

# The personal data protection system in the Republic of Moldova

ENHANCE THE RIGHT TO PERSONAL DATA PROTECTION  
IN  
EASTERN PARTNERSHIP COUNTRIES

14-15 OF DECEMBER 2016  
TBILISI - GEORGIA

# Structure of the presentation

- 1 – General information
- 2 – Legal framework
- 3 – Moldovan Data Protection Authority (DPA) activity
- 4 – Challenges

## 1.1 – General information

# The National Center for Personal Data Protection of the Republic of Moldova

Founded- 2008

Staff - 18 employees

Budget – 3,89 million MDL/176.100 Euro (2016)

Status - independent public authority

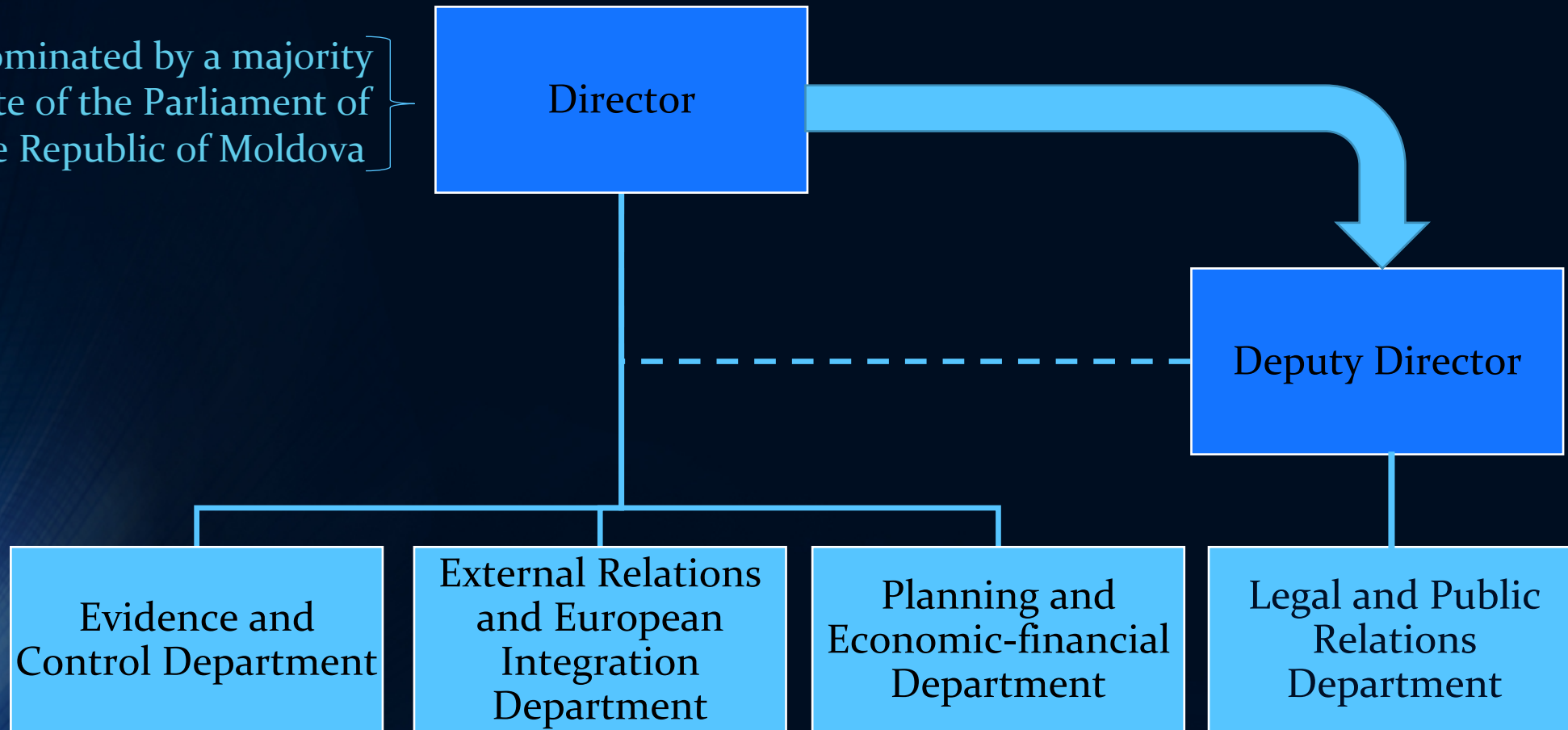
Stated objective – defend the right to privacy and personal data protection

The only authority mandated with the personal data protection in the Moldova



## 1.2 – Internal organisation

Nominated by a majority  
vote of the Parliament of  
the Republic of Moldova



# 2.1 – Legal framework

“The State shall respect and protect the private and family life.”  
- Article 28 of the Constitution of the Republic of Moldova

## Laws

Law on personal data protection of 15/02/2007 (abrogated)

Law on the Regulation of the National Center for Personal Data Protection of 10/07/2008

