

TABLE OF CONTENTS

Introduction	2
I. Analysis and report on the achievement of the Commission's priorities set out in the Annual Report for 2009	2
II. Registration of data controllers and personal data registers kept by them	4
III. Analysis and statistics of the complaints as per Art. 38, para. 1 of LPPD. Case law	5
IV. Analysis and statistics of the Commission's control activities as per Art. 10, para. 1, it. 7 in connection with Art. 12 and Art. 17 b of LPPD	7
V. Analysis of the condition of the Bulgarian legislation in the personal data protection field, made on the basis of the opinions expressed by the Commission pursuant to Art. 10, para. 1, it. 4 of LPPD	11
VI. Analysis and statistics of the requests for authorization of personal data transfers	15
VII. Compulsory instructions and imposition of temporary suspension on personal data processing	16
VIII. Training	18
IX. Institutional relations of the Commission with other government bodies, independent civil organizations and media	20
X. International activity	22
XI. Implementation of Schengen acquis and readiness for supervision on data processing in SIS	25
XII. Administrative capacity and financial status	27
XIII. Objectives and priorities of the Commission for Personal Data Protection for 2011	29



Introduction

The report on the activities of the Commission for Personal Data Protection (hereinafter referred to as the Commission) has been drawn up on the grounds of Art. 7, para. 6 of the Law for Protection of Personal Data and covers the period from 1 January 2010 to 31 December 2010.

In the beginning, the report analyzes the degree of implementation of the Commission's priorities. Consequently are presented the registration process of data controllers and the registers kept by them, as well as the proceedings carried out at the Commission and the implementation of its competences. The status of the Bulgarian legislation in the personal data protection field has been analyzed based on the opinions expressed by the Commission and the requests for decisions on personal data transfer. The cases for which the Commission has issued compulsory instructions are presented herein. The report covers the development of the Commission's institutional relations with public authorities, the independent civil society organizations and media. It reflects the main areas of international cooperation and participation of the Commission in the work of international bodies and working groups. Special attention is given to the progress of implementing the Schengen acquis and the readiness for exercising supervision on personal data processing in the Schengen Information System. It takes into account the Commission's administrative capacity and financial status during the year.

I. Analysis and report on the achievement of the Commission's priorities set out in the Annual Report for 2009

The first main objective of the Commission for 2010 was the successful completion of the preparation process for the application of Schengen acquis and the steady implementation of the criteria used for the assessment of Bulgaria's readiness for accession to the Schengen area. To achieve this goal, the Commission performed activities in two separate directions: daily exercising its statutory powers in the personal data protection field and undertaking specific steps and measures to take into account the recommendations made during the inspection of Bulgaria's readiness for accession to Schengen area, held in 2009.

Evidence of successful achievement is the fact that the European Parliament adopted the proposal for Council Decision of 29 June 2010, on the application of the provisions of Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania. Subsequently, a draft decision was drawn up reflecting the conclusions of the Council of the European Union on the assessment process of the readiness of Bulgaria to implement all provisions of Schengen acquis and a draft decision on the full implementation of the provisions of Schengen acquis in the Republic of Bulgaria and Romania.

Another key priority of the institution in 2010 was fulfilment of complete and effective information and education activity among different target groups in the society. Taking into consideration that personal data protection is proclaimed as a fundamental EU citizens' right under Article 8 of the Charter of Fundamental Rights of the European Union, raising public awareness on the data protection issues is a permanent task. In order to set the basis for a unified and comprehensive training, in 2010, the Commission adopted a concept for conducting training in the data protection field.

The achieving and sustaining of an adequate awareness level among the Bulgarian citizens on the national and European personal data protection regime and the rights and obligations under the LPPD have been defined as a main task in the information activity. The implementation of this priority was achieved to a great extent both through developing the institutional media publicity of the Commission and through carrying out a specialized national information campaign dedicated to raising public awareness on the personal data protection in the Schengen area. The realization of an information campaign addressed to the forthcoming accession to the Schengen area allowed for the distribution of



basic knowledge in the personal data protection field among broad population segments, the active youth audience and the mass audience throughout the country. The campaign was accomplished through different communication channels and media. A specialized section in the website of the Commission was set up which provides a detailed legal and educational-instructive information on the Schengen Information System and the rights of citizens with respect to their personal data processed in the system. The contents of this section was promoted in the websites of government authorities, through a specialized online campaign carried out in the most visited websites and through the social networks and content sharing websites. The online campaign reached a significant level of efficiency and helped to directly inform the public on the specialized legal topics related to the accession to the Schengen area. As a result of the online campaign during the period of active advertising through banners in July, over 740,000 visits were registered to the special section of the Commission's website. The total amount of the online audience visiting this section in the second half of the year was over 1 million visitors. The Commission's information campaign was also realized by distributing 20,000 specialized brochures containing basic information about the citizens' rights in key locations – border-crossing points, Customs Agency's units, the Ministry of Interior passport departments, universities, all regional administrations as well as in the partner non-governmental organizations.

The campaign topics were discussed in interviews and comments, broadcasted in the national public media and the target information was distributed achieving maximum degree of popularization and coverage.

The official CPDP website and newsletter constantly published materials, reflecting events and facts relating to the personal data protection.

During the year successfully operated the Commission's Centre for information and contacts. The Centre provided answers to inquiries received by phone (on average 1130 calls per month), sent to the website and the Commission's official e-mail. In this way the Centre has become an effective communication tool that works actively and adequately for the citizens' benefit.

The system for electronic registration of data controllers (eRDC) allows for the maintaining of public registers with free access through the Commission's official website. Registers of approved data controllers, of data controllers who were refused registration and data controllers who were exempted from registration are also maintained.

By the fulfilment of another Commission's key priority, mobile teams were set up with the task to carry out inspections on the observance of LPPD throughout the country.

By the execution of the set tasks, in 2010, the Commission received over 322,966 requests, signals, complaints, inspections on the compliance with the legal requirements, inquiries, applications for registration in the data controllers' register and requests for consultation in the personal data protection field.



II. Registration of data controllers and personal data registers kept by them

By the performance of its legal obligation, the Commission maintains a public register of data controllers and the registers kept by them.

On 16 April 2009, in accordance with § 3, para. 1 of the Transitional and Final Provisions of LPPD, the Commission adopted a time limit for updating the data controllers' (DC's) information till 15 December 2009. Due to the large number of DCs willing to update the data or apply for registration, this time limit was extended to 15 February 2010. In 2010 the process of updating the information in the register continued actively. During the year, over 313,500 new applications and requests for exemption from registration were received both electronically and on paper.

In the system for electronic registration of data controllers and the registers kept by them (eRDC) are updated or entered as new 188,687 new documents, including 179,849 applications and 8,838 requests for exemption from registration of DCs. Despite the option for electronic registration through the special section at the Commission's official website, in 2010, the CPDP received more than 108,530 applications and over 62,450 requests for exemption from registration on paper. From the applications entered in the eRDC during the year, only 28,736 were signed using universal electronic signature (UES). The ratio between the electronically signed applications and the other application is shown in Fig. 1. in the Appendix.

A process of registration in the eRDC of the applications and requests for exemption from registration, submitted on paper was carried out. During the reported period from all documents submitted on paper, 31,633 applications for registration and 8,838 requests for exemption from registration were entered in the electronic system. They were classified in archival boxes in accordance with the requirements of the archive fund.

During the past year, 86,644 data controllers were entered in the CPDP's register, whereas the number of DCs exempted from registration is 8,305.

The development of the personal data controllers' registration process is illustrated in Fig. 2 and Fig. 3. in the Appendix.

The Commission is obliged to carry out an ex-ante inspection prior to the entry in the register as per Art. 10, para. 1, it. 2 in accordance with Art. 17b of the LPPD, when the data controller has declared processing of data pursuant to Art. 5 para. 1 of LPPD or of data, the processing of which, according to the Commission decision, endangers the individuals' rights and lawful interests. In 2010, the data controllers, subject to the inspection under

Art. 17b, were 3,753, preserving the trend that they belong to the sectors of healthcare, mediation for job placement and security business.

The yearly distribution of data controllers, subject to the inspection as per Art. 17b of PDPA, is shown in Fig. 4. in the Appendix.

The Commission examined the possibility of registration or exemption from registration of condominium managers with respect to the processing of personal data pursuant to their statutory obligations under the provisions of the Law on Condominium Ownership Management (LCOM). With decision adopted at its meeting on 24 February 2010, the Commission exempted the condominium managers from registration.

The modernization of the system for electronic registration of data controllers (eRDC) continued during the year. The modernization is aimed at optimizing the processing of applications on paper and the work with electronic signatures. The authorization regime was optimized. A new function for the processing of requests filed by data controllers for their exemption from registration was developed and implemented. eRDC is a web-based application, covering the overall activity of data controllers' registration and monitoring the technological process for approval or denial of entry in the public register. The integrated system architecture and the use of servers with trusted networks increase the system reliability and information security. The system of electronic registration of data controllers (eRDC) allows for free Internet access to the maintained public registers. On the Commission's website is kept a list of data controllers which are exempted from registration in the data controllers' register and the registers kept by them.



III. Analysis and statistics of the complaints as per Art. 38, para. 1 of LPPD. Case law

One of the ways for exercising control on the compliance with the personal data protection regulations and the protection of the individuals' rights upon or relating to the processing of their personal data is the handling of complaints submitted under Art. 38, para. 1 of the Law for Protection of Personal Data.

In 2010, the Commission received 221 complaints from individuals containing statements of infringement of their rights under the Law for Protection of Personal Data. This number of complaints is nearly by 100% greater than the number of complaints received by the Commission in 2009. This fact is not due to the increased number of data processing violations by data controllers, but because of the increased civil initiative and the individuals' wish to alert the competent authorities in order to protect their statutory rights.

By some of the complaints, after the Commission took action to clarify the case, the individuals withdrew their complaint because their claims were satisfied by the respective data controller in the course of the administrative proceeding.

There is an increase in the number of complaints filed electronically without a universal electronic signature. In these cases, the recipients are informed about their rights taking into account the Commission's practice for the particular case and they are advised on the procedure to approach the Commission. Although the Commission has a practice to consider the cases on its own initiative in its capacity of a penal body, the compliance with the conditions for its approaching is in direct relation to the sustainability of the resulting rulings.

Most of the e-mails sent to the Commission contain concerns with regard to the personal data processing, which leads to the conclusion that data controllers often ignore their obligation under Art. 19 of LPPD to adequately notify data subjects whose data are collected about the purposes of personal data processing, the recipients or categories of recipients to whom the data may be disclosed, the compulsory or voluntary nature of data submission and the consequences in case of refusal for their submission, as well as about the right to access and the right to correct the collected data.

There is a tendency for increased number of complaints related with the personal data processing by dissemination on the Internet.

Given the nature of the complaints received in 2010 and the type of the respective data controller, the complaints may be classified in the following categories:

Public sector data controllers – 40 complaints, including:

- Central state authorities: 20 complaints;
- Local government authorities: 16 complaints;
- Pre-trial proceeding bodies: 4 complaints.

In comparison with 2009, when the complaints against public sector data controllers were 28, in 2010 they were increased by 42.8%. The complaints against data controllers – local government authorities – have doubled. During the reporting year, no complaints were filed against the judicial bodies and four complaints were received against investigation and pre-trial bodies. In two of the cases, the data processing was found to be inconsistent with the statutory rules. In accordance with the nature of the inconsistency, the Commission issued compulsory instructions which were fulfilled within the set term.

A specific case, belonging to the abovementioned category of complaints, relates to the announcement of information containing personal data in the Trade Register on a trade company shipment which was assessed by the Commission to be going beyond the purpose for the establishment and operation of the register, and processed without the observance of the eligibility condition.

In addition, another case should be noted, where according to the current legislation, an individual registered under BULSTAT in 2009 was given identification number under the Law on Value Added Tax reproducing the personal identification number of that individual. In this case, the Commission considered that the registration, which actually involves personal data as defined in §1, it.1 of the AP of LPPD, was unlawful. Therefore, the Commission issued a compulsory instruction that the VAT registration should be carried out with the BULSTAT Number.

With respect to the concluded administrative proceedings against data controllers from the public sector, the Commission has considered admissible only 30% of the complaints. It should be noted that in 2010 there was a significant increase of the complaints related with the presence of police registration lodged against the Minister of Interior in his capacity as personal data controller.

