



REPUBLIC OF BULGARIA
COMMISSION FOR PERSONAL DATA PROTECTION

ANNUAL REPORT

**on the activities of the Commission for
Personal Data Protection
in 2006**

In compliance with Art. 7, par. 6 of the Law for
Protection of Personal Data

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1. INTRODUCTION

The present report for the activity of the Commission for Personal Data Protection is prepared in compliance with the provision of Art. 7, par. 6 of the Law for Protection of Personal Data, promulgated in the Official Gazette, issue 1 of 4 January 2002, amended OG, issue 70 of 10 August 2004, amended OG, issue 93 of 19 October 2004, amended OG issue 43 of 20 May 2005, amended OG, issue 103 of 23 December 2005, amended OG, issue 30 of 11th April 2006, amended OG, issue 91 of 10 November 2006, and covers the period from 1 January 2006 to 31 December 2006.

First of all, the main issues are examined with relation to the institutional strengthening of the Commission and the activities in accordance with the recommendations of the European Union for ensuring its administrative capacity and financial independence.

We present consistently to the legislative body of Republic of Bulgaria – the National Assembly, the activities according to the powers of the Commission for Personal Data Protection under Art. 10 of the Law for Protection of Personal Data – registration of data controllers, complaints handling, expressing opinions on cases stipulated by law, personal data transfer, inspections, as well as on drafts and bylaws in the field of the personal data protection. Special attention has been paid to the information activities in order to increase the awareness about personal data protection of the population, and to construct and update a new website and information bulletin. Other activities which have been pointed out are the Commission's cooperation with other public authorities in the Republic of Bulgaria, the development of bilateral cooperation with data protection authorities from the European Union countries, as well as the participation of its representatives in international bodies and forums on personal data protection within the European Union.

It can be concluded not only with a view to the findings as a result of the carried out peer reviews, that during the year under review the Law for Protection of Personal Data was enforced completely and reached the necessary European standards in the field of data protection.

2. INSTITUTIONAL STRENGTHENING OF THE COMMISSION FOR PERSONAL DATA PROTECTION

2.1 Administrative capacity

The basic structure and the administrative staff of the Commission for Personal Data Protection (CPDP) are shown on Fig. 2.1, as in 2006 the envisaged pay-roll staff was 76 positions, including:

1. Elective offices (chairman and members of the CPDP – 5;
2. General Secretary – 1;
3. General administration – 25, including Administrative-economic, Financial-accounting, International Cooperation and European Integration Directorate;

Specialized administration – 45, including Law Directorate – 19, Program and Technical Directorate – 14 and Information Directorate – 12

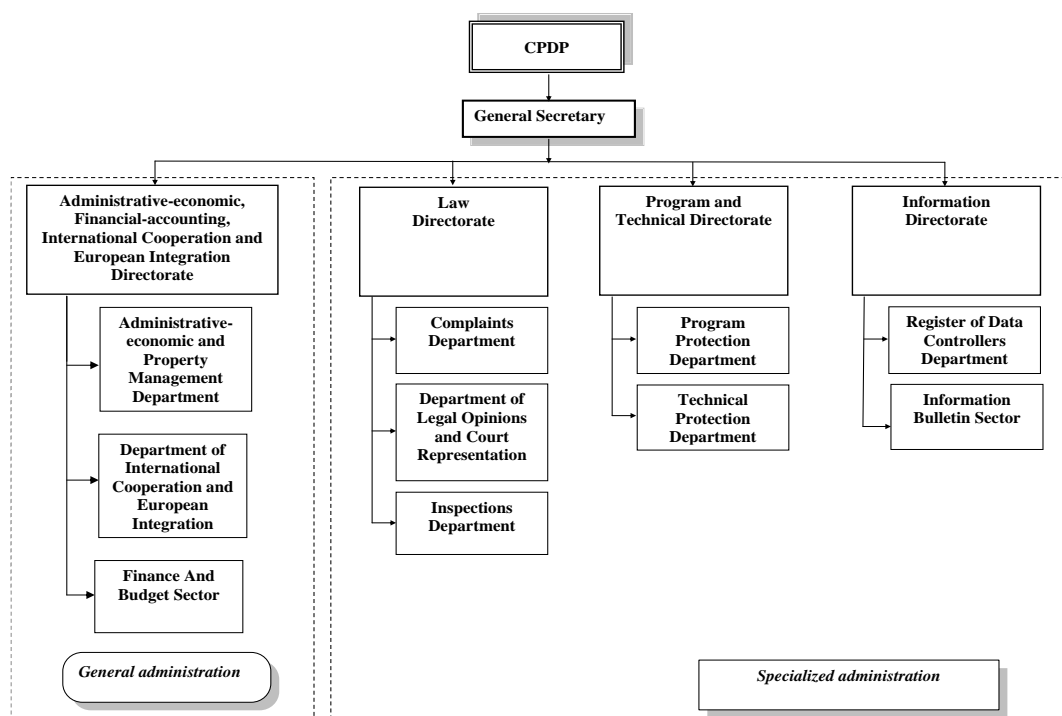


Figure 2.1

At the beginning of 2006 the filled pay-roll positions were 34 (20 under labour contract, and 14 in compliance with the Law for the Public Servant), and the vacancies were 42. In the current year 24 competitions were announced for 37 job positions with all procedural requirements met, according to the Ordinance for Conducting Competitions for Civil Servants. 107 applications were submitted in the announced competitions. 81 of the applicants were admitted to participate in the competitions, 53 sat for exams (test, defence of concept, written development, practical exam), 31 were admitted to an interview, 25 were classified, 14 were appointed, and two of them were re-appointed. Up to this moment, the filled positions are 45 (20 under labour contract and 25 in compliance with the Law for the Public Servant), and the vacancies are 31 (table 2.1).

Table 2.1.

No	Structural unit/position	Employed	Not employed
Elective positions			
1	Chairman	1	
2	Commission Members	4	
Managerial Positions			
3	General Secretary	1	
Administrative-economic, Financial-accounting, International Cooperation and European Integration Directorate			
4	Director	1	
Administrative-economic and Property Management Department			
5	Head of Department		1
6	Chief Expert	2	
7	Senior Expert	1	
8	Junior Expert	1	
9	Technical Assistant		1
10	Executor	6	2
Finance And Budget Sector			
11	Chief Accountant	1	
12	Chief Expert	1	
13	Junior Expert		1
14	Chief Expert	1	
Department of International Cooperation and European Integration			
15.	Head of Department	1	
16.	Chief Expert		1
17.	Senior Expert		1
18.	Junior Expert	2	
19	Chief Specialist	1	
Law Directorate			
20.	Director	1	
Complaints Department			
21	Head of Department	1	
22	State Expert		1
23	Chief Expert	1	
24	Senior Expert	1	
25	Junior Expert	1	
26	Chief Specialist		1
Department of Legal Opinions and Court Representation			
27	Chief Legal Consultant		1
28	Senior Legal Consultant	2	1
29	Junior Legal Consultant		1
30	Chief Specialist	2	
Inspections Department			
31	Head of Department	1	
32	State Expert	1	
33	Chief Inspector		1
34	Senior Inspector		1
35	Junior Inspector	1	
36	Chief Specialist	1	
Program and Technical Directorate			
37	Director	1	
Program Protection Department			
38	Head of Department		1
39	State Inspector		1
40	Chief Inspector		1
41	Senior Inspector		1
42	Junior Inspector	2	

Technical Protection Department			
43	Head of Department		1
44	State Inspector		1
45	Chief Inspector		1
46	Senior Inspector		2
47	Junior Inspector		2
Information Directorate			
48	Director	1	
Register of Data Controllers Department			
49	Head of Department		1
50	Chief Expert	1	
51	Senior Expert	1	1
52	Junior Expert	1	2
53	Chief Specialist	1	
Information Bulletin Sector			
54	Chief Sector		1
55	Chief Expert		1
56	Senior Expert	1	
	TOTAL:	45	31

The job characteristics were updated in compliance with the new requirements. The salaries of the employees of CPDP were indexed in compliance with the Council of Ministers' Decree No 168/07/07/2006.

In the period under review 34 employees of the administration of CPDP took part in various training courses and seminars (Table 2.2).

4 part-time employees were appointed under Procedure 2006 of the Program Career Start (Employment of young people with higher education in the public administration) of the Ministry of Labour and Social Policy. Three of them participated in the competitions for public servants, announced by CPDP and after winning them were appointed on full-time positions, and one left due to winning a competition in another public authority.

Table 2.2.

No	Name of the course/workshop	Month of holding	Employees participated
1	Work with legal acts via "Siela"	February	16
2	Remote training in English	July	3
3	New principles in labour legislation and social insurance in 2006	July	1
4	Practical issues on ensuring healthy and safe conditions of work	October	1
5	Annual meeting of the human resources experts	October	2
6	Contemporary management skills	November	1
7	Healthy and safe conditions of work	November	1
8	Administrative law and administrative proceedings – applicable aspects	November	9

The procedure for appraisal of the employees of the administration of CPDP was accomplished in 2006. Work plans for 2007 were drawn up in accordance with the Ordinance on the Terms and Conditions for Appraisal of Officials in the State Administration.

In 2006 a contract was concluded with the labour medicine office “Zdrave” Health Insurance Fund, with the aim of creating healthy and safe work conditions for the employees. In connection with this contract the following was performed:

- assessment of the work processes, equipment, premises, work places, organization of work and factors of the work environment;
- measuring and examination of the components of the work conditions: production microclimate, lighting, noise, etc.;
- development of physiological conditions of work and rest.

Preliminary medical examinations were done for the employees in compliance with the requirements of the legal acts. A team responsible for healthy and safe work conditions was elected, and Dima Hristova, a member of the team, completed the respective course. Instructions for safe work were drawn up and put to vote, by which all employees were instructed.

During the year the employees participated in three workshops:

- in the town of Bansko from 26 October 2006 to 28 October 2006, entitled “Priority activities of the directorates of CPDP with a view to the accession of the Republic of Bulgaria to the European Union on 1 January 2007”;
- in the town of Hisaria – partners meeting of CPDP’s managerial staff and their counterparts from the Commission for Protection from Discrimination entitled “Latest amendments to the Law for Protection of Personal Data, the Law for Protection from Discrimination, as well as the practice of the Commission for Protection from Discrimination and the Commission for Personal Data Protection regarding their work with personal data”;
- in the village of Arbanasi, entitled: “Development of the report of CPDP for 2006”.

The workshops proved to be exceptionally useful events. The Administrative-economic, Financial-accounting, International Cooperation and European Integration Directorate played the main role in the organization and the logistics of the workshops.

The following registers were filed in the records during the year: “Incoming”, “Outgoing”, “Incoming e-mail” and “Complaints”. With relation to the participation of the Commission in a number of working parties of national and international importance, the number of materials incoming by e-mail, increased significantly, which was the reason for the creation of a new register “Incoming e-mail”. Table 2.3. shows the number of incoming and registered documents each year.

Table 2.3.

No	Year	Incoming mail	Incoming e-mail	Outgoing mail	Complaints
1	2002	359	-	71	8
2	2003	482	-	539	29
3	2004	1016	-	731	79
4	2005	1726 (425 of which by e-mail)	-	770	74
5	2006	1919	1130	1791	102

The next year a new register will function - "Outgoing e-mail" for replies sent by e-mail in connection with submitted inquiries, requests for opinions, etc., as well as a register "Act on determining administrative sanctions".

With the view of supporting the activity of the employees in the records and respectively of the Commission, in 2007 it is envisaged to establish a new records system and train of the employees (from the records) how to work with it.

Until 1 March 2006 CPDP was located in the building in 3 Dr. Hristo Stambolski Str. where it used working areas of 1526 m², with monthly rent of 13 euro / m², VAT incl., as well as, according to an Annex to the Contract – an open car park of 100 m², an underground car park and archives of 112 m². At the end of 2005 due to ungrounded increase of the rent by the lessor (17 euro / m²), CPDP established a committee headed by the general secretary, to find an alternative building.

On 10 February 2006 Maimex Plc and The Commission for Personal Data Protection concluded a contract for rent of a part of an administrative building, located in Sofia, 15 Akademik Ivan Evstatiev Geshov Blvd., with an area of 2177,15 m² (including: storerooms on the ground floor with an area of 568 m²; the entire first floor with offices with an area of 740 m²; the entire second floor with offices with an area of 740 m²), for a rent price of respectively 7 (seven) and 8 (eight) euro/ m² per month.