Law on personal data protection of 08/07/2011 (enforced)

Law regarding the 2013-2018 data protection Strategy of 10/10/2013

## Governmental Decisions (GD)

GD on the Requirements on personal data security of 14/12/2010

GD on the Register of personal data controllers of 15/05/2012



National Center for Personal Data Protection

## Sectorial guidelines

### Finalised:

- Electoral process
- Police sector
- Educational sector

### Planned :

- Financial-banking sector
- IT and electronic communications
- Mass-media sector
- Medical sector

## 2.2– Amendments to the legal framework of the law enforcement authorities

- Since the creation of the Moldovan DPA– **resistance** from **law-enforcement authorities**:
- Moldovan DPA-initiator of several **key amendments** in the:

- Criminal Procedural Code
- Contravention Code
- Law on the status of judges
- Law on the National Anticorruption Center
- Law on money laundering and terrorism financing
- Law on police activity and police status
- Law on special investigative activity
- etc.

```
graph TD; A["Incorporation of personal data protection elements"] --> B["Registration of key law-enforcement authorities in the Register for personal data controllers"]; A --- C["Criminal Procedural Code"]; A --- D["Contravention Code"]; A --- E["Law on the status of judges"]; A --- F["Law on the National Anticorruption Center"]; A --- G["Law on money laundering and terrorism financing"]; A --- H["Law on police activity and police status"]; A --- I["Law on special investigative activity"]; A --- J["etc."];
```

**Incorporation of personal data protection elements**



**Registration of key law-enforcement authorities in the Register for personal data controllers**

- The Moldovan DPA– **small but assertive steps** towards incremental change

## 2.3 – Examples –

Law on personal data protection of 08/07/2011 is amended as follows:

### **Article 2 paragraph (2).**

This Law shall apply:

*d) to the processing of personal data in the context of actions of prevention and investigation of criminal offences, enforcement of convictions and other activities within criminal or administrative procedures, in terms of the law ;*

paragraph (4) This Law shall not apply:

*b) to the processing of personal data assigned to state secret, according to an established procedure, excepting the information referred to in paragraph (2), (d);*

### **Article 15. Exemptions and restrictions**

*(1) The provisions referred to in Article 4 (1), Article 12, (1) and (2), Articles 13, 14, 28 shall not apply where the processing of personal data is carried out in the course of activities provided for in Article 2, paragraph (2), d), for the purposes of national defense, state security and public order, protection of the rights and freedoms of personal data subject or of other persons, if their application affects the efficiency of action or the objective pursued in fulfillment of legal duties of a public authority.*

*(2) The processing of personal data for purposes set in paragraph (1) shall not be carried out for longer period than necessary to achieve the pursued objective.*

*(3) As soon as the reasons that justified the enforcement of paragraphs (1) and (2) of this Article no longer exist the controllers shall take the necessary measures in order to ensure the observance of personal data subject's rights provided for in Articles 12 – 14.*

*(4) Public authorities shall keep record of the application of exceptions set in paragraph (1) and shall inform the National Centre for Personal Data Protection, within 10 days, about the personal data processed in terms of this Article.*

## 2.4– Examples – Amended Laws

**Law on the Status of Judges**, was completed with point f2, whereby

*"the judge is obliged to process personal data in accordance with the Law on personal data protection".*

Article 5 of the **Law on Special investigative activity**, was completed with:

*(1) Persons who have access to personal data of the person subjected to the special investigations measures are required to keep confidential data in accordance with Law no. 133 of 8 July 2011 on the protection of personal data.*

Article 5 of the **Law on preventing and combating money laundering and terrorist financing**, point 2.1 was completed with the following provisions:

*"(21) When applying measures to identify natural or legal persons, as well as the effective beneficial, reporting entities must comply with the provisions of the Law no. 133 of 8 July 2011 on the protection of personal data. Reporting entities are not required to inform individuals, legal entities, and the effective beneficial of the fact that their data will be transmitted and processed by the Prevention and Combating Money Laundering Unit. At the request of individuals or legal entities the Preventing and Combating Money Laundering Unit provides information regarding the processing of personal data only after the end of the situation justifying their processing under this Law".*

Article 13 of the **Law on the status of the investigating officer** was supplemented with section f4:

*"Criminal prosecution officer is obliged to comply with the provisions of Law on Personal Data Protection No. 133 of 8 July, 2011."*

letter m) of the **Law on National Anti-Corruption Center** was completed with the phrase *"to process personal data, including for information and strategic analysis purposes, in accordance with the Law no. 133 of 8 July 2011 on personal data protection"*.



