



КОМИСИЯ ЗА ЗАЩИТА  
НА ЛИЧНИТЕ ДАННИ



**REPUBLIC OF BULGARIA**  
**COMMISSION FOR PERSONAL DATA PROTECTION**

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**ANNUAL REPORT**

**of the activities of**  
**the Commission for Personal Data Protection**  
**in 2008**

**pursuant to art. 7, para. 6 of the Law on Personal Data Protection**

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## **Introduction**

The present report for the activity of the Commission for Personal Data Protection (the Commission) is prepared pursuant to art. 7, para. 6 of the Law on Personal Data Protection and covers the period from January 1<sup>st</sup> 2008 to December 31<sup>st</sup> 2008. This is the first annual report of the second composition of the Commission (elected by a decision of the National Assembly, promulgated in SG, issue 113 of December 28<sup>th</sup> 2007).

First of all, the main issues are examined with relation to the institutional development of the Commission, its administrative capacity and financial status.

We present consistently the activities, with respect to the powers of the Commission for Personal Data Protection (CPDP) as per art. 10 of LPDP – registration of data controllers, inspections on data controllers, expressing opinions and issuing permits in the occasions, provided for by the law, issuance of mandatory directions to data controllers with respect to personal data protection, examining complaints against acts and actions of data controllers, participation in the preparation and mandatory issuance of opinions on drafts of laws and subordinate legislation in the field of personal data protection, ensuring the implementation of the decisions of the European Commission in the field of personal data. Special attention has been paid to the information activity of the Commission, its cooperation with the other state authorities and personal data protection authorities of the members states of the European Union, as well as the participation of representatives of the Commission in international workshops related to personal data protection. The activity of the Commission on the preparation of the full implementation of Schengen legislation has been pointed out.

Based on the specific results it can be concluded that during the year under review the Commission for Personal Data Protection was enforced completely and reached the necessary European standards in the field of data protection.

## **1. Institutional development of CPDP**

### **1.1. Administrative capacity**

The total number of the full-time staff of the Commission for Personal Data Protection (CPDP) in 2008 was 76 employees, 5 of which hold elective offices (chairperson and members of CPDP). The administration of CPDP is structured in general and specialized administration. General administration consists of Administrative-Economic and Financial-Accounting Activity Directorate, whereas the specialized – of Legal and International Activity Directorate, Control Activity Directorate and Information Activity.

The structure of the Commission of Personal Data Protection is shown in Table 1 in the Appendix.

As of December 31<sup>st</sup> 2008 the occupied positions come to 55 (19 under labour contracts and 36 appointed in compliance with Civil Servant Act) and 21 vacancies (7 under labour contracts and 14 in compliance with Civil Servant Act).

During the year under review CPDP announced competitions with respect to 10 positions of civil servants, 3 of which are managerial positions and 7 are expert positions. Eight competitions ended in appointments and no applications for participation were submitted for 2 competitions. At present the procedure of the competition announced for the position of Chief Secretary is in progress.

In 2008 15 officers were appointed in CPDP, 7 of which were appointed in compliance with Civil Servant Act 8 under labour contracts. Three of the appointed civil servants were

appointed under agreement as per art. 81a of CSA, 1 – after a competition, 7 reappointed from labour contract to appointment in compliance with CSA after winning the competition for civil servants, and 3 – on other grounds.

Within the same period 7 officers left, 3 of whom were appointed in compliance with CSA and 4 under labour contracts.

**In 2008 the occupied full-time positions in the Commission were 51, whereas the vacancies came to 20.**

The training of the officers of the administration at CPDP in 2008 was carried out according to the approved annual training plan and the personal training plans. By now the officers have attended 31 courses, organized by the Institute of Public Administration, Centre for European Education and the Reshene (Solution) National Consultative Centre. Four officers at managerial positions and 3 experts attended the mandatory training for newly appointed staff. The specialized training was attended by 25 employees in courses and seminars with different subjects:

The procedure for appraisal of the employees of the administration of CPDP for the period of December 1<sup>st</sup> 2007 to November 30<sup>th</sup> 2008 in compliance with the Ordinance on the conditions and order for appraisal of state administration officers was accomplished within the specified term. Of all employees subject to appraisal 14 were given the assessment 1 „Exceptional performance“; 30 – the assessment 2 „Performance exceeding the requirements“, and 4 – assessment 3 „Performance consistent with the requirements“.

In 2008 the Commission continued to carry out the activity related to eliminating the weaknesses related mostly to the system of financial management and control, as well as developing internal regulations, related to public procurement procedures, rules related to the salary and exercising control on the lawfulness with respect to contracts executed by CPDP.

In comparison with the previous year (by December 8<sup>th</sup> 2008) this calendar year has shown a considerable increase in the outgoing correspondence of CPDP, as indicated in the table:

No.	Year	Incoming mail	Incoming e-mails	Outgoing mail	Outgoing e-mails	Complaints
1.	2007	2424	1189	1917	223	74
2.	2008	1914	1001	5713	247	83

The increase in the outgoing correspondence is related to the mandatory notification of data controllers that they have been entered in the register of personal data controllers and the registers kept by them, which constitutes a practice that has not been carried out by the previous composition of the Commission.

In 2008 an automated system for management of documental turnover was introduced aiming at facilitating the operation and enhancing the quality of the services.

A system was implemented which ensured the control of the access to the building and accounted for the working time.

## **1.2. Financial status**

By virtue of a Council of Ministers' Decree No.15/01.02.08 on implementation of the state budget of the Republic of Bulgaria for 2008 the budget of CPDP for 2008 was approved to the amount of 2,062 thousand BGN as a second-level spending unit. The funds of the approved

budget were by 336 thousand BGN or by 19.5%, more than the funds spent according to the Commission budget for 2007.

During the year the budget of the Commission increased by 974 thousand BGN after corrections made by the Ministry of Finance, as follows:

- for the training of the state administration officers to the amount of 2.5 thousand BGN;
- for the remuneration and social insurance contributions of the staff with respect to the amendments in the Individuals' Income Taxation Act to the amount of 1.5 thousand BGN;
- by virtue of Council of Ministers' Decree No. 308/10.12.2008 on approving additional budget credits for 2008 for the acquisition of TFA and IFA to the amount of 970 thousand BGN.

In order to achieve the goals and the financial security of the overall activity of the Commission for Personal Data Protection and its administration in 2008 a total of 2,997 thousand BGN were spent, allocated in items by the Uniform Budget Classification, as shown in Table 2 in the Appendix.

The highest relative share - 36% of the total costs, had the funds spent on maintenance, covering expenditures for external services, including rents, materials, water, power and fuels, business trips in the country and abroad, insurances and other financial services, work clothing, taxes, fees, etc.

The funds spent on salaries, other remunerations and payments to the staff and the respective mandatory insurance contributions represent 28.7% of the total amounts of the expenditures of CPDP for the year.

The capital costs, supporting the administrative activity for 2008 were to the amount of 35.3% of the totally spent funds under the budget of CPDP, whereas 91.6% of them were financed by the additional budget credit approved by means of Council of Ministers' Decree No. 308/10.12.2008.

As of December 31<sup>st</sup> 2008 the Commission does not have any outstanding liabilities.

### **1.3. Electronic format of the meetings of CPDP and book-keeping system**

Automated technology for input, storing, distribution and visualization of electronic copies of documents, necessary for the meetings of CPDP was developed and put into practice in May 2008. It supported the activities related to preparation and conducting of the meetings of CPDP.

The system interface makes it possible that the scanned documents may be structured according to the approved agenda and submitted to the Chairperson and each member of the Commission. After completing the meeting they are stored in an electronic archive, allowing for easy and convenient searching.

The successful implementation of the system completely replaced the old technology of duplicating hard copies of the materials under review.

In December CPDP successfully accomplished the procedure on purchase, installation and implementation of the system of control on documents and tasks related to their performance. The system comprises the levels Commission, Chief Secretary, Directorate and Department. The implementation of the system is expected to considerably enhance the efficiency of organization, management and control of the documental turnover in CPDP.

## **2. Registration of a data controller**

Pursuant to art. 10, para. 1, it. 2 of LPDP the Commission for Personal Data Protection keeps a register of personal data controllers and the registers with personal data kept by them.

Besides the traditional method of submitting hard copies of the documents for registration at the beginning of 2008 the **electronic registration of data controllers (eRDC)** was introduced for the first time. eRDS is an internet-based application, allowing each data controller to enter his data himself and to initiate the process of registration or to make alternations in the circumstances already registered. Data controllers are given username and password for access to the system and the procedure initiated is under their full management and control. They bear the entire responsibility for the truthfulness and correctness of the data. The entered data are inaccessible for until the end of the registration and the system operators may monitor the process but do not have rights to interfere in it and to modify the entered data.

The introduction of the electronic registration system is considered one of the biggest achievements of CPDP during the period under review, because it helps to considerably facilitate the process and to reduce the time necessary for registration. On the other hand, higher level of stability and legal security has been achieved.

During the period under review 4894 new applications and updating documents for registration have been received and entered in the electronic register of CPDP.

Since the beginning of the year 3240 data controllers have been entered in the register.

In relation with the procedure of data controllers registration, references of submitted documents, references of entry in the register of CPDP, of issuance of certificates and official confirmations, 14,660 individuals have been consulted in the Commission, 7,200 of which were consulted in person in the reception office of the Commission, and 7,460 – on the telephone. 782 letters have been received and reviewed and answers have been sent to them, including electronic answers.

The process of registration of data controllers is shown in the diagrams displayed in Fig. 1 and Fig. 2 in the Appendix.