On 1 March 2006 the administration of the Commission was successfully moved to the abovementioned building, where we are still working.

In the building 6 (six) large working offices were furnished, with secretary offices for them, for the chairman, the members of the commission and the general secretary, as well as other 25 (twenty-five) office rooms, an office for the register, archives, storerooms and a conference room with full equipment, as well as a server room. In addition to the equipment from 2005, the following items were purchased by an open procedure in compliance with the Public Procurement Act:

1. Office equipment (furniture for the offices, additional desks and work chairs) to the amount of BGN 13 609;

2. Computer equipment, as follows: computer configurations – 41; printers – 30, scanners – 5, big copying machine – 1; medium-size copying machine – 2; multimedia projector – 1; fax device – 1; a solid safe -1.

With these supplies the Commission is equipped with the following:

1. Equipment: computer configurations – 67, printers – 41, colour printer - 1, copying machine – 3, multimedia projector – 1, faxes – 2, multifunctional device - 1;

2. Office furniture: standard work places – 39, secretary work places – 4, director's work places – 5, representative work places – 5, a set of office furniture for a conference room;

- 2 (two) mineral water machines and a refrigerator were purchased. All working premises were equipped with vertical blinds.

2.2 Financial status

The initially approved budget of CPDP for 2006 was to the amount of BGN 976 059 as a second-level spending unit with budget allocated by the Council of Ministers. The funds of the approved budget were BGN 161 743 or 14% less than the spent funds according to the Commission budget for 2005.

During the year the budget of the Commission increased with BGN 506 857 after corrections made by the first-level spending unit, as follows:

- under program of the Ministry of Labour and Social Policy “Career Start” to the amount of BGN 6 857;
- under Council of Ministers’ Decree No 331 / 11.12.2006 for rent and maintenance of CPDP to the amount of BGN 500 000.

In order to achieve the goals and the financial security of the entire activity of the Commission for Personal Data Protection and its administration in 2006 a total of BGN 1 431 374 were spent, allocated in items by the Uniform Budget Classification, as follows:

Table 2.4.

Item	Name of expenditures	Amount
01-00	Salaries and remunerations for the staff hired under labour contract and in compliance with the Law for the Public Servant	BGN 391 264
02-00	Other remunerations and payments to the staff	BGN 57 396
05-00	Mandatory insurance instalments by employers	BGN 98 703
10-00	Maintenance	BGN 871 625
52-00	Acquisition of fixed tangible assets	BGN 10 274
53-00	Acquisition of intangible fixed assets	BGN 2 112
	Total budget expenditures	BGN 1 431 374
	Approved budget	BGN 1 482 916
	Unspent funds	BGN 51 542

The greatest relative share – 61% of the total costs, had the funds spent on maintenance, covering costs for: external services, including rents, materials, water, electricity and fuels, business trips in the country and abroad, insurances and other financial services, clothing and entertainment expenses.

The funds spent on salaries, other remunerations and payments to the staff and the respective mandatory insurance instalments represent 38% of the total costs of CPDP for the year.

The capital costs for 2006 were to the amount of 1% of the totally spent funds.

Until the allocation of an additional budget credit by the Council of Ministers’ Decree No 331 / 11.12.2006, the Commission was in difficult financial status and accumulated debts to suppliers to the amount of BGN 309 810, of which BGN 296 405 overdue for rents and consumables on maintenance of the building. By the end of 2006 all debts of CPDP were discharged.

By adopting the Law amending the Law for Protection of Personal Data (OG, issue 91 of 10 November 2006), the Commission became first-level spending unit, as from 1 January 2007, and its budget as a state authority is determined by the Law on the State Budget of Republic of Bulgaria for 2007.

3. REGISTRATION OF DATA CONTROLLERS

3.1. Registration

In compliance with Art. 10, par. 2 of the Law for Protection of Personal Data, the Commission keeps a register of the data controllers and the personal data registers kept by them. All the data from the contents of the submitted by the data controllers' applications for registration, approved by the Commission, are entered in this register. The entry in the register is certified by a unique identification number. The register is public. The goals which the legislator has set by its establishment, are to give publicity to what persons are data controllers, what personal data and on what legal grounds they are processed, and how the rights of data subjects are protected in the course of processing.

In 2006 the registration of data controllers was carried out in compliance with the amendments to the Law for Protection of Personal Data on 23 December 2005 and 10 November 2006. According to them, the data controller is required prior to processing the personal data to submit an application for registration, approved by the Commission for Personal Data Protection.

The amendments from 23 December 2005 introduced new requirements for the contents of the registration documents, too. In order to include these requirements, new specimens were prepared – Application for registration of a data controller and Notification of a change or deletion of data in a register.

3.1.1 Application for registration of a data controller

The new form of the application for registration consists of 2 parts:

Part I. Application for registration different for each of the four basic groups of data controllers:

- natural persons (sole traders, insurers with or without BULSTAT);
- natural persons, representatives of: trade representations, companies in compliance with the Obligations and Contracts Act, branches of foreign legal entities and of other non-legal entities;
- legal entities;
- state authorities and local self-government authorities.

Part II. Description of the register – uniform for all data controllers.

The data controller is obliged to fill in a form – Part I, for the respective group, and as many forms – Part II, as the registers kept by the said data controller.

3.1.2 Notification for a change or deletion of data in a register

The notification is completed by the data controller that is entered under a unique identification number in the Register of data controllers kept by CPDP, in case of a change in the registers declared by this data controller or in case of made legal changes.

The forms are developed in such a way, so that in order to complete them it is not necessary to use additional explanatory notes. They are adapted to be completed in an electronic form.

The data controllers are also required to submit to CPDP all documents which are listed in s. IV of Part I of the application.

The registration forms are published in the Regulations for the Activity of the Commission for Personal Data Protection and its Administration (OG, issue 40 of 16 May 2006), as well as on the website of CPDP (www.cdpd.bg).

3.1.3 Updating the conditions for registration

With the amendments to the Law for Personal Data Protection on 10 November 2006, it is also necessary to make a change in the process of registration of data controllers. Some of the new requirements are:

- The data controller can start processing the data after submitting an application for registration;

No application for registration is submitted when:

- the data controller keeps a register which is intended to provide public information under a normative act, and:

- a) the access to it is free;

- b) the access to it is given to a person that has a legal interest.

- the processing is done by a non-profit organization, including with a political, philosophic, religious or trade-union purpose, in the course of its legal activity and with proper protection, provided that:

- a) the processing is related only to the members of this organization or to persons who have regular contacts with it regarding its objectives;

- b) the data are not disclosed to third parties without the consent of the data subject to whom they relate.

- The Commission can exempt from the obligation for registration some data controllers who are processing data except for the specified ones, when the processing does not threaten the rights and legal interest of the data subjects whose data are processed. The terms and conditions for exemption are settled by the Regulations for the Activity of CPDP and its Administration, and the Commission specifies the criteria in compliance with:

- the purposes of personal data processing,
 - the personal data or categories of personal data subject to processing,
 - the categories of data subjects whose data are processed,
 - the recipients or categories of recipients to whom the personal data can be disclosed,
 - the period of time for keeping the data;

- A compulsory preliminary inspection is made before the entry of the data controller in the register, when the data controller has declared processing of data which disclose racial or ethnical origin, political, religious or philosophic convictions, membership in political parties or organizations, associations with religious, philosophic, political or trade-union purposes related to health, sexual life or the human genome or to data whose processing by virtue decision of the Commission threatens the rights and legal interests of the data subjects;

- The results of the check made within two months can be the following:
 - entry
 - instructions
 - refusal
 - The data controller cannot start processing the data before its entry in the register, or before implementing the compulsory instructions of the Commission;
 - Failure to pronounce within the two-month period is considered as a tacit refusal of entry of the data controller in the register;
 - The operative part of the decision is promulgated in Official Gazette.
 - Before the amendments made on 10 November 2006, the registration procedure had included:
 - submission of an application for registration and documents according to a form approved by CPDP, before starting personal data processing;
 - forms on a hard copy from CPDP
 - forms in electronic format on the website of CPDP – (www.cdpd.bg);
 - submission of the completed forms in CPDP;
 - entry of the data in the information system;
 - working out lists with a proposal for approval of registration by CPDP;
 - processing the approved applications in the information system and creation of a unique identification number by the Register of data controllers;
 - notification of entry in the Register of data controllers through the website of CPDP – (www.cdpd.bg);
 - delivery of the certificate with an identification number by the Register of data controllers.
- Following the amendments made on 10 November 2006, the registration procedure will be changed in the following directions:
- simplifying the access and processing of the documents;
 - creating a program for filling in the forms in electronic format on the website of CPDP (www.cdpd.bg);
 - completing forms in electronic format on the website of CPDP (www.cdpd.bg) using electronic signature;
 - the data is completed directly in the information system;
 - issuing the public part of the Register of data controllers on the website of CPDP – (www.cdpd.bg);
 - a certificate in electronic format on a special electronic address;
 - a certificate in electronic format on the website of CPDP (www.cdpd.bg) using electronic signature.

3.2. Statistics

The process of registration of data controllers is shown in figures and diagrams displayed by Fig.3.1 to Fig. 3.4.

Table 3.1

Year	2003	2004	2005	2006	Total with accumulation
Number of applications received in CPDP	249846	15154	5015	4431	274446
Number of issued certificates		4829	12862	14279	31970

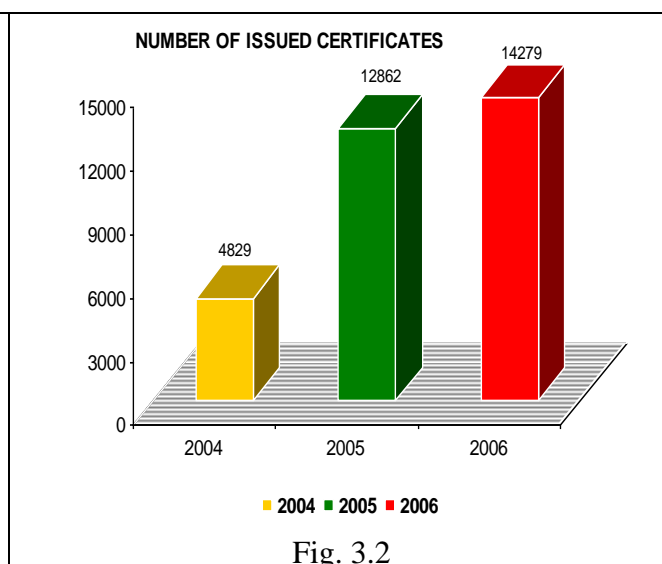
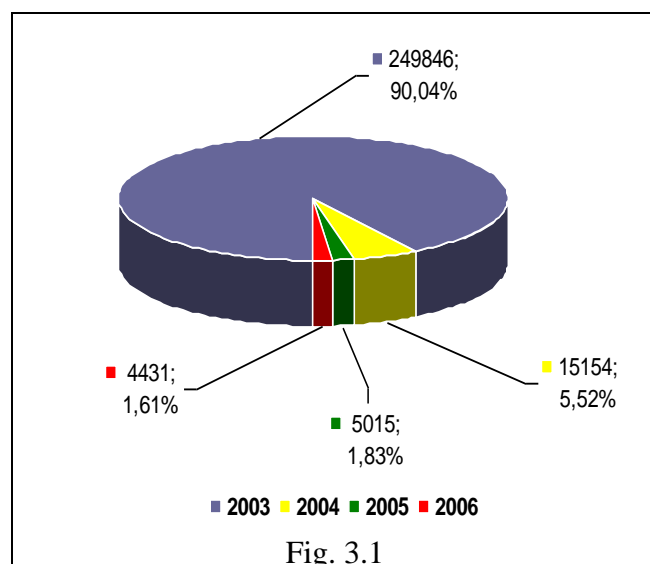


Table 3.2.

