuneration that is irrelevant in relation to the complexity and volume of activities carried out in the context of verifying the lawfulness of the processing of personal data.

Moreover, it is worth mentioning the discriminatory salary level of the civil servants within the Center as compared to the one provided to other control 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 Anticorruption Center, National Integrity Authority, Anti-Money Laundering Service, etc.

In the context of the acute phenomenon of staff turnover within the Center, the essential increase in the proportion of staff between 1 and 2 years' seniority (54%) can be observed, which generates the risk of loss of institutional memory and negatively influences the share of quality of work.

Even more, over the years it observed that **after considerable investment in the good professional training of employees, in raising the level of knowledge, skills and work skills required, especially in the area of competence, employees decide to leave for other public authorities for a more attractive salary package.** As an example, seven of the former employees of the Center who had the status and duties of inspector are now working in other public institutions that are much more attractive in terms of salaries offered to employees.

In order to determine the level of achievement of individual work objectives, the degree of manifestation of professional skills and behavioral characteristics by the civil servant, with a view to assessing the results achieved and identifying professional development needs, the evaluation of the professional performance of civil servants in the Center for the reporting year was carried out. As a result, 90% of civil servants rated "very good" and 10% of civil servants



rated “good”. Because of the appraisal procedure, 10 staff members promoted to higher public positions than the ones they previously held.

With a view to institutional strengthening, the Center pays particular attention to the development of human resources as an important vector for increasing the quality of its work. To this end, an annual professional development plan drawn up, according to which the Center’s employees participated in 3 internal training courses and 23 external training courses.

Under the constraints conditions imposed by the pandemic situation, employee training was conducted predominantly online, with training events selected according to individual professional development needs, drawing on training programmes provided by development partners such as: Academy of Public Administration, Information Technology and Cyber Security Service, National Anti-Corruption Center, etc.

In order to ensure efficient human resources management, 374 administrative acts were drawn up, relating to the employment relationships of employees, as well as to the allocation to each employee of salary steps, salary grade and coefficient, the amount of the basic salary established, in the context of the approval of the reference value for the reporting year.

It is also necessary to underline the incentive aspect of the employees of the Center in the form of honorary diplomas and thanks, awarded by order of the management on the professional holiday “Civil Servant’s Day”. For the efficient exercise of their duties, the manifestation of their spirit of initiative, as well as a token of high appreciation for their contribution in the field of personal data protection.

Other achievements in this chapter include the award of the Government Diploma to a senior civil servant for prodigious and irreproachable work in public service.

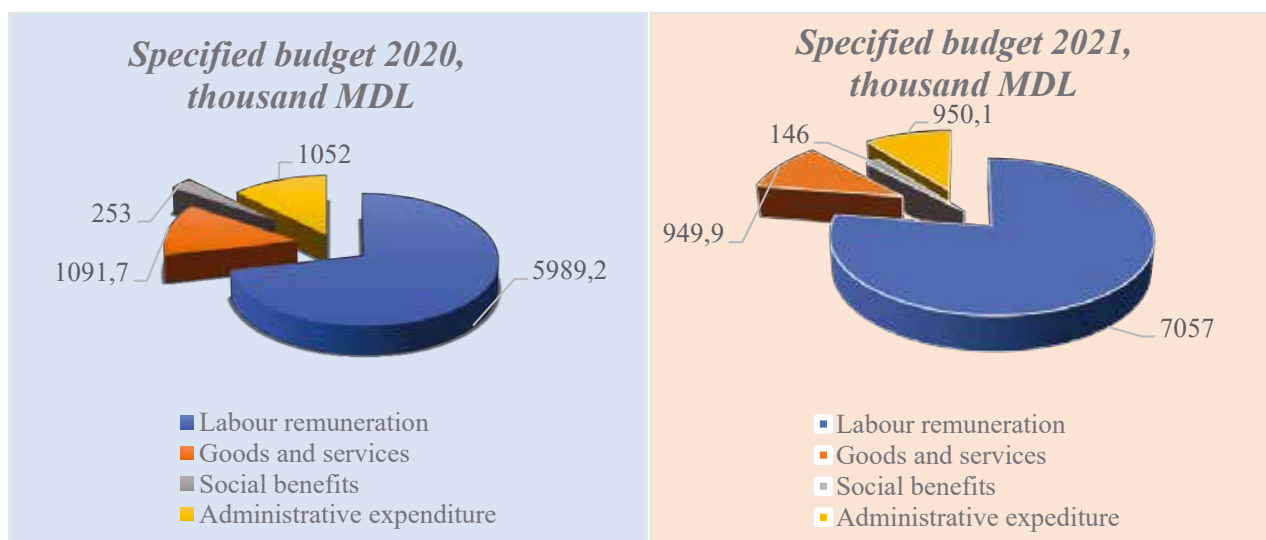
In conclusion, to this chapter, we underline that the Center, at all times, places emphasis on the provision of human resources, professional development of employees, motivation and retention of staff to ensure the efficiency of management processes.