The distribution of complaints against private sector personal data controllers is as follows:



Sector Media	8 complaints;
Sector Healthcare	7 complaints;
Sector Telecommunications, Information Society:	63 complaints;
Sector Financial, Credit, Lease and Security Services:	34 complaints;
Sector Direct Marketing Services	6 complaints;
Sector Employment	8 complaints
Internet	5 complaints
Political parties and coalitions	1 complaint.
Other:.....	27 complaints

There is a sudden increase in the complaints lodged against personal data processing by data controllers in the telecommunications sector. In general, the individuals complain of the provision of their personal data to a third party with the purpose of liabilities collection. As new practice is observed the assignment of the liabilities, whereas the obligation under Art. 99 of the Law of Obligations and Contracts concerning the notification of the debtor is transferred from the assignor to the assignee. This practice meets the individuals unprepared to understand that their personal information has already been provided to a third party – the assignee. Since the transfer of obligations is a legal possibility and transaction, in these cases, the Commission considers that the provision of the debtor’s personal data is connected with the actions on the transfer of the respective liability. In turn, the challenging of the transaction’s actions should be subject to the general rules for disputes resolving.

There is an increase in the number of complaints regarding the personal data processing by data controllers providing direct marketing services. It should be noted that the traders in this sector, providing personal data for direct marketing purposes often violate the right of the individuals under Art. 34a of the Law for Protection of Personal Data to be informed before their personal data are disclosed for the first time to third parties or used on their behalf for the purposes of direct marketing and to be given the opportunity to object to such disclosure or use.

There is a significant increase of the complaints about failure to provide access to personal data, including the existence of an implicit refusal by data controllers. There are cases where the individual simultaneously with the application for access to the relevant data controllers, submits information about this application to the Commission as well. This decision of the individuals has a disciplining effect on the data controllers and the Commission exercises “real-time control” on the personal data controller’s actions.

Most often, the right to access to personal data is exercised by the individuals with respect to data controllers from the healthcare sector.

In 2010, the Commission issued 115 administra-

tive acts on the submitted complaints, and on 10 of them the administrative proceeding was terminated pursuant to Art. 54 of the Administrative Procedure Code on the grounds of started proceeding which is preliminary to the proceeding before the Commission.

The Commission decided on 15 complaints, imposing administrative penalties on the relevant data controllers, and on 10 complaints it issued compulsory instructions. Three administrative penalties in the total amount of BGN 19,100 are in the process of being imposed.

The imposed penalties are in the total amount of BGN 134,000 and concern the following violations:

- Violation of Art. 2, para. 2, it. 3 of LPPD (principle of proportionality of the processed data) – imposed administrative penalties to three data controllers in the telecommunication sector or related to the provision of electronic communication services, in the total amount of BGN 41,000;
- Violation of Art. 2, para. 2, it. 2 of LPPD (principle of personal data processing for specific, clearly defined and legitimate purposes) – one administrative penalty was imposed in the amount of BGN 12,000;
- Violation of Art. 34a para. 1, it. 3 of LPPD (obligation of data controller to notify the individual before their personal data are disclosed for the first time to third parties or used on their behalf for the purposes of direct marketing) – two administrative penalties were imposed on data controllers in the direct marketing sector in the total amount of BGN 25,000;
- Violation of Art. 34a para. 1, it. 2 of LPPD (obligation of data controller to ensure the individual’s right to object to the processing of their personal data for direct marketing purposes) - one administrative penalty was imposed on a data controller in the bank sector in the amount of BGN 5,000;
- Personal data processing without observing the eligibility condition set in Art. 4 of LPPD – four administrative penalties were imposed in the total amount of BGN 37,000;
- Violation of Art. 23, para. 1 of LPPD (obligation of data controller to take the appropriate technical and organizational measures to protect the data against accidental or unlawful destruction or accidental loss, unauthorized access, modification or disclosure and against other unlawful forms of processing) – two administrative penalties were imposed in the amount of BGN 3,000;
- Violation of Art. 3, para. 4 of LPPD (obligation of data controller to ensure the observance of the requirements of Art. 2, para. 2 of LPPD) – one administrative penalty was imposed in the amount of BGN 500.

The decisions for imposing administrative penalties are subject to judicial control due to the possibility of being appealed.



By the end of 2010, 27 decisions issued by the Commission in 2010 were appealed to the Supreme Administrative Court. Ten of the court proceedings were started on individual's complaint brought before the Commission. Four of the court proceedings were suspended due to non-payment of the set state fee.

In its practice, the Commission is entirely guided by the practice of the Supreme Administrative Court, which in some cases has been established because of the presence of a gap in the legislation. A similar example can be given with the imposing of an administrative penalty by the Commission's decision, issued on a complaint under Art. 38, para. 1 of LPPD. In 2009 and early 2010, upon ascertaining a violation of the Law for Protection of Personal Data the respective decision did not particularize the administrative penalty by type and amount, and in accordance with the provision of Art. 43 of LPPD it was forwarded to the Law for the Administrative Offences and Sanctions. Taking into account the practice of the Supreme Administrative Court, with the Commission's decisions by ascertained violation is defined the type and the amount of the administrative penalty. This approach provides for the appeal of the Commission's decisions before the Supreme Court in two-instance legal proceedings.

IV. Analysis and statistics of the Commission's control activities as per Art. 10, para. 1, it. 7 in connection with Art. 12 and Art. 17 b of LPPD

The procedure and methods for carrying out the overall control activity is governed by the provisions of the Law for Protection of Personal Data, the Rules on the activity of the CPDP and its administration (RACPDPA), Ordinance № 1 dated 7 February 2007 on the minimal level of technical and organizational measures and the admissible type of personal data protection (the Ordinance), the Instruction on the control activities and the Law for the Administrative Offences and Sanctions (LAOS).

During the reported period, the Commission exercised control activities in the following areas:

- analyzing the current data controllers activities with respect to the compliance to the personal data protection regulations;
- assisting data controllers with consultations and guidance on the compliance with the regulations, on measures taken for the protection of the processed personal data;
- exercising direct control on the personal data controllers in the public and private sector;
- imposing sanctions under the Law for the Administrative Offences and Sanctions (LAOS) for violation of the LPPD.

The control is exercised directly by the Chairperson and the members of the Commission who are assisted by the specialized administration. According to Art. 26 of RACPDPA, the Law Proceedings and Supervision Directorate (LPSD) through its structural unit – Control and Administrative- Penal Proceedings Unit supports the control activity of the Commission. This activity includes inspections of data controllers to clarify the facts and circumstances and collect evidence.

The inspections comprise of a set of actions and measures designed to ensure legitimate and effective treatment and personal data protection.

The purpose of inspections is to establish:

- the grounds for personal data processing;
- the procedures for keeping the personal data register;
- the purposes for which the personal data are processed;
- the proportionality, accuracy of the data and their update;
- the conformity of the processed data protection level with the Ordinance.

The control is exercised by carrying out ex-ante, on-going and ex-post inspections. Each inspection ends in a statement of findings and in the event that an administrative violation of the provisions



of LPPD is ascertained, the Commission initiates administrative penal proceedings pursuant to the Law for the Administrative Offences and Sanctions.

Total number of carried out inspections – 1537, of which:

- ex-ante – 1432,
- on-going – 93,
- ex-post – 12.

For comparison: in 2009 total 698 inspections were completed, whereas in 2008 – only 437 (see Fig. 4 in the Appendix).

This data shows that most ex-ante inspections were carried out on the grounds of art. 12, para. 2 of LPPD. 1537 inspections were carried out in 2010, resulting in 1511 statements of findings and 26 inspections ended only in drafting statements for ascertaining administrative violations.

1. Inspections of personal data controllers

1.1. Ex-ante inspections

According to Art. 17b of LPPD, these inspections are required prior to the entry of the respective data controller in the register as per Art. 10, para. 1, it. 2 of LPPD in the cases where the controller has declared processing of specially protected data under Art. 5 para. 1 of LPPD or according to a Commission decision, the data the processing of which endangers the individuals' rights and lawful interests.

The ex-ante inspections aim to establish the technical and organizational measures by the personal data processing and the acceptable form of protection provided by data controllers and their compliance with the Ordinance's requirements.

In 2010 a total of 1432 ex-ante inspections were carried out compared to 658 in 2009 and 437 in 2008.

Of all ex-ante inspections carried out in 2010, 1403 ended in proposals for registration in the register under Art. 10, para. 1, it. 2 of LPPD and 28 ended in termination of the registration procedure due to termination of the respective data controllers operation. One compulsory instruction was issued and after its implementation the personal data controller was entered in the register under Art. 10, para. 1, it. 2 of LPPD.

The significant increase of this type of inspections is the result of the procedure in the register of data controllers and the registers kept by them, initiated in late 2009 and early 2010 by CPDP for updating the registration under Art.18, para.3 of LPPD.

Main problem in carrying out this type of

inspections is related to the communications with DCs in order to request the necessary documents to complete the inspection. The most common reasons include unclaimed mail, changed addresses, errors in the applications and failure to send the required documents after the notification receipt.

1.2. On-going inspections

Although considerably fewer in number, the on-going inspections carried out pursuant to art.12, para.3 of LPPD are more complex in legal aspect. In 2010 the Commission carried out 93 inspections of this type compared to 29 in 2009.

According to the legislation these inspection are carried out at the request of interested persons and at the initiative of the Commission on the ground of a monthly schedule for execution of control activity adopted by the Commission.

In the beginning of 2010, CPDP adopted a Plan for carrying out on-going inspections at the initiative of CPDP for 2010. Its aim is to enhance the efficiency of the Commission's control activity based on its further administrative strengthening, improving the organization of the control, elaborating the forms for consulting the personal data controllers and individuals.

The main tasks of the scheduled inspections are connected with the performance of the data controllers' obligations under Art. 17, para. 1 of LPPD, Art. 19, para. 1 of LPPD, 23, Art. 25 of LPPD and the determination of the technical and organizational measures undertaken to protect personal data and assessment of their compliance with the protection levels set in the Ordinance. The inspections mainly involve registers containing personal data of individuals, data controllers' customers (contractors), according to their main business.

According to the criteria adopted in the Plan, the Commission appointed inspections of 44 personal data controllers operating in different sectors of the social and economic life.

Inspections were carried out of 9 airlines, 25 data controllers with main activities in the hotel management field and data controllers whose activity has a high public and social significance – e.g., planned inspections were carried out in the administration of the National Assembly, Regional Administration – Burgas, Bulgarian Posts AD, etc.

As a result of these inspections 31 statements of findings were drawn up, 2 compulsory instructions were issued and 13 statements on ascertainment of administrative violations were drafted.

In pursuance of the decision of the EU Customs Joint Supervisory Authority and the CPDP's decision, a team from the Commission carried out a comprehensive security audit of the data processed in the Customs Agency in the Republic of Bulgaria in accordance with the Security Audit Questionnaire



provided by the Supervisory Authority. The questionnaire together with the assessments made by the expert team was provided to the EU Customs Joint Supervisory Authority and at the same time outcomes of the audit were brought to the attention of Mr. Simeon Dyankov – Deputy Prime Minister and Minister of Finance and Mr. Vanyo Tanov - Director of Customs Agency.

1.3. Ex-post inspections

The third type of inspections is performed under Art. 12, para. 4 of LPPD, including ex-post inspections carried out in connection with the execution of CPDP’s decision or compulsory instruction and at its own initiative after receiving a signal.

In 2010, a total of 12 ex-post inspections were carried out compared to 11 in 2009 and 19 in 2008. (See Fig. 6 in the Appendix).

A differentiation by sectors was made in connection with the specific conditions for personal data processing. Upon performing its activity in 2010, the Commission carried out the following inspections by sectors:

1	Healthcare	931
2	Trade and services	273
3	Education	50
4	Social Activities	42
5	Tourism	41
6	Construction and architecture	34
	Transport	23
7	Telecommunications and information technology and services	19
8	Agriculture	17
9	Security services	17
10	State administration	12
11	Real estate, consultancy and mediation	11
	Sport Activities	9
12	District and municipal administration	8
13	Insurance	8
	Judiciary	6
14	Human Resources	5
18	Other	31

The attention was drawn on the inspections of data controllers processing personal data relating to health, sexual life or human genome, revealing racial or ethnic origin, political, religious, philosophical, political opinion and membership in such organizations or data the treatment of which endangers rights and lawful interests of individuals according to the Commission’s decision.

In 2010, there was again a tendency for steadily increasing number of the inspection by the execution of the CPDP’s control activity. The financial constraints on the budget have had some influence on planning and carrying out the

inspections. In order to reduce costs and save administrative capacity the Commission decided to carry out the inspections on a territorial basis by one and the same team. This method was used for the planned inspections of 25 data controllers – legal entities involved in hotel management business in the resort of Sunny Beach, 20 on-going inspections of data controllers in Sofia, who have not sent the requested documents for ex-ante inspections under Art. 17b of LPPD, 6 on-going inspections with different subjects subsequently in the town of Pazardzhik and Plovdiv, etc.