In the event that the data controller has applied for processing of data as per art. 5, para. 1 of LPDP or data the processing of which according to a decision of the Commission endangers the rights and legal interests of individuals, the Commission mandatory carries out ex-ante inspection prior to entering the data controller in the register under art. 10, para. 1, it. 2 according to art. 17b of LPDP.

For the entire 2007 the applications submitted in CPDP with respect to data controllers registration, subject to inspection under art. 17b, come to 201, whereas for 2008 - 510, and the predominant number of them refer to healthcare, municipal administration and mediatory activity for job recruitment. The distribution by years and sectors is shown in Fig. 3 and Fig. 4 in the Appendix.

With respect to implementation of the goals and objectives of the Commission for Personal Data Protection related to maintaining the Register of personal data controllers and the registers of personal data kept by them, all state authorities and local self-government bodies were advised of the functioning of the information system for electronic registration of data controllers. Personal data controllers were invited within a specified period to update their data or to initiate a process of registration on the following internet address: <http://www.cdpd.bg/erald.html>. As a result of this initiative of the commission 82 municipalities and 65 state authorities updated their information. Unfortunately, this figure represents less than ? of the number of all data controllers.

## **2. Inspections on data controllers with respect to their observance of the legislation**

The activity of performing inspections on personal data controllers is a part of the control activity of the Commission of Personal Data Protection.

According to the provisions of art. 12 of LPDP the types of inspections have been differentiated. According to this legislative act the Chairperson and the members of the Commission and officials from the administration authorized by it may perform monitoring for observance of the law by means of ex-ante, on-going and ex-post inspections. The rules of carrying out the inspections are stipulated in the document, issued as per art. 12, para. 9 of LPDP, namely: Instruction on the terms and conditions of carrying out inspections by the Commission for Personal Data Protection.

These inspections aim at ascertaining the following: reasons for processing personal data; the method of keeping the register of personal data; purposes, for which personal data are processed; precision and correctness of data; conformity of the level of protection of the processed data with Ordinance No.1/07.02.2008 on the minimum level of technical and organizational measures for protection and the admissible type of protection of personal data, issued by CPDP (promulgated in SG, issue 25/23.03.2007).

The types of inspection are as follows:

**Ex-ante inspections** – envisaged as an obligatory stage of the procedure of registration under art. 17b of LPDP of data controllers, prior to their entry in the special register kept by the Commission.

**On-going inspections** – carried out at the request of persons concerned, as well as on the Commission's initiative based on a monthly control activity plan adopted by it.

**Ex-post inspections** – carried out for implementing a decision or a compulsory direction of the Commission, and on the Commission's initiative following receipt of an alert.

Each inspection should end in a statement of findings. In cases when a violation is ascertained the Commission may issue mandatory directions, to specify a term for correction of the violation or to impose administrative penalty.

The inspections carried out on data controllers by years, type of inspection and, activity of data controller, are shown respectively in Fig. 5, 6 and 7 in the Appendix.

It may be concluded from the charts that there is a significant increase in the inspections performed, and in comparison with 2007 the number of inspections in 2008 has increased by 129%. The number of the inspections on data controllers as per art. 17b of LPDP in 2007 were 143, whereas in 2008 their number was 391.

In 2008 the Commission issued 15 (fifteen) statements of finding administrative violations, on the base of which penalty provisions were issued.

### **3.1. Analysis of the inspections made by sectors**

#### **3.1.1. Healthcare Sector**

In healthcare Sector during the period under review pharmacies, medical centres, general practitioners and medical specialists were subject to inspections.

The inspections performed in pharmacies established that the requirements on the minimum level of technical and organizational measures for personal data processing and the admissible type of protection were observed to a great extent, as a number of them are required under other special regulations too. Upon performing the inspection the Commission cooperated



with other inspection authorities, such as the National Health Insurance Fund and the General Labour Inspectorate.

The inspections performed in medical centres, hospitals and laboratories established that data controllers did not keep high number of registers but they did include a large volume of personal data which were used with a special type of protection.

Pursuant to art. 27, para. 1 of the Health Act the term "health information" includes all personal data related to the health condition, physical and psychic development of individuals, as well as any other information, included in medical recipes, prescriptions, protocols, certificates and any other medical documentation.

Besides the high volume of personal data, processed in medical centres, hospitals and laboratories, the number of the personnel having access to these personal data (both on hard copies and electronic medium) is also high, which on its part involves high risks of improper use.

The documentation which should be kept by the executors of hospital service include the following documents: "Registration of procedures under a certain clinical pathway", "Pre-operative anaesthesiology consultation", "patient's information", "Declaration of awareness and consent of the patient with respect to the source of payment for diagnostics and treatment of illnesses according to a certain clinical pathway", financial-accounting documents, etc.

The Commission carried out inspections on general practitioners and medical specialists providing specialized outpatient medical aid. In most of the cases surgeries of the general practitioners/specialists consist of one or two rooms. They have at their disposal one PC and use specialized software, approved by the National Health Insurance Fund.

Since April 1<sup>st</sup> 2008 they have been bound to report to the national Health Insurance Fund by means of electronic signature. When submitting the electronic documents the general practitioner/specialist provides conditions for precise appointment of the time of signing the electronic documents, by sending with the electronic document the electronic signature and electronic certification of the date and time of signing the electronic document.

According to it. 17 of the Rules of good medical practice of medical specialists in the Republic of Bulgaria (drawn up in accordance with the Health Act, the Healthcare Establishments Act and the Doctors and Dentists professional Organizations Act, coordinated with the recognized worldwide and European experience and with the national specific nature, corresponding to the ethic principles of the Declaration of Helsinki and other internationally recognized documents of autonomy, usefulness, harmlessness and justice) doctors should consider the information of their patients confidential. The provision of such information to third parties shall be carried out after obtaining written consent of the patient or his/her relative or mentor, in case the patient is not in a condition to make estimations him/herself. In the event that such confidential information is required by order of a court or by means of other legal method, this may be performed without the written consent of the patient, but it is preferable to advise the latter of this action. When using the information about patients with the purpose of scientific research, publication, presentation at conferences, then all data which may reveal the identity of the patient shall be deleted.

The implementation of the Rules of Good Medical Practice of the Medical Specialist in the Republic of Bulgaria is subject to control and assessment by the Bulgarian Medical Association.

Besides the control activity carried out by the Commission, the statutory obligation of the medical specialists to keep professional secret make up additional guarantee for the lawful and bona fide processing of personal data.

### **3.1.2. Human Resources Sector**

The second largest number of inspections were carried out in the sector of Human Resources. The number of these inspections in the sector in 2008 is by 169% higher than the number of inspections in 2007. The personal data controllers belonging to this sector should mandatory be registered at the National Employment Agency. Mediatory job recruitment activities may only be performed by individuals and/or legal entities after the issuance of a certificate by the Minister of Labour and Social Policy or by a duly authorized official. The mediators may only direct and support the individuals looking for a job in a specific country after they have executed agency contract with the foreign employer and registered it at the National Employment Agency. According to the Ordinance on the conditions and order of performing mediatory job recruitment activity, in the course of performing such mediatory activity the agent should maintain and keep a register of the individuals looking for jobs and a register of individuals who have found job, registered in the respective office.

### **3.1.3. Regional and Municipal Administration Sector**

The third largest number of inspections were carried out in the sector of Regional and Municipal Administration. According to their statutory powers these administrations maintain a number of registers, processing different groups of personal data, namely: physical, marital, economical, cultural, public, social identity, as well as data related to education, employment, health condition, civil-law status, etc.

With respect to the maintenance and update of such data municipalities receive information by data subjects themselves, as well as by courts, medical establishments and public registers.

### **3.1.4. Bank Sector**

Bulgarian legislation, regulating the activity of the financial system in the Republic of Bulgaria, corresponds to the standards, imposed by the legislation of the European Union and the recommendations of the Council of the European Community in the area of personal data protection and in particular in the part, concerning the bank secret and the principle of data quality.

The inspections in this sector established that with respect to processing data belonging to customers of bank institutions the data subject should be mandatory informed on the purposes requiring the processing of their data. Other obligation requires that the individual should be informed about the cases when his/her data are provided to third persons, except for the cases when it is required by law.

In addition, data processing should not exceed the purpose of data collection in conformity with the principle of quality, which is based on accuracy and timely on-going update. Data processing should be lawful and purposeful with respect to the function of the collected data. It is also necessary to ensure data confidentiality and inviolability by prohibiting the unauthorized access of third persons and upon observing the rights of data subjects.

**In 2008 planned inspection on the bank sector was performed together with experts from the Spanish Data Protection Agency with respect to carrying out Twinning Project, financed under PHARE programme. The following conclusions can be made as a result of this inspection:**

#### **3.1.4.1. Customer awareness**

Bank customers are informed about the data, identifying data controller and his/her representatives, they are acquainted with the purposes of processing their data, they receive information concerning the provision of their data to third persons. However, they are not informed in all cases according to the provision of art. 19, para. 1, it. 3 of LPDP about the recipients of the categories of recipients, to whom their personal data may be disclosed. A number of cases have been found, when the customers have not been informed to the effect whether the provision of their data is mandatory or voluntary and what the consequences would be in case of denial of data provision.

#### **3.1.4.2. Data provision to third persons**

In general, the information which the banks are bound to provide may be divided in two types – information which is regularly provided and information provided on request. Banks regularly provide information to the Bulgarian National Bank (BNB). Other recipients are various authorities of the executive power and judiciary, however they only receive the necessary data after sending explicit request, based on legal grounds.