Economic-financial activity

According to the Law on the State Budget 2021 no. 258 /2020, for the Center was approved the total budget of **8093,4** thousand MDL, the general resources component.

In addition, they allocated to the Center financial means in the amount of 1009,6 thousand MDL, for the payment of the one-off allowance in connection with the contraction by an employee of the COVID-19 infection during the performance of duties. Payment of compensation on leaving the service of employees (13) who have not taken annual leave, and the salary of an employee who has returned to work before the end of the period for which the service was suspended in connection with the employee’s being on paid additional leave for childcare up to 3 age.

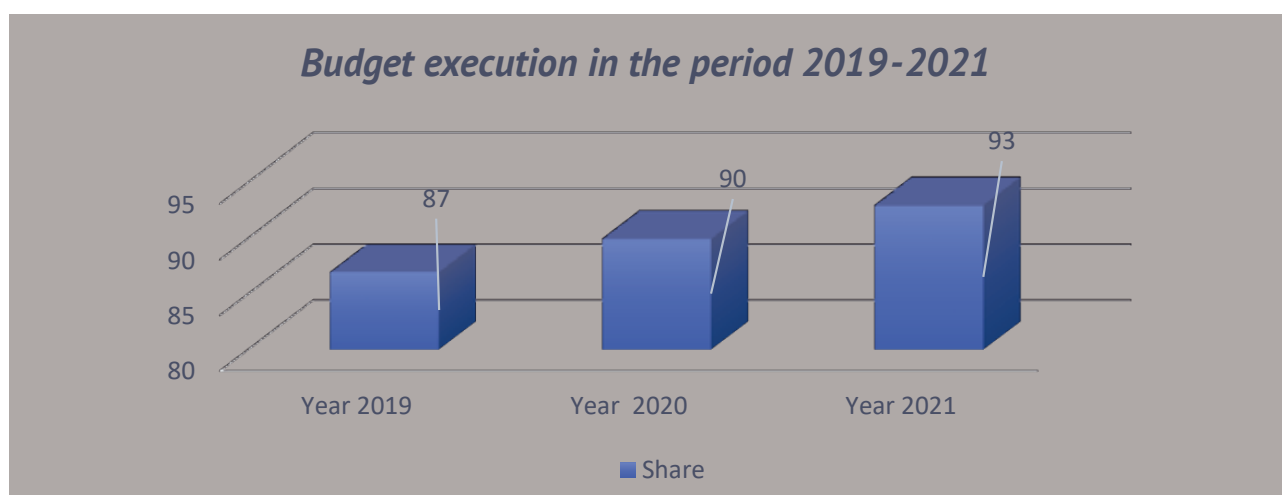
Thus, at the end of the reporting period, the specified budget for the Personal Data Protection Authority amounted to **9 103,00 thousand MDL**, being an increase of about **8%** compared to the budget specified in 2020 (**8 385,9 thousand MDL**), as follows:



The financial resources allocated to the Center used in accordance with the provisions of the Law on Public Finance and Budgetary and Fiscal Responsibility no.181/2014 and the Law on Public Procurement no. 131/2015. For efficient and transparent use of funds during 2021 on the web page of the authority placed information of public interest, such as: procurement plan, monitoring reports of public procurement contracts prepared for the second semester, for 9 months and the annual one, etc.

In order to implement the procurement plan, in the reporting period, 42 low-value contracts were concluded, of which 15 for goods and 27 for services. Factors such as the timeliness of expenditure and the lowest price principle taken into account when concluding contracts, together with established technical requirements.

According to the situation as of 31 December 2021, the Center's budget was executed for 8 428,9 thousand MDL, which is 92,6% of the specified budget, being increased compared to the previous years.



Allocations by category of expenditure made based on the approved resource framework and in accordance with the Center's needs for core business.