2. Analysis of the administrative penal activity

According to the provisions of Art. 42 of LPPD, the ascertainment of violations, the issuing, appealing and execution of the penal decrees shall be applied in accordance with the order established in the Law for the Administrative Offences and Sanctions (LAOS).

The statements on ascertainment of administrative violations (AAAV) of LPPD’s provisions are issued by a member of the Commission or by officials duly authorized by the Commission. The penal decrees are issued by the Chairperson of the Commission.

For violations established by CPDP in 2010, were issued a total 36 of AAAV (compared to 32 in 2009 and 15 in 2008).

The most common violations of LPPD are as follows:

- violation of the provisions concerning the data controllers registration :
 - prior to the processing (Art. 17, para. of LPPD);
 - prior to the entry in the register under Art. 10, para. 1 of LPPD (Art. 17b, para. 4 of LPPD);
 - for updating prior to making changes in the data of already registered data controllers (Art. 18, para. 3);
- violation of the provisions concerning the personal data protection measures – the required minimal technical and organizational measures were not undertaken to protect the personal data according to the rules adopted by the personal data controller (Art. 23, para. 4 in connection with para. 1);
- violation of the lawful personal data processing principles – to be processed lawfully and in a bona fide manner, to be relevant, proportionate with and not exceeding the purposes for which they are processed (Art. 2, para. 2, it. 1 and 3 of LPPD).

Total 29 penal decrees (PD) were issued compared to 25 in 2009 and 6 in 2008, and one PD was issued on the grounds of a statement on ascertainment of administrative violation from December 2009 (see Fig.7 in the Appendix). Five



of the administrative penal proceedings will be completed in 2011.

Fines and property sanctions amounting to BGN 129,500 were imposed under the penal decrees issued in 2010.

The amount of BGN 43,500 was paid to the account of CPDP according to the penal decrees enforced in 2010.

Three proceedings were suspended (compared to 1 in 2008) with resolution of the Chairperson of CPDP on the grounds of Art.43, para.6 of LAOS due to the failure to find the violator. The actions for establishing the violators in order to continue the proceedings and submit the respective SAAV shall be undertaken by the persons who have issued the respective acts, and the essential tool in this aspect is to seek assistance from the Ministry of Interior's authorities.

In 2010, three proceedings (compared to 4 in 2008) were terminated with resolutions of the Chairperson of CPDP on the grounds of Art.34, para.3 and Art.54 of LAOS.

The main reasons for termination include the fact that the acts were drawn up for non-constituting actions or the 6-month preclusive period for penal decree issuing has expired due to delayed delivery of the SAAV.

As in 2009, this year too there are difficulties in delivering the prepared SAAVs through the municipalities in the country, according to the provisions of Art. 43, para. 4 of LAOS. In some cases the SAAVs are delivered to persons without representative powers which require their appropriate returning and re-delivering. It is particularly worrying when the delivering is delayed more than the statutory preclusive period for issuance of penal decrees. In these cases the proceedings have to be terminated and a written signal is sent to the respective municipality.

No penal decrees have been repealed among those issued in 2010. Of all penal decrees issued in 2010, 11 cases were confirmed in the court, on 5 penal decrees is enacted a reduction of the sanction and 2 penal decrees were repealed entirely. 9 appealed penal decrees are subject to judicial review.

The reasons of the court when making the decisions to reduce the imposed property sanctions included "lack of aggravating circumstances", such as first breach of the data controller and "lack of harmful consequences of the act". The motives given by the court for repealing the penal decrees are that the SAAVs had been drawn up after the expiry of the 3-month preclusive period from the detection of the violator. In these decisions the court has accepted as starting point of the detection of the violator and the violation the date of referral to CPDP.

The abovementioned statistical data indicate increase in the results of the administrative penal activity with respect to its efficiency. The number of penal decrees repealed by the court as a result

of admitted significant procedural violations was minimized. Regardless of their type, the judgments, and especially their motives are analyzed in depth by the Commission so that it could properly carry out its control activity. As a result of the repeated case law in identical cases of LPPD violations, there was an increase in the payments made in 2010 of property sanctions on penal decrees, which were enacted without being appealed.

This fact is due to the measures taken for enhancing the quality of the activities related to ascertaining LPPD violations and their recording according to the LAOS's provisions.



V. Analysis of the condition of the Bulgarian legislation in the personal data protection field, made on the basis of the opinions expressed by the Commission pursuant to Art. 10, para. 1, it. 4 of LPPD

Pursuant to Art. 10, para 1, it. 4 of the Law for Protection of Personal Data, the Commission expresses opinions on various issues relating to the personal data protection. In 2010, the Commission expressed 46 opinions on the implementation of LPPD, and the total number of received requests for comments was 57. The expression of opinions by the data protection supervisory authority is a very important instrument not only for giving publicity of the independent opinion of the only institution in the country competent to exercise control on the individuals' personal data protection, but also for creating a set of uniform rules for interpretation and implementation of the Law for Protection of Personal Data by data controllers in the Republic of Bulgaria. Depending on the particular case and issues, the Commission issues an opinion either on a particular case that is common for and concerns a particular group of data controllers, or on a specific data controller's request.

1. Expressing opinions and answering inquiries relating to the LPPD's implementation

By the expressing opinions regarding a whole group of data controllers or an unlimited number of data controllers, the Commission decides on principle matters relating to the personal data protection, creates clear and transparent criteria for the uniform application of the law by all persons with obligations under it and explains specific regulatory requirements. An example of such principle opinion which refers to a large group of data controllers is the opinion concerning the provision of personal data to third countries while carrying out international child adoptions.

Due to the large number of applications sent by accredited organizations engaged in international adoptions for obtaining permissions to provide personal data in member-states of the European

Union and the European Economic Area and third countries relating to their activities on international adoptions, the Commission expressed its opinion on the minimum requirements and mandatory documents required for the authorization of a transfer of personal data of children subject to adoption in third countries. This opinion specified the particular mechanism which should be applied so that the Commission could authorize such data transfer to countries outside of the European Union and the European Economic Area. Expressing its opinion, the Commission noted that the data – subject of transfer – should be within the statutory determined amount in accordance with the Bulgarian and international law, the provision of data should be made only for the international adoption purposes and within the period for which the authorization was issued to the respective accredited organization for performing this activity on the territory of the Republic of Bulgaria. In terms of the Law for Protection of Personal Data, the legal grounds for carrying out data transfers under concluded contracts for international adoption is Art. 36a para. 6, it. 3, i.e. the provision of data should be necessary for the conclusion and exercising of the obligations under a contract concluded in the interest of the individual between the data controller and another subject. Along with providing conditions for normal development of the child and the presence of eligibility condition for the processing, measures should be taken ensuring that the international adoption is executed by best protection of the child's interests and in compliance with its fundamental rights, aiming to prevent the abduction, sale and children trafficking.

The Commission also expressed its opinion on the publication of information provided by the condominium managers in the public register on the website of the respective municipality. Creating and maintaining a public register of buildings or separate entrances in the condominium property by the municipal or regional administrations, acting in their capacity of personal data controllers constitutes personal data processing pursuant to §1, ite.1 of the Supplementary Provisions of the Law for Protection of Personal Data. The need for data processing arises from Art. 44, para. 1 of the Law on the Condominium Ownership Management, under which the respective municipal or regional administration is responsible for establishing and maintaining such public register. Personal data processing in connection with the maintenance of this public register is admissible under Art.4, para. 1, it. 1 of LPPD. Disclosure or giving of access to personal data contained in the register of floor owners, whether or not it is maintained in electronic or paper form, should be made



only with the consent of the data subject. In this regard the publication of information regarding the addresses of the members of the Management Board (the Manager) if they are different from the address of the condominium they represent, is allowed only with their explicit consent.

Like previous years, the Commission expressed opinions and responded to many inquiries from citizens concerning the publication of owners' personal data of owners, representatives and members of trade companies' collective bodies on the Commercial Register's website maintained by the Registry Agency at the Ministry of Justice. In these cases, the Commission underlined the publicity of the Commercial Register pursuant to Art. 11 of the Law of the Commercial Register. Everyone is entitled to free access to the Commercial Register and the electronic image of the documents which were the basis for the registration, deletions and disclosures, as well as to the electronic image of the company cases of the re-registered traders. The Agency also provides unrestricted and free of charge access to the applications contained in the Commercial Register information system, the documents attached thereto and the refusals enacted. The data of trade companies such as registered seat, management address and company representatives become public data after the company registration in the Commercial Register. The Ordinance 1 on managing, storing and access to the Commercial Register regulates the statutory obligation, under which the Registry Agency lawfully processes the personal data of a certain category of individuals.

In connection with numerous inquiries and at the initiative of the Ministry of Justice in July 2010 several working meetings of representatives of the Commission and other state institutions were held in order to achieve the necessary balance and consistency in implementing the requirements of various regulations and the complete and adequate application of the Law for Protection of Personal Data. They discussed the possibility of legislative amendments in the Law of the Commercial Register in order to coordinate its provisions with the LPPD purposes and principles. The Commission stated that the amount of personal data that are revealed by the Commercial Register should be controlled and balanced according to the purposes for which it was created and the tasks it performs. In the preliminary consultations, CPDP expressed an opinion and principal comments on the forthcoming legislative amendments in order to provide greater personal data protection, while ensuring the security of the commercial turnover.

Another group of issues discussed by the

Commission is related with incoming requests sent to the Ministry of Foreign Affairs by foreign individuals or legal entities for provision of information containing personal data of Bulgarian citizens, mostly concerning their permanent and current address. In these cases the Commission expressed the opinion that the right and duty of the respective controller is to ascertain the eligibility condition for personal data provision and in any event, MFA is allowed to provide the requested information only after the requesting party presents evidence on the existence of legal grounds for the necessity to process such personal data. In most cases, such requests for personal data of Bulgarian citizens were submitted by various government authorities of other countries upon carrying out their statutory powers under their national legislation.

Enquiries were also received about employees in various retail outlets, who demanded that the customers who pay with their debit and credit cards should provide their identity document for reference. According to Article 25 of Ordinance 3 of the Bulgarian National Bank, dated 16 July 2009, on the procedures for execution of payment transactions and the use of payment instruments, the payment card is a type of payment instrument on which the information is recorded electronically and used repeatedly for identification of the authorized users of payment services and for remote access to a payment account and/or to a predetermined credit limit agreed between the authorized payment service user to whom the card is issued and the payment services provider. Payment card is used only by the authorized payment service user. The payment service provider, who has issued the card, is responsible for the card's personalization. One of the reasons for which the trader in whose premises there is a POS payment terminal may refuse the use of the payment card is when the card holders refuses to submit a document confirming their identity, or when the trader finds that an unauthorized person uses the payment card.

The Commission was approached with a request for an opinion on whether the numbers of payment cards constitute personal data within the meaning of Art. 2, para.1 of LPPD. After considering the case, the Commission adopted the decision that the information concerning the payment cards numbers (debit or credit), not accompanied by any other information by which an individual can be identified or identifiable, does not constitute personal data within the meaning of LPPD. However, if the information on the payment card is accompanied by other information by which the individuals can be identified or made identifiable, then the payment



cards numbers constitute personal data within the meaning of Art 2, para.1 of LPPD.

In 2010, the Commission was approached with a request for expressing opinion on the possibility for providing information to a leading Bulgarian media concerning Bulgarian citizens, serving terms of imprisonment in prisons of Western Europe and Latin America. In this case, CPDP expressed the opinion that personal data of this category of persons can be provided to the media only after their explicit, informed and unequivocal consent within the meaning of §1, ite.13 of the SP of LPPD. The question about the consent of the respective individuals whose data are being processed is extremely important because the existence of such consent is an independent eligibility requirement for the personal data processing under the LPPD. The Commission always observes the existence of such consent not only when it expresses opinions, but also when considering a number of other issues within its competence.

CPDP expressed an opinion at the request of the university rector concerning the requests sent to this educational establishment by various media for information about celebrities - professors, current and former students – relating to the specialty in which they study or have completed, their results during the educational course, whether or not they have interrupted their course of studies, the reasons for that, the period of their employment at the university, what is their employment development, etc. In this case CPDP expressed the opinion that the dissemination of information containing personal data on celebrities - professors, current and former students – which belongs to their student or employment record for journalistic purposes is to the benefit of the public interest and therefore can be provided to various media. The Law for Protection of Personal Data does not introduce a requirement for the manner of providing information in such situation; therefore it should be assessed separately in each case by the respective data controller.

The existence of consent is very important basis for the lawful personal data processing in cases of processing data on the individuals' health and ethnic origin. These are specially protected data within the meaning of Art. 5 of LPPD. Their processing takes place only in the presence of one of the alternatively hypotheses listed in para. 2 of Art. 5 of LPPD, one of which is the explicit, informed and unequivocal data subject consent.