#### **3.1.4.3. Data belonging to customers**

The inspection ascertained that in the course of exercising their activity the banks are guided by the basic principles of data protection, stipulated in art. 2, para. 2 of LPDP. Personal data must be processed in legal compliance and in a bona fide manner, collected for specific, precisely defined and legal purposes, proportionate to the purposes for which they are being processed. In a few cases it was ascertained that the volume of collected data exceeded the purposes for which they were being processed.

#### **3.1.4.4. Inspection on the information provided by the customers**

After the applicants for loans submit the required documents, the following checks are carried out by the authorized officials: at the Central Credit Register (CCR) for availability of credit obligations and outstanding payments on loans; at the National Revenue Agency for information whether the applicant is registered in the Agency's databases of debtors; at the Ministry of Interior (MI) for the validity of the presented ID document; at the National Social Security Institute for availability of registered labour contract, date of its execution, type of contract, amount of the monthly social insurance contribution.

#### **3.1.4.5. Data belonging to the officials**

Bank officials are required to sign specific for this sector declarations – of keeping bank secret, of being acquainted with the Measures Against money Laundering Act, etc.

The officials provide voluntarily their personal data and give their explicit consent to the bank to process them according to the provisions of LPDP, in case such processing is performed in compliance with the provisions of Labour Code and the statutory regulations on its implementation, the Social Security Code, the Personal Income Tax Act, etc.

#### **3.1.4.6. Processing of personal data as per art. 5, para. 2 in relation with para. 1 of LPDP**

The checks of data carried out according to art. 5, para. 1 of LPDP (specifically protected data) did not ascertain the practice of using such data in the banks.

#### **3.1.4.7. Direct marketing**

In the course of the inspection a number of cases of performing direct marketing were ascertained. It was concluded that some banks did not fulfill their obligation under art. 34a, para. 2 of LPDP and did not inform their customers for their right to object against the processing of their personal data for the purposes of direct marketing.

#### **3.1.4.8. Measures for protection**

According to the defined levels of protection in Chapter Three of Ordinance No. 1 on the minimum level of technical and organizational measures and the admissible type of personal data protection, issued by CPDP, the inspected banks possess high level of personal data protection.

The banks have at their disposal specialized information systems, aiming at arranging the data in centralized databases, whereas the work stations operate the installed customer part.

The electronic data are subject to regular back up procedures, and such data are kept within a specific period of time.

#### **3.1.4.9. Data destruction**

Some of the banks have specified procedures, determining the term for keeping the personal data collected by them. After achieving the purposes, for which such data have been collected, they are backed up, as the activity of banks refers to the provisions of art. 25, para. 2 of LPDP – after achieving the purposes of processing the personal data, data controllers only keep them in the cases provided for by law.

The inspections did not ascertain destruction of personal data in the inspected banks. One of the reason for that is that the statutory terms for keeping such data have not expired yet.

Similar to the situation in Healthcare Sector, the officers of the financial institutions in this sector are obliged to keep professional secret. Subject of bank secret is the information concerning the amounts, movement, transactions, accounts and deposits of the customers.

The analysis of the results of the inspections carried out on data controllers shows that as a whole the provisions of LPDP and the acts based on it are observed.

### **4. Expressing opinion and issuing permits**

In accordance with the powers ensuing from the provisions of art. 4, para. 1, it. 4 of the Law on Personal Data Protection, the Commission for Personal Data Protection expresses opinion and issues permits in the cases provided for by law.

#### **4.1. Opinions**

In general, the opinions may be summarized in two groups:

- on the implementation of the Law on Personal Data Protection;
- on alerts and requests of individuals and legal entities.

#### **4.1.1. Opinions on the implementation of the Law on Personal Data Protection**

**In 2008 the Commission expresses 47 opinions on the lawfulness of the processing of personal data.** Requests for opinions are submitted to CPDP both by personal data controllers as per art. 3 of LPDO, and by individuals with respect to their rights under the law. Opinions were expressed on the access given to the National Database "Population" to persons, who have legal interest, including both individuals and state authorities for exercising their statutory powers, opinions were expressed on the definitions of "personal data controller" and "processor of personal data". The opinions expressed by the Commission on the implementation of the law are published in the bulletins of CPDP on the official website.

#### **4.1.2. Opinions on alerts**

Alert is any request, which has not been classified as a complaint submitted by the affected person and which concerns a violation of LPDP and this is the reason of approaching the Commission. When an alert is submitted, an assessment is performed concerning its admissibility, necessity for carrying out an inspection, collection of evidence and notification of other authorities.

After the inspection on the alert has been carried out, mandatory directions are issued or acts of administrative violations and sanctions of data controllers are drawn up. Follow-up inspections were carried out concerning the fulfillment of the mandatory directions issued by the Commission.

In 2008 over 100 alerts were received concerning unlawful processing of Personal Numbers, unlawful processing of personal data belonging to customers of trade companies providing public services, as well as concerning copying ID Cards of customers of mobile operators.

The Commission reviewed a lot of alerts in relation with publishing personal data of owners, representatives and members of collective bodies of trade companies in the Register of Companies, kept by the Registry Agency.

#### **4.1.3. Answers to inquiries on the implementation of LPDP**

A number of inquiries of individuals concerning their rights as per Chapter Five of LPDP and with respect to the obligations of data controllers were answered by means of e-mails, regular letters or directly by phone. Many consultations were carried out with respect to the implementation of LPDP to individuals and representatives of trade companies in the reception office of CPDP. In 2008 totally over 200 inquiries were processed, most of which refer to the manner of protection of the rights of individuals with regard to processing their personal data and providing access to their personal data.

#### **4.2. Permits**

The Commission for Personal Data Protection issues permits or denials with respect to requests for transfer of personal data submitted by data controllers, registered under the Bulgarian legislation as sole traders, trade companies, non-profit associations and trade representations.

Prior to the enforcement of the Treaty of Accession of the Republic of Bulgaria to the European Union the provisions of art. 36 of LKPDP was applied, which provision sets out the order of issuance of permits and the conditions, which should be met by the recipients of data. It remained unchanged after the two revisions of the law in 2006. In the context of art. 36 of LPDP

the issuance of permission for data transfer always involves assessment of adequacy of the level of personal data protection, and in cases when this cannot be assessed due to objective reasons, this transfer may be carried out using standard contract clauses (the text of the contract executed between the data exporter and the data importer should correspond to the Decision of the European Commission 2002/497/EC of June 15<sup>th</sup> 2001, last amended by Decision 2004/915/EC of December 27<sup>th</sup> 2004 on the standard contract clauses concerning personal data transfer to third countries according to Directive 95/46/EC). Transfer to personal data importers from USA is admissible if they have joined the Safe Harbour Agreement .

Following the latest amendments and additions to LPDP (promulgated in SG, issue 91 of 10.11.2006) and adoption of the new art. 36a of LPDP (in force as of the effective date of the Treaty of Accession of the Republic of Bulgaria to the European Union) the Commission expressed opinions on personal data transfer both to state members of the European Union and to third countries.

In the event that data controllers transfer personal data to other data controllers located on the territory of third countries out of the European Union and the European Economic Area, then CPDP rules by a decision after making an assessment on the adequate level of protection of personal data provided in these countries. This assessment should be made in accordance with criteria set out in the Rules for the activity of the Commission for Personal Data Protection and its administration.

Art. 36a, para. 2-7 and art. 36b of LPDP stipulates the terms and conditions when the Commission gives permission for personal data transfer to third countries, and these provisions completely include the provisions of Directive 95/46/EC of the European Parliament and the Council concerning the protection of individuals with regard to processing their personal data and the free movement of such data. The requests may be divided into two categories according to the purpose of the transfer:

Transfer of personal data belonging to employees of companies, performing trade activity in Bulgaria, which companies have mixed ownership or are 100% property of foreign legal entities and the central server processing their data is located out of the territory of the Republic of Bulgaria.

Transfer of personal data belonging to individuals – applicants for work abroad, by data controllers who carry out mediatory job recruitment activity outside the territory of Bulgaria.

Aiming at indisputably establishing whether the data controller, recipient of the personal data, provides adequate level of protection, the Commission requires that the applicants for transfer should present contracts, including standard contract clauses, specified by means of decision made by the European Commission. The standard contract clauses are applicable to transfers to any country not belonging to the European Union.

**In 2008 the Commission for Personal Data Protection expressed its opinion on 8 requests for personal data transfer.**

## **5. Issuing mandatory directions and imposing temporary prohibitions for personal data processing**

### **5.1. Directions**

According to its powers, set out in art. 10, para. 1, it. 5 of LPDP, the Commission issues mandatory directions to data controllers in connection with personal data protection.

Directions may be issued after carrying out ex-ante inspections as per art. 17b of the law before making an entry into the Register of personal data controllers and the registers kept by them. They are issued aiming at ensuring adequate level of protection of personal data within the maintained personal data registers, providing the minimum necessary technical and organizational means and measures according to Ordinance No. 1, dated February 7<sup>th</sup> 2007 on the minimum level of technical and organizational measures and admissible type of protection of personal data.

In 2008 the Commission issued 43 mandatory directions as a result of inspections made and 17 – after examining complaints of individuals.

The correlation of the issued mandatory directions by the nature of the directions is shown in Fig. 8 in the Appendix. Most often the directions are issued in relation with the fact that:

- the personal data controller has not drawn up corporate rules, specifying the measures and means of protection of personal data according to art. 3, para. 3 of Ordinance No 1 of February 7<sup>th</sup> 2007;
- the personal data controller processes personal data in volumes, exceeding the purposes for which data is being processed;
- the personal data controller has not taken the respective organizational and technical measures for ensuring the level of personal data protection, according to Ordinance No. 1 dated February 7<sup>th</sup> 2007. Here are the most common faults:
  - no sensitivity levels of data under processing have been determined;
  - no specific measures have been determined for providing the required level of protection of personal data, which is being processed on technical medium;
  - no measures have been specified concerning the protection of the technical and information resources in case of failures, accidents and disasters;
  - no procedure has been worked out concerning the destruction of the information medium;
  - no rules have been specified for carrying out regular preventive maintenance of the computer and communication means.