## 2.5 – Examples – Amended Codes

The **Contravention Code of the Republic of Moldova** is completed as follows:

Article 374 is completed with paragraph (4) as follows:

*"(4) within the contravention procedure, personal data processing is carried out according to Law no. 133 of 8 July 2011 on the protection of personal data. "*

2. Article 451 is completed with *"under Law no. 133 of 8 July 2011 on personal data protection"*

**Code of Criminal Procedure of RM** has been completed with:

**Article 15.** Inviolability of privacy

*(2) The procedural actions cannot be attained without the necessity information about private and intimate life of a person. At the request of the prosecution and the court, participants in criminal procedural actions may not disclose such information and it is a commitment in writing. Processing of personal data in criminal procedure is carried out according to the Law on personal data protection No. 133 of July 8, 2011.*

**Article 211.** Keeping criminal records and materials of criminal prosecution

*(4) Access to files and materials kept under the terms provided for in this Article shall be decided by the head of the authority or, where appropriate, the court chairman, in compliance with the provisions of this chapter and the Law on Personal Data Protection No. 133 of 8 July, 2011.*

**Article 212.** Confidentiality of criminal investigations

*(1) Materials of the criminal investigation cannot be published without the authorization of the person conducting the criminal investigation and only to the extent that it considers that this is possible with the presumption of innocence, and that not affected the interests of other people and the criminal investigation, in accordance with the Law on Personal Data Protection No. 133 of 8 July, 2011 .*

## 2.6 – Improving the personal data protection legal framework

### Draft law amending and supplementing certain legislative acts (including Law on personal data protection)

- Enhance the functional and operational capacities of the Center to intervene with adequate responses to the breaches admitted by the personal data controllers in the light of the security incidents allowed in the personal data filing systems
- Enable the performance of checks on the lawfulness of personal data processing in areas not falling expressly within the scope of the in force law on personal data protection
- Contributing to the fulfilment of the commitments undertaken in relation to the EU.

### New draft Law on the National Center for Personal Data Protection

- Increase the staff-limit from 21 to 45 persons
- From administrative sanctions to financial sanctions
- Clear legal norms that would determine the Center's competencies, the manner of conducting controls, the guarantees and legal protection of the institution's employees

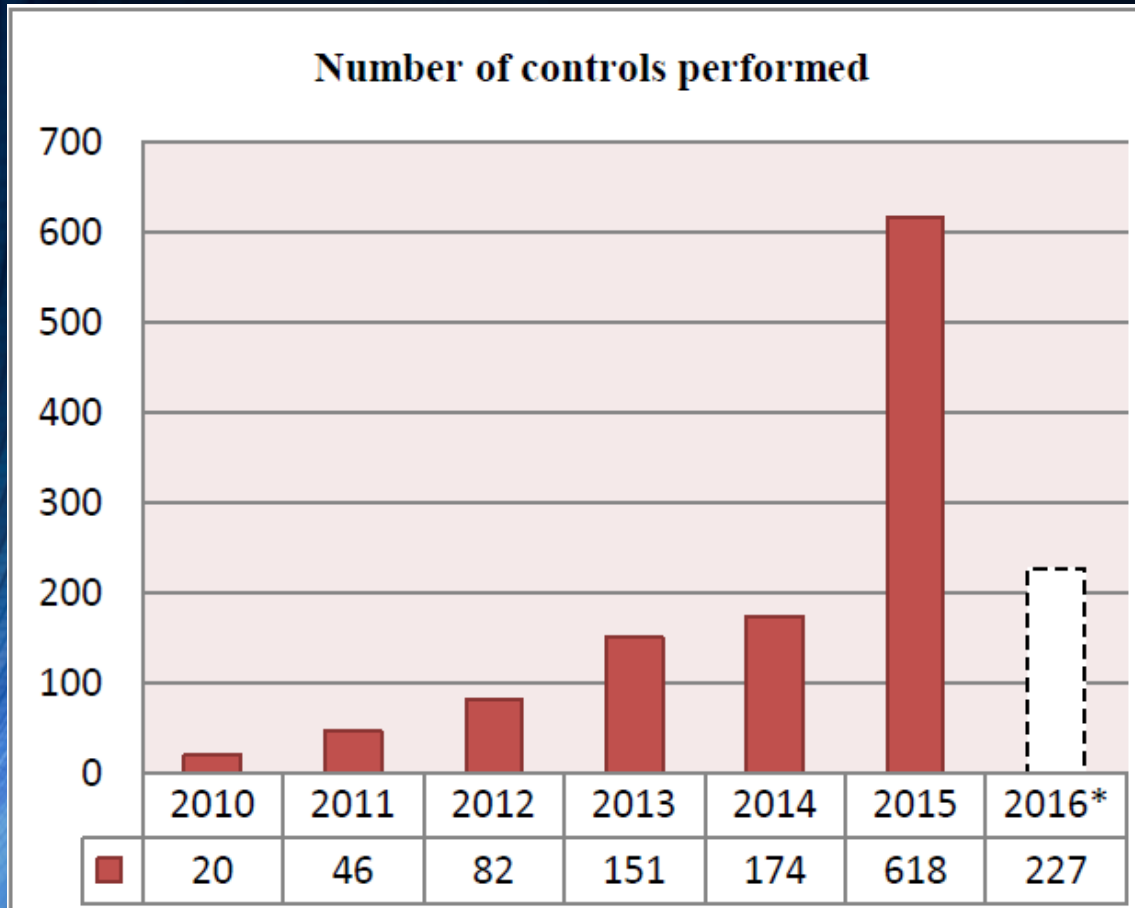
### 3 –Moldovan Data Protection Authority activity

The Moldovan DPA undertakes a wide set of activities in the personal data protection field.