The Commission has also expressed its opinion on the amount of personal data contained in the announcement under Art. 61, para. 3 of the Administrative Procedure Code (APC). This case concerns the execution of the obligation of

a particular administrative authority to inform all interested parties, including those who have not participated in the administrative proceeding, about the issuance of an administrative act, respectively about the refusal to issue such an act. Pursuant to Art. 61, para. 3 of the APC, when the address of any of the interested persons is not known or the person was not found at the specified address, the notice should be placed on the notices' board, on the website of the respective authority or it is disclosed in other way. An analysis of the provision established that the Administrative Procedure Code does not regulate the details of the notice under Art. 61, para. 3. The Commission considered that there should be no difference in the content, including the amount of data, of the notice under Art. 61, para. 3 of APC, which is placed on the notices' board of the respective authority and the information published on its official website. The amount of personal data which may be published on the website of the particular data controller should include the following: the name of the interested person and the number of the administrative file on which the notice under Art.61, para.3 of APC is based. The notice should not involve the disclosure of the administrative act, the issuance of which is the subject of the notice.

A matter of public importance, in which the Commission issued an opinion, was the maintenance of the website for missing persons – Bulgarian citizens. The Commission adopted the opinion that the individual who administers the website has the status of a data controller within the meaning of Art. 3 of LPPD and as such should be registered at CPDP. It was indicated that there is no obstacle certain information on the website concerning wanted persons to be kept for statistical purpose, provided that it is not possible to identify the respective individuals.

In 2010, the CPDP considered numerous requests concerning unlawful personal data processing, such as excessive copying of ID cards of the customers of mobile operators and/or banks, unlawful processing of citizens' personal identification numbers, requirements of data controllers for the provision of a large amount of personal information which does not correspond to the purposes for which it is needed. In its opinions the Commission stated conditions and principles of lawful personal data processing and fully informed the citizens about the rights which they have under the Law for Protection of Personal Data.

It should be noted that the opinions expressed on the requests sent by individuals concerning violations of LPPD and the provision of answers to the inquiries sent by citizens regarding the proper personal data handling clarify not only



the specific request received, but also serves as an important tool for raising the awareness of the citizens regarding their rights in the personal data protection field by publishing these opinions on the Commission's website.

On the basis of the received requests for opinions, a conclusion may be made about the increased awareness of data controllers concerning their duties in the personal data protection field. In this case, the matter refers to both data controllers in the public sector by the execution of their public activity and data controllers in the private sector taking into account their respective activities. The fact that different data controllers approach the Commission with various questions relating to the personal data protection is an evidence of public awareness concerning the basic individuals' rights and a significant sign of increased commitment among the personal data controllers in this field.

2. Coordination of draft regulations

In 2010, the CPDP coordinated a number of draft regulations prepared by the Ministry of Regional Development and Public Works, Ministry of Interior and Ministry of Justice. Pursuant to Art. 10, para 1, it. 8 of LPPD, CPDP mandatory gives opinions on the adoption of regulations and subordinate legislative acts when they regulate issues relating to the personal data protection. In this regard in 2010, by making respective remarks, comments and suggestions the Commission coordinated the relevant bills and regulations, such as the bill for amendment of the Law of the Commercial Register; the bill for amendment of the Law for the Civil Registration; the bill of the Ordinance on the access of notaries to the national automated information fund of Bulgarian identification documents – the National Register of Bulgarian Identity Documents; the bill of the Ordinance on the access of notaries to the national population database, maintained by the Ministry of Regional Development and Public Works; the bill of the Ordinance on the terms and conditions for the work of the coordinators of the Internal Market Information System and on the maintaining of the List of competent authorities in the Republic of Bulgaria which are subject to registration in the system in the field of services, as well as the bill of the Ordinance on the organization and functioning of the National Schengen Information System of the Republic of Bulgaria.

Besides draft regulations, the Commission is required to express opinions on drafts agreements

between the Republic of Bulgaria and other countries on issues related to the information exchange and data protection.

3. Participation in interdepartmental working groups on preparation of draft acts

At the initiative of the Commission, in 2010, an interdepartmental expert working group was established with the task of analyzing the regulations which should be amended in order to introduce into the Bulgarian legislation the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, as well as laying down specific proposals for amending the respective legislation. The working group was attended by representatives of the Ministry of Interior, Ministry of Justice, State Agency for National Security, representatives of the courts and prosecutors. In fulfilling the task, a bill for amendments of the Law for Protection of Personal Data was prepared, which provided for amendments to the Law on the Ministry of Interior, Law on Judiciary and the Law on the Execution of Penalties and Detention Implementation. Motives to the draft, which justify the need for the proposed amendments, were prepared. The bill was submitted to Working Group 33 "Cooperation in the field of justice" at the Ministry of Justice, as it is the leading working group on the transposition of the decision, designated as such by a decision adopted at the 213th meeting of the Council for European Affairs, for reporting the bill and taking the necessary actions to complete the decision transposition process into the Bulgarian legislation.



VI. Analysis and statistics of the requests for authorization of personal data transfers

According to Art. 36a of LPPD, the provision of personal data in a member state of the European Union and in a member state of the European Economic Area should be carried out freely by observing the personal data protection requirements. The transfer of personal data by data controllers registered under the Bulgarian legislation to data recipients in third countries outside of EU and EEA, however, is subject to authorization by the Commission for Personal Data Protection. The provision of personal data in this case is allowed only in case the third country ensures an adequate personal data protection level on its territory. The assessment of the adequacy of the personal data protection level is carried out by CPDP taking into account all the circumstances relating to the data provision, including the nature of the data, purpose and duration of their processing, legislation and security measures provided in the third country.

By considering the requests for authorization of data transfers to third countries in order to assess the adequacy of the data protection level, the Commission mandatory considers the following:

- the respective data controller, who provides the data, should be registered at the register of data controllers maintained by CPDP;
- to be submitted motivated request to CPDP for authorization of the personal data transfer;
- indication which relevant register maintained by the data controller contains the requested transfer;
- information whether the individuals whose data is to be transferred are informed about the upcoming transfer;
- the specific request should enclose evidence and information on:
 - the nature of the submitted data;
 - duration of processing;
 - purpose of data transfer;
 - information on the personal data recipient;
 - proofs connected with the specific request.

In 2010, the Commission received 40 requests for authorization of personal data transfers to third countries. Positive decisions on the transfer were given in 35 cases. The majority of requests concerned authorization of data transfer from subsidiaries in the Republic of Bulgaria to the parent company in a third country or for the execution of concluded contract between the company acting as a data controller in Bulgaria and other foreign companies. In the first group

of cases, the technical and organizational data protection measures are generally governed by the company internal rules, while in the second group - in the respective contract, which includes standard contractual clauses for data protection. Usually, in the case of internal company data transfers for the purpose of personnel management and development of internal informational systems, it is established that in most cases data controllers require an explicit informed consent for the transfer of data from the employees, whose data are subject of the particular transfer.

In 2010, most of the requests concerned data transfer to countries such as the United States of America and Switzerland. The European Commission has established the adequate protection level in these two countries in two of its decisions (Decision 2000/520/EC and Decision 2000/518/EC). With regard to the USA the special requirement is that by the application of Decision 2000/520/EC concerning the adequacy of protection afforded by the principles of “privacy sphere” and the related frequently asked questions issued by the US Department of Commerce, the respective company receiving the information should be included in the so-called list of companies that adhere to the principles for providing an adequate protection level for the personal data transferred from member states of the European Union to recipients in the USA (the so called Safe Harbor). The latter includes companies that declare to the US Department of Commerce that they will adhere to the so-called Safe Harbor framework established by the Department of Commerce in cooperation with the European Commission. Safe Harbor Framework contains guidance to companies registered in the USA for the provision of an adequate protection level for the personal data transferred from member states of the European Union to them.

In the cases, when with respect to the third country where the data recipient

is located, there is no explicit decision by the European Commission for recognition of an adequate protection level on its territory, data controllers prefer to use the so-called standard contractual clauses. This is an important instrument ensuring the adequacy of the protection level as it uses personal data protection rules and principles approved by the European Commission. The inclusion of such standard contractual clauses in the respective contracts between the data controller providing the data and the receiving data controller relieves the Commission for Personal Data Protection of the obligation to make full assessment of the adequacy of the protection level since it is assumed that the standard contractual clauses themselves provide such protection.

In one case, the Commission authorized the personal data transfer on the grounds of



Art. 36b of LPPD, according to which the data protection supervisory authority allows the transfer of personal data to a third country provided that the administrator providing the data and the administrator who receives them offer sufficient guarantees for their protection. In this particular case, based on the submitted proofs and information, the Commission found that appropriate measures are taken for data security that will provide adequate safeguards for their protection, both in terms of controller providing the data and the controller who receives them.

VII. Compulsory instructions and imposition of temporary suspension on personal data processing

By exercising its powers, the Commission for Personal Data Protection is entitled to issue binding instructions to data controllers relating to the personal data protection. The issuance of compulsory instructions is in the first place provided by law as a fundamental and independent power, under the condition to be issued in connection with the personal data protection (Art. 10, para. 1, it. 5), and later in law - as a possible result not only by handling and deciding on complaints (Art. 38, para. 2), but also when carrying out ex-ante and on-going inspections (Art. 17b, para. 3, it. 2) and by establishing discrepancy with the regulations of the data controllers' ethical codes of conduct (Art. 10, para. 4).

In 2010, on the grounds of Art. 38, para. 2 of LPPD, the Commission for Personal Data Protection issued 10 compulsory instructions to personal data controllers.

The specified category of compulsory instructions is aimed at data controllers in the public sector – central and local public authorities, as well as at the collections companies.

Mainly, the compulsory instructions issued by the Commission to data controllers in the public sector refer to the provision of appropriate technical and organizational measures for personal data protection by transfer to other data controllers and to their collection for the execution of activity of the respective data controller. One of the issued compulsory instructions was aimed at exercising of the data controller's obligation – local public authority – to establish rules for disclosure of its decisions corresponding to the current data protection legislation, which was assigned by the Law for the Local Government and the Local Administration.

The public interest was drawn by the case, which was presented to the Commission for Personal Data Protection, concerning copying ID cards of the individuals while making their registration for obtaining EORI in customs offices. As a result of the administrative proceedings, the Commission issued a compulsory instruction for ceasing the copying the citizens' identity cards and erasing the personal data collected by that method.



The compulsory instructions issued to data controllers in the private sector operating as collection companies were about ceasing of the actions involving unlawful dissemination of debtors' personal data when sending notifications to them and notifying them by phone. The Commission considers that by contacting the debtors by telephone, the data controller is bound to provide appropriate guarantees that the telephone conversation is conducted with the person, who is party under the liability (debtor) in order to prevent improper dissemination of personal data to third parties.

Next, in 2010, the Commission for Personal Data Protection issued compulsory instructions after carrying out inspections on data controllers. These instructions aim to ensure an adequate protection level of the personal data contained in the maintained personal data registers by providing the minimum necessary technical and organizational means and protection measures in accordance with Ordinance 1 of 7 February 2007 on the minimum level of technical and organizational measures and the admissible type of personal data protection (SG, issue 25 of 23 March 2007). 12 compulsory instructions were issued in the following sectors: health, information technology, trade and services, transport and public administration. The percentage of the compulsory instructions issued in the different sectors is shown in Fig. 8 in the Appendix.

Most often the instructions issued as a result of inspections are related to findings on:

- violation of the Art. 18, para. 3 of LPPD provision, as the data controller undertook steps for data processing other than those declared in the initial application, without informing the CPDP of the change;

- the data controller had not taken appropriate organizational and technical measures to ensure the personal data protection level in accordance with Ordinance 1 of 7 February 2007. The most common omissions here concern the following:

- no specific measures were determined to ensure the necessary protection level of personal data processed on a technical device;

- no procedure was provided for destruction of data media;

- no persons were appointed to be responsible for the personal data processing;

- no time limit was appointed for storing personal data.

The issued compulsory instructions were executed within the terms set by the Commission and no further follow-up inspections were necessary.

In connection with the Commission's decision to exempt the condominium managers from registration as data controllers, the question was raised concerning the conformity of the model condominium book, adopted by the Minister of Regional Development and Public Works, with the determined and statutory amount of data which it should contain. In this regard, at its regular meeting on 24 February 2010 (Minutes of Meeting No.7) the Commission adopted a decision with which on the grounds of Art. 10, para. 1, it.5 of the Law for Protection of Personal Data, it issued a compulsory instruction to the Ministry of Regional Development and Public Works ruling that the model book recording the building owners in the condominium property, approved by Order RD 02-14-1111 of 15 June 2009 of the Minister of Regional Development and Public Works, should be brought into conformity with the provisions of Art. 7 para. 2 of the Law on the Condominium Ownership Management (LCOM), which extensively regulates the amount of data, subject to processing in connection with its maintenance. It was ruled that according to LCOM, the book recording the building owners in the condominium property should only contain the following statutory amount and type of data: name of the owner, members of their household and the residents as well as the independent site and the date of occupancy. This compulsory instruction was executed by the Ministry of Regional Development and Public Works within the specified time period.