Execution of expenses in 2021 (thousand MDL)

Indicators	Approved	Specified	Executed	Executed compared to specified (%)
Staff expenditure	6 063,4	7 057,0	6 881,7	97,5
Goods and services	1 481,9	943,8	789,1	83,6
Social payments	130,0	146,0	55,3	37,8
Other expenses	-	6,1	6,1	100,0
Non-financial assets, inclusive:	418,1	950,1	696,7	73,3
- Fixed assets	160,0	692,0	463,6	67,0
- Stocks of circulating materials	258,1	258,1	233,1	90,3
TOTAL	8 093,4	9 103,0	8 428,9	92,6

Thus, in the “*expenditure*” compartment, the amount of 7 675, 3 thousand MDL was approved, the amount specified was 8 152, 9 thousand MDL. During the year 7 732, 2 thousand MDL were executed.

As regards the distribution of allocations, we can state that in the structure of expenditure, the largest share is held by the chapter “*personnel expenses*”, where allocations were initially approved in the amount of 6 063,4 thousand MDL, the specified amount was 7 057,0 thousand MDL, and the amount executed during the reporting period was 6 881,7 thousand MDL (97,5%). Here it should be mentioned, that the annual bonus also paid to the employees of the Center, for the results of the activity in 2021, within the limit of the volume of personnel expenses provided for in the budget of the authority.

With reference to the chapter “*non-financial assets*” we mention that the initially approved amount was 418,1 thousand MDL and the specified amount of 950,1 thousand MDL, obtained as a result of the redistribution of allocations from the chapter “*goods and services*”. Most of the redistributed allocations were from the chapter “*Missions abroad*”, not carried out due to the COVID-19 pandemic. This redeployment was for the development of the Automated Information System “State Register of Personal Data Controllers” (RODCAP), which was operating on outdated technologies and creating deficiencies in operation and use. However, the amount redistributed to improve the functionality of RODCAP was not used, under the circumstances that on 11 November 2021, the Parliament of the Republic of Moldova adopted Law No. 175 on the amendment of certain normative acts, which came with certain amendments to Law No. 133/2011 on personal data protection, including with a view to liquidating the given Register.

As a result, during the reporting period, allocations to the chapter “*non-financial assets*” in the total amount of 696, 7 thousand MDL executed.

In conclusion, we can say that during 2021, the Center’s budget was executed in the proportion of 92,6%, while the unexecuted balance of budget allocations at the end of the year amounted to 674, 1 thousand MDL, for various reasons (epidemiological situation, the need for development of RODCAP, etc.).

During January 2021, in accordance with the activity programme for the first half of 2021 of the Financial Inspectorate under the Ministry of Finance, **carried a complex financial inspection in the Center.**



The period under inspection was 1 January 2016 to 31 December 2020, with the aim of providing reasonable assurance on:

- Implementation of the budget for revenue and expenditure;
- Settlements with various debtors and creditors;
- Remuneration of work;
- Procurement.

Following of the audit concluded on 29 January 2021, the Financial Inspection has not established any discrepancies or misrepresentations.

In this regard, we note that in the period of July - August 2021, the Economic and Financial Service also carried out an internal audit mission to assess the compliance and efficiency of public procurement. The result of the audit mission established that the procurement process in the Center, in general, is organized in accordance with the requirements of the regulatory acts with some minor deviations that do not have a significant negative impact on the procurement of goods and services.

Activity of the Internal Audit Service

The Internal Audit Service is the subdivision of the Center that ensures the fulfilment of the mission and core functions in the following areas:

- carrying out audit missions;
- evaluating the internal management control system.

The basic task of the Internal Audit Service is to carry out internal audit assignments, provide advice to ensure the effectiveness of the management internal control system, provide recommendations for the perfecting of that and contribute to the improvement of the Center's work.

In order to achieve the mission of the Internal Audit Service, the scope of internal audit work includes all systems, processes and activities of the Center.

During the reporting period, the Center's Internal Audit Service carried out its work in accordance with the Internal Audit Work Plan for 2021.

In order to ensure compliance with the provisions of the Law no. 229/2010 on internal public financial control, **seven** internal administrative acts were prepared and approved by area of activity, the main ones being:

- Internal audit charter of the Center;
- The code of ethics of the internal auditor of the Center;
- Strategic plan of the internal audit activity for the years 2021-2023;
- Internal audit activity plan for 2022;
- Orders regarding the performance of internal audit missions, on the public procurement process and on the management of human resources, within the Center.

The need to adjust some previously prepared documents, as well as to approve new internal documents, including those mentioned, determined by the fact that, previously, within the Center the position of internal auditor was vacant, being filled in 2021.



According to the activity plan of the Internal Audit Service for 2021, **2** audit missions performed.

During the year, **11** notes / informative reports were prepared to the head of the Center on various aspects of the authority's activity, including the evaluation of the internal managerial control system.

Audit missions performed, covered the main areas of activity of the Center, namely:

- assessing the compliance and efficiency of the public procurement process;
- human resources management within the Center.