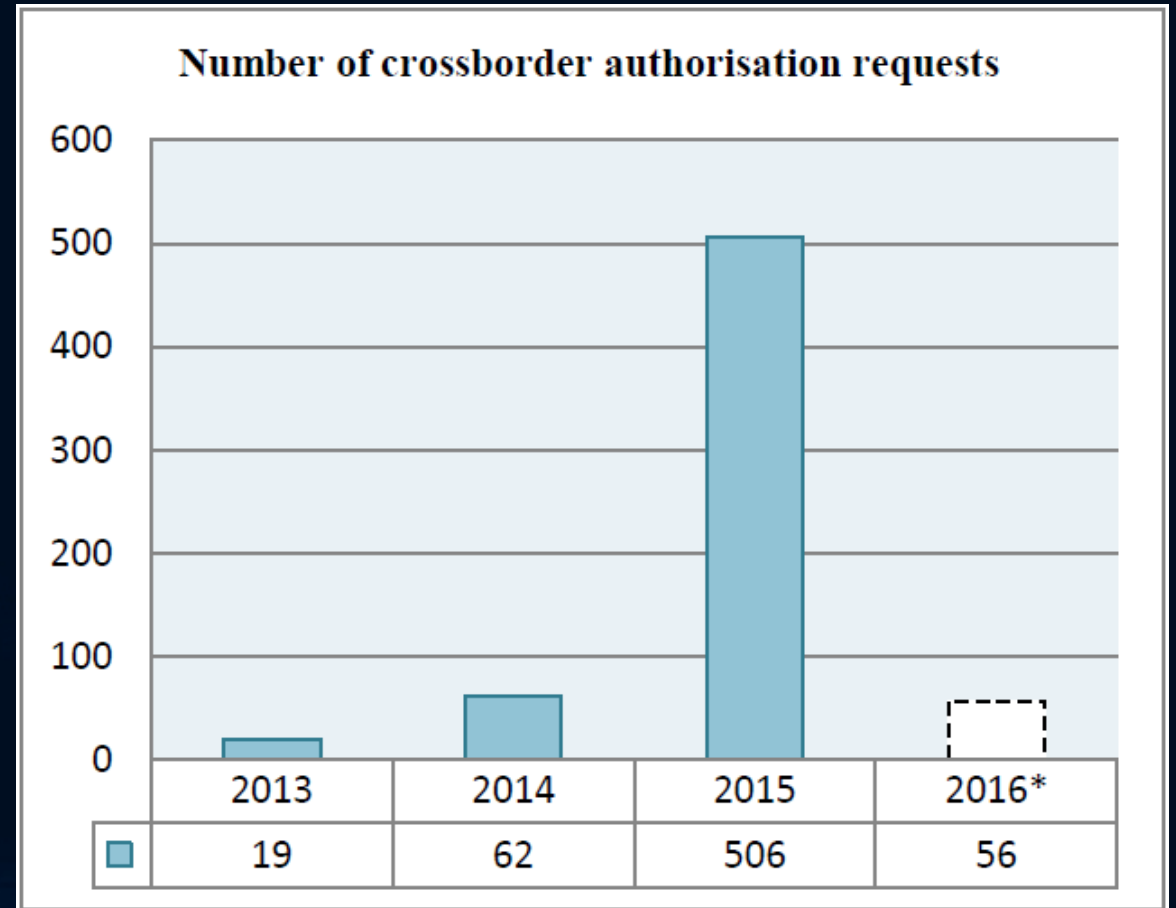
- 1 – Regulation activities
- 2 – Supervision activities
- 3 – Consultation activities
- 4 – Awareness-raising activity
- 5 – International cooperation