According to Art. 10, para.1, it.6, the Commission is entitled to impose a temporary prohibition on personal data processing when the processing violates the personal data protection standards. The Commission exercises this power only after prior notification of the respective data controller. The right to impose a temporary prohibition on personal data processing is quite serious and final instrument of the data protection supervisory authority which is to be used in cases all other mechanisms for the abatement of violations have been exhausted, including the imposition of administrative penalties. The fact that the Commission has not exercised that power is evidence that data controllers know the rules for lawful personal data processing and



adequately apply the safeguards. In 2010, there were no prohibitions on personal data processing and this fact demonstrate the increased legal culture of data controllers in the personal data protection field and is evidence for the successful prevention policy exercised by the Commission in this field.

VIII. Training

Considering the need for training in the data protection, in 2010, the Commission for the Personal Data Protection continued its activity relating to training of data controllers and participated in various initiatives and activities in this regard. In the form of seminars and bilateral meetings organized at the initiative of the Commission or at the data controllers' invitation, in 2010, the focus was set on training activities in the personal data protection field. Following the amendments and supplements in LPPD, dated 30 November 2010, the data protection training has become one of the main activities of the supervisory authority, which will continue to develop intensively in the coming years.

1. Training of local government authorities and local administration

In 2010, an initiative was launched involving training of the local government authorities and local administration, combined with information activities among businesses. At the end of the year, in Burgas, a training of the mayors and the secretaries of the municipalities in Burgas District was carried out on the personal data protection matters. Besides getting acquainted with the legal personal data protection framework, the key concepts and the powers of the Commission, the trainees drew particular attention to their duties as personal data controllers. The seminar participants were acquainted with the rights of the individuals whose data are processed, the principles were explained which should be observed by individuals' personal data processing and their attentions was drawn to the statutory eligibility conditions for data processing. The representatives of the local government were informed on the specific cases related to their field of activity which have been brought to the Commission and on which it has issued decisions. The participants were given the opportunity to discuss specific municipalities' problems and the inquiries received by them from citizens on personal data processing issues. The initiative was a good opportunity for dissemination of materials containing basic documents of the Bulgarian and international legal framework in the personal data protection field, the reports of the CPDP before the National Assembly, the newsletters of the Commission and the frequently asked questions and their answers. The training



of the local government authorities and local administration in Burgas District was followed by a meeting with representatives of the business in the region, followed by a discussion before Burgas Rotary Club. The Commission reviewed the meeting as extremely useful as it is very important that data controllers in the private sector should know and be familiar not only with the functions and mission of the data protection supervisory authority, but also to interact with the Commission in order to ensure the protection of personal data of the Bulgarian citizens.

2. Training in the Diplomatic Institute of the Ministry of Foreign Affairs – special course on “Consular Diplomacy”

In 2010, the cooperation between the Commission for Personal Data Protection and the Ministry of Foreign Affairs continued with the special course on “Consular Diplomacy”, organized by the Diplomatic Institute. Within the course in 2010, the experts of the Commission gave lectures on the subject matter of “Personal Data Protection”. The trainees were introduced to the main activities of the Commission, the national and European legal framework on personal data protection. The trainees were informed about the basic rules and regulations for personal data processing. Emphasis during the training was placed on the regimes for onward personal data transfer and the issues relating to their provision from one data controller to another or to a data processor. A number of cases were discussed related to citizens’ requests for provision of data concerning individuals - Bulgarian citizens, located in a third country, and the possibilities and procedure for data provision by consular offices. The trainees were given the opportunity to ask questions on data protection cases covering all aspects of the social and economic relations. The exceptional activity of the diplomats during the training course objectively leads to the conclusion that the interest on the personal data protection issue is significantly increased.

3. Training of managers of educational institutions at the Balkan Institute for Labour and Social Policy

At the invitation of the Balkan Institute for Labour and Social Policy in 2010 a training of managers of educational institutions from the country was conducted in order to provide them with comprehensive information on their duties and responsibilities in accordance with the personal data protection regulations. Mrs. Veneta Shopova – Chairperson of CPDP – took part as a lecturer and representative of the Commission. Within the presented lecture and discussion, the participants were acquainted with the duties of the heads of the educational institutions for registration and update of personal data, basic concepts and terminology, statutory principles and eligibility grounds for data processing. Information was provided on the Register of data controllers and the registers kept by them, maintained by the Commission, and emphasis was placed on the indispensability and the relevant procedure for registration as data controllers of the educational institutions specified in that register. The attendees were informed about the most common mistakes made by the team of the educational institutions heads and their attention was drawn to the CPDP’s practice and the case law on these issues. The participants were given information about the results of the planned inspections made by the Commission for Personal Data Protection in the education sector with regard to the performance of the duties of the managers in the personal data protection field.

4. Participation in a training organized by the National Union of Jurisconsults

At the end of the year, experts of the Commission gave lectures at a seminar organized by the National Union of Jurisconsults on the subject “Commercial Register and Property Registration. Personal Data Protection”. During the conducted training and the discussion, administrative procedures before the Commission were presented. Particular attention was paid to the proceedings on the authorization of data transfer to third countries, the procedures for registry in the CPDP, as well as the control activities on data controllers carried out by the Commission.



The issue concerning the data processed by the Registry Agency in the Commercial Register was heavily commented.

5. Lectures given to students at the University of Library and Information Technology

Like in the previous 2009, in 2010, representatives of the CPDP participated in meetings with students from the University of Library and Information Technology and presented the activity of the Commission and the proceedings handled by it. The training was organized at the Commission's premises, thus the students had the opportunity to get a close look at the work of the officers of its administration. Responses were given to questions about the practical methods employed by the Commission in carrying out its supervisory functions. The individuals' rights with regard to the processing of their personal data were discussed.

6. Training initiated by data controllers

At the request of a data controller (a trade company) CPDP experts conducted training of the company's employees on the application of the provisions of the Law for Protection of Personal Data in connection with data processing, storage, protection and transfer. The training included explanation of the regulations and the subordinate data protection legislation, the individuals' rights, the data controllers' obligations and the CPDP's supervisory powers. Practical cases on application of the Law for Protection of Personal Data were discussed during the training. The technical and organizational measures for personal data protection were explained to the trainees.

IX. Institutional relations of the Commission with other government bodies, independent civil organizations and media

In 2010, continued the cooperation between the Commission for Personal Data Protection and the Ministry of Interior, Ministry of Foreign Affairs and State Agency for National Security, which has started as a result of the concluded in 2009 bilateral agreements for cooperation between the Commission and these institutions. With regard to the forthcoming accession of Bulgaria to the Schengen area, the cooperation between the Commission and the Ministry of Interior in 2010 was mainly related to the actions of the two authorities pursuant to the National Action Plan for full implementation of the provisions of the Schengen acquis and the removal of internal borders control. In order to create a mechanism for management, coordination and supervision of the preparation of the Republic of Bulgaria for the full implementation of the provisions of the Schengen acquis, with its decision (Decision 811 of 23 October 2009 on amending and supplementing Decision 72 of the Council of Ministers of 5 February 2009 for adoption of a national mechanism for coordination and supervision of the preparation of Bulgaria for the full implementation of the provisions of the Schengen acquis), the Council of Ministers set up a coordination team chaired by the Deputy Prime Minister and Minister of Interior, where the Chairperson of the CPDP is a member of this team. In accordance with this mechanism in the second half of 2010, the CPDP provided monthly information on the progress of the activities included in the National Schengen Action Plan concerning the personal data protection. Monthly correspondence was also exchanged between the two departments concerning the provision of updated information on the so-called Compendium (Bulgaria's comments on the comments, recommendations and general conclusions of the Data Protection Report) for the purposes of the Working Party on Schengen issues/Schengen Evaluation.

In the course of the bilateral cooperation with CPDP, the Ministry of Interior regularly submits for coordination to the Commission in accordance with its competences drafts of regulations and international agreements related to the personal data protection.

In 2010, the interaction and cooperation with the Ministry of Foreign Affairs mainly involved expression of opinions in the personal data protection field. Consular Relations Directorate regularly refers to the Commission for opinions on specific cases relating to requests sent by foreign



authorities and institutions for the provision of personal data concerning Bulgarian citizens. By the performance of the agreement concluded in 2010, a bilateral meeting was held, where the parties discussed principle matters within the competence of the Ministry of Foreign Affairs the solution of which, however, is directly linked to undertaking actions and measures to protect personal data. The Commission provided a link to its website with information on the individuals' rights, including the rights in Schengen. Consular Relations Directorate sent this information to the foreign diplomatic missions of the Republic of Bulgaria, which significantly assisted the information campaign carried out by the CPDP on raising the citizens' awareness about their rights arising from the future accession to the Schengen area.

In 2010, active interinstitutional cooperation was realized with the Ministry of Justice as well. In connection with frequent requests for personal data for international adoptions procedures, several working meetings were held between the Commission for Personal Data Protection and the Ministry of Justice and considerable correspondence was exchanged. The main goal of the discussions was to ensure maximum data protection in the process of international adoptions at a maximum consideration of the interests and needs of children subject to adoption. The discussions covered the opportunities for harmonization of the requirements to all accredited organizations with respect to data transfers relating to their activities on international adoptions. Based on the abovementioned and after a thorough analysis of the overall legislation which regulates the social relations in the field of international adoption and data protection, the CPDP expressed its opinion on the main principles concerning the data transfer for the purpose of international adoptions and regulating the procedure of their implementation.

Several bilateral meetings were held with regard to the initiative of the Ministry of Justice to initiate legislative amendments to the Law on the Commercial Register aiming at ensuring the balance between this Law and the Law for Protection of Personal Data. The Commission expressed several opinions on this issue.

In order to execute the activities involved in the country's preparation for the accession to the Schengen area, on 22 March 2010, the Ministry of Interior and Open Society Institute – Sofia signed an Agreement for cooperation in carrying out civil monitoring on the progress made by the preparation of Bulgaria for the accession to the Schengen area and on the process for the usage of the funds provided to Bulgaria under the Schengen Instrument. The initiative aims to raise the awareness of Bulgarian citizens on the process of preparation of the country and ensure transparency in the funds usage provided under the Schengen Instrument. By the execution

of this agreement, the Commission held meetings with the experts' team from the Open Society Institute, involved in monitoring the activities. The goal of the meetings was to provide information to the monitoring team on the performance of the activities and the progress made in the personal data protection field. After analyzing the information provided by the Commission and having considered all other institutions working on tasks under the National Schengen Action Plan, in September 2010, Open Society Institute presented its interim report on Bulgaria's progress in preparing for the accession to the Schengen area and the relevant recommendations was also laid down.

The Commission continued its consistent policy on development of sustainable positive institutional publicity, transparency and publicity by conducting its activities, fruitful partnership and cooperation with the other governmental authorities, civil society representatives and mass media.

The traditional useful cooperation with the one of the leading organizations in the NGO sector - Access to Information Programme Foundation was continued. On their initiative, experts of the Commission introduced a visiting group of the Media Rights Institute of the Republic of Azerbaijan with the institution's activities and main principles in the national personal data protection regime.

An example of a good level of institutional interaction with the Bulgarian Parliament was the meeting held on 28 January – the European Data Protection Day - between the Chairperson and the members of CPDP and members of the Internal Security and Public Order Committee at the National Assembly and the senior staff of CPDP.

Working meetings were conducted with the Ministry of Justice and other state institutions in order to achieve the necessary balance and consistency by performing the requirements of various regulations and more adequate application of LPPD. Working meetings were carried out with representatives of the Registry Agency, registry judges in order to harmonize the requirements for the publicity of the Law on the Commercial Register with the provisions of LPPD, in order to ensure the citizens' privacy. In addition, operational and consultation meetings were carried out with representatives of the National Statistics Institute, the National Revenue Agency and the Notary Chamber.