Certificates issued in 2006 per regions							
No	Region	Number	%	No	Region	Number	%
1	Sofia city	4426	31,00%	15	Ruse	424	2,97%
2	Varna	1504	10,53%	16	Pernik	218	1,53%
3	Plovdiv	1352	9,47%	17	Lovech	181	1,27%
4	Burgas	727	5,09%	18	Sliven	296	2,07%
5	Veliko Tarnovo	463	3,24%	19	Shumen	235	1,65%
6	Blagoevgrad	440	3,08%	20	Kardzhali	134	0,94%
7	Sofia region	394	2,76%	21	Yambol	181	1,27%
8	Stara Zagora	362	2,54%	22	Montana	230	1,61%
9	Haskovo	372	2,61%	23	Gabrovo	195	1,37%
10	Pazardzhik	347	2,43%	24	Vidin	142	0,99%
11	Pleven	341	2,39%	25	Kyustendil	182	1,27%
12	Vratsa	219	1,53%	26	Silistra	226	1,58%
13	Dobrich	251	1,76%	27	Targovishte	180	1,26%
14	Smolyan	137	0,96%	28	Razgrad	120	0,84%

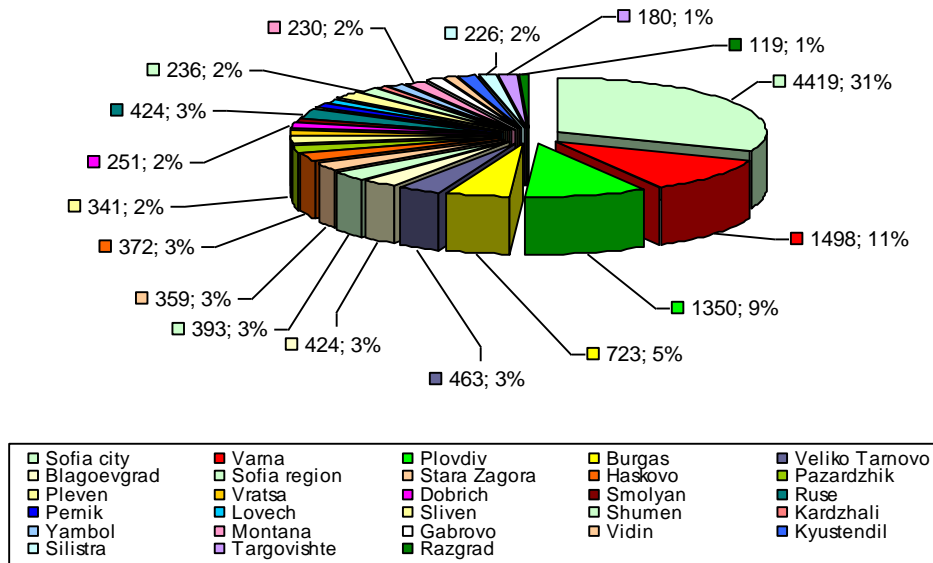


Figure 3.3

The abovementioned diagram shows that the greatest number of data controllers was in the large regions such as Sofia, Varna, Plovdiv, Burgas. Veliko Tarnovo, Ruse, Blagoevgrad share equal positions.

Table 3.3

Certificates issued to groups of data controllers (DC)				
DC	Total	2004	2005	2006
Joint-stock Companies	1637	357	644	636
Single Person Joint-stock Companies	205	36	85	84
Limited Liability Companies	8544	1228	3435	3881
Single Person Limited Liability Companies	8565	981	2894	4690
Partnerships	883	84	466	333
Sole Traders	7241	1553	3105	2583
Associations	1069	57	613	399
Foundations	254	29	129	96
Education / Science	975	26	527	422
Healthcare	1213	153	386	674
State institutions	46	13	6	27
Local self-government	126	88	21	17
Other	1212	224	551	437

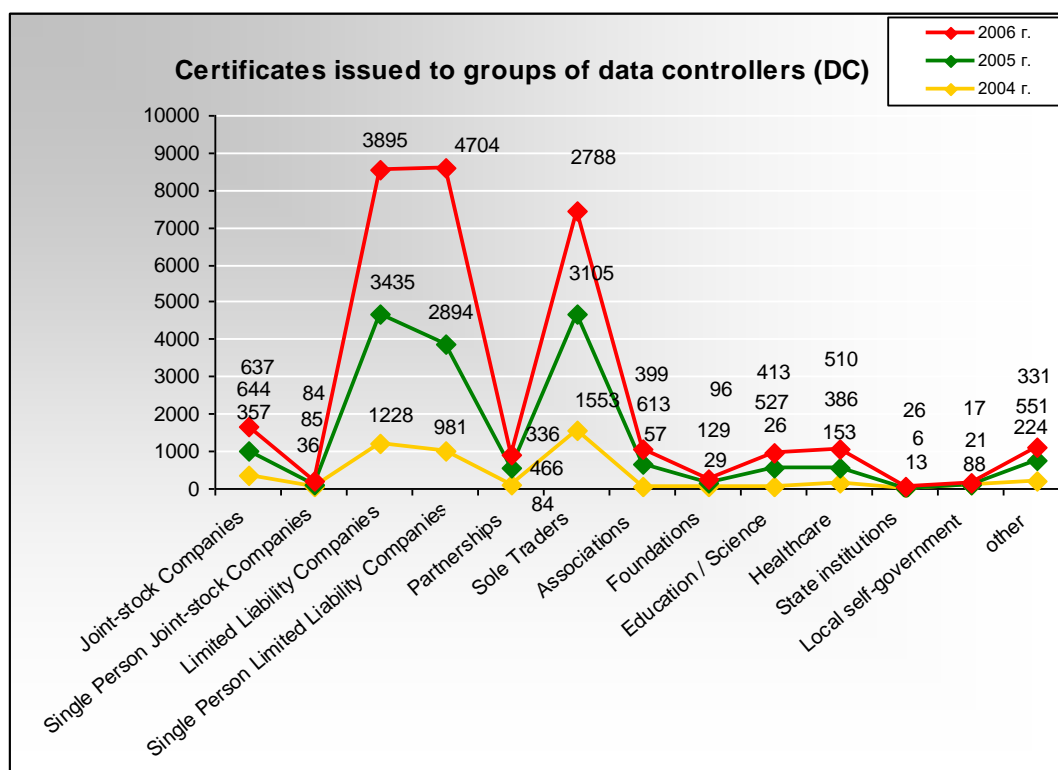


Figure 3.4

The abovementioned diagram shows that the most data controllers were in the large regions such as Sofia, Varna, Plovdiv, Burgas. The number of data controllers in Veliko Tarnovo, Ruse and Blagoevgrad was equal.

Important sectors such as the healthcare, education, state institutions and local self-government, were differentiated in this diagram.

Other activities performed by the Commission for Personal Data Protection in 2006, related to the process of registration, were as follows:

- received applications for registration of data controllers – 4 431;
- expressed position on letters received by CPDP – 1183;
- issued documents certifying the process of registration of data controllers – 654;
- entered data controllers in the register of CPDP – 14 279;
- made inquiries and consultations of data controllers on the phone – over 9 900;
- consultations by direct contact with data controllers in CPDP - over 1 350;
- documents processed and updated in the database of the information system of CPDP - 304 499;

The communication of the CPDP staff with data controllers generally concerns explanations and help about:

- clarification of terms like “register”, “data subjects included in a register, for which data controllers processes personal data”, “act by which the conditions of keeping the register are stipulated”;

- the incomplete fields of the applications and the supplements requiring compulsory completion – in about 80% of the submitted applications at the end of 2003 the act by which the conditions of keeping the register are stipulated either was not specified, or was pointed out incorrectly;

- the data in the declarations of officials responsible for the respective register were not in compliance with these supplements.

The documents for registration of a great part of data controllers were not fully supplied - some copies of the necessary documents are missing. As a result of this there are data controllers that have not received yet an identification number from the register of data controllers of CPDP.

During last year the work on issuing documents certifying the process of registration of data controllers in CPDP had a sporadic character, which was due to the fact that:

- in February, March and April the National Health Insurance Fund and the Regional Health Insurance Fund demanded that all data controllers should be registered in CPDP;

- since July the Employment Agency, in order to issue or extend a permission for performing mediatory activity on recruitment of employees for the country and abroad, has required from the applicant a document certifying his/her registration in CPDP.

There are, however, isolated cases of applications for issuing a certifying document by CPDP for participation of DC in a tender or for concluding a contract, but the trend is that such cases should become more frequent.

In March, April and May the archives of documents on hard copies of the Register of data controllers were organized and put in order.

4. COMPLAINTS HANDLING

In 2006 in compliance with the Law for Personal Data Protection 102 complaints were submitted to the Commission concerning violation of the rights of individuals.

Despite the amendments to the Law, which entered into force at the end of 2005, the procedure on complaints handling stipulated in the Regulations for the Activity of the Commission and its Administration, has not been changed.

Legal opinions were worked out on the submitted complaints and the latter were considered in terms of admissibility by the Commission.

The distribution of complaints according to their subject is shown in Table 4.1 and in Fig. 1

Table 4.1

Total number of complaints submitted by 31 December 2006	102
Disclosure of personal data by a data controller without the consent of the data subject	43
Irregular processing of personal data	27
Refused access	8
Processing personal data by means of video surveillance	4
Disclosure of special categories of personal data	3
Publishing personal data in Internet without the consent of the data subject	3
Direct marketing	2
Disclosure of personal data by means of telecommunications	1
Using personal data of other individuals for buying up privatization bonds	1
other	10

Distribution of complaints according to their subject

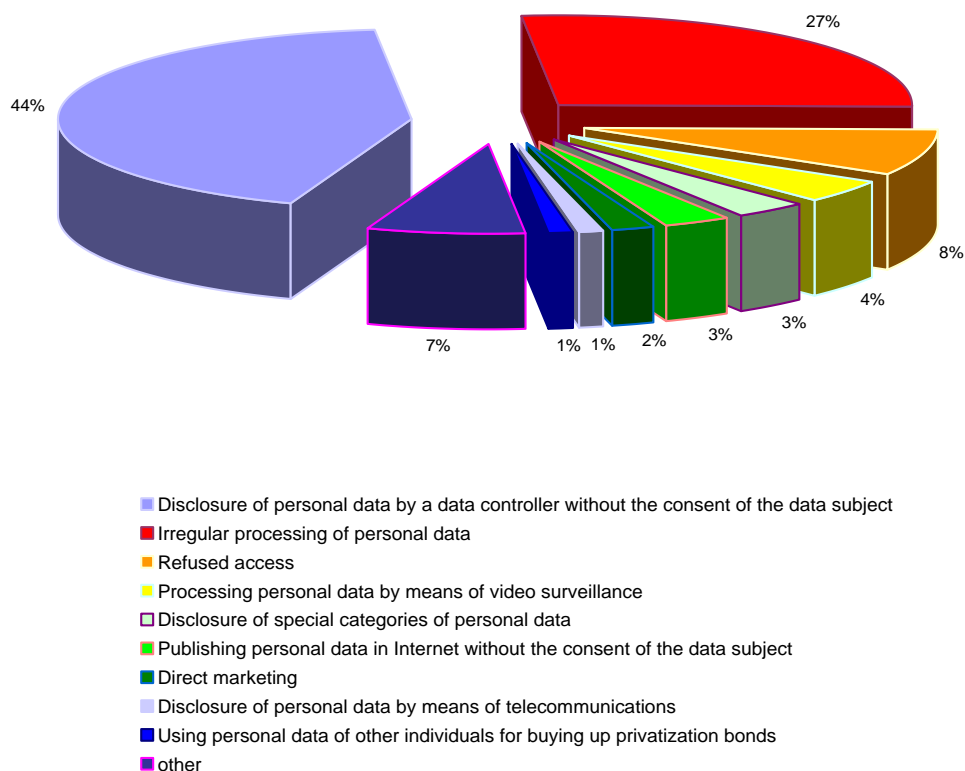


Figure 4.1.

In cases when the complaints are similar in nature, the practice of the Commission is to pronounce uniform decisions. The difference in the countries, as well as the different circumstances and instruments of evidence on each complaint, and the motives related to them do not allow for drawing up patterns of decisions. Nevertheless the draft decisions on complaints are worked out in a sequence specified by the Commission. The correspondence with the parties in connection with requiring opinions, additional evidence, as well as sending invitations for participation in open meetings of CPDP, is done in an identical way.

There is significant public interest in disclosure of personal data which are contained in public registers. In such cases, particularly after the repeal of Art. 35, related to giving access to personal data to third parties, data controllers should observe strictly the procedures on giving access, which are stipulated in the special laws. If these procedures are evaded, serious damages may occur for the data subjects whose data have been disclosed irregularly. With the repeal of the above mentioned provision the Commission is deprived of direct control in case of irregular provision of personal data.

Inspections were made and additional evidence was collected on 70% of the complaints against data controllers. It was found that approximately 10% of the complaints were inadmissible. More than 50% of the complaints were against data controllers – public legal entities and

approximately 30% were against private legal entities. In cases when infringements of the law were established, the Commission's decisions included mandatory instructions to the data controllers.

Complaints handling is one of the most important activities of the Commission with a view of the fact that essential rights and interests related to privacy of citizens are affected, and its importance will grow in the Commission's future work.