The internal audit reports presented to the director of the Center and the operational managers of the audited subdivisions, for taking action, according to the competencies.

In 2021, in the process of monitoring by the Internal Audit Service the execution of the aspects mentioned in the audit reports, there were **8** recommendations, of which **7** recommendations had a deadline until the end of 2021 and **1** recommendation - until February 1, 2022.

Because of the ongoing monitoring, consultation provided to the audited subdivisions and information received from the relevant subdivisions regarding the implementation of the audit recommendations, all **eight** recommendations were fully implemented by the end of 2021.

Likewise, at the request of the Center's management, during 2021, the process of implementing the Internal Management Control System (MCS) within the authority was evaluated.

Following the evaluation of the implementation process of the MCS system and the proposals set out in the respective report, consultations were provided to the operational managers regarding the internal managerial control responsibilities of the Center.

Because of the evaluation of the internal managerial control system, the following were revised / updated and approved in the new wording:

- 8 Regulations of activity of the internal subdivisions of the Center;
- 12 Job descriptions of the management and execution civil servants, with the recording in them of the responsibilities and attributions regarding the implementation of the MCS system.

During 2021, in over **50** cases, advice and counselling was provided to the Center's staff in the field of public internal financial control.

In order to implement the annual training plan for the Center's staff, taking into account the restrictions imposed by the epidemiological situation and minimizing the external training process, the Internal Audit Service developed instructional-methodological material and held **2** internal training sessions on the implementation and development of the internal managerial control system.

The training provided guidance and techniques for managers and employees in various aspects, such as managerial control responsibilities, goal setting, process documentation, risk management, control activities and important tools for sound and transparent resource management, in accordance with the legislation in force.

33 employees of the Center attended the internal training sessions.



PROBLEMS AND OBJECTIVES IN THE ACTIVITY OF THE CENTER

The concerns that burden the work of the National Authority of Personal Data Protection, reflected over several reporting periods already, reveal their virtually unchanged nature from year to year. Should be noted that the major concerns reflected from year to year, including in the activity reports of the Center, generate increasing impediments both in the institutional and organizational activity and in the development of personal data protection field at national level. However, given that solving the pressing problems facing the Center is largely beyond the competence of this authority, it becomes even more difficult to overcome/achieve.

Problems facing the Center - legal, institutional, perception and applicability issues, which require urgent solutions in order to overcome the stagnation in the field of personal data protection at national level and which are, for the most part, reflected in detail in the content of this report, are the following:

- ***disparity between the national legal framework in the field of personal data protection and the new regulations existing at European level;***
- ***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;
- ***staff turnover*** and insufficiency/lack at national level of qualified specialists in personal data protection field;
- ***the small number of employees in relation to the increasing workload***, especially in the basic subdivisions of the authority: the General Department for Surveillance and Conformity, the Legal Department, especially in the context of investing recent years with multiple additional responsibilities (for example through: the Law on electronic communications, the Law on prevention and combating money laundering and terrorism financing, the Law on prevention and combating of terrorism, etc.), without being created / assured and reliable institutional mechanisms for carrying out the prescribed tasks;
- ***the lack of adequate safeguards for the Center's staff*** with regard to the risks arising from the control activity and interference by certain bodies with the aim of intimidating the Center's employees by fabricating files;
- ***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 (detailed information reflected in the chapter representation in court);
- ***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 in the case of law enforcement bodies** when carrying out special investigative measures, **which would ensure a fair balance between the interest of the prosecuting body to accumulate certain evidence and the rights of the personal data subjects concerned**. The more detailed information on the given topic is highlighted above, in the section „Activity for the prevention of non-compliance of personal data processing”;
- **the huge number of personal data access operations stored in state automated information resources, carried out in the absence of a legal purpose** and basis, in particular by employees of law enforcement agencies, as well as the **lack or insufficiency of measures necessary to implement in order to keep efficient records of personal data processing operations**. More information regarding the aspect of tests is reflected above, in the section „Activity for the prevention of non-compliance of personal data processing”.

The Center's objectives for 2022 - essentially to undertake the necessary actions to address the concerns highlighted above. Thus, the basic objectives outlined for the immediate period ahead, but not limited to those described below, will focus on ensuring:

- **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: on personal data protection and 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;
- **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 data processing legality by the Center;
- **increase of the staff limit** of the National Authority for the control of personal data processing, **in relation to the workload and competencies assigned to the Center**;
- further fulfilling of the 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;
- 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;
- raising awareness the development partners in carrying out joint projects, in order to ensure the adequate level of personal data protection in the Republic of Moldova.

136