## **5.2. Prohibitions**

The Commission for Personal Data Protection, according to art. 10, para. 1, it. 6 of LPDP, may suspend upon prior notification any personal data processing that violates the regulations of personal data protection.

The terms and conditions for keeping the register of data controllers with imposed prohibition are set out in art. 10, para. 2 of LPDP. In compliance with art. 7, it. 13 of the Rules for the activity of the Commission, one of the main competences of CPDP is to impose temporary prohibition to data controllers with respect to data processing, however the CPDP has not exercised this competence in practice yet.

## **6. Handling of complaints against acts and actions of data controllers**

In order to exercise its powers under art. 10, para. 1, it. 7 of LPDP, the Commission for Personal Data Protection handles complaints against acts and actions of data controllers, which violate the rights of individuals under LPDP, as well as third parties' complaints in relation to their rights under LPDP.

When handling complaints against acts and actions of data controllers, in order to apply the law it is mandatory that the processing of personal data should have been performed by the data controller in compliance with the legal terms and definitions set out.

It should be taken into consideration that such processing of the data should present opportunity to the effect that the individual may be identified or become identifiable. Personal data processing which have been performed for personal or in-house activities goes out of the applicable scope of the law. The Law on Personal Data Protection may be applied when the personal data which are being processed constitute or are intended to constitute a part of a register as a set of personal data structured under particular criteria.

In order to implement one of its basic powers, in 2008 the Commission for Personal Data Protection reviewed 83 complaints against personal data controllers concerning the violation of the rights of individuals according to the Law on Personal Data Protection.

The complaints may be classified based on different criteria – type of the violation, quality of the data controller of nature of the personal data, which have been processed.

Legal opinions on the admissibility of all submitted complaints should be worked out prior to their review at the meeting of the Commission, and when they are reviewed on their merits with a notification sent to the parties, opinions on the validity should be presented to the Commission with a view to providing assistance in making the final judgment on each complaint.

The procedure of complaints handling is stipulated in detail in the Rules on the activity of the Commission of Personal Data Protection and its administration.

In contrast to 2007 where most of the complaint referred to unlawful processing of personal data, including their disclosure or dissemination to third persons without having the consent of the individual, whose data is being processed, in 2008 the relative share of the complaints concerning personal data processing, which exceeds the specific, precisely determined and statutory purposes, including their additional processing in a manner incompatible to these purposes, is bigger. In this aspect a typical violation made by data controllers is their requirement of presenting a copy of the ID Card of the individual when providing a particular type of service as a condition for the individual to be provided the service. In the event that data controllers are banks, this requirement does not constitute a violation of the Law on Personal Data Protection if the individual has not been a customer of the bank. Otherwise, the Measures against Money Laundering Act and the requirement of presenting ID Card copy is considered lawful. To this effect is the practice of the Commission in accordance with art. 2, para. 2, it. 1 and art. 4, para. 1, it. 1 of the Law on Personal Data Protection, according to which personal data should be processed in legal compliance and in a bona fide manner and the processing admissible when it is necessary for the execution of an obligation of the personal data controller stipulated by law.

The hypothesis is another, when the personal data controller is an enterprise, providing public electronic communication networks and/or services, as per the Electronic Communications Act. Processing of personal data by such enterprises is considered necessary for the execution of obligations under a contract and in this aspect the processing is admissible on the grounds of art. 4, para. 1, it. 3 of the Law on Personal Data Protection. However, this is not sufficient to consider the processing lawful, as the requirement of a mobile operator, for example, for presenting a copy of the ID Card of the individual as a customer, constitutes violation of art. 2, para. 2, it. 3 of the Law on Personal Data Protection due to the fact that the personal data which is collected exceeds the purposes of their processing. For the purposes of executing a contract for providing electronic communication services not all personal data included in the ID Card of the individual are necessary, such as eye colour or height. This is the practice of the Commission with respect to



personal data processing by the mobile operators, who require making a copy of the ID Card of the individuals upon executing a contract for the service. In this case the personal data which are being processed are not proportional and exceed the purposes for which they are processed. The complaints which were examined by the Commission were considered favourably, and the disposition of the decision rules that the copies of the ID cards should be destroyed within 7 days after the receipt of the respective decision.

The suspension of the requirement concerning copying ID cards of individuals is stipulated in the Mandatory Direction of the Commission No. 1211/17.04.2008 sent to the mobile operators, which is being appealed before the Supreme Administrative Court and is not in force yet. The five-member composition of the court is to pronounce their judgment.

Each year since the establishment of the Commission, the Financial Supervision Commission has been forwarding a number of complaints, different in volume, yet having identical subject. Misuse of personal data is made with respect to the procedure on transferring the participation of the secured persons from one supplementary pension insurance fund to another. In their complaints the individuals firmly state that they have not submitted any applications for changing their membership and that they have not affixed their signatures before a notary public in order to have their signatures certified on the applications. According to the procedure for changing membership and transferring the insured persons from one pension insurance fund to another, each pension insurance company executes a contract with insurance agents – individuals or legal entities, entered in the register kept at the Financial Supervision Commission. Upon executing a request for altering the membership, the insured person should sign an application and his/her signature should be certified by a Notary Public. This application should be filed in the company, where the individual wishes to be transferred and only the regularity of documents is checked. In their capacity as personal data controllers the pension insurance funds should observe the requirements of the Law on Personal Data Protection when processing personal data. Based on these complaints, the Commission initiated inspections in a number of pension insurance companies. It was ascertained that the contracts executed with the insurance agents do not include clauses, specifying the lawful processing of the personal data of their customers – individuals. No technical and organizational measures were taken in order to ensure the protection of personal data against illegal forms of processing. On these cases the Financial Supervision Commission approached the prosecution authorities.

Processing of personal data for journalistic purposes is allowed by the law in the cases when it is performed only for these purposes, inasmuch as the specified processing does not violate the right of privacy of the person concerned. With respect to the complaints against different newspapers and magazines, the collected evidence established that some of these issues cannot be classified as personal data controllers and the complaints were rejected on these grounds.

At the end of 2007 the Commission was approached for the first time with respect to violation of the Law on Personal Data Protection related to the so called non-existent labour contracts. These complaints initiated not only inspections on personal data controllers but also a thorough inspection in the Central Office of National Revenue Agency, as the Commission set itself the task to find the reason why the employers notified the regional directorates of the National Revenue Agency of labour contracts which they had not executed with individuals in practice. The requirement that the employers should notify the National Revenue Agency of each executed contract is set out in art. 62 of Labour Code, however it concerns only the legally executed contracts – the lawful procedure of signing the contract by both contracting parties

should be observed. The evidence collected on these complaints established that the employers had infringed the law; therefore the Commission took a decision to impose administrative penalty with respect to their capacity of personal data controllers.

In many cases the processing of personal data by the financial institution involves dissemination of these data or providing access to them to persons who have executed a contract with the data controller and act as personal data processors. The complaints concerning such situations do not involve unlawful transfer of personal data, as the processors are not considered third persons according to the law. Besides, in some of the cases the individuals have signed contracts with data controllers, giving their consent to the data controller to disclose their personal data to third persons in order to provide the execution of the contract.

With respect to personal data processing for the purposes of financial audits according to the Tax Insurance Proceedings Code (TIPC) the individuals, who submitted complaints to the Commission, were required to present detailed information concerning their and their family's property status. It was related to instituted proceedings on ascertaining the obligations for compulsory social insurance contributions, assigned to the revenue authorities. With respect to these powers of theirs according to TIPC, these authorities are allowed to carry out inspections and audits, within the scope of which they are entitled to require that all concerned persons should provide them information, documents, papers, materials, possessions, bank statements and any other information necessary for executing their control activity. The Commission for Personal Data Protection ascertained that the personal data with respect to these complaints were processed in legal compliance – as there are statutory stipulated obligations of the data controller, furthermore, a special procedure for appealing such acts is set out in TIPC.

One of the complaints against notary public was related with misuse of personal data so that a forged power of attorney was drawn up with the purpose of purchase and sale of a real estate. This complaint initiated an inspection by a decision of the Commission and additional evidence was collected, which proved that there was data for committed crime, therefore, the administrative proceeding was abolished and the file was sent to the competent prosecution authorities.

In comparison with 2007 there is a significant decrease in the number of complaints related to processing of personal data for the needs of direct marketing without the knowledge and consent of the individuals. When arranging advertising campaigns the personal data controllers require that the participants should present their personal data in order to receive personally addressed catalogues or advertising brochures, as well as information on excursions with marketing purpose. It should be taken into consideration in these cases that the law provides for the legal option that individuals may object to provide their personal data for processing for the purpose of direct marketing, in particular when they have not been informed by the respective data collector.

Other tendency which stands out is that in 2008 no complaints were filed against processing personal data by means of video surveillance.

**In 2008 the Commission for Personal Data Protection received 83 complaints. The distribution of the complaints according to their subject is shown in Table 3 in the Appendix.**

Inspections were carried out on 38% of the complaints and additional evidence was collected on each particular case of unlawful actions of data controllers. The decisions of CPDP on these complaints include mandatory directions to the data controllers to undertake specific measures and actions for ensuring lawful processing of personal data, according to the legal

purposes for which such data have been collected, as well as for not admitting their additional processing in a manner incompatible with these purposes.