## 3.1 – Regulation activities

- Control of the legality of personal data processing



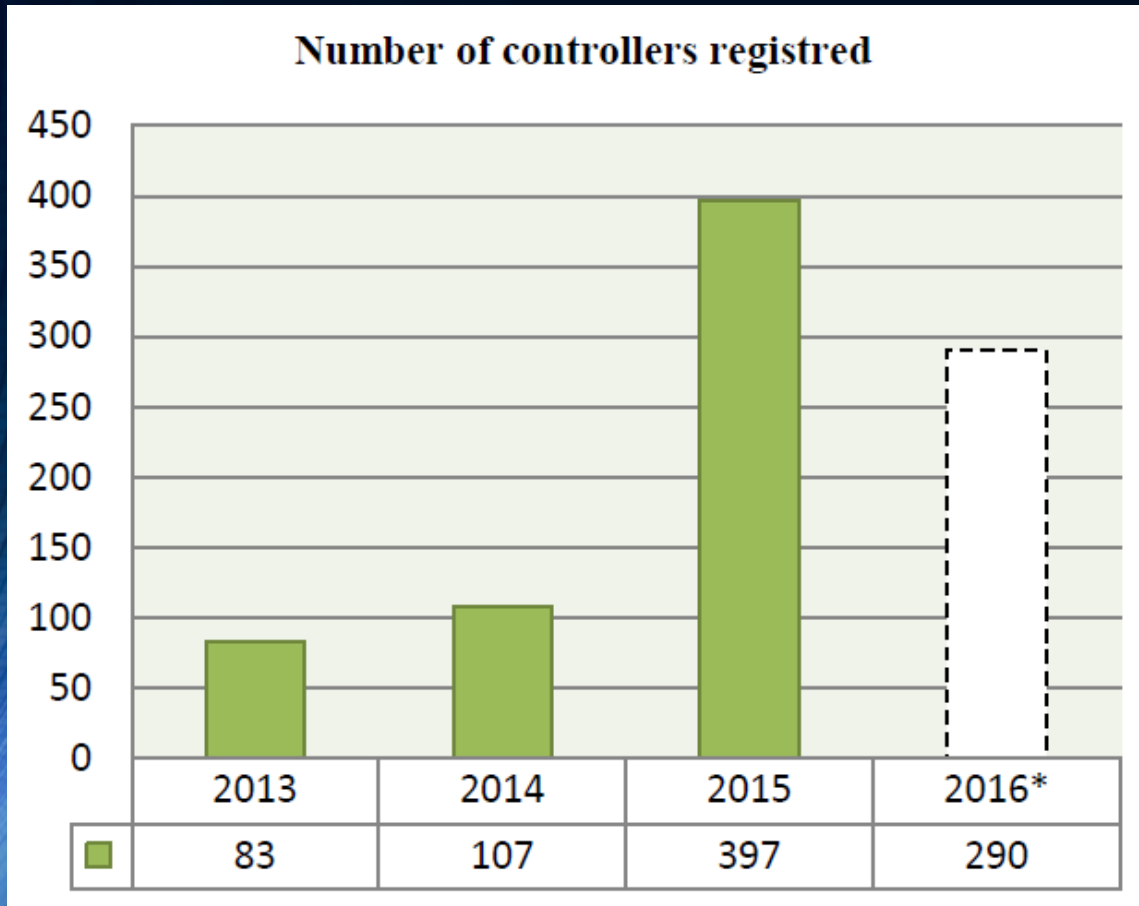
- Authorisation of transborder personal data transfers



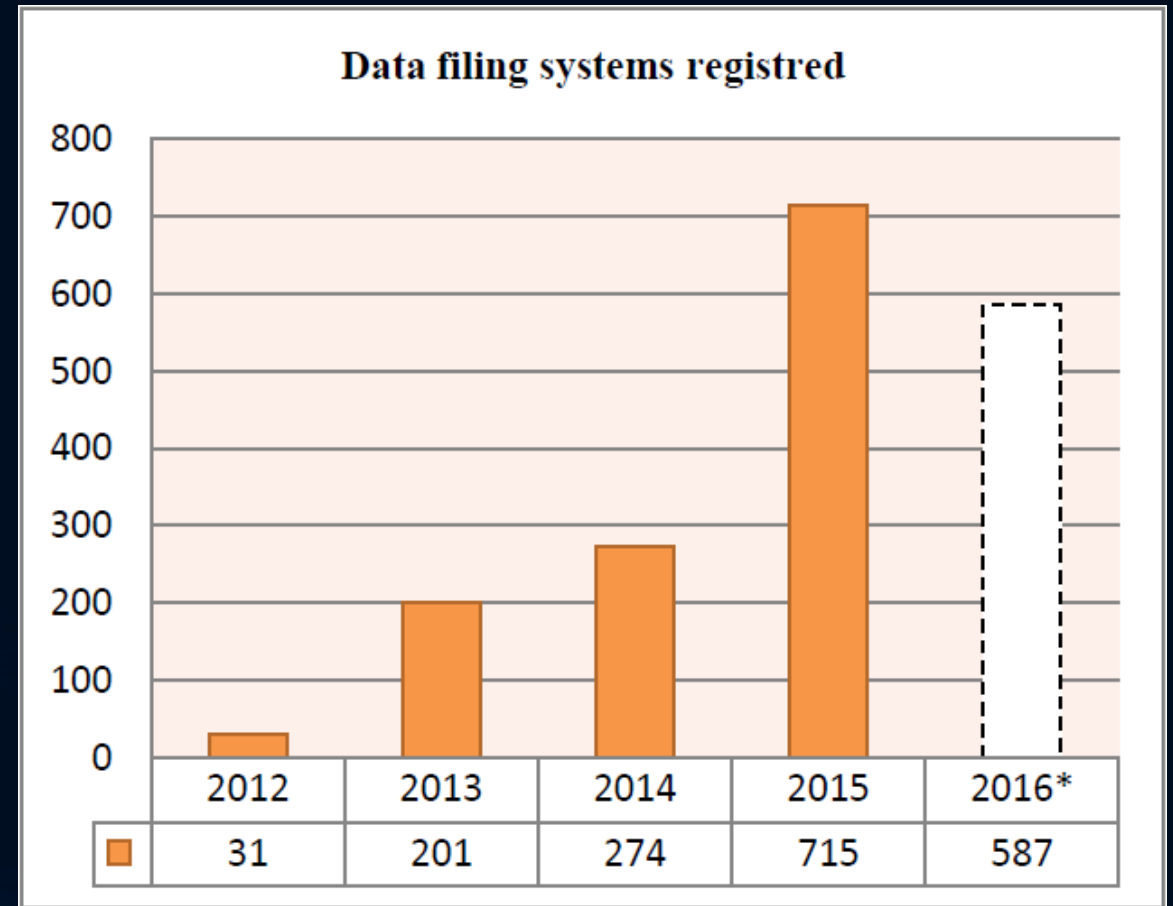
\* Provisional numbers for the January – November 2016 period