The development of the Commission's publicity and its partnership with national and regional mass media recorded the highest levels of positive informational interest in the activities of the institution, in objectively and fairly presenting its work, in effective dissemination of information about the citizens' rights and the obligations of data controllers under LPPD. Once again the celebration of the European Data Protection Day became a gracious occasion for the national media to present to the widest audience the Commission's major



accomplishments during the past year and to update the interest of citizens in the personal data protection issues. The mass media had significant contribution in explaining the data protection issues through dozens of interviews and reviews on the purposes and the need for update of the public register of data controllers and the personal data registers kept by them. With keen interest the national electronic and print media promptly disseminated information on the Commission's opinions of significant public interest – for example, the opinion on the data controllers' obligation to declare CCTV register when they process data in such a register, and the exemption of the condominium managers of registration as data controllers. With particular attention the media covered the institution's supervisory activities, particularly in the cases when the Commission considered the issues on its own initiative as a result of publications in the media. The successful execution of the specialized national information campaign dedicated to raising public awareness of the personal data protection in Schengen area was substantially assisted by the goodwill of the Bulgarian National Radio and Bulgarian National Television to include information and commentary on this topic in their broadcasts with the largest audience.

The development and strengthening of the Commission's institutional links with the governmental authorities, media and civil society led to a stable positive public image of the institution and the tendency of increasing the awareness among the citizens about their rights and obligations in the personal data protection field.

X. International activity

Guided by the understanding that the continuous and effective exchange of information and international cooperation is a guarantee for successful execution of the supervisory authorities' obligations to control personal data processing and the protection of the individuals' rights, in 2010, the Commission for Personal Data Protection took active participation in the preparation and coordination of the European legislation in the field of data protection and right to privacy, as well as in the exchange of expertise on important issues within the competence of the EU member states' data protection supervisory authorities.

The Commission continued its active and regular participation in the Working Party set up under Article 29 of Directive 95/46/EC on the protection of individuals with regard to the processing of their personal data, which considered all important and current issues in the European Union's data protection and privacy field. In this regard, the Commission analyzed, commented, issued opinions and voted through a written procedure on the working party's documents, which are considered by the European Commission by the adoption of decisions in the data protection field. During the year documents were discussed and adopted on the online behavioral advertising, on the accountability principle, the Federation of European Direct and Interactive Marketing' European Code of Practice for the use of personal data in direct marketing, on the Industry proposal for privacy and data protection impact assessment framework Radio Frequency Identification (RFID) applications, frequently asked questions arising from the entry into force of the Commission Decision 2010/87/EO of 5 February on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC, on the level of personal data protection in the Eastern Republic of Uruguay, etc.

The Commission for Personal Data Protection continued to actively participate in the work of the other specialized groups and subgroups of the Article 29 Working Party, in the work of the International Working Group on Data Protection in Telecommunications and the meetings of the Central and Eastern European Personal Data Authorities. In 2010, the Commission also participated in the specialized working groups at the European Commission on issues concerning the applicable law, instruments for data transfer to third countries and technological issues.

The Commission continued its effective participation in the Europol Joint Supervisory Body, Schengen and Customs Joint Supervisory



Authorities, the Working Party on Police and Justice and the Eurodac Supervision Coordination Group at the Council of the European Union. Their work involved the discussion of important and specific issues relating to data protection and privacy when drafting new regulations and applying the already adopted EU legislation, as well as the EU relationship with third countries, including the work of the established information systems for personal data exchange between member states and to third countries. Within these bodies and groups, the Commission analyzed, commented and issued opinions on important issues such as the draft joint contribution of the European data protection authorities participating in the Art.29 Working Party and the Working Group on Police and Justice to the public consultation on the content of the agreement between the EU and USA on the protection of data and information exchange for cooperation on law enforcement matters, the draft decision on the implementation of the European supervisory policy in the field of police and judicial cooperation, the draft model data protection clauses for the conclusion of bilateral agreements in the field of law enforcement, etc.

In connection with its international activities, the Commission participated in the conducting of joint assessments in the area of data protection in the countries - parties under the Police Cooperation Convention for Southeast Europe, signed at Vienna on 5 May 2006 by Albania, Bosnia and Herzegovina, Macedonia, Moldova, Romania, Serbia and Montenegro (in force for Bulgaria from 1 March 2009). The Convention is aimed to strengthen the cooperation between the Contracting Parties for combating the threats to public safety and/or public order, as well as for prevention, detection and investigation of crimes. In the process of cooperation between the parties under the Convention, the states shall exchange information containing personal data on persons involved in organized crime, operational information about the links between the suspects and their associates, crime victims; persons engaged in smuggling; transmission and comparison of DNA profiles and other identification material, etc. Special place in the multilateral international treaty is devoted to the protection of personal data, subject to such exchange. A requirement was introduced for the states - parties under the Convention to apply the measures and principles of data protection established in Convention 108/81/CE for the protection of individuals with regard to automatic processing of personal data and Recommendation R87/15/CE on the use of personal data in the police sector, regulating the specific duties of the parties transmitting and receiving data.

One of the most important goals of the group is

to create a society of highly qualified specialists in the personal data field. In connection with the initiative for conducting a joint investigation, a data protection working group was established, which included Bulgarian representatives, including representatives of the CPDP.

Furthermore, the Commission actively participated in the conducting a thorough review of the data protection legal framework at EU level. This was carried out during the European Commission's campaign on reviewing the data protection legal framework adopted on EU level. For this purpose, in 2009 was held a public consultation. The main objectives of the current European Commission's policy in the personal data protection field include the following:

- modernisation of the European data protection legal system in all Union activities;
- effective enforcement of the fundamental right to personal data protection in all areas of Union activities;
- better transparency and consistency of the European personal data protection legal framework.

Guided by the above, the European Commission recognized the need to update the European personal data protection legal framework in order to implement the Lisbon Treaty, addressing the challenges of the day, particularly in the field of information technologies and the resulting threats to privacy, as well as to achieve greater data protection authorities' efficiency. In the course of the consultation with the European data protection authorities, the European Commission distributed a questionnaire with current topics and questions for discussion, the answers to which will be considered in the development of the new European legislation. Questions were raised about strengthening of the data subjects' rights, strengthening and clarifying the data controllers' responsibility – reducing the administrative burden, data protection in the field of police cooperation and the cooperation in criminal matters, stabilizing the data protection authorities' role, the international data transfers.

During the discussion, the Commission for Personal Data Protection expressed its opinion that the two major aspects by regulating the privacy and data protection issues require the establishment at EU level of a comprehensive legal framework of the fundamental legal principles, as well as harmonization of the national legislations and implementation at national level of the European legislation requirements. Consideration was made that the data minimization requirement should be integrated as mandatory principle in future personal data protection legislation.

As another important priority in the work of the European data protection authorities, the



Commission recognized the efforts for raising the citizens' awareness. The Commission considers that the regulation at European level of the data controllers' obligation to publish the so-called privacy notice (Communication on data protection and privacy measures) will contribute to raising the individuals' awareness about their rights in the data protection field and on specific technical and organizational measures taken by the respective data controller. The Commission expressed the opinion that the campaigns for raising the individuals' public awareness on issues relating to their rights should be part of the priority actions of the data protection authorities.

The Commission is of opinion that data controllers' notification (registration) procedure should be simplified or eliminated. It was stated that the current notification procedure should be preserved in principle, since it constitutes an important form of control on the personal data processing, but due to the large number of data controllers, the Commission considers that it is advisable that the procedures should be maintained as simple as possible, providing for compulsory notification only in particular cases, such as sensitive personal data processing.

The Commission supported the proposal for legal regulation of the data controllers' responsibility to designate an official who shall exercise internal independent control on personal data protection and liaise with the national data protection authority. The Commission considers such an obligation to be appropriate, because in this way constant control will be exercised by the official on the lawful data processing carried out by the data controller and this will facilitate the nationwide exercising of the supervisory authorities' powers.

With regard to the strengthening the data protection authorities' role, the Commission expressed its opinion that it is imperative to introduce a obligation for the member states to provide their national data protection authorities with sufficient resources and funds for their operation. The lack of such an obligation would prevent the full execution of the functions and powers of data protection authorities and would question their full independence.

Based on discussions with the national data protection authorities and data controllers in the private sector, the European Commission will bring forward legislative proposals in the second half of 2011.

In November 2010, the Commission for Personal Data Protection became part of the Global Privacy Enforcement Network, which consists of 13 data protection authorities from all over the world. The main objectives of the network include information exchange, trends and experiences in

the applying of the privacy right, participation in the related training, cooperation by the application of the privacy right in the private and public sectors and providing opportunity for conclusion of agreements between the network participants or between them and other organizations.

Besides the abovementioned fields in which the Commission carried out its activities, in 2010, it continued the bilateral cooperation with other data protection supervisory authorities and non-governmental organizations on issues of mutual interest. It continued the good practice to share information on specific legal cases, decisions and national experiences and best practices on personal data protection issues. Useful information was exchanged concerning the practice of different data protection authorities in data transfers, sensitive data processing, the actions taken by the supervisory authorities on complaints relating to spam, personal data retention for law enforcement purposes in compliance with Directive 2006/24/EC, decisions of the national courts on the implementation of Directive 2006/24/EC; telecommunications and the Internet, security and confidentiality of data, making an assessment on the adequate data protection level, publicity of data in the commercial register.

In regard to the appointment of the Commission for Personal Data Protection in 2009 as the leading authority for the preparation of the national position of the Republic of Bulgaria in connection with the negotiations for conclusion of an Agreement between the European Union and the USA on processing and transmission of data for financial reports from the European Union to the United States for the purpose of the Terrorist Finance Tracking Program, in 2010, it expressed a number of opinions on various controversial issues related with the preparation of the agreement's text. Furthermore, the Commission prepared the country's framework positions in connection with signing and conclusion of the Agreement. By the preparation of the framework positions the Commission considered that an important prerequisite for prevention, investigation, detection and prosecution of terrorism or terrorist financing in international aspect is the timely exchange of information between the competent structures of the individual countries and/or country alliances. Due to the fact that this data exchange should mandatory include individuals' personal data, it is especially important to apply the basic values and principles of European privacy and data protection legislation.

The Commission considers that the agreement regulates to the necessary extent the personal data protection safeguards by limiting the processing purpose only to prevention, investigation, detection and prosecution of terrorism or terrorist



financing. An important principle in the personal data transfer to third countries – countries outside EU and the European Economic Area – has been observed, according to which data transmission shall be permitted only if the recipient states provide an adequate data protection level. As guarantee for the adequate data protection is the introduction in the Agreement of independent monitoring and surveillance on the compliance with the agreement purpose limitations – fighting terrorism.

XI. Implementation of Schengen acquis and readiness for supervision on data processing in SIS

Despite the fact that as a result of the inspection made in 2009 on the personal data protection for the readiness of the Republic of Bulgaria for accession to the Schengen area and the report drawn up on its basis by the inspection team, it was found that the basic process of harmonization of the national data protection legislation was completed in 2010. The Commission for Personal Data Protection undertook a number of actions and measures to comply with the recommendations made in the report. At present, of all 14 personal data protection recommendations, 10 of which fall within the CPDP's competence, 13 are fully executed and one is in progress. The analysis of the recommendations made and the actions taken by the CPDP for their exercising leads to the following statements and conclusions.

1. With respect to the recommendation for gathering more experience by conducting inspections and practically applying the personal data processing rules relating to Schengen issues, it should be taken into consideration that in 2010 the number of the inspections carried out was 1269. For comparison, in 2009 the total number of inspections was 698. Practically, there is a doubling of the inspections' number, which means serious experience has been gained with respect to the Commission's control activities.

With regard to the application of the personal data processing rules relating to Schengen, the Commission's officers, whose duties will cover Schengen issues, attended specialized training in the Ministry of Interior in order to get acquainted with the mechanism of operation and work with the National Schengen Information System.

2. The fears of the inspection team that some legal regulations create uncertainty for the individuals are taken fully into account and reflected in the Law on Amendment and Supplement of the LPPD (promulgated in SG, issue 94 of 30 November 2010). The amendment foresees that every individual has the right to freely access the information about any processing of personal data that concerns him/her. Thus the legal text of Art. 28, para. 2 of LPPD was fully aligned with the requirements of Directive 95/46.

3. The recommendation for strengthening the cooperation between the CPDP and the Ministry of Interior resulted in increasing the bilateral exchange of information on matters within their competence, one of which is namely the progress in the country's process of joining the Schengen



area. During the period between the inspection and the submission of this report numerous joint initiatives in various fields were carried out, including the preparation of the national opinion on draft guidelines for negotiating and concluding agreements, such as:

- Agreement between the European Union and the USA on processing and transfer of data on financial reports from EU to USA for the purpose of the Terrorist Finance Tracking Program;
- Draft agreements between the European Union and the USA, Canada and Australia for the transmission and use of PNR data for the purpose of preventing and combating terrorism and serious crime;
- Draft Agreement between the European Union and the USA on the protection of personal data during transmission and processing of such data for the purpose of prevention, investigation, detection and investigation of crimes, including terrorism;
- Introduction to the Bulgarian legislation of the Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, as well as drafting the Ordinance on the organization and functioning of the National Schengen Information System of the Republic of Bulgaria .