5. TRANSFER OF PERSONAL DATA

In 2006 there was an increase in the requests for transfer of personal data from data controllers registered in compliance with the Bulgarian legislation as sole traders, trading partnerships, non-profit associations and trade agencies, to recipients of data in the European Union member-states, in other states – members of the European Economic Area, and in third countries. The provision of Art. 36 of the Law for Protection of Personal Data, where the conditions under which permission is given, and the requirements which the data recipient should meet are described, remained unchanged in both versions of the Law in 2006. This provision was applied until the entry into force of the Agreement for Accession of the Republic of Bulgaria to the European Union. In the context of Art. 36 of the Law for Protection Personal Data the granting of permission for transfer is always related to an assessment of the adequate level of data protection, and in cases when this cannot be assessed for objective reasons, realization of the transfer is possible with the use of standard contractual clauses (the contract concluded between the data exporter and the data importer should in its contents meet the requirements of Decision of the European Commission 2002/497/EO of 15 June 2001 with the latest version - Decision 2004/915/EO of 27 December 2004 concerning the standard contractual clauses for personal data transfer to third countries in compliance with to Directive 95/46/EC), and the transfer to companies from USA is admissible if they have joined the Safe Harbour Agreement.

In 2006 total 61 requests for issue of permission for transfer of personal data abroad were received.

The requests can be divided generally in two main categories according to the purpose of the transfer:

1. Transfer of personal data of the workers and employees of companies, performing trade activity in Bulgaria, which companies have joined partnership or are 100% owned by foreign legal entities, and the centralized server for data processing is located outside the territory of the Republic of Bulgaria.

2. Transfer of personal data to data subjects who apply for job positions abroad, by data controllers who perform mediatory activity in finding work outside the territory of Bulgaria.

In the first category of demands the data controllers specify that it is necessary to report and provide monthly information to the staff hired on the territory of the Republic of Bulgaria, and in this way the database for the staff of the entire group is completed in the centralized server of the respective foreign country.

The employees' personal data, which are transferred, are from the groups physical identity (full names, personal identification number, address, phone numbers, place of birth, number and date of issue of the passport) and labour identity (place of work and duration of length of service).

In 2006 for this category of requests 7 permissions for transfer were issued:

- 1 with a recipient company in the Kingdom of Denmark,

- 3 with recipient companies in USA,
- 1 with a recipient company in the Republic of Croatia,
- 1 with recipient companies in USA and Great Britain
- 1 with recipient companies in USA and Switzerland,

for whom the CPDP estimated that they provided an adequate level of protection of the transferred personal data.

The second category requests were characterized by a high level of intensity from the second half of 2006 (more than 40 in number for the period between August and December 2006).

These requests were for permission of personal data transfer by data controllers – legal entities in charge of mediatory activity in finding jobs abroad. The reason for the great number of requests from these data controllers is that in the Ordinance on the terms and conditions for performing mediatory activity in finding employment (amendments of 27 June, 2006), the Employment Agency which registers these data controllers as mediators, requires a copy of the certificate for entry in the register of data controllers, in compliance with the Law for Protection of Personal Data. Although the Employment Agency does not require submission of the permission for personal data transfer, the data controllers who are mediators in finding jobs, are obviously well acquainted with the Law for Protection of Personal Data, and they want to perform their activity in compliance with the law.

In this category of requests as recipients of personal data were pointed out companies in all member-states of the European Union, as well as third countries as USA, Canada, Russia, Japan, Panama, Israel, United Arab Emirates, Saudi Arabia, Bahrain and Kuwait. The specific thing for the requests is the fact that more than one foreign country was mentioned, the recipients of personal data were not pointed out, no evidence was provided, from which to be seen explicitly, if contracts on the basis of standard contractual clauses existed, no copies were enclosed from the mediatory contracts with the individuals seeking employment, or another document where the individuals had given their explicit consent for provision of their personal data to third parties.

The job applicants' personal data which were provided, were from the groups of physical identity (full names, personal identification number, address, phone numbers, place of birth, number and date of issue of the passport), and employment identity (place of work and duration of the length of service), as well as data for the health status of the individuals.

In 2006 for this category of requests 2 refusals for granting permission for transfer were given – both with unknown recipient companies in Italy, Spain, Libya, Sudan, Bahrain and Morocco. The Commission for Personal Data Protection grounded its refusals with the reasons that no documentation had been enclosed to the requests, from which an assessment could be made, if an adequate level of protection of the transferred personal data had been provided. Both decisions with refusals for granting permission for transfer were not appealed and entered in force.

Table 5.1.

Total number of submitted requests for granting permission for transfer	61
Given permissions for transfer	54
Refused permissions for transfer	4
Pending proceedings	3

Art. 36a, par. 1 of the Law for Protection of Personal Data, which has been valid since the date of entry into force of the Agreement for Accession of the Republic of Bulgaria to the European Union, provides for cancelling the activity of the Commission on granting permission for transfer of personal data to member-states of the European Union, as well as to other countries – members of the European Economic Area. The transfer will be made freely, upon the observance of the requirements under the Law for Protection of Personal Data.

Art. 36a, par. 2-7 and par. 366 specifies the terms and conditions under which the Commission grants permission for transfer of personal data to third countries, and these provisions are in full compliance with the provisions of Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

6. INSPECTION ACTIVITY OF CPDP

6.1. Responsibilities of CPDP and its administration

For the purpose of performing its control activity CPDP is supported by Program and Technical directorate and Inspection Activity department that is part of Law directorate, all of which include the specialized administration. The inspections are made on the grounds of a decision by CPDP, according to which a team and a term for their making are specified.

6.2. Made inspections

Checked parameters:

- Reasons for keeping the register
- Purpose of the register
- Groups of data in the register
- Consent of the data subject
- The way of storing the data
- The way of organizing the data
- The way of organizing the access to the data
- The way of organizing the electronic protection of the data

In the performance of its activity CPDP made the following inspections of data controllers divided by groups:

- According to their specific activity (sector):

Table 6.1.

Sector	Number of inspections for the respective sector
Banking sector	7
Internet providers and services	7
Video surveillance	4
State administration	10
Municipal administration	2
Education	1
Jurisdiction	2
Local self-government	1
Voluntary association	1
Direct marketing	4
Consumer services	2
Telecommunications	4
Employment	1
Healthcare	8

INSPECTIONS OF DATA CONTROLLERS ACCORDING TO THEIR SPECIFIC ACTIVITY

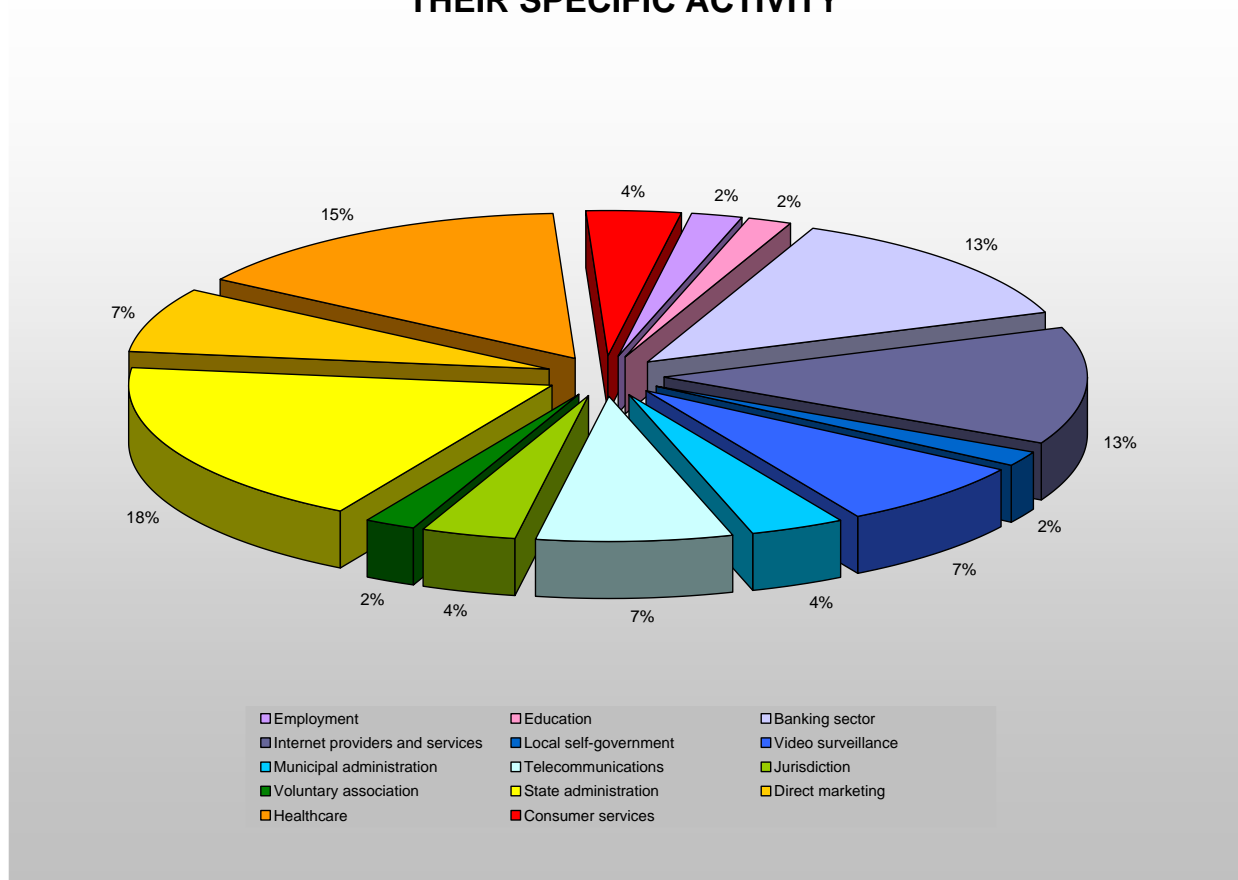


Figure 6.1.

- According to the source of the given signal:

Table 6.2.

Source of the signal	Number of inspections for the respective source
Natural person	44
Group of natural persons	2
Legal entity	3
Foreign entity	1
Self-approaching	2
Provision of data outside the territory of the country	2

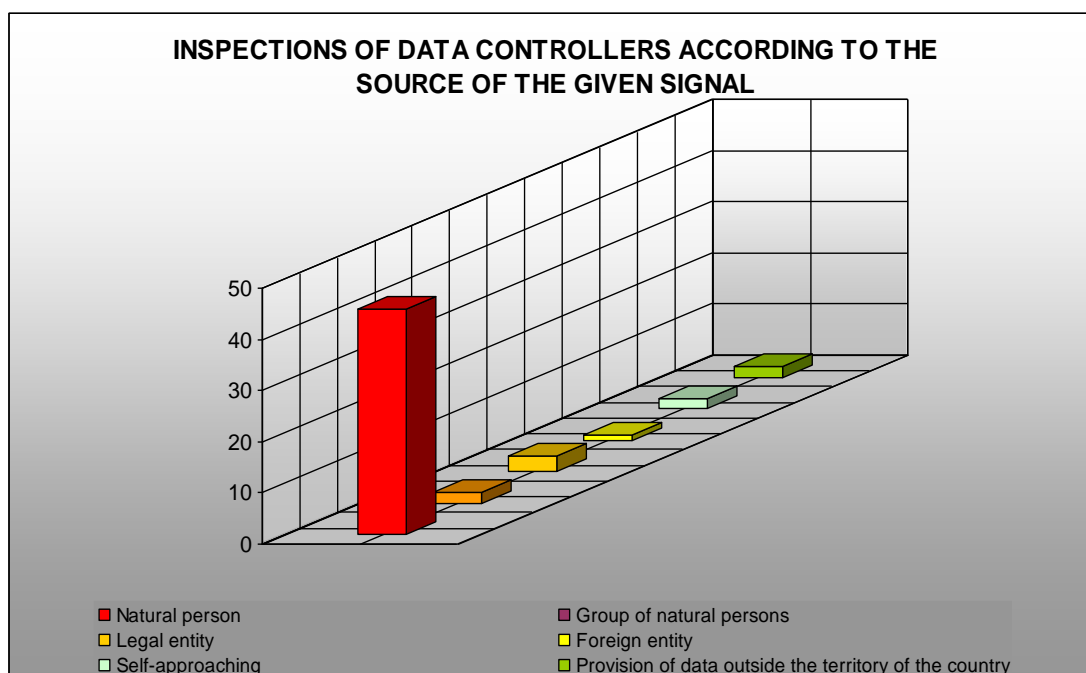


Figure 6.2.