## 3.2 – Supervision activities

- Registration of personal data controllers



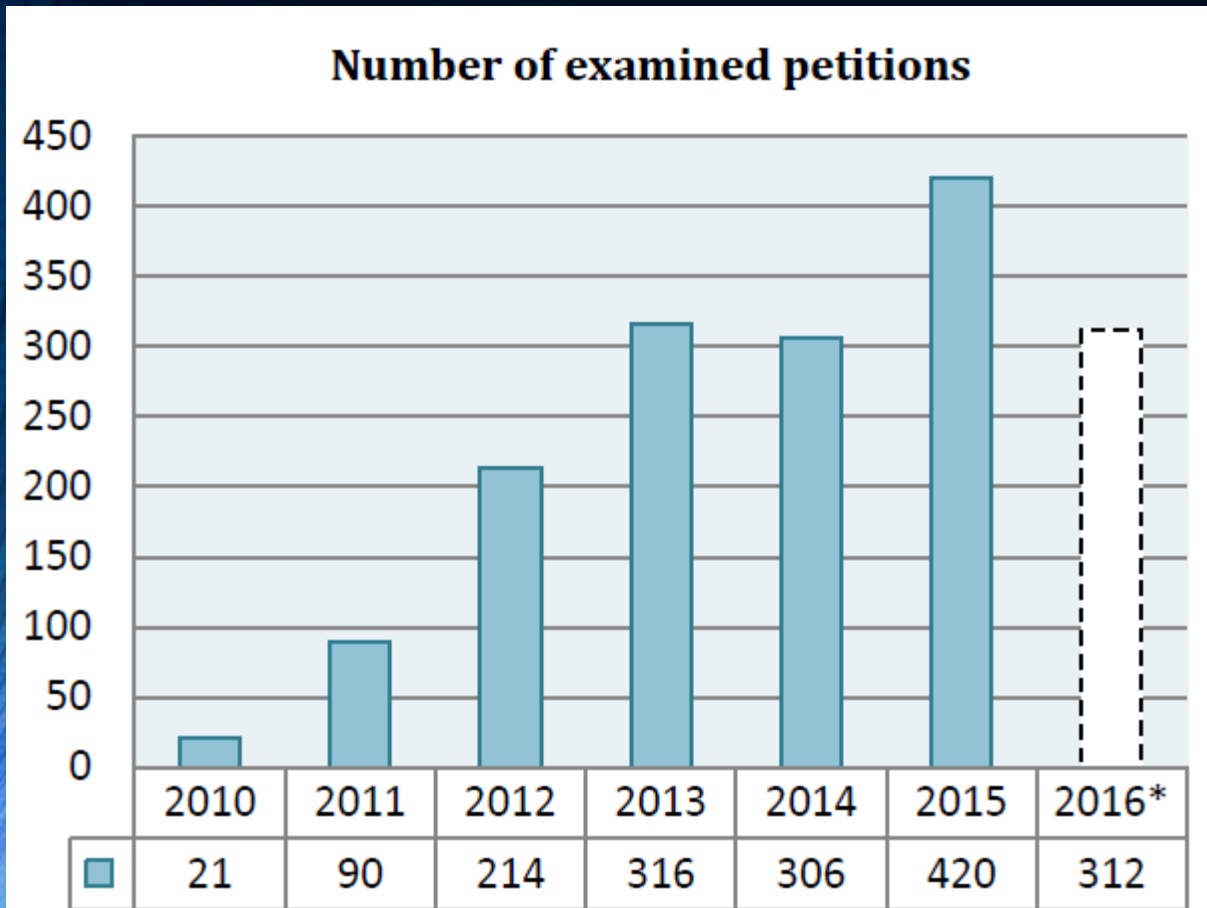
- Registration of personal data filing systems