4. The Commission fully implemented the recommendations for cooperation with other departments in order to develop a coherent scheme, ensuring the provision of information to the public concerning rights of access and its exercise, including the right of appeal before the Commission for Personal Data Protection. Such information is disseminated to the public not only through the specialized information and education campaign, but particularly through the Ministry of Interior and the Ministry of Foreign Affairs. This contributed to the implementation of the recommendation to raise the awareness of the citizens about their data protection rights, and the campaign focused on the citizens' rights in the personal data protection field after joining Schengen.

5. Regarding the recommendation for ensuring the individuals' possibility to exercise their rights, it should be taken into consideration that for the period from the inspection until mid-2010 the number of cases before the Commission on any matters related to infringement of data protection rights increased by 100%. This statistic is evidence both for the increased individuals' awareness on the exercise of their rights and for the real opportunity for referring to the Commission on any issues, subject to its competence.

6. The Commission complied with the recommendation for more active cooperation at national and international level with the

relevant personal data protection institutions, and in its annual plan for international activities the Commission mandatory includes all major upcoming international events with participation of the data protection authorities. As a particular step to take into account this recommendation, two-day meetings were held with the national supervisory data protection authorities of Slovakia, Portugal and Czech Republic including thematic discussions on the future activity of the Commission after the completing the Schengen accession process. The aim of these bilateral meetings was to get practical assistance by the three Schengen member states on the effective exercise of control by the national personal data protection authority under the Convention for the accession to the Schengen Agreement, in connection with the preparation of the Republic of Bulgaria for accession to the Schengen area.

The supervisory data protection authorities of these three member states shared their experience in organizing the work, carrying out structural changes and improving their staff competence with regard to the application of the Schengen acquis in the personal data protection field. The Commission and its administration were acquainted with the forms of cooperation with the other data protection authorities, by the information exchange within the Schengen Information System, as well as with the cooperation with the other national authorities which process data obtained from the Schengen Information System.

7. Following the invitation for presenting updated periodic information on the application of the personal data protection legislation, since the second half of 2010, the CPDP has been submitting monthly updates on the progress achieved in the personal data protection field.

Along with the provision of updated data on the Compendium of the Republic of Bulgaria, the CPDP submits to the Deputy Prime Minister and Minister of Interior monthly updates on the progress of the activities included in the National Schengen Action Plan. The first legislative task of the Plan for 2010 has already been fully executed, namely the amendment and supplement of LPPD. The amendments made with regard to the extension of the Commission's powers in the field of negotiating and concluding international agreements, as well as conducting training in the data protection sphere will contribute to the overall implementation of the other tasks included in the National Plan as well. Currently, the task for raising the public awareness about the citizens' rights and obligations in relation to personal data processed in the SIS has been accomplished in time.

With respect to the personal data protection in the Republic of Bulgaria, the country's readiness for accession to the Schengen area was



positively evaluated within only one inspection by representatives of the European Commission, the Council of the European Union and Schengen countries. Given that, it can be concluded that the supervisory authority is able to meet both the expectations of the member states of the Schengen area for cooperation through information exchange and the obligations for exercising control arising from the ratification of the Schengen Convention. An important guarantee for the Commission's ability and readiness to fully exercise its powers arising from the forthcoming membership in the Schengen area is the power of the supervisory authority, introduced by the amendment of LPPD of 30 November 2010, to assist by the execution of the state personal data protection policy. The recognition of the Commission's competence of the Commission by the conducting of the state data protection policy further contributes to strengthening its institutional independence.

XII. Administrative capacity and financial status

1. Administrative capacity.

In 2010, the Commission continued to carry out its policy on developing and strengthening its administrative capacity in order to achieve institutional sustainability and full compliance with the legal obligations as supreme supervisory authority.

In 2010, the total number of employees of the CPDP is 81. This figure includes:

- Employees employed under full-time contracts for January – December 2010:
 - Under official contracts – 49;
 - Under labour contracts – 18.
- Vacant positions:
 - Under official contracts – 13;
 - Under labour contracts – 1.

During the year 19 employees were employed in total: under official contracts – 15, and under labour contract – 1. The official contracts of 2 employees and the labour contracts of 2 employees were terminated. Two employees were reappointed under official contracts (replacement of absent employee). Promoted to higher rank were 11 employees and 5 employee were promoted to higher post.

For the Commission for Personal Data Protection, training its administration staff is an important element of the human resources management. The basic principles foreseen by the CPDP in 2010 in connection with training and qualification of its staff were as follows:

- Adequacy – planning and conducting training, corresponding to the need for increasing the quality of activities in the respective units;
- Timeliness – the training should correspond to the changes in legislation relating to the CPDP activities and the best national and international practices.

During the reporting period priority was given to those training courses that would help to increase work efficiency and contribute to reaching the CPDP's objectives. An annual training plan with two main directions was elaborated:

- Mandatory training – for staff appointed for the first time as civil servants;
- Specialized training – for professional development and qualification rising.

The main institution to execute the Commission's scheduled staff training was the Institute of Public Administration at the Council of Ministers. The mandatory training was attended by 7 newly appointed civil servants at expert position. The specialized training related to the annual priorities of the CPDP for the reporting period was attended by 42 officers.



In May 2010, a training course was conducted with the participation of CPDP's members and the administration officials on the following topics:

- Current problems of personal data protection in connection with the amendments to the Law on Electronic Communications;
- Training of the officers of the CPDP on the Protection of Classified Information Act.

A training course was conducted through other sources too on specific topics related to the activities of the Commission: "Management of Healthy and Safe Work Conditions", "Recent changes in the Law for the Public Procurement" and "Management and Development of Administration Officials."

In relation to the membership of the Republic of Bulgaria in the European Union (EU) and its accession to the Schengen area, the Commission adopted a decision to build a system for handling EU classified information at the Commission. With regard to the personal security, certificates were issued for handling classified EU information to key officials listed under Art. 37 of Law for the Protection of the Classified Information.

At the end of 2010, procedures were started on opening a registry for EU classified information and accreditation of AIS and networks to work with classified information.

By Resolution No.582 of 6 August 2010 of the Council of Ministers, the Commission was granted a part of a real estate – public property – for free management. In October 2010, the granted parts of the real estate were approved by the Ministry of Defence. With regard to the execution of the Decision of the Council of Ministers and in order to put into operation the building granted to the Commission, financial provision for the above purposes should be ensured.

2. Budget

By means of the State Budget Act of the Republic of Bulgaria for 2010 and Governmental Decree No. 324 of 30 December 2009 on the implementation of the state budget of the Republic of Bulgaria for 2010, the operating budget of the CPDP was approved to the amount of 2,650,000 BGN. By means of the Act amending and supplementing the State Budget Act of the Republic of Bulgaria for 2010 and Governmental Decree No. 163 of 3 August 2010, amending and supplementing Governmental Decree No. 324 of 2009 on the implementation of the state budget of the Republic of Bulgaria for 2010, the budget of the CPDP was reduced by 530,000 BGN (20%) and the approved funds amounted to 2,120,000 BGN.

During the year the budget of the Commission was increased by the amount of 273,350 BGN, as adjustments were made by the Ministry of Finance in connection with the conclusion of contracts executed at the end of 2009 for supply of computers and office equipment, archiving

systems, communication equipment and specialized software and in conjunction with the provision of funds for maintenance until the end of 2010. After the amendments, the updated budget of the CPDP amounted to 2,353,350 BGN.

The costs incurred by providing the activity of the Commission for Personal Data Protection and its administration come to the total amount of 2,384,270 BGN or 99.6% of the updated estimates for the year. The types of costs distributed by sections of the unified budget classification are presented in the following table:

Section	Cost Description	Amount (BGN)
01-00	Salaries and wages for staff employed under labour and official contracts	863,692
02-00	Other remunerations and payments for the staff	86,560
05-00	Compulsory social securities paid by employers	211,295
10-00	Allowance	883,783
52-00	Acquisition of tangible fixed assets	267,775
53-00	Acquisition of intangible fixed assets	71,165
	Total budget expenditures	2,384,270
	Approved Budget (updated)	2,393,350
	Unspent funds	9,080

In 2010 revenues of 48,300 BGN were reported, representing administrative fines and property sanctions imposed by penal decrees issued by the CPDP as a public authority under the LPPD.

After the update of the budget during the year due to the reduction of the funds provided, the CPDP was in financial difficulty and as of 31 December 2010 is in obligations with the providers in the amount to 43,901 BGN.



XIII. Objectives and priorities of the Commission for Personal Data Protection for 2011

1. The main priority of the Commission in 2011 is to increase the awareness of the individuals concerning their rights in the personal data protection field. In this regard the Commission's efforts are focused on the following aspects:

- Expansion of the already started specialized national informational campaign of the Commission, dedicated to raising the citizen's awareness concerning their rights in the personal data protection field in Schengen area. The informational and educational activities launched in 2010 among different groups in the society should continue in 2011.

- Conducting intensive educational and informational activities through development and improvement of the Commission's online communication forms and by issuing audiovisual and printed materials aimed at the young audience about the threats on Internet.

2. The recent changes in LPPD (SG, issue 94 of 2010.) foresee new power of the Commission in the data protection field, namely: Organizing and coordinating data controllers' training in the data protection field. This amendment not only recognizes the need to unify the level of knowledge and practices in the field of data protection applied by all data controllers, but it also recognizes the mandatory nature of training all persons. Therefore, conducting compulsory training in the data protection field is a serious commitment to which the Commission devotes its efforts in 2011. Conducting such training to all data controllers and data processors is an important tool for achieving uniform data protection standards. The compulsory training will provide knowledge, skills and experience for personal data processing, which will not only lead to increased legal culture of data controllers and their employees on the rights of citizens, but it will also improve their professional competence so that they will be able to effectively perform their obligations in this field. This is necessary because the data protection is regulated as a fundamental right of the European citizens under the Charter of Fundamental Rights of the European Union (Article 8 - Protection of personal data).

3. Strengthening the bilateral cooperation with other relevant supervisory authorities in the data protection field is another important priority for the Commission in 2011. Considering the accession to the Schengen area, the CPDP will undertake serious commitments relating to exercising independent control on the information in the national section of the Schengen Information System (N.SIS), ensuring the rights of the citizens upon entering

their personal data in N. SIS and developing international cooperation with other relevant supervisory authorities in the data protection field from member states of EU and the Schengen area in connection with the application of the Convention implementing the Schengen Agreement. After the accession of the Republic of Bulgaria to Schengen area, a significant part of the efforts of the CPDP in 2011 will be directed towards strengthening the already established bilateral contacts with similar supervisory data protection authorities.

4. An important priority in the activity of the Commission in 2011 is its active participation in the work of European institutions and the development of rules, requirements and higher personal data protection standards as follows:

- Substantial contribution through drafting, discussion and approval of the new European legal framework in the data protection and privacy field as well as issues related to processing and exchange of data between authorities in the law enforcement.

- Effective participation in examining and analyzing issues in the field of telecommunications and the development and introduction of common rules and requirements for protection to ensure better enforcement of the individuals' rights regarding their personal data and information

5. Focusing on the Commission's obligations arising from the Law on Electronic Communications in its capacity as supervising authority, which supervises the activities of the undertakings providing public electronic communications networks and/or services. An important aspect in this work is the obligation of CPDP annually to provide general statistics to the National Assembly and the European Commission.