#### **7. Participation in preparation and expressing opinions on drafts of laws and subordinate legislation**

The amendment of the Law on Personal Data Protection, dated December 23<sup>rd</sup> 2005, stipulated that CPDP should mandatory express opinions on the drafts of laws and subordinate legislation, when they concern issues related to personal data protection. Expressing its opinion on drafts of legislative acts the Commission assists for the precise definition of the texts and respectively for adequate correspondence of the law revisions with LPDP and Directive 95/46/EC of the European Parliament and the Council, dated October 24<sup>th</sup> 1995.

During the year under review the Commission expressed opinions on harmonization procedures, according to art.58, para.3 of the Structural Regulation of the Council of Ministers and Its Administration. In almost all cases requests for harmonization were submitted by the Ministry of Interior with respect mostly to the projects of agreements between the Republic of Bulgaria and other foreign countries. Occasional requests were sent by the Council of Ministers and other ministries and authorities.

**During the entire year 2008 the Commission was only once invited to participate in the preparation of legislative acts, related to personal data protection, although a number of such acts were adopted – Law on Prevention of Conflicts of Interests, Law on Amendment and Addition to the Register of Trade Companies Act, Electronic Communications Act, etc. Furthermore, although the law stipulates that the Commission's opinions are mandatory, such were not required by the competent authorities. We consider it a serious problem, directly reflecting on the Commission's main activity, related to protection of individuals when their personal data is subject of processing.**

#### **8. Preparation for implementation of Schengen legislation**

Pursuant to art. 105, para. 1 of the Constitution of the Republic of Bulgaria, the Council of Ministers by virtue of its Decision No. 155 of May 17<sup>th</sup> 2008 ruled that the Minister of Interior, the Minister of Exterior, the Minister of Regional Development and Public Works, the Minister of Finance, the Minister of Justice, the Minister of Transport, the Minister of State Administration and Administrative Reform, the Minister of Agriculture and Food, the Minister of European Affairs, the Chairman of State Agency of National Security, the Chairman of State Agency for Refugees at the Council of Ministers and the Chairman of Commission for Personal Data should undertake the necessary action in order to provide full implementation of the regulations of the achievements of Schengen legislation so that the Council of the European Union would take a decision on full implementation of the regulations of the achievements of Schengen legislation.

In order to support the execution of the tasks under it. 1 of the Decision intradepartmental working party was established.

During the whole year the Commission for Personal Data Protection actively participated in the work of the target group „Personal Data Protection" in order to fully implement the regulations on the achievement of Schengen legislation and elimination the control at the internal borders. Within its framework at the level of working meetings the Commission discusses the experience of the new Schengen states, exchanges experience, reviews training programmes, c the inspections of the central base of SIS, the examinations of the implementation of legislation,

cooperation between the national authorities for personal data protection, the impact of the Schengen area expansion.

In April 2008 a Working Party was set up, consisting of members of the Commission and officials of its administration, whose basic tasks was to participate in the execution of a National Action Plan for full implementation of the regulations on the achievements of Schengen legislation and elimination of the control at the internal borders and all actions ensuing from it within the framework of the target group „Personal Data Protection". Together with representatives of Coordination and Information-Analytical Activity Directorate at the Ministry of Interior and representatives of Customs Agency this group had to prepare a proposal for initial measures under the National Action Plan – the necessity of legislative amendments, creation and alternation of subordinate legislative acts, administrative capacity, financial security.

The Commission expressed its opinion in writing to the Ministry of Interior with respect to Section VIII of the National Action Plan. It envisaged a number of legal clarifications concerning inactive and current directives of the European Community, related to the issue of personal data. It was proposed to include Directive 95/46/EC of the European Parliament and the Council, dated May 7<sup>th</sup> 2002 on the common regulative structure of electronic communication networks and services, as this directive appeared to be framework and the interpretation, as well as the application of the directives of Frame 2002 in the electronic sector was performed in accordance with the stipulations of Directive 95/46/EC. It was outlined the necessity to include the Electronic Communications Act, which introduced Directive 2002/58/EC on personal data processing and privacy protection in the electronic communication sector and to a particular extent regulated the personal information protection when making electronic messages.

On December 5<sup>th</sup> 2008 in Brussels at a meeting of Schengen Assessment working expert party of the Council of the European Union a number of Bulgarian experts from the Ministry of Interior, Ministry of Exterior and the Commission for Personal Data Protection presented summarized answers to the Schengen Assessment questionnaire. This marked the opening of the first stage of the procedure of accession of the republic of Bulgaria to Schengen Area – basic priority and challenge for our country after its accession to the European Union.

The Commission for Personal Data Protection was presented in its capacity of a national advisory authority, implementing the overall state policy related to the protection of personal data protection, their processing and observance of the legislative acts. The working party was informed about the current legislation in the field of personal data protection, the basic powers of the Commission, as well as the rights of data subjects.

The work of the Commission on the assessment of the Republic of Bulgaria with respect to Schengen will be carried on with greater intensity during 2009, when the first inspection shall be made by a team of the Council of the European Union in order to make an assessment on the readiness of the state for accession to the Schengen Area.

## **9. Information bulletin**

The promotion and clarification of the activity of CPDP and its presentation to the public is a significant task both with respect to establishing its positive public image as state institution and in relation with clarification to the public the nature, purposes and goals of the Commission for Personal Data Protection. The awareness of the Bulgarian society on its entire activity is of extreme significance to the Commission.

In order to conform with art. 10, para. 3 of LPDP the Commission issues a bulletin, where it publishes information on its activity.

In 2008 the Commission published 6 issues of its Information Bulletin. The design of the bulletin was changed. Due to their exhaustion the following headings dropped out: "PHARE Programme" (which monitored the execution of the project of CPDP under PHARE Programme) and „Personal Data protection in Europe" (which introduced the organization of personal data protection in other European countries in a number of consecutive issues). The heading "Events and Initiatives" was set up.

Special attention is paid to the international and domestic events in which CPDP participates. Regular information is given with respect to supervisory authorities and groups, where members of the Commission are present as participants or observers. These include the General Supervisory Authorities on Schengen, Europol, Eurojust and Eurodac and the Working Parties under art. 29, with respect to police and justice and in relation with particular cases. Each issue includes at least one material related to the activity of the European Supervisory Authority on personal data protection. Commentary materials are also published on issues related to personal data protection. All decisions and opinions of CPDP continue to be published, as well as information on the control activity and the activity related to the registration of personal data controllers. An ambitious task for 2009 is the opening of the bulletin for author's articles and comments with respect to various aspects of the issue of personal data protection.

By now the bulletin has not been distributed on hard copy although it is designed and ready for printing. Only the bulletins containing the reports were printed on paper. In 2008 this was the bulletin containing the report for 2007. All the issues of the Information Bulletin by now are published in chronological order on the website of CPDP ([www.cdpd.bg](http://www.cdpd.bg)) in PDF format. The files are accessible to all users and may be reviewed on the website itself or downloaded on a local computer. It is envisaged in the near future the bulletin to be distributed electronically, and its addressees shall be the state authorities (ministries, state commissions, agencies, institutes), institutions (banks, social security companies, organizations, providing public services), local self-government bodies, as well as other individuals and legal entities, that have expressed their willingness to receive it.

The website of CPDP can be found on the following address: ([www.cdpd.bg](http://www.cdpd.bg)). At present new website is under construction and a complete replacement of the site is envisaged aiming at providing up-to-date and highly technological method of information and administrative services, related to the activity of the Commission for Personal Data Protection. The new website of CPDP shall correspond to the requirements for the websites of similar institutions with respect to usability, graphic design, structure and method of presenting the information, functionality, architecture and navigation. We present the first page of the new website of CPDP in Fig. 9.

## **10. Institutional interrelations**

The public activity of the new composition of the Commission for Personal Data Protection officially commenced on January 28<sup>th</sup> 2008. On this day in 1981 the state members of the Council of Europe adopted Convention 108 of the Council of Europe for protection of individuals with respect to automated processing of personal data. To this end January 28<sup>th</sup> is announced the European Data protection Day.

In 2008 the European Data protection Day was celebrated with a number of events arranged by the Commission for Personal Data Protection related to promoting its activity both to Bulgarian and foreign institutions, as well as to media and public society.

The National Assembly President Georgi Pirinski received the Commission for Personal Data Protection. The Chairperson of the Commission Veneta Shopova introduced the President of the Parliament with the priorities in the work of the institution and emphasized the main points in the annual report for its activity which was filed at the National Assembly. The members of the Commission Krasimir Dimitrov, Valentin Enev, Maria Mateva and Veselin Tselkov were also present at the meeting.

On the same day the official opening of the celebration on the European Data Protection Day was held in the Central Military Club. Representatives of high-level state institutions, ambassadors, foreign representatives and other official guests were present.

On the European Data Protection Day the Commission for Personal Data Protection carried out a meeting with the management and the academic board of the State University of Library Studies and Information Technologies.

One of the main priorities in the work of CPDP, indicated by its new composition was the institutionalization of the Commission in its capacity as a national authority for personal data protection in the Republic of Bulgaria both within the country and in international aspect.

In order to perform this task the Commission undertook a number of steps aimed at establishing closer cooperation with the state and private institutions in all sectors of public life.

The problem with the registration of labour contracts executed without the knowledge and consent of the individuals, initiated the meeting of the Commission with representatives of the National Revenue Agency and the National Social Security Institute. The Commission outlined the directions and made recommendations to the two institutions to take all necessary measures in order to prevent the occurrence of other similar cases. Joint actions were agreed aiming and providing comprehensive information to the individuals on how to protect their rights in the area of personal data protection.