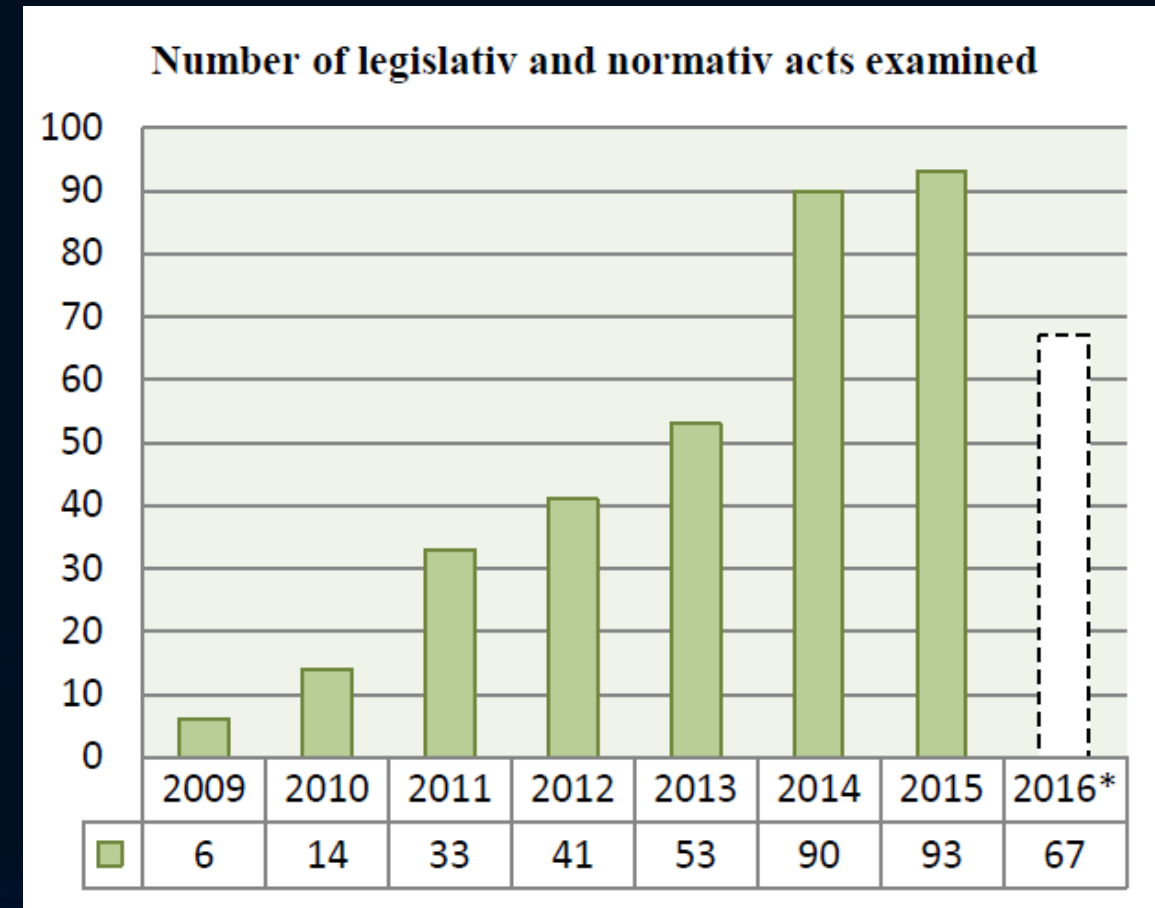
\* Provisional numbers for the January – November 2016 period

## 3.3 – Consultation activity

- Examination of citizen's petitions



- Examination of draft laws and international treaties



\* Provisional numbers for the January – November 2016 period

## 3.4 – Awareness-raising activity

- In 2016, the Moldovan DPA promoted personal data protection through :



# 3.5 – International cooperation

- Several bilateral cooperation agreements signed with European



## Operational Cooperation Agreements



Signed – 18/12/2014  
Into force – 23/07/2015

Signed – 10/07/2014  
Into force – 21/10/2016



Article 13 –  
*Protection of personal data*

- Actively participating in multilateral fora and conferences

- Association of Francophone Data Protection Authorities
- Conference of Central and Eastern European Data Protection Commissioners
- Conference of European Data Protection Authorities (“Spring Conference”)
- Consultative Committee of the Council of Europe for Convention 108 (T-PD)
- Global Privacy Enforcement Network (GPEN)
- International Conference of Data Protection and Privacy Commissioners
- International Working Group on Digital Education