- According to the type of the organized register:

Table 6.3.

Type of organized register	Number of inspections
On a hard copy (only hard copy)	5
On a technical medium (hard copy + technical medium)	50

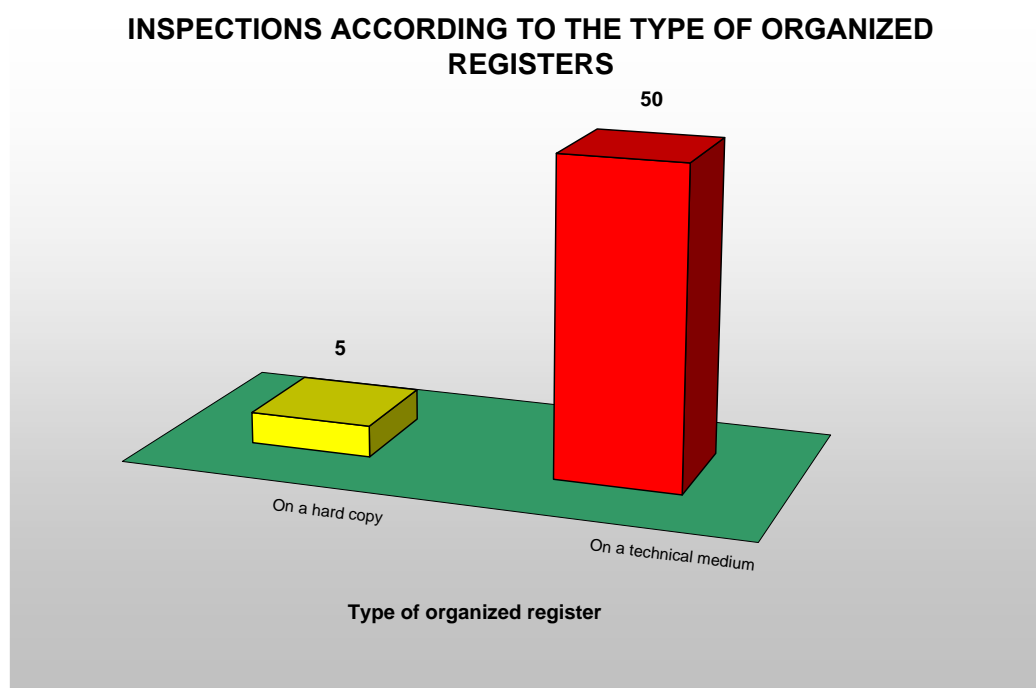


Figure 6.3.

- According to the groups of data in the inspected registers

Table 6.4.

Groups of data in inspected registers	Number of registers
Physical identity	39
Family identity	4
Education	5
Employment	5
Medical data	7
Economic identity	8
Cultural identity	2
Video surveillance	8
other	7

GROUPS OF DATA IN INSPECTED REGISTERS

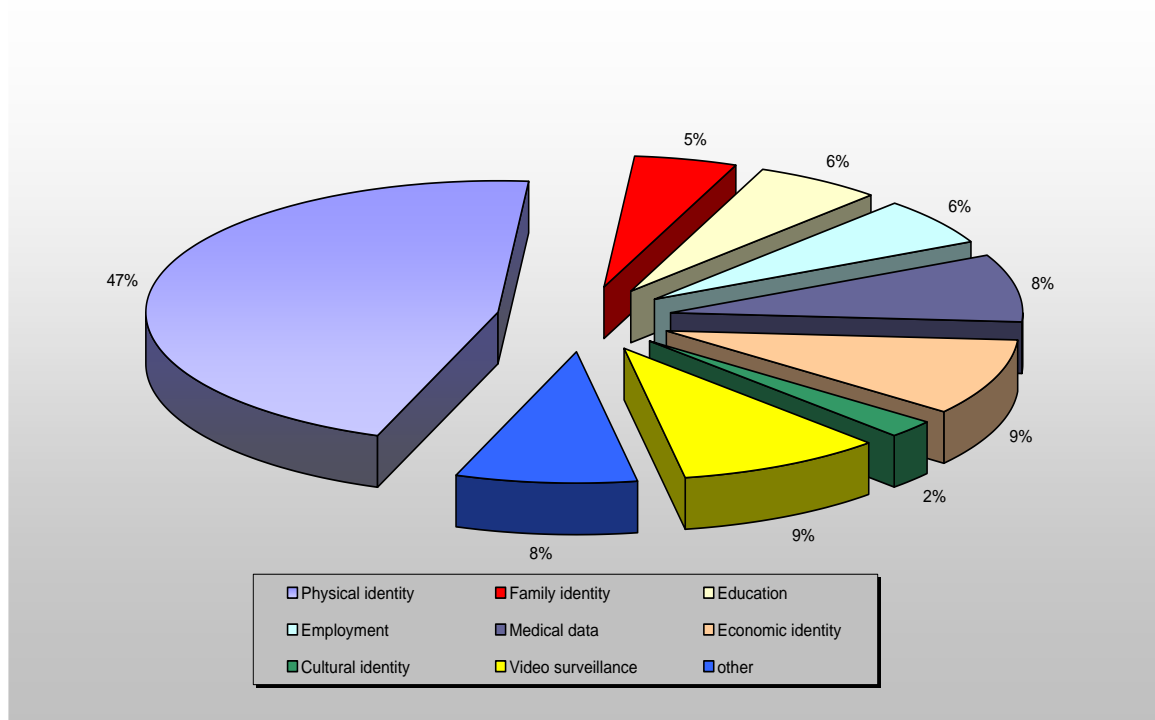


Figure 6.4.

6.3. Analysis of the performed control activity in sectors

The following conclusions could be made about the work performed by CPDP until the present moment and the gained experience from the supervision of data controllers concerning the necessary technical and organizational measures for data protection from unauthorized access, accidental or illegal destruction, accidental loss or change:

6.3.1 Banking sector

The complaints in this sector are from data subjects concerning copying of personal documents (identity cards, power of attorneys, etc.)

The practice in the banking sector concerning the full identification of their clients is prompted by the legal obligation for cooperation and prevention of performance of activities directed to money laundering (Law on the Measures against Money Laundering, etc.). With regard to the measures for protection of the personal data and the registers with personal data, the banking sector has the highest and most adequate level of protection.

Data about the physical, family, economic identity, education and employment, are collected in the banking sector.

Written instructions have been worked out for the employees with regard to processing personal data of clients.

The personal data registers are kept on a hard copy and a technical medium.

The specialized equipment is located in special premises and even in a special building.

The data in the electronic registers are organized in files in centralized or regionally distributed databases.

The sector has specialized information systems, too. A user name and a password for access to the operation system, rights (levels) of access to information systems, passwords for opening files, etc. are defined for access to them and to the data. Passwords, user names and the rights for access of the employees are defined and configured by the system administrator. There is automatic registration of: any access to the systems (register inquiry), performed operations, unauthorized access, firewall, antivirus protection, etc.

The client's part of the bank software is installed on the work stations. The support and administering of the network of banks is realized by the system administrators who could be both employees of the bank and outsiders.

Regular back-up of the electronic data is made. The data are kept for a definite period of time by observing the respective rules for keeping registers.

There are cases in the banking sector where no destruction of data is performed after finishing the processing.

The access to buildings and premises containing registers of personal data is restricted most often by means of a list of authorized persons, locking the premises, security, alarm system, signalling and security activity, magnetic card, etc.

The data about the clients of the bank are given to the Bulgarian National Bank for the Central Credit Register. The data can be provided, and also at the request from the respective state institutions with statutory defined rights and by order.

6.3.2 State administration

The complainants in this sector are natural persons. Xerox copying personal documents is the subject of the made inspections.

Data concerning the physical identity, education, employment, judicial status, etc., are collected in this sector.

In the State administration sector registers with personal data are kept on a hard copy and on a technical medium.

The registers are located on a file server which is started after the entry of a user name and a password. The data in the electronic registers are organized in files, centralized or regionally distributed databases and local network data bases.

The sector has specialized information systems, too. In order to perform the activity various client-server applications are used – under DOS and WEB based.

The measures for limiting the access to the information systems and the data, are a user name and a password for access to the server and the operating system, a password to start the information system, automatic registration of each access to systems (journal inquiry), automatic registration of the performed operations, registration of unauthorized access, antivirus protection, etc. Provided that there is no need of password for access for any employee, the respective profile is prohibited. Information can be uploaded and updated by IT experts by means of internal transfer.

The individual work places are provided with Internet access and e-mail which in some cases is protected by means of electronic signature.

To protect electronic data a backup copy of the electronic data is kept and regularly updated, and stored for a specified period of time.

There are cases in separate departments of the state administration where no destruction of the data is made after the accomplishment of their processing.

Internal rules for access and use of the work place by employees have been established. During a leave the rights for access to the system are not terminated. The public servants sign a declaration not to disclose official information which they have been given to in compliance with their service record.

The specialized equipment is located in special premises. The access to the buildings and the premises with registers of personal data is restricted by means of a list of the authorized persons, locking the facilities, security, signalling and security activity, etc.

6.3.3 Telecommunications

The complaints in Telecommunications sector are by data subjects concerning Xerox copying personal documents and presenting personal data to third parties. In this sector data are collected regarding the physical identity. The registers with personal data are kept on a hard and a technical medium.

The equipment is located in special rooms and even in a separate building.

The data in the electronic registers is organized in centralized databases with remote access. Specialized information systems are used in this sector.

The measures for restriction of the access to the data bases and the information systems are rights (levels) of access, user name and password for starting the operating system, passwords for the information systems, restrictions on IP addresses, automatic registration of each access to the

system (register inquiry), automatic registration of the performed operations, registration of non-authorized access, antivirus protection, etc.

In order to protect the electronic data, back up and storage of the back up copies for a certain period of time is performed regularly.

In the “Telecommunications” sector there are cases when no destruction of data is made after they have been processed.

The access to the buildings and premises with registers of personal data is restricted by means of a list of the authorized persons, badges for the authorized persons, locking the premises, alarm system, signalling and security activity, etc.

6.3.4 Internet providers and services

The inspections in Internet Providers and Services sector are made after signals submitted to CPDP by complainants and other affected persons.

In this sector the following groups of data are collected: physical, family and cultural identity, education, etc.

The registers with personal data are kept on a hard copy and generally on a technical medium.

Good protection is ensured for the internal network of the data controllers. The information resources which are publicly accessed (DNS, NTP, Anti Virus Update), are properly protected by means of the following:

- the operating system of the PC is started after entering an individual password and user name;
- the information systems are put in separate physical perimeters with permanent video surveillance, signalling and security equipment, access to which is granted only to employees authorized for each perimeter;
- the information systems are protected on different levels;
- each system has a VPN client installed for building up IPSec/ VPN protected communication.
- all data in the information systems of the infrastructure are backed up, and the critical ones are saved;
- a system of switchboards ensures logical separation of the LAN segment to smaller logical segments, and each VLAN serves a particular area.

Usually, the administering of the system is made in place by authorized officials, but there is also an opportunity of remote administering.

The archive of the supported registers is kept in metal safes which are locked.

The access to the server premises is protected by installed metal doors and bars, magnetic cards and video surveillance, signalling and security system. The access to the rooms is given only to authorized employees. In the server premises there are vibration sensors, a microwave sensor, and seismic sensors. A system for automatic fire fighting is ensured, too. The server room is air-conditioned. An archive of the access to the rooms is stored.

Dating websites:

The Internet providers render the service Web hosting and ensure that the Web servers have properly built-up physical and program protection.

The practice in the sector is the registration of users of different Internet services (e-mail, registration in different sites etc.). The registration includes agreement with the rules and regulations for their use. The main problems in this case are the full identification of the user and the publishing the data on the Internet.

In some cases the administering of the websites is done by the respective owner.

6.3.5. Video surveillance

The made inspections related to video surveillance, are after signals of affected employees in great companies and by self-approaching CPDP.

The data are stored on computers in the local network with Internet access. The measures for restriction of the access to the databases are a user name and a password for starting the operating system, and in some cases a password to start the video surveillance system.

The made inspections in this sector show the following:

1. The cameras are network ones with real time Internet broadcast. They are fixed. The camera is visible for the passers-by, but there is no indication that they are filmed or broadcasted online on the Internet. No records are made; respectively back up of the made images, because of the need of too much server space and recording equipment.