The necessity of discussing the possibilities and the specific activities for achieving operative compatibility of the information arrays and registers, maintained by the Registry Agency and CPDP, initiated the meeting arranged between these institutions. The legal and technical aspects of the questions set by the individuals with relation to the protection of their personal data in the Register of Trade Companies kept at the Registry Agency.

The meeting arranged between CPDP and Customs Agency ended in executing a plan for joint actions of these institutions in the field of the accession of Bulgaria to the Schengen Area.

On May 8<sup>th</sup> 2008 a press conference of the Commission for Personal Data Protection was held in the pres club of the Bulgarian News Agency. It gave information to the reporters on the tendencies and goals, as well as some particular aspects of the activity of the Commission.

In November, in its capacity as the state authority in the Republic of Bulgaria, ensuring the protection of individuals with respect to processing of their personal data and providing access to such data, as well as the control on the observance of the Law on Personal Data protection, CPDP inspected National Unit of Europol at the Ministry of Interior.

The inspection was carried out on the basis of a questionnaire prepared by the team and presented to the Minister of Interior related to giving information concerning the applicable legal frame to the activity of the National Unit of Europol, the measures taken or enforced for physical security, personal security, documental security and information security within the unit,

provision of information on the volume of information executed by the unit, as well as the inspections carried out on the unit by the European Commission.

## **11. International activity**

In 2008 the Commission actively participated in the international meetings and workshops which discussed the current issues related to personal data protection.

The most important of these were:

- Working Party for protection of individuals with respect to processing their personal data, the so called Working Party under art. 29.

It was established in accordance with Directive 95/46/EC of the European Parliament and the Council of Europe for protection of individuals with regard to processing their personal data and the free movement of such data. The group has deliberative status and acts independently. It includes representatives of data protection authorities from all member states of the European Union.

The scope of issues reviewed on this workshop is comparatively wide, including "SWIFT", "PNR", protection of privacy inviolability of children, issues on processing personal data related to health and electronic healthcare, biometric data, binding corporate rules, as well as the issues related to internet browsers.

- International group on protection of personal data in telecommunications. It deals with discussing and finding solutions to current problems related to the electronic processing of personal data. They include issues related to the so called "social networks". These are networks, relating people with similar interests on the Internet. The problems concern a number of main aspects. The first of them is related to the fact that often such networks create their own browsers, through which the access to data is facilitated. On this part this enables the users of the network to gain access to the personal data of unlimited number of users. The other aspect is related to the possibility to record the users' data according to the Directive on data retention (Directive 2006/24). Very often a large part of the data required for the registration of the individual in such network becomes accessible to the rest of the internet users.

The main concerns of the working party are related to the fact that the low level of personal data protection allows for the so called "identity theft" or unauthorized access of third persons who are not registered in the network. The providers of such service are obliged to arrange the registration in a way providing the option for invisible profile at the request of the user.

- Common supervisory authorities of Europol, Schengen, Customs-related issues, as well as the Working Party on the police and justice issues.

The most important issue discussed during the year by the General Supervisory Authority of Europol was the Decision of the Council of EU on Europol, which should replace the current Europol Agreement.

The Schengen Joint Supervisory Authority discusses and shares its experience of the new Schengen states with the Schengen Information System (SIS), as well as the opportunities for exchange of knowledge and training programmes. The opportunities for interaction between the national authorities on personal data protection are discussed, as well as the main directions for the activity in 2008.

The joint supervisory authority on customs-related issues deals with general review of the national customs information systems.

The working party on the police and justice issues covers the Framework Decision of the Council for protection of personal data processed in the course of police and judicial cooperation. The necessary steps of transborder cooperation are discussed, in particular those involved in the fight against terrorism and transborder crime.

- Work meeting on discussing specific cases.

This is an international forum of lawyers, representatives of the national authorities on data protection in the European Union, where the current issues are discussed related to the everyday work of these authorities in the field of personal data protection. The common problems faced by the authorities on personal data protection, help to draw up a joint strategy for solving identical cases.

- From April 16<sup>th</sup> to 18<sup>th</sup> 2008 in Rome the Meeting of the Commissars on personal data protection from all member states of the European Union was held. Discussions were carried out related to present and future policies on the security within the European Union, privacy inviolability and data protection after the possible execution of the Lisbon Agreement, data transfer under conditions of globalization and the personal space in the extra-technological world.

- In June 2008 in Kazimierz, Poland the 10<sup>th</sup> meeting of the authorities on personal data protection from Central and Eastern Europe was held. It was attended by representatives of Lithuania, Rumania, Slovakia, Slovenia, Bulgaria, Croatia, Czech Republic, Estonia, Hungary and Latvia. One of the central topics was related to children protection.

Another main topic was "Schengen - mission, tasks, supervisory authorities, joint actions on control activities". The characteristics of the legal frame and the necessary alternations were discussed. With respect to the responsibilities of the authorities on data protection the comments covered the possibilities for inspections, administrative capacity, possibilities for access to the information resources of the Schengen Information System.

**The qualification, tasks and competences of the officers dealing data protection were discussed.**

- On May 22<sup>nd</sup> and 23<sup>rd</sup> 2008 in Montreal, Canada, with respect to the so called London Initiative in the European Union was conducted a seminar on the management of the authorities dealing with personal data protection.

London Initiative was launched in 2007 and its purpose is working out efficient mechanisms for enhancing the effectiveness of the national authorities on personal data protection of the state members of the European Union and Canada.

The discussions on the meeting covered essential issues, concerning the activity of the competent authorities of the countries, and special attention was paid to the issues related to financing the activity and the percentage proportion of the state subsidy to the total amount of the budget. The seminar discussions covered another current issue, related to the management of human resources within the competent authorities on personal data protection.

- In October on the initiative of the US Federal Trade Commission a seminar on the issues related to Safe Harbour was held in Brussels, Belgium. The Safe Harbour initiative is related to the opportunity for free transfer of personal data from the member states of the EU to USA and became possible after the execution of Safe Harbour Agreement between EU and USA. It became the mechanism of data transfer to American companies and organizations. The decision on signing this agreement by EU was taken pursuant to art. 25b of Directive 95/46/EC and was executed in 2000.

- The 10<sup>th</sup> anniversary conference of the Joint Supervisory Authority for Europol was held on October 9<sup>th</sup> 2008 in Brussels. It discussed the issues of the challenges with respect to



maintaining efficient supervision on data protection in Europol, as well as the future plans for the work with Europol.

- The 30<sup>th</sup> international conference on data protection was held in October in Strasbourg, France. It was jointly organized by the French Personal Data Authority and the Federal Commission for Personal Data Protection and Freedom of Information in Germany.

The subject of the this year issue of the conference was “Privacy Protection in the World Without Borders”.

### **Conclusion**

The main priority of the Commission for Personal Data Protection in 2009 will be the accomplishing of all financed projects. the new Communication Information System of CPDP, Call Center, Training Center for Personal Data Controllers.

The other main priority not only with respect to the Commission, but also at state level is the merit representation in the first inspection under Schengen in April 2009.

The Commission will continue its activity related to informing the individuals for their statutory rights under the Law on Personal Data Protection.

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**The annual report for the activity of the Commission for Personal Data Protection in 2008 was adopted by a decision of the Commission at a meeting held on January 29<sup>th</sup> 2009 (Protocol No.4).**

CHAIRPERSON:

Veneta Shopova

Table 1

**CPDP**

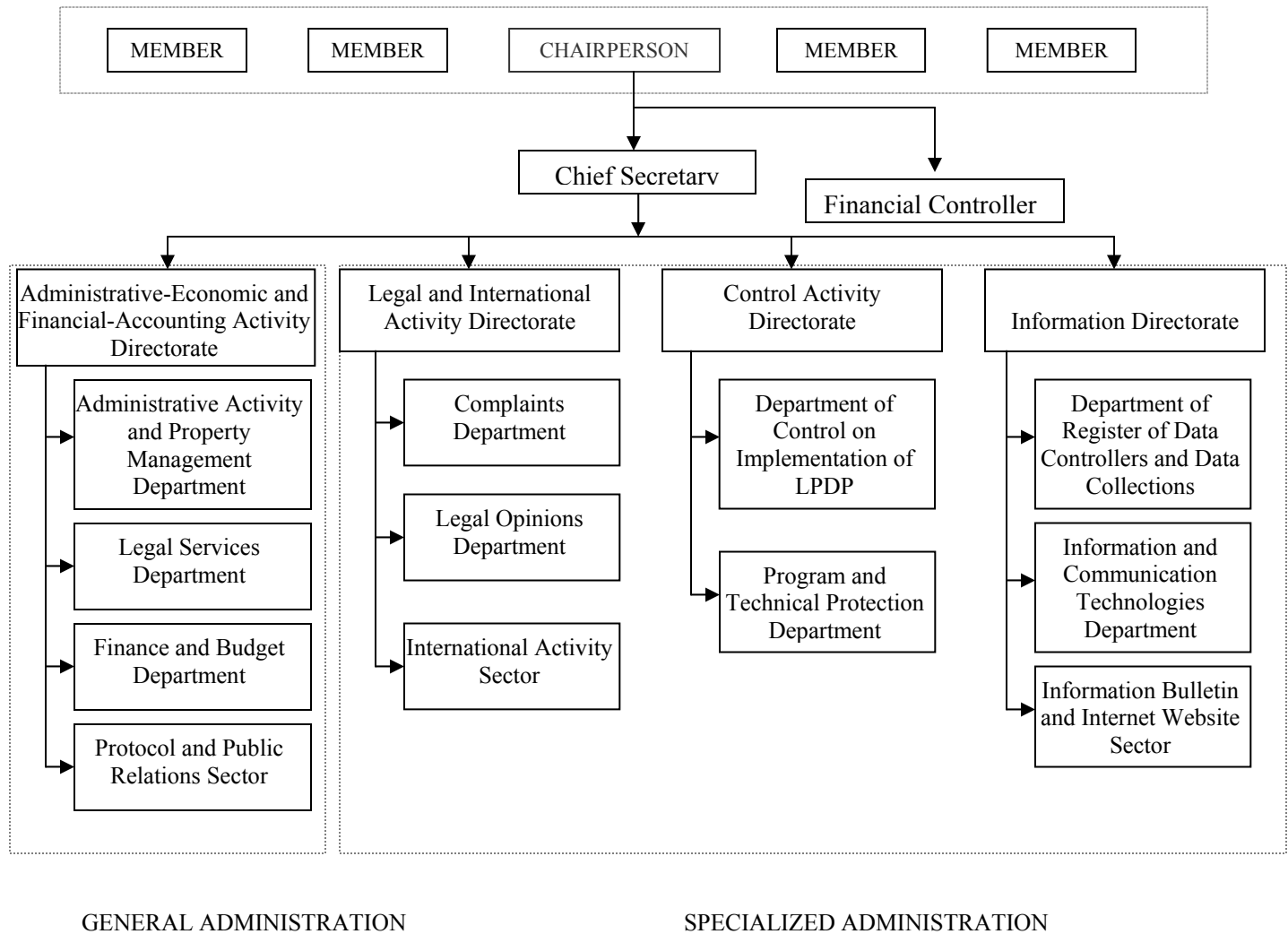


Table 2

No.	Structural division/Position	Occupied full-time positions	Vacancies
	<b>GENERAL ADMINISTRATION</b>		
1	Chief Secretary		1
2	Financial Controller	1	
	<b>Administrative-Economic and Financial-Accounting Activity Directorate</b>		
3	Director	1	
	<i>Legal Services Department</i>		
4	Head of Department	1	
5	Senior Legal Consultant		2
6	Junior Legal Consultant		1
	<b>Administrative Activity and Property Management Sector</b>		
7	Head of Sector	1	
8	Chief Specialist	7	2
9	Senior Specialist	1	
10	Executive	2	
11	<i>Finance and Budget Department</i>		
12	Head of Department	1	
13	Chief Expert		1
14	Senior Expert	1	
15	Chief Specialist	1	
16	<i>Protocol and Public Relations Sector</i>		
17	Head of Sector	1	
18	Senior Expert		1
19	Junior Expert		1
	<b>SPECIALIZED ADMINISTRATION</b>		
	<b>Legal and International Activity Directorate</b>		
20	Director	1	
	<i>Complaints Department</i>		
21	Head of Department	1	
22	Chief Expert	1	1
23	Senior Expert	1	
24	Junior Expert	1	
	<i>Legal Opinions Department</i>		
25	Head of Department		1
26	Senior Legal Consultant	1	
27	Junior Legal Consultant	1	
28	Chief Specialist		2
	<i>International Activity Sector</i>		
29	Head of Sector		1
30	Senior Expert	1	
31	Junior Expert	1	

	<b>Control Activity Directorate</b>		
32	Director	1	
33	<i>Department of Control on Implementation of the Law on Personal Data Protection</i>		
34	Head of Department	1	
35	State Inspector	2	
36	Senior Inspector		1
37	Junior Inspector	2	
38	Chief Specialist	1	
	<i>Program and Technical Protection Department</i>		
39	Head of Department		1
40	State Inspector		1
41	Chief Inspector		1
42	Senior Inspector	1	
43	Junior Inspector	2	
44	Chief Specialist		1
	<b>Information Directorate</b>		
45	Director	1	
	<i>Department of Register of Data Controllers and Data Collections</i>		
46	Head of Department	1	
47	State Expert	1	
48	Chief Expert	1	
49	Senior Expert		1
50	Junior Expert	2	
51	Chief Specialist	1	
	<i>Information and Communication Technologies Department</i>		
52	Head of Department	1	
53	State Expert	2	
54	Chief Specialist		1
	<i>Information Bulletin and Internet Website Sector</i>		
55	Head of Sector	1	
56	Senior Expert	1	
57	Chief Specialist	1	
	TOTAL:	51	20

NUMBER OF SUBMITTED APPLICATIONS

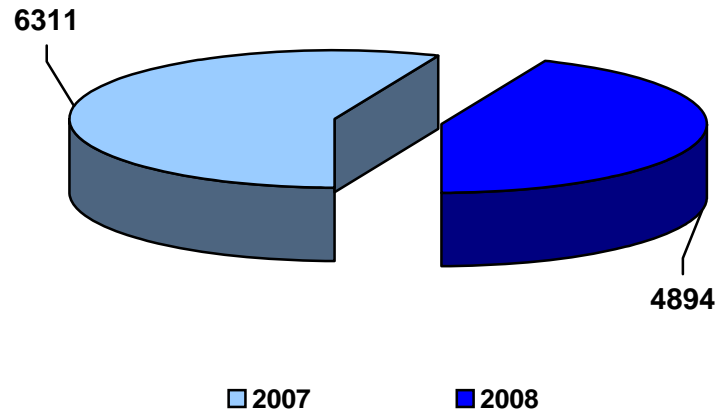


Figure 1

NUMBER OF DATA CONTROLLERS ENTERED IN THE REGISTER

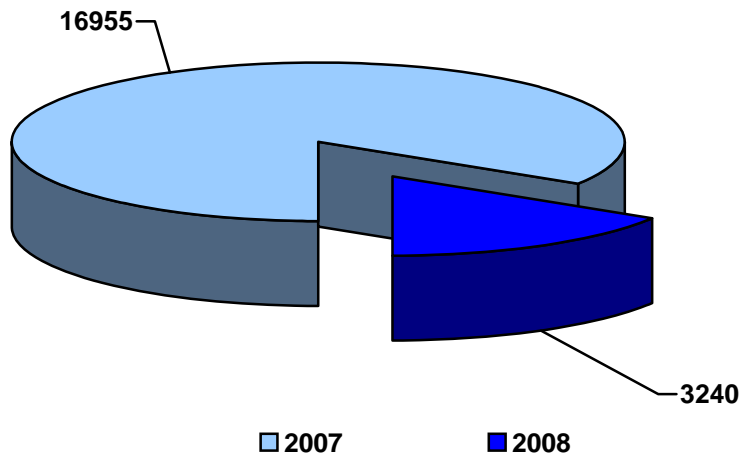


Figure 2

### Applications submitted by data controllers subject to inspection under art. 17b

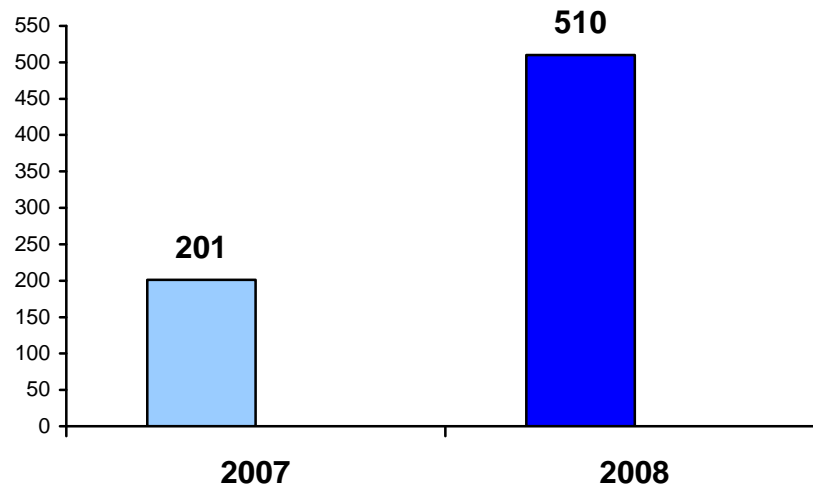
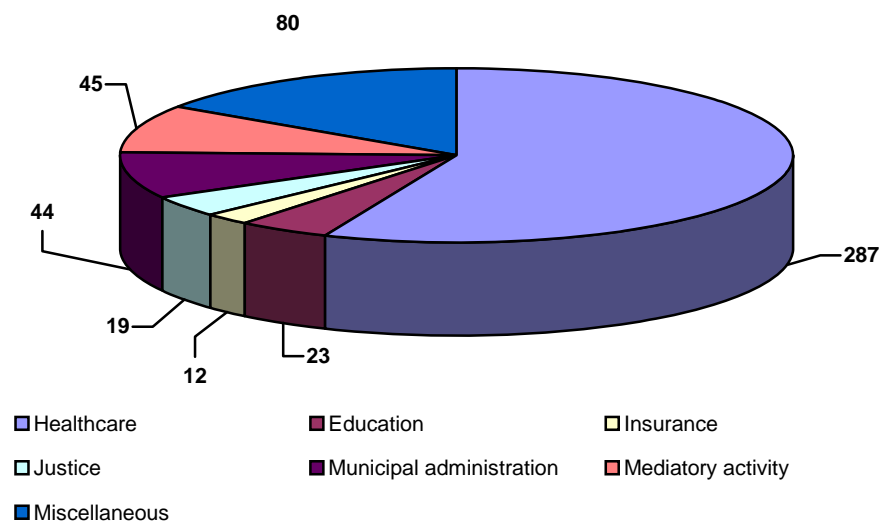