Appendices:

Relation of the registration forms, signed with UES to the others in eRALD for 2010

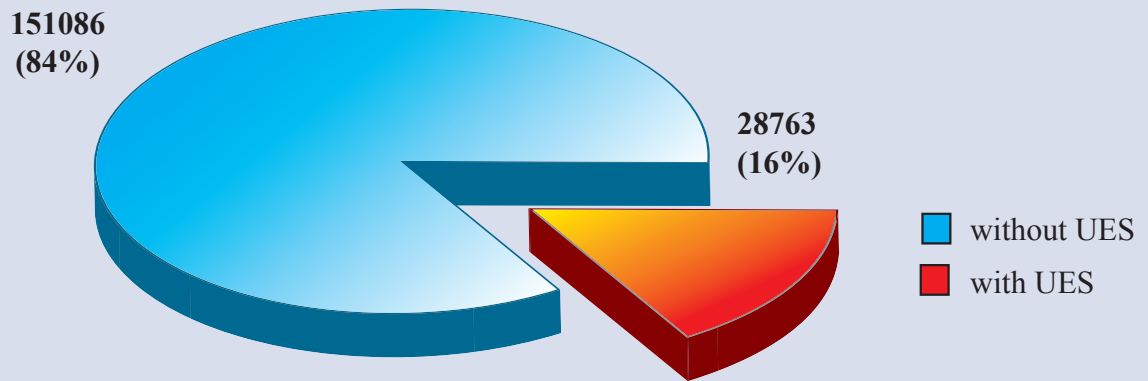


Fig. 1

Total 179 849

Registration forms entered in eRALD by years

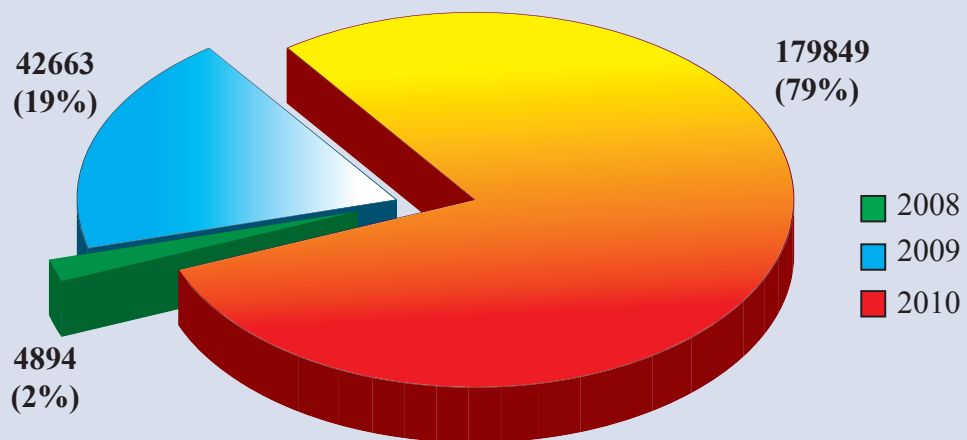


Fig. 2

Total 227 406

PDC's entered in the register by years

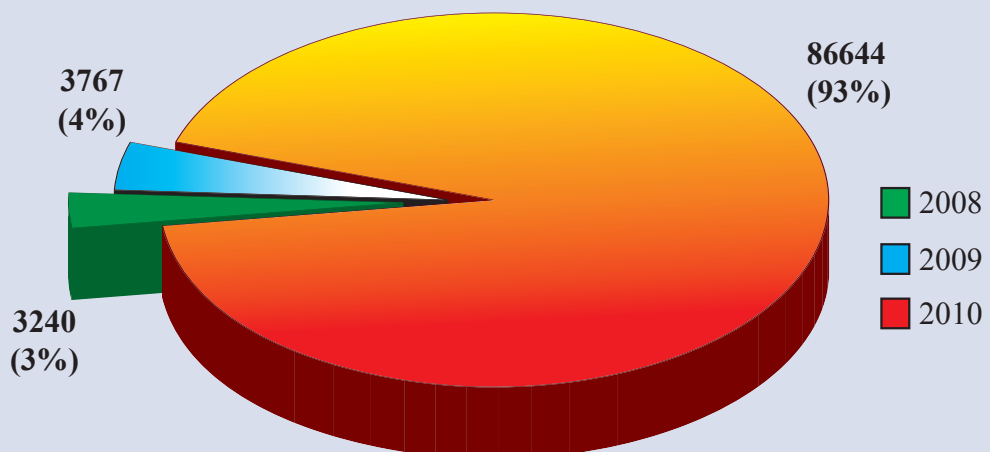


Fig. 3

Total 93 651



**PDC's subject of inspection under Art. 17 b
of the LPPD by years**

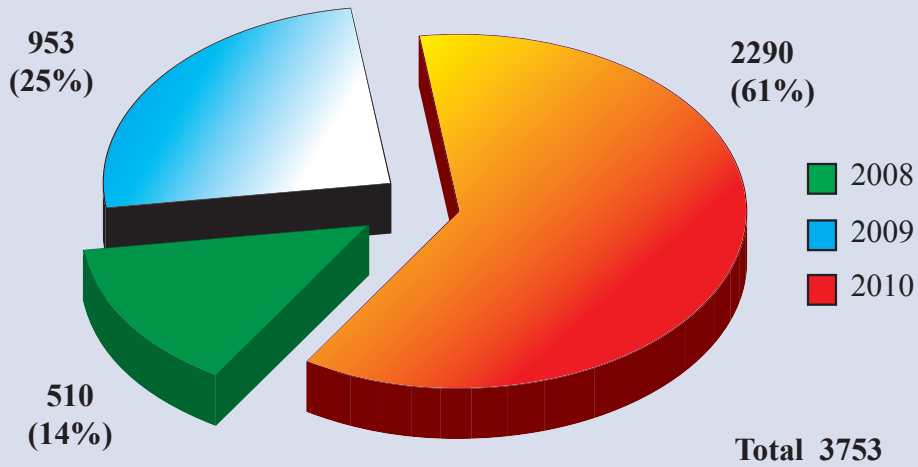


Fig. 4

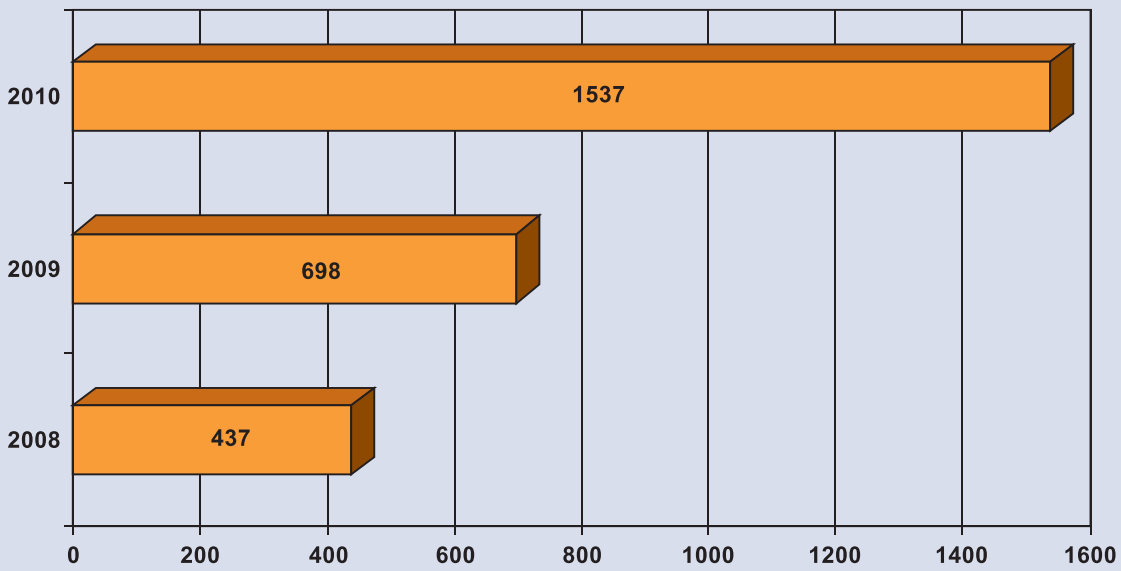


Fig. 5

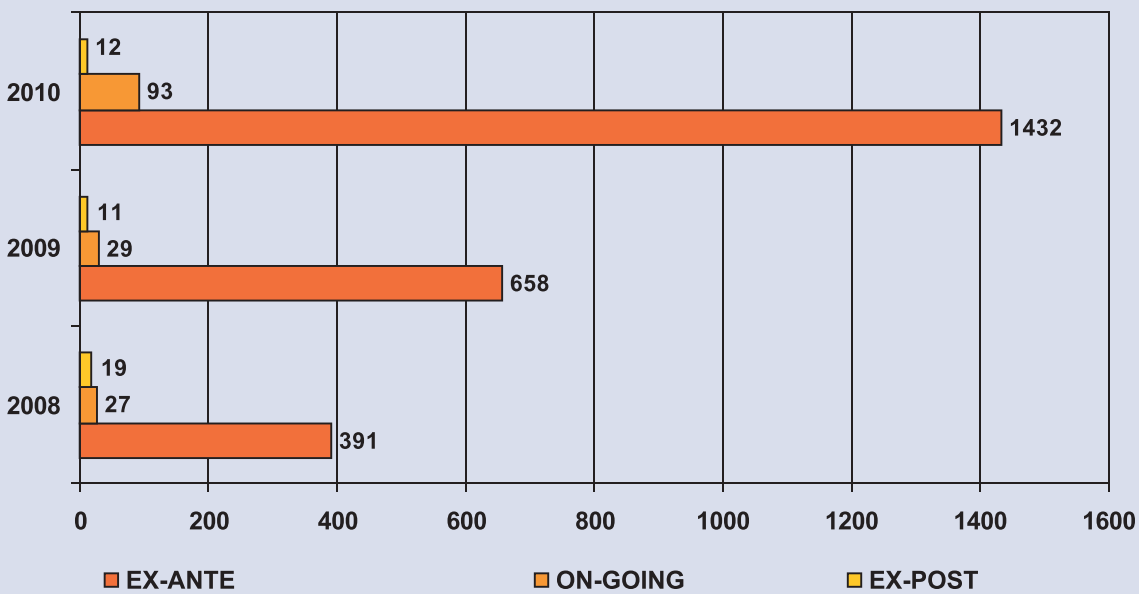


Fig. 6



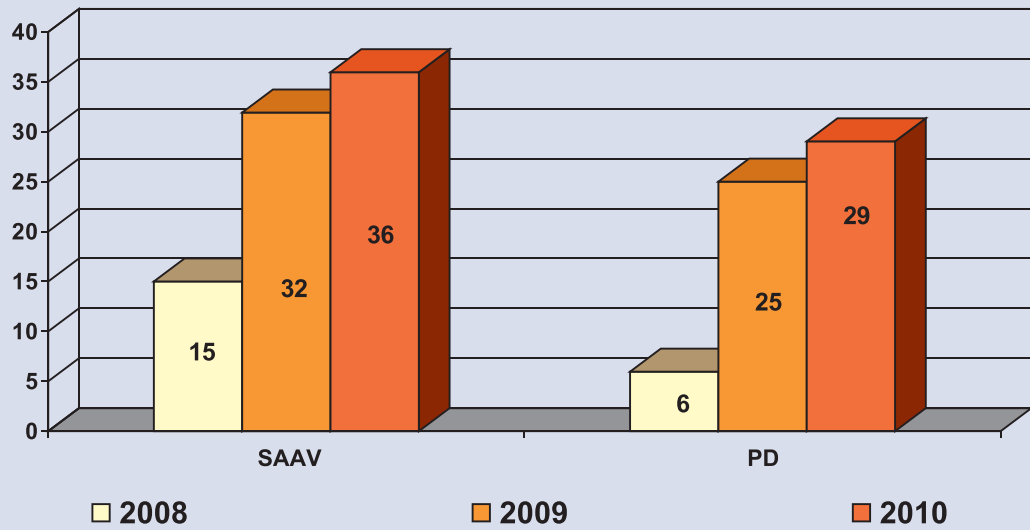


Fig. 7

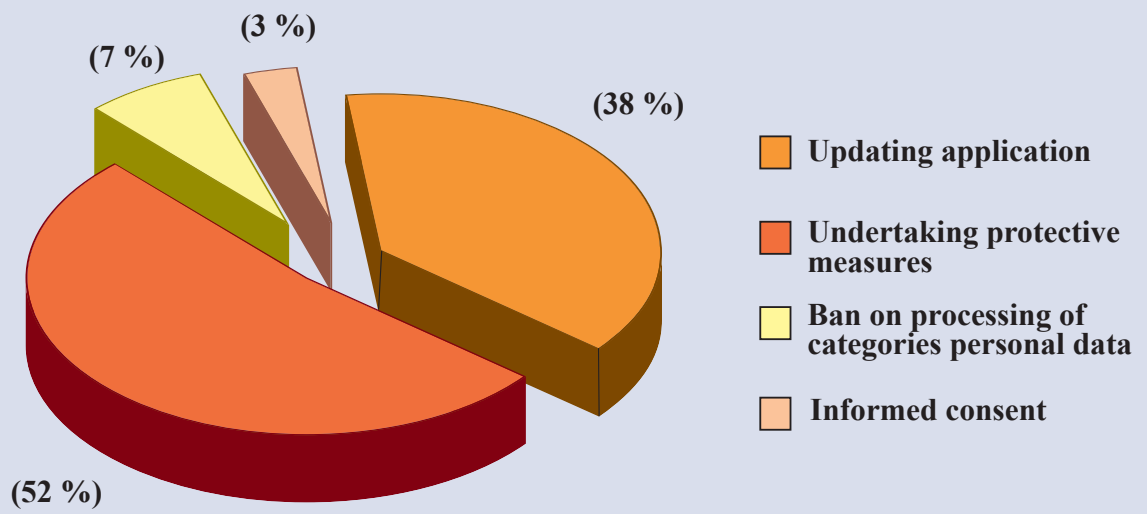


Fig. 8