2. The cameras are fixed; there is no opportunity of automatic change of range. The cameras are visible for the passers-by and at the entrance there is a sign marking video recording. Records of the camera images are made. They are stored with the aim of making inquiries for the current period (until the moment of their deletion). Access to them is granted to the system administrator. The records on the hard disk are deleted automatically by the system itself. No back up of the video recordings is made. No register recording is maintained concerning the access of the different users to the resources of the video system.

3. Regular back up of the data and storage of backup copies is performed for indefinite period of time. There are cases of destruction of data only if it is necessary to free more space on the recording device (hard disk, etc.).

The computer video surveillance system consists of the following components:

- video server with installed computer software for video surveillance;
- program insurance for the work of the video surveillance system;
- video cameras.

The entire computer software for the video surveillance is installed on the server, and on PCs from the local network – the client part (only for surveillance). The access to the system and specialized computer software for the video surveillance is provided by profiles with different passwords and rights. The computer software for the operation of the system for video surveillance ensures real time surveillance of the video and audio signal from the installed cameras.

Protection by restriction of the access to the premises is also provided.

The practice concerning video surveillance shows that:

- companies do not declare registers of this kind, and the reason for this is that no recordings of the images are made, and 24-hour surveillance, etc. is made in them;

- insufficient awareness of the subjects of surveillance, transparency and reasoning in the use of video surveillance equipment, security of processing;
- inadequate and uninformed operators taking part in the video surveillance;
- unclear and ambiguous purposes;
- non-observance of the principle of proportionality of the collected data concerning the purposes of processing;
- no adequate measures have been ensured for protection of registers with personal data from video surveillance;
- in some cases the cameras are located in public places, and in other - in the work place.

6.3.6. Direct marketing

The complaints in Direct Marketing sector are from data subjects in connection with received advertising materials directly addressed to them without their explicit consent.

In this sector data are collected about physical identity.

The registers with personal data are kept on a hard copy and a technical medium. The equipment is located in a special room.

The data in the registers are organized in card-indexes, files or databases (centralized databases with remote access, in a local network, etc.).

Rights of access, a user name and a password to start the operating system are defined to restrict the access to data.

Regular back up and maintenance of a copy are performed for protection of personal data.

No data are destructed after the accomplishment of their processing.

The access to them is restricted by means of locking the premises, alarm system, signal and security activity, magnetic cards, etc.

6.3.7 Transfer of data abroad

The made inspections related to a transfer of data abroad concern applications for transfer submitted to CPDP and signals given by the media.

In this kind of activity the following groups of data are collected: physical and family identity, education, employment, etc.

The practice shows that the transfer of data is related to labour relations by the employment of Bulgarians by foreign companies, etc.

Two cases of transfers have been established as a result of the inspections:

1. Keeping registers only on a hard copy, and the access to such registers is restricted by means of locking the premises. These registers are stored for a definite period of time, and until now no data have been destroyed. Data on hard copies are transferred.

2. Keeping electronic registers located in the work premises. The access to the building is restricted by means of a list of the authorized persons, security, signalling and security activity, magnetic cards, etc. The data is organized in text files. The access to them is restricted by means of defining rights (levels) of access, a user name and a password for starting the operating system,

automatic registration of each access (register inquiry), and of the performed operations, registration of unauthorized access, fire wall, antivirus protection, etc. Regular back up of the electronic data is performed and the data are stored for a certain period of time. The transfer of data is made by e-mail through data encryption.

6.3.8 User services

A register on a hard copy is maintained. It is stored in a filing-cabinet which is not locked in the working hours. The filing-cabinet is located in generally accessible premises.

After the processing, the register is kept for 2 or 3 months, and then it is destroyed.

6.4. Difficulties in making inspections

6.4.1 Banking sector:

- refusing access to the personal data registers;
- non-observance of the specified by the inspection team time limit for sending additional documentation requested by this team;
- sending only a part of the additionally requested documentation by the inspection team.

6.4.2 State administration:

- necessity of requesting additional information about the specific inspection by the judicial system and the Ministry of the Interior.

6.4.3 Internet providers and services:

- refusing access to the personal data registers;
- when the servers are not owned by the inspected company and are operated by a person who is not an employee of this company, no meeting is arranged with this person (absence of data controller);
- the necessary documentation for the ownership and the distribution of the servers in the server room is missing.

6.4.4 Video surveillance:

- there is no law on video surveillance;
- non-observance of the specified by the inspection team time limit for sending the additionally requested documentation by the team;
- sending only a part of the additionally requested documentation by the inspection team – there is no copy of an application for registration as a data controller, for which they claim that it has been submitted to CPDP;
- there are not enough data in the application for registration of a data controller, processing personal data by means of video and audio surveillance;

6.4.5 User's services:

- The inspected person is not informed that he/she has to submit an application for registration as a data controller in CPDP;

- In case of an inspection of representations (of foreign partnerships and companies) the manager is usually abroad and no one can cooperate in providing the inspection team with the necessary information; a refusal to cooperate is present.

6.4.6 There are common difficulties in making inspections in the sectors transfer of data abroad, user's services, Internet providers and services, telecommunications and banks, as follows:

- Insufficient knowledge of the Law for Protection of Personal Data;
- Refusal to cooperate in case of an inspection;
- Necessity of making an inspection in physically remote branches of the inspected company.

6.5. Conclusions

- The greatest number of inspections are made in the state administration.
- The source of the request (signal) is mainly a data subject.
- In most cases there is a written instruction for the employees for processing the personal data of the clients.
- With regard to the measures for personal data protection and the personal data registers kept, there is a proper and adequate level of protection.
- The main difficulties in making inspections are the following:
 - refusal to cooperate with the employees of the inspection team;
 - insufficient knowledge of the Law for Protection of Personal Data.

7. OPINIONS

The provisions, on the grounds of which the Commission for Personal Data Protection expresses opinions are laid down in two legislative acts. These are the Law for Protection of Personal Data (CPDP) and the Regulation on the Structure of the Council of Ministers and its Administration. They could be divided in two groups:

- on coordination of the texts of legal acts;
- on inquiries from data subjects and legal entities with relation to the implementation of the Law for Protection of Personal Data.

The first opinions of the specified group are expressed by CPDP in compliance with of the provisions of Art. 10, par. 1, item 8 of the Law for Protection of Personal Data and Art. 58, par. 3 of the Regulation on the Structure of the Council of Ministers and its Administration.

In 2006 drafts of legal acts were worked out by the Ministry of Interior and the Ministry of Finance and were coordinated with the Commission for Personal Data Protection. By the amendment of the Law for Protection of Personal Data of 23 December 2005 CPDP was required to express opinions on adoption of laws and subdelegated legislation when issues related to personal data protection are settled in them. In this connection a great number of CPDP opinions on the drafts presented for coordination were expected. Unfortunately the trend to make requests for coordination of drafts of legal acts made mainly by the Ministry of Interior and rarely by the Ministry of Finance, Ministry of State Administration and Administrative Reform, and Ministry of Regional Development and Public Works, remained unchanged. In 2006 the abovementioned ministries presented 4 drafts to CPDP for coordination, as well as 15 draft Decisions of the Council of Ministers for adoption of Agreements between the Republic of Bulgaria and other countries, 24 drafts decisions of the Council of Ministers for adoption of Agreements between the Republic of Bulgaria and other countries. In 2006 only one request was submitted by the Civil Society and Media Committee to the National Assembly, for an opinion on a draft amending the Law on Access to Public Information, proposed by the Parliament members Ivan Ivanov and Evgeni Tchatchev. The other committees of the National Assembly did not send any requests for an opinion of CPDP on drafts with texts related to processing of personal data. By expressing opinions on such drafts of legal acts the Commission could contribute essentially to the adequate compliance of the legal wording with the Law for Protection of Personal Data and Directive 95/46/EC of the European Parliament and the Council of 24 October 1995. As examples can be pointed out some drafts passed by the National Assembly in 2006, in the texts of which issues are settled concerning the personal data protection, without prior coordination with CPDP, as well as drafts which are at the stage of discussion in the committees of the National Assembly or have been passed on the first readings, and are not coordinated with CPDP.

7.1. Adopted drafts

1. Law for the Ministry of Interior – proposer: the Council of Ministers; leading committee: Internal Security and Public Order Committee, promulgated in the Official Gazette, issue 17 of 24 February 2006.

2. Law amending the Law for Control over the Explosives, Firearms and Munitions – proposer: the Council of Ministers; leading committee: Internal Security and Public Order Committee, promulgated in the Official Gazette, issue 38 of 9 May 2006.

3. Law amending the Law on the Publicity of the Property of Persons Holding High State Offices – proposer: the Council of Ministers; leading committee: Internal Security and Public Order Committee, promulgated in the Official Gazette, issue 38 of 9 May 2006.

4. Law amending the Law of the Purity of Atmospheric Air – proposer: the Council of Ministers; leading committee: Environment and Water Committee, promulgated in the Official Gazette, issue 99 of 8 December 2006.

7.2 Drafts passed on the first readings

1. Draft on the electronic communications – proposer: the Council of Ministers; leading commission: Transport and Communications Committee, first readings – 20 September 2006. The specified draft provides for settlement of exceptionally important issues related to the security of the electronic communication networks and services, as well as the measures which the companies providing public electronic communication services, are required to undertake, including with relation to the right of privacy by the processing of the personal data of data subjects.

2. Draft on the duty-free trade – proposer: the Council of Ministers; leading committee: Budget and Finance Committee, first readings – 21 September 2006. The draft provides for that a license for doing duty free trade should be issued after submission of a document in compliance with Art. 14, par. 2 of the Law for Protection of Personal Data, certifying that the person is a data controller.

3. Draft on the Central professional register of natural persons and legal entities performing construction work – proposer: the Council of Ministers; leading committee: Local Self-government, Regional Policy and Urban Development, first readings – 25 October 2006. Issues concerning the information related to the central professional register of the constructor, and the personal data included in this information, are settled in the draft.

7.3. Drafts at the stage of discussion in the leading commission

1. Draft on the e-government – proposer: the Council of Ministers; leading committee: State Administration Affairs Committee. The draft provides for obligations for the providers of electronic administrative services related to personal data processing.

2. Draft amending the Law for the Foreigners in the Republic of Bulgaria – proposer: the Council of Ministers; leading committee: Legal Affairs Committee.

3. Draft amending the Criminal Code – proposers: Mr. Svetoslav Spasov and Mrs. Maria Angelieva – Koleva /Parliamentary Group of NDSV/. The draft provides for amendments in Art. 212a of the Criminal Code with regard to ensuring protection against the use of personal data of other people with a fraudulent purpose.

4. Draft on the National Archival Fund – proposers: Mr. Mladen Tcherveniyakov, Mr. Georgi Yurukov, Mr. Evtim Kostadinov /Parliamentary Group of Coalition for Bulgaria/. The draft settles essential issues related to the provision of documents, containing personal data of citizens. Deadlines are also set for submission of documents containing personal data which could be used after the date of their creation, as well as after the permission of the inheritors of the data subjects, whose personal data are provided.

In 2006 representatives of CPDP took part in the drawing up of a draft of the Law amending the Law for Protection of Personal Data. The amendments were necessary in order to achieve compliance (to a possible extent) with the requirements of the European legislation in the field of the personal data, and particularly Directive 95/46/EC of the European Parliament and the Council of 24 October 1995. Significant amendments in the law were made in the following directions: amendments with regard to the scope of application of the law, corresponding to the general principles regulated in the European legislation; introduction of a new procedure for registration of data controllers; guaranteeing the independence of CPDP by means of introduction of the amendment concerning the financial independence of the Commission – CPDP became first-level spending unit; amendments in the definition for “personal data”; other amendments of legal and technical nature, implementing more precisely the requirements of Directive 95/46/EC.

After the accomplishment of the work in relation with the preparation of Law amending the Law for Protection of Personal Data by CPDP an opinion on the drawn up draft was expressed by CPDP.

In 2006 representatives of CPDP took an active part in the work of the interdepartmental working party 24 to the Ministry of Interior – “Cooperation in the field of justice and home affairs”, and in the interdepartmental working party 3 to the Ministry of Finance – “Free provision of services”.