Figure 3

### APPLICATIONS SUBMITTED UNDER 17B BY SECTORS



**Inspections carried out on data controllers by years**

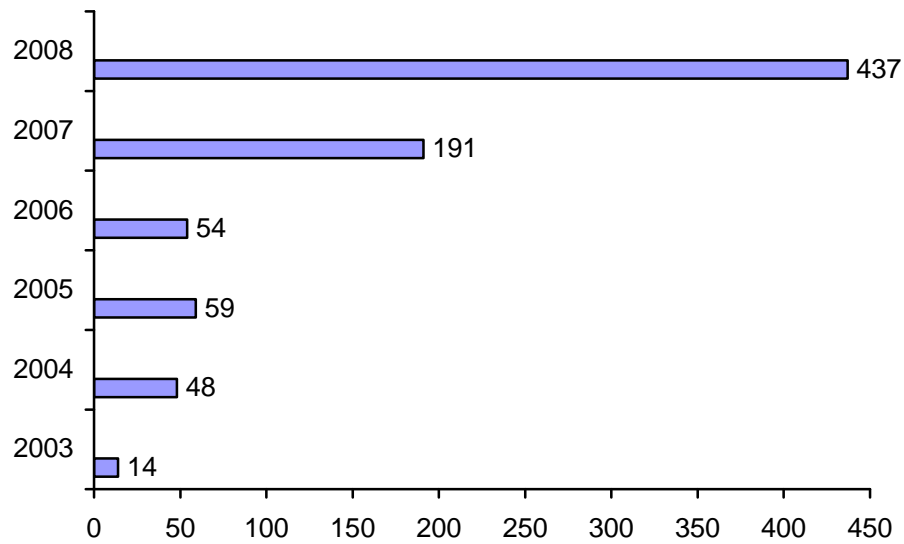


Figure 5

**Inspections carried out on data controllers by types**

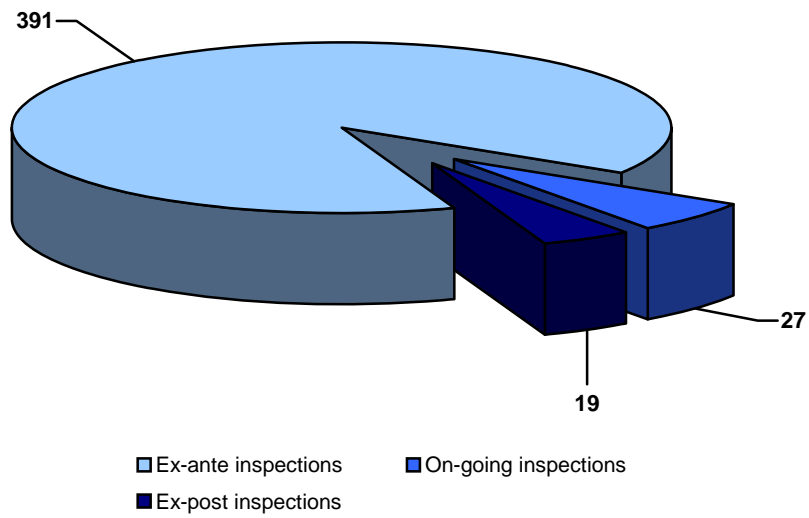


Figure 6

## NUMBER OF INSPECTIONS BY SECTORS

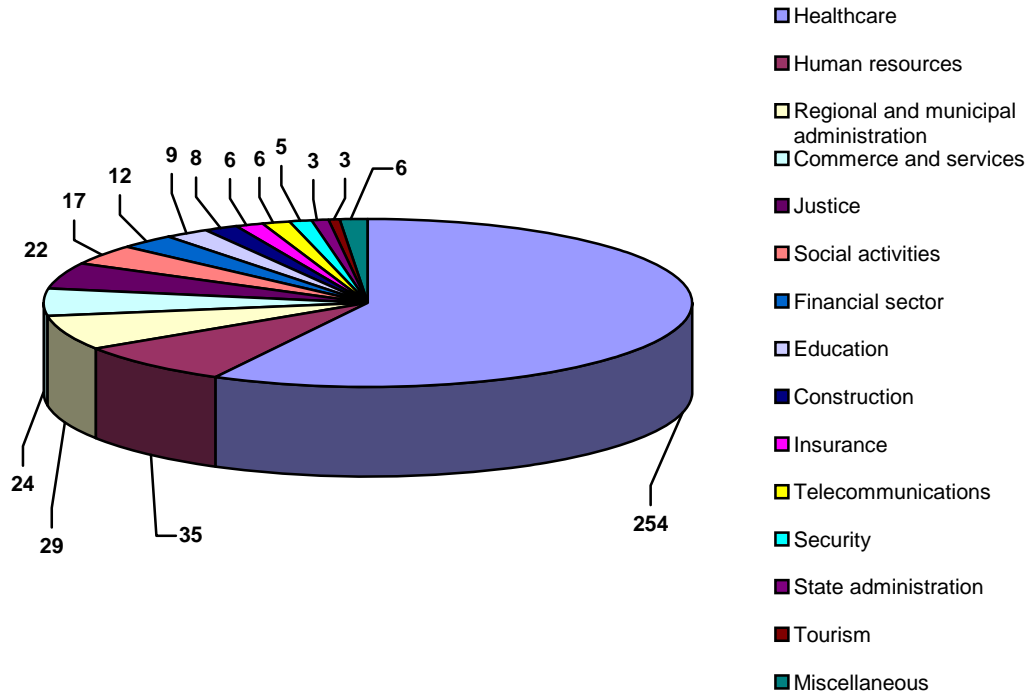


Figure 7

## MANDATORY DIRECTIONS ISSUED

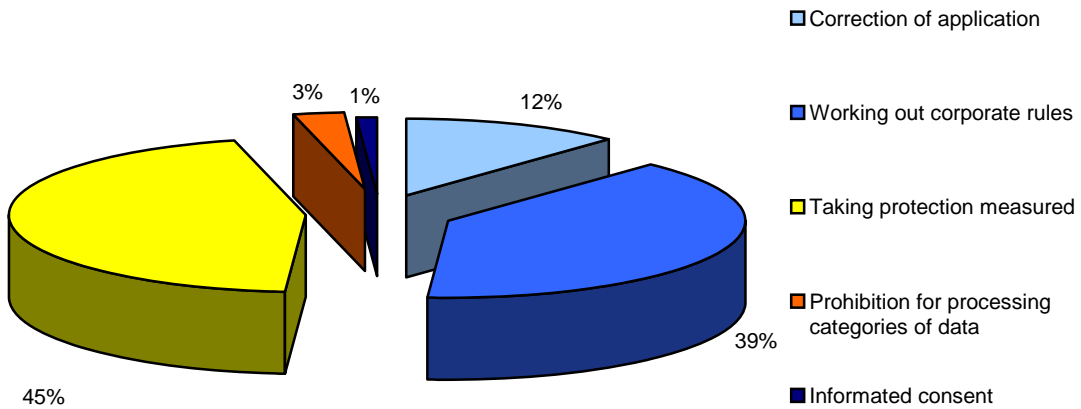


Figure 8



Table 3

<b>Total number of complaints submitted</b>	<b>83</b>
Processing of personal data which are not proportional and exceed the specific, precisely determined and lawful purposes, including their additional processing in a manner incompatible with these purposes	<b>47</b>
Processing personal data from pension social insurance funds through insurance agents	<b>6</b>
Processing personal data for journalistic purposes	<b>6</b>
Processing /including disclosure and dissemination/ personal data of individuals without their consent	<b>5</b>
Processing personal data for the purposes of financial audits carried out by TIPC	<b>3</b>
Processing personal data for the purposes of direct marketing	<b>2</b>
Processing personal data by Notaries Public	<b>2</b>
Miscellaneous	<b>12</b>



РЕПУБЛИКА БЪЛГАРИЯ

КОМИСИЯ ЗА ЗАЩИТА НА ЛИЧНИТЕ ДАННИ



Начало

Институцията

Правна рамка

Практика

Справочник

Контакти

Администратори на лични данни

Подеване на жалби и сигнали

Въпроси и отговори

Анализи и коментари

Анкета

28 януари

Европейски ден

за защита

на личните данни

Добре дошли!



10.11.2008

Семинар, организиран от Бюрото за техническа помощ и обмен на информация (TAIEXInstruments) към Генерална дирекция „Разширяване“ на Европейската комисия със съдействието на Академията по Европейско право. На 10 и 11 ноември 2008г. в София се проведе семинар, организиран от Бюрото за техническа помощ и обмен на информация



15.10.2008

30-та Международна конференция по защита на данните под мотото „Защитата на личната неприкосновеност в свят без граници“. От 15 до 17 октомври в Страсбург се провежда 30-та Международна конференция по защита на данните под мотото „Защитата на личната неприкосновеност в свят без граници“.



08.10.2008

Среща между Комисията за защита на личните данни (КЗЛД) и Агенцията по вписванията. На 8 октомври 2008 г. се състоя среща между Комисията за защита на личните данни (КЗЛД) и Агенцията по вписванията. КЗЛД бе представена от Венета Шопска, председател



02.09.2008

Работна среща на представители на Агенция „Митници“ и Комисията за защита на личните данни. На 02.09.2008 г. в сградата на КЗЛД се провежда работна среща на представители на Агенция „Митници“ и Комисията за защита на

English

търсене

Годишни отчети

Информационен бюлетин

Съобщения

Предстоящи събития

По жалби

За медията

Конкурси

Календар на събитията

Февруари 2009

П	В	С	Ч	П	С	Н
						01
02	03	04	05	06	07	08
09	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

Архив

Събития

Фото галерия

Анкетни

Нормативни документи

Връзки

Карта на сайта

Достъпност

Комисия за защита на личните данни, София 1431, бул. "Акад. Иван Вазов" 15

Figure 9