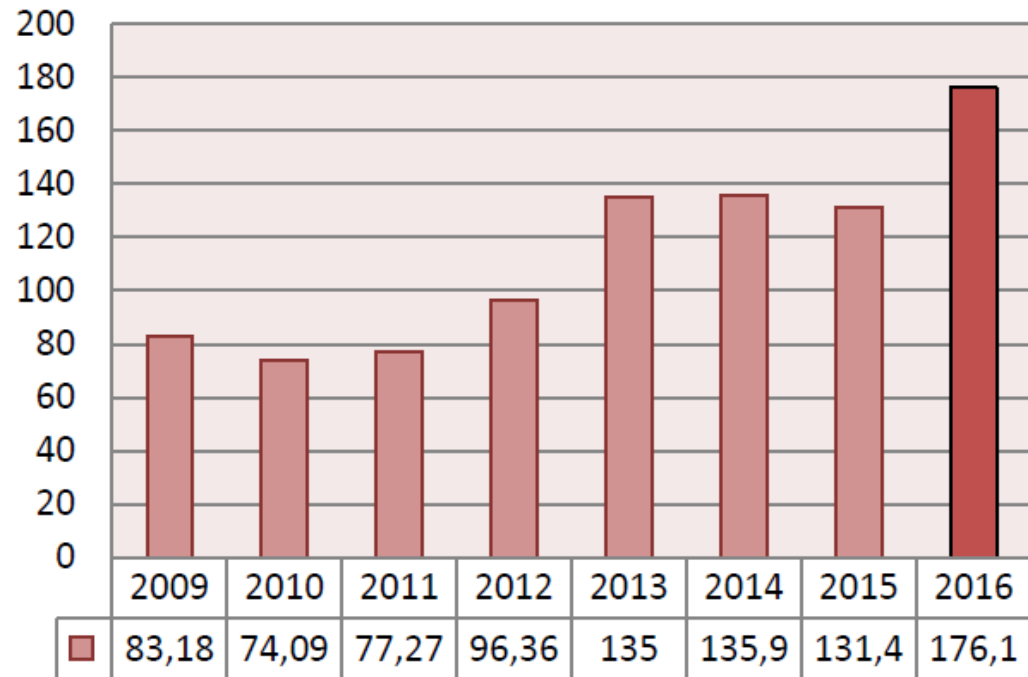
- Building the Moldovan DPA capacity through international assistance



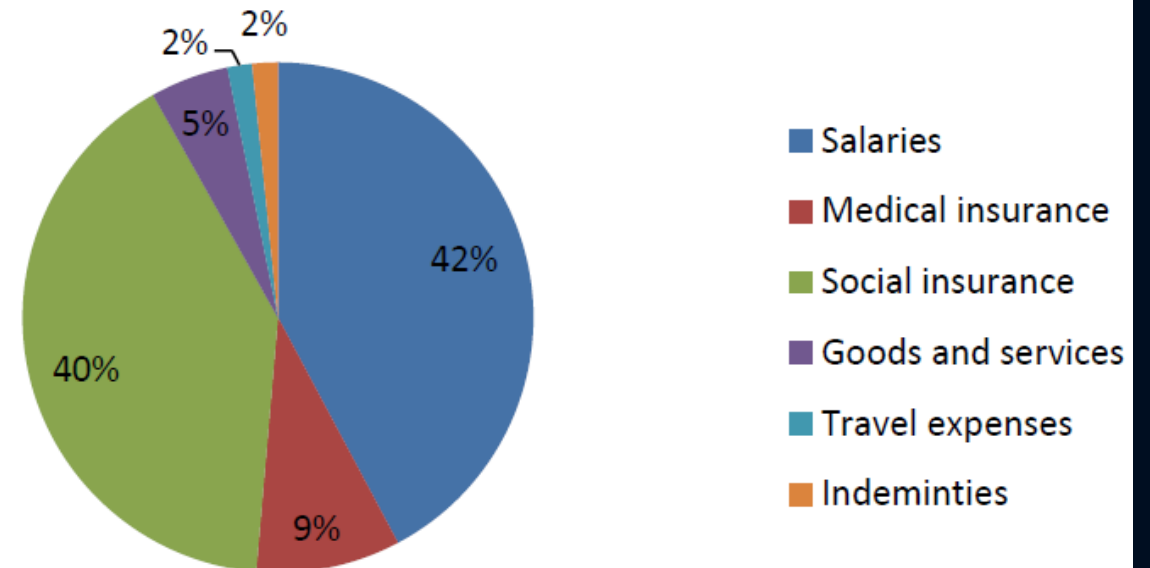


## 3.6 – Budget of the Moldovan DPA

**Evolution of the anual budget  
(~ thousands Euro)**



**Distrubution of the 2015 budget**



## 4 - Challenges

- Massive workload compared to the small number of the staff
- High staff turnover
- Weak coercive measures (administrative vs. financial sanctions)
- Out-of-date registration system
- Low level of awareness on personal data protection

# Thank you for your attention !



## Contact information :

National Center for Personal Data Protection of the Republic of Moldova  
Republic of Moldova, MD-2004, Chisinau,  
48 Serghei Lazo Str.,

tel: +373-22-820801

fax: +373-22-820807

e-mail: [centru@datepersonale.md](mailto:centru@datepersonale.md)