The second group of opinions expressed by CPDP, are in compliance with the provision of Art. 10, par. 1, item 4 of the Law for Protection of Personal Data. The pointed out text of the Law defines the obligation in the powers of the Commission for Personal Data Protection to express opinions related to the implementation of the Law for Protection of Personal Data. Since the adoption of the Law for Protection of Personal Data in 2002 until the present moment several significant amendments have been made, regarding the rights and obligations of the data controllers, as well as the powers of CPDP to give permissions for transfer of personal data to third parties in the country and abroad. With regard to the amendments in the Law for Protection of Personal Data of 23 December 2005, in 2006 CPDP expressed a number of positions on the issues concerning the provision of personal data from data controllers to third parties, provided that the conditions on Art. 35 of the Law for Protection of Personal Data were at hand. These opinions were

given mainly to the municipalities as local and self-government authorities on the occasion of inquiries on their part, related to the activity of the registry offices at the request from third parties for provisions of data from the registers of unique civil number. In addition CPDP expressed many times opinions regarding the information with personal data included in the public registers or documents, containing public information, for which access is ensured according to terms and conditions provided by law. Besides expressing opinions on cases which concern recurring hypotheses, CPDP expressed opinions on particular cases in relation with inquiries from natural persons and legal entities in the issues covered by the Law for Protection of Personal Data. A great number of the answers to the inquiries were by e-mail or directly on the phone. After the latest amendments of the Law for Protection of Personal Data promulgated in the Official Gazette, issue 91 of 10 November 2006, which were necessary in order to achieve full compliance of the Law with the requirements of Directive 95/46/EC of the European Parliament and the Council of 24 December 1995, CPDP received a lot of requests for opinions related to the statutory changes concerning the registration of the data controllers, the grounds for provision of personal data from the data controllers to third parties (after the repeal of Art. 35 of the Law for Protection of Personal Data), as well as the transfer of personal data to the member-states of the European Union and to third countries.

Table 7.1.

Total number of expressed opinions in 2006	485
Opinions on the harmonization procedures	43
Opinions on implementation of the Law for Protection of Personal Data	442

8. INFORMATION ACTIVITY

8.1 Informational bulletin

The Commission issues a bulletin where it releases information about its activity and decisions that has been made. The annual report for the activity of the Commission in 2005 is also published in the bulletin. Three issues of the information bulletin have been published. Some of the headings include:

- *Structure of the CPDP*
- *Standard decisions on complaints*
- *Registration of data controllers*
- *Annual report*
- *Analysis of the amendments in CPDP*
- *Current issues*
- *Seminars and workshops*

In 2006 “Internal rules for issuing Information bulletin and publishing in website of CPDP” were adopted.

8.2. Website

The website of CPDP is with the following address: www.cdpd.bg.

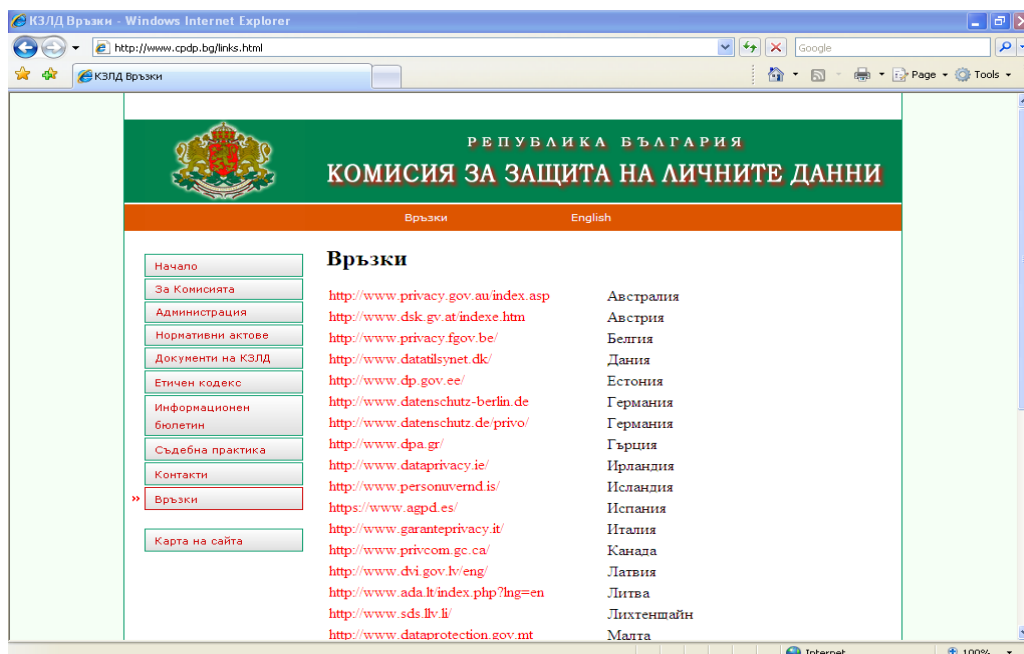
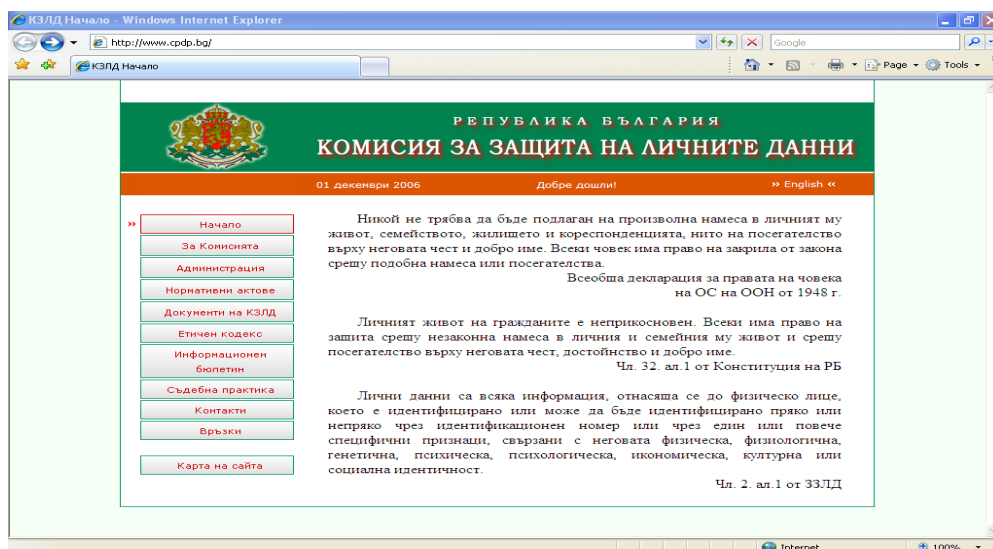
The contents are the following:

- *Home page*
- *The Authority*
- *Administration*
- *Normative acts*
- *Law*
- *Regulations for the activity of CPDP*
- *Documents of CPDP*
- *Forms*
- *Annual report 2003*
- *Annual report 2005*
- *Decisions of CPDP*
- *Decisions on complaints*
- *Miscellaneous*
- *Inquiries*
- *Competitions*
- *Ethic code of behaviour*
- *Informational bulletin*
- *Court practice*

- *Contacts*
- *Links*

A new version in English was developed, too. It includes some translated parts of the contents of the Bulgarian version, namely:

- *Home page*
- *The Authority*
- *Administration*
- *Normative acts*
- *Law*
- *Regulations for the Activity of CPDP*
- *Ethic code of behaviour*
- *Contacts*
- *Links*





8.3. Promotion of the activity of CPDP

A brochure was prepared and issued with explanations of the citizens' rights in processing their personal data in order to promote the activity of CPDP.



8.4. International conference on problems of e-government and personal data protection

The Second International Workshop on e-Government and Data Protection (EG&DP-2006) was held on 22 September 2006 in Hall 1 of the International Centre of Scientists "Fr. Juliot Curie" in the resort St. Constantine and Elena near Varna, under the auspices of the Minister of State Administration and Administrative Reform, and with main organizers, as follows:

- *The Commission for Personal Data Protection (CPDP)*

- *State Agency for Information Technologies and Communications*
- *SAP Labs Bulgaria*

The forum was organized within the frames of the 20th International Conference “Systems of Automation of Engineering and Research” (SAER-2006, 23-24 September 2006), and focused on putting into practice the modern information technologies, with organization of the e-government on different levels and solving the problems of personal data protection.



The whole organization of the two forums was carried out under the guidance of Assoc. Prof. Radi Romansky (member of CPDP), and was supported by worldwide known Bulgarian and foreign companies in the field of computer systems and information technologies (Microsoft Research – the USA, SAP Labs Bulgaria, Rila Solutions – Bulgaria).

Guests of the official opening of the conference with a meeting were Prof. Dr. Kamen Vesselinov (Rector of Technical University-Sofia), Mr. Ivan Dimitrov (Governor of Pernik District), Dr. Waltraut Kotschy (member of the Austrian Commission for Data Protection), Mr. Stanimir Tsvetkov (member of CPDP).

Welcome letters were read to the participants in the forums by Minister Nikolay Vasilev (Minister of State Administration and Administrative Reform) and Senior Research Associate Dr. Plamen Vachkov (Chairman of the State Agency for Information Technology and Communications).

Other participants in the work of the forums were Mrs. Basarabescu (Chairman of the Romanian personal data protection body), Dr. Andrzej Katchmarek (Information Technology Director of the Polish personal data protection body), and Mr. Andrei Tomshic (Slovenian personal data protection body).

More than 80 participants from twelve countries took part in the work of the forum, including Bulgaria, Austria, Spain, Lithuania, Macedonia, Cyprus, United Kingdom, Poland, Romania, Slovakia, Slovenia, and the Czech Republic. The main participants were specialists in electronic government and information technology from state institutions, as well as universities and academic institutions from Bulgaria and abroad.

A plenary report on the issues of the software development was held by Prof. Batanov (Technological University – Nicosia, Cyprus), and the main report on e-government and data protection presented by Dr. Waltraut Kotschy provoked the interest of the participants. A detailed article for this presentation has been published in issue 36 (p. 20) of 30 September, 2006 of the Computerworld newspaper.

More than 20 reports in the four sections of the International Workshop EG&DP-2006, and more than 40 reports in the seven sections of the International Conference SAER-2006 were presented and discussed during the scientific meetings of both forums. The reports that went through scientific review and editing are printed on hard copy and on electronic medium in two separate collections



2nd International Workshop EG&DP-2006

20th International Conference SEAR-2006 21-24 September 2006 St. Constantine - Varna, Bulgaria

(Proceedings) which are put in more than 20 Bulgarian and world libraries, and included in the electronic issues (databases) of the worldwide organization EBSCO Publishing, USA.

8.5. Partners meeting with the Commission for protection from discrimination

This year, too, time was spared for joint partners meetings with representatives of other state authorities and commissions with the purpose of exchanging experience. Such a meeting was organized from 1 to 3 December, 2006 in the town of Hisaria with the Commission for Protection from Discrimination. Despite its short duration the meeting was very useful for both parties.

Members of both Commissions and representatives of their administrations took part in it.



The main amendments in the Law for Protection of Personal Data and the ensuing changes in the work of CPDP, as well as some basic aspects in the activity of the Commission for Protection from Discrimination were discussed at the meeting. On behalf of CPDP reports were delivered by Mrs. Veneta Shopova, Director of Law Directorate, entitled “Amendments in the Law for Protection of Personal Data – the

amendment with the Official Gazette, issue 91 / 10 November 2006, and the new priority activities of CPDP in this direction”, and “Proceedings before CPDP, procedure for handling complaints and signals, pronouncement of decisions by CPDP, appeal”; by Mr. Stoyan Tsanov, Director of Program and Technical Directorate in the subject “Practices of CPDP in making inspections on enforcement of the Law for Protection of Personal Data”, and by Mr. Zhivko Borisov, Director of Information Directorate, in the subject “Registration of data controllers , information bulletin and website”.

On behalf of the Commission for Protection from Discrimination a report was delivered by Mr. Kemal Eyup (Chairman) in the subject “Proceedings before the Commission for Protection from Discrimination in compliance with Chapter IV of the Law of Protection from Discrimination

and the Rules of Practice before the Commission for Protection from Discrimination. The specific issues of Art. 55 of the Law of Protection from Discrimination”.

After the conclusion of the reports, the proceedings practices before both commissions were discussed, and their advantages were pointed out.

The participants expressed their satisfaction from the useful meeting and their wish for further joint activity of both Commissions.



9. ETHIC CODE OF BEHAVIOUR

In compliance with Art. 10, par. 4 of the Law amending the Law for Protection of Personal Data of 27 December 2005, and with regard to §52 of the Transitional and Final Provisions of the law, within 3 months of entry in force of the law, the Commission for Personal Data Protection shall adopt Ethic Code of Behaviour of Data Controllers. The same Code has been worked out, adopted and is published on the website of the Commission within the legally statutory time limit.

The working out of the code for behaviour aims at the proper implementation of the national provisions in compliance with Art. 27 of Directive 95/46 of the European Union /EU/. Pursuant to a contract signed in Amsterdam, as of 1 January, 1999, a new Art. 286 was made in the Treaty establishing the European Community (EC), according to which the institutions and the bodies of EC should apply the Community rules for personal data protection. Yet before this date the Council of the EC in compliance with Art. 251 of the same Treaty established an independent supervisory body in the Community, which should be responsible for the strict and equal implementation of the rules for personal data protection. Its powers are stipulated in Regulation No. 45/2001 of the European Parliament and the Council of EU of 18 December 2000 on the protection of individuals with regard to processing of personal data by the Community institutions and bodies and on the free movement of such data.

The purposes which the Ethic Code of Behaviour of Data Controllers points out are the following:

1. Achieving strict and uniform implementation of the Law for Protection of Personal Data by all data controllers, taking into account the specific characteristics of their activity;
2. Establishing balance between the interests of the persons and the interests of the data controllers within the frames of the law on adequate measures for personal data protection.

The Ethic Code of Behaviour does not impose any new statutory obligations for the data controllers. It sets forth the main principles which must be observed in data processing, in order to guarantee the privacy and the protection of individuals in this field.

10. INTERNATIONAL ACTIVITY

In 2006 The Commission for Personal Data Protection worked actively in order to achieve compliance with the EU law by means of its activities, directed at ensuring communication and coordination with the national institutions, the international bodies for data protection and other organizations, as well as with other competent institutions and data controllers.

10.1 Participation in international events

In 2006 the Commission participated actively in several international events.

Since 2004 CPDP has been taking part with two representatives with status of observers at the meetings of Art. 29 Working Party, together with institutions of the EU member-states. At these meetings the experts discuss current issues with the purpose of achieving steady progress and improvement of the procedures, instrument, rules, agreements and measures in this field.

In 2006 the Commission took part in two meetings of the International Working Party on Data Protection in Telecommunication, which were held respectively in April in Washington (USA) and in September in Berlin (Germany) where there was a discussion on the issues of Internet and communication technologies from the point of view of the current development in the national legislation and the protection of privacy. At the 39th Meeting held in Washington, our representatives - Mr. Tsvetkov and Mr. Romansky, took part as well in the work of the carried out concomitant conference organized by the Department of Internal Security of the USA, on the issues of data protection and security of countries. At the next 40th Meeting in Berlin, the delegates of the Bulgarian commission Mr. Dimitrov and Mr. Romansky expressed an opinion on the legislative initiatives in the Republic of Bulgaria, related to e-trade and the information society.

The Bulgarian Commission for Personal Data Protection was invited to the International Conference of the Commissioners on Privacy and Data Protection, which was held in November in London (Great Britain). Mr. E. Radev, a member of CPDP, took part in this event. The main subject was "Surveillance society". As a result of this meeting the London Declaration was adopted, concerning the trans-border exchange of information and data, stored in the national databases and transferred on the grounds of the availability principle, as a part of the cooperation between the police and judicial authorities on European level.

Mr. Tsvetkov and Mr. Romansky - members of the Commission have participated on behalf of the Commission at the Meetings of the Case Handling Workshop since 2004. At the 13th Workshop held in March in Madrid (Spain), our representatives took part with two presentations, respectively: Mr. St. Tsvetkov – "Video surveillance at work", and Mr. R. Romansky – "E-government and personal data protection". At the next 14th Workshop held in November in Athens (Greece), Mr. R. Romansky presented the initiative of CPDP about the workshop on the issues of e-government and personal data protection, organized in the town of Varna. Furthermore our delegates presented particular cases and the applicable regulations in the field of personal data protection in video

surveillance, data processing in the psychiatric clinics and for journalist purposes and the procedure on complaints handling before CPDP.

The tradition to participate in the Annual Spring Conference of the European Data Protection Commissioners was continued, which this year took part in Budapest (Hungary) in April, and where Mr. Dimitrov and Mr. Romansky were delegates. At this conference they discussed issues concerning the data protection in the Third Pillar, geo-localization and radio-frequency identification, fight with frauds, data used for historical and scientific purposes, national health data base and genetic data.

In the field of Internet services the Second Conference on e-Services in European Civil Registration was held (Tallin, Estonia), where the topics of discussion were issues related to the provision of electronic services, the cooperation in the field of citizenship registration, best practices and future development.

Besides these events the Commission also took part in other important forums.

At the end of March and the beginning of April in Madrid (Spain) the First European Congress on Data Protection took place, where CPDP was represented by its Chairman Mr. Stefanov and Mr. Radev, member of the Commission. The issues discussed at this Congress included: The Third Pillar, economic activities and telecommunication.

In May a Conference on Public Security and Data Protection was held in Warsaw, Poland, where our delegates Mr. Stefanov and Mr. Romansky took part in the discussion on the issues of the Third Pillar, telecommunications, the right of privacy and public sector, video surveillance, the current developments and the future activities in the sphere of data protection.

In November in Frankfurt, Germany, CPDP took part in the IPPC 2006 Workshop on Data Protection in Medical Research and Patient Safety Reporting, which focused on two specific subjects: data protection and medical research; data protection and patient's safety and international transfer of medical data. With their participation in the work sessions our representatives, Mr. Tsvetkov and Mr. Romansky reached the conclusion, that in this field considerable efforts were necessary for the protection of the personal data, for which the Bulgarian supervisory body should undertake adequate actions.

In 2006 the Commission organized the 8th Meeting of Central and Eastern European Data Protection Commissioners, which was held in Varna on 25 and 26 May. The entire organization was carried out under the direct control of the member of the commission Mr. E. Radev. CPDP has organized an event of such a scale for the first time. Representatives of 11 countries - the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Croatia, Macedonia, and of course Bulgaria participated in it. At the meeting several trends were outlined and the following issues were discussed:

- New developments in the area of data protection – this issue was discussed from the point of view of the common problems which the countries from the region are confronted with. They can be differentiated in several categories:

- organizational – structure, accreditation, competencies and activities of the respective body for data protection, data protection in the field of the Third Pillar, powers of the law enforcement institutions, right to privacy, case handling and complaints, inspection activity,

- in the field of telecommunications – Internet, registration of data controllers, electronic communications and trade,

- from the public interest's point of view – protection of data by in the election process, public interest in disclosing personal data,

- other – introduction of biometric data, use of means for video surveillance, etc.;

- Freedom of speech – this subject was presented by the Commission which explained the use of this principle in the legislation, and mostly with relation to the law of privacy and the disclosure of data for journalistic aims, presented by Kr. Dimitrov.

- Spontaneous public interest – this issue was also presented by the Commission which shared with the other bodies for data protection its experience and the cases which it had confronted in its practice presented by Mr. E. Radev.

- Public information – experience was exchanged in this direction with regard to different and various means for improving of the level of awareness concerning data protection.

- Political marketing – the main attention was paid to the use of personal data in political campaigns.

- Video surveillance - this issue was discussed in relation with the national and international legal instruments which comprise the use of devices for video surveillance and specific purposes of data recording.

- Complaints handling – the Commission acquainted the participants with the procedure on complaints handling in Bulgaria, presented by Mr. St. Tsvetkov.

- Issues on the Schengen Agreement - the institution received very important information about the introduction and implementation of the Second Schengen Information System (SIS II).

All participants at the meeting expressed their wish for further cooperation with the aim of guaranteeing adequate data protection, and coordination of joint measures for achieving better awareness of the citizens and the institutions, with regard to their principles, rights and obligations, related to the data protection.

We may draw a general conclusion that the 8th Meeting was of great significance for improving the cooperation between the countries from Central and Eastern Europe, and the implementation of the European standards and principles.



10.2 Bilateral cooperation

In 2006 The Commission for Personal Data Protection continued to develop its bilateral relations with partnership institutions. In this connection, the following meetings were organized:

10.2.1 Bulgarian-Spanish Meeting of the Personal Data Protection Authorities

In the middle of February a workshop of the Bulgarian Commission for Protection of Personal Data and our Spanish partners was held. The Members of the Commission, Directors of directorates and Heads of departments took part on our behalf. The Spanish delegation included the following members: Mr. Agustin Puente Escobar – Deputy General Director – head of the legal office and members Mr. Alvaro Canales Hill – Deputy General Director – Data Inspection Directorate, Mr. Jesus Rubi Navarate, Mr. Joaquin Peres Catalan – Head of Telecommunications and Finance sector, and Mrs. Maria Jose Blanco Anton – Deputy General Director – Data Protection Register.

Although the meeting was held only for three days, it proved to be very useful for the Bulgarian Commission. The counterparts from the Spanish Agency for Personal Data Protection made a detailed presentation of the structure of their commission which is very similar to ours, as well as the entire procedure for registration and control of data controllers. Their experience in the electronic registration, as well as the presentation of their official website was particularly useful. A number of issues concerning the activity of the legal departments were discussed - work on complaints of citizens and inspections made by the authorities. The latest amendments in the Law for Protection of Personal Data of the Republic of Bulgaria were reviewed.

10.2.2 Bulgarian – Polish Meeting of the Personal Data Protection Authorities

From 15 to 18 March Polish delegation led by Mrs. Ewa Kulesza – General Inspector with rank of Minister of the Republic of Poland on the Data Protection came to Sofia on a work visit to CPDP.

The topics of discussion at the meeting were issues on registration of applications for data controllers in electronic form, the procedures for investigation of complaints, the implementation of the Regulation on the necessary minimum technical and organizational requirements for the means of data protection, and the problems arising in international transfer of data. Mrs. Kulesza presented in detail to the participants, the Polish experience in personal data protection in the different sectors.

From Bulgarian part Mr. Tsvetkov made a review of the latest amendments of the Bulgarian Law for Protection of Personal Data. The forthcoming acceptance of Ethic Code of Behaviour of data controllers and the strategies in public relations were discussed, in order to increase the awareness of the activity of the personal data protection authorities. Special attention was paid to the issues concerning the registration of data controllers, and on our part the new forms for registration were presented.

10.2.3. Bulgarian-Romanian Meeting of the Personal Data Protection Authorities

From 20 to 21 March representatives of the Romanian National Supervisory Authority for Personal Data Processing came in Bulgaria, led by Mr. Dorel Kologeychiuk - adviser on issues of

personal data protection. He was accompanied by Mr. Christian Dima – jurist in Communication Department, and Mr. Ruzvan Geata – expert in Investigation Department.

The Romanian representatives were on a visit in our country to exchange experience, since their personal data protection body was established at recommendation of the European Union in May 2005. This made the agenda of the meeting very busy, because a lot of issues had to be discussed for a short time.

The organization structure of CPDP, the separate directorates and the Law for Protection of Personal Data of 1 January 2002, together with the made amendments in December 2005, were presented at the first work session. The procedure for registration of data controllers was discussed in the course of the work, and the new registration forms simplifying significantly the procedure were introduced. Issues were discussed concerning the work on the citizens' complaints submitted to the personal data protection authorities. Another topic of discussion was the procedures for processing complaints both in our country, and in Romania. An analysis of the activity of both authorities in this field was made, and the positive sides of both procedures were pointed out. Information was exchanged for the future development of cooperation between the institutions. The Romanian delegation expressed its gratitude to its Bulgarian partners for the support and cooperation.

10.2.4 Presentation of the new telematic system for notification of the Spanish Data Protection Agency

In June the Commission was invited by the Spanish Data Protection Agency in connection with the international presentation of the new telematic system for notification of the data controllers. CPDP's representatives were Mr. Stanimir Tsvetkov – Member, and Mr. Zhivko Borisov – Director of Information Directorate. Reports were made by Mr. Pinar Manas – Director of the Spanish Data Protection Agency, by Mrs Maria Jose Blanco Anton - Deputy Director of the Agency in the field of registration of data controllers, by the chief of the Mint of the Kingdom of Spain, and by the State Secretary of the Ministry of Justice.

At the special invitation of Mr. Pinar Manas the meeting with the representatives of CPDP continued as a work meeting in the office of the Spanish Data Protection Agency. The work of the present and the new system was demonstrated by Mr. Lopez - person in charge for the register of the data controllers in the public sector. In the ensuing discussion it was found that both supervisory authorities had common approaches on the work in registration of data controllers.

Finally, a conclusion can be made that for the Commission the year was intensive and at the same time full of events which resulted in exchange of experience in the field of personal data protection.