

Regulation on the organisation and functioning of the National Supervisory Authority

Chapter 1 General Provisions

Article 1

The National Supervisory Authority for Personal Data Processing represents a public authority, autonomous and independent in relation with any other public authority, natural or legal person, with legal personality, exercising the attributions it has been invested with by the present law, as well as by the special laws regulating the activity of personal data processing and the free movement of the data.

Article 2

The National Supervisory Authority for Personal Data Processing, hereafter named *the National Supervisory Authority*, is organised and functions in accordance with the provisions of Law no. 102/2005 regarding the setting up, organisation and functioning of the National Supervisory Authority for Personal Data Processing, hereafter named Law no. 102/2005, and those of Law no. 677/2005 on the protection of individuals regarding the processing of personal data and the free movement of such data, hereafter named Law no. 677/2001, as well as the provisions of this Regulation.

Article 3

The Regulation on the organisation and functioning of the National Supervisory Authority, hereafter named *Regulation*, establishes the structural organisation and the attributions of the compartments and positions herein, rules regarding the recording and distribution of mail and other documents as well as the regulations regarding the National Supervisory Authority's staff.

Article 4

The regulation's provisions are interpreted and enforced in accordance with the provisions of Law no. 102/2005 and Law no. 677/2001, other legal provisions regarding civil office positions, leadership and other positions similar to those of the two chambers of Parliament, as well as those regarding the hired personnel.

Chapter 2

The National Supervisory Authority's structural organisation and management positions

Article 5

- (1) The National Supervisory Authority exerts its attributions as set out by Law no. 677/2001.
- (2) The National Supervisory Authority's structural organization is approved by the Standing Bureau of the Senate and is part of the present Regulation as an annex.
- (3) Within the structural organization, approved as shown in paragraph (2), may function, by Decision of the National Supervisory Authority's President, offices, temporary committees, as well as other structures required to fulfil its legal attributions.

Article 6

- (1) The National Supervisory Authority is governed by a President who, in order to carry out his legal attributions, is aided by a vice-president.
- (2) The President exerts the legal attributions imposed by Law no. 102/2005, as well as the following:
 - a) presents a yearly activity report in the plenary session of the Senate;
 - b) signs reports, notifications to criminal investigation authorities and to courts, authorizations, decisions, advises, recommendations, as well as any other documents require by the well-functioning of the National Supervisory Authority;
 - c) approves investigations and preventive researches and assigns the required staff;
 - d) approves the pay-roll and the job descriptions for of the National Supervisory Authority's staff;
 - e) approves the organization of exams for employment of new personnel in order to fill all positions, as well as the general and specific conditions the positions may become vacant or be occupied;
 - f) assigns and hires new staff in the National Supervisory Authority's structure and modifies the legal or work relations, with their consent;
 - g) exerts, under law, a disciplinary authority on the National Supervisory Authority's staff;
 - h) signs all documents sent to other leaders of similar foreign authorities, as well as other international institutions or organizations;
 - i) approves the staff's trips abroad;
 - j) approves the individual components of the National Supervisory Authority's delegations to European and international structures, as a member state;

- k) approves, guides and coordinates the staff's professional training program, including experience changes with similar foreign authorities;
- l) approves the staff's yearly vacation planing and exercising;
- m) approves the exercising and payment of additional work hours;
- n) approves the work schedule with individuals or companies;
- o) exerts control over the National Supervisory Authority's compartments;
- p) may delegate, under law, part of his attributions to other members of staff;
- q) exerts any other attributions determined by law.

Article 7

- (1) Along side the President functions, as an advisory structure, the Advisory Council of the National Supervisory Authority.
- (2) The Advisory Council's components and functioning are approved by a President's Decision.

Article 8

In order to exert his legal attributions regarding the National Supervisory Authority's internal activity, the President issues decisions.

Article 9

The National Supervisory Authority's vice-president has the following attributions:

- a) coordinates the activity of National Supervisory Authority's compartments, in accordance with the President's decision;
- b) distributes assignments to the compartments under his coordination;
- c) approves documents drawn up by the compartments under his authority and submits them to the President for approval;
- d) coordinates the elaboration of the yearly report's draft, as well as other assignments with a special degree of difficulty or importance, in accordance with the President's decision;
- e) takes part in the process of drafting legal norms and coordinates the elaboration of legal decisions and instructions;
- f) signs the National Supervisory Authority's correspondence, as well as any other acts, in accordance with the President's dispositions;
- g) coordinates the elaboration of the National Supervisory Authority's budget draft;
- h) exerts the National Supervisory Authority President's attributions in case of temporary incapacity;
- i) carries out any other attribution set out by the National Supervisory Authority's President.

Article 10

The leaders of the National Supervisory Authority's compartments have the following attributions:

- a) coordinate and control the activity of the compartments under their leadership and ensure their well functioning;
- b) present periodical reports or on the request of the National Supervisory Authority's leadership, regarding their activity;
- c) take part in the elaboration of the yearly report's draft, as well as other assignments with a special degree of difficulty or importance;
- d) distributes assignments to the staff under his leadership and follows up no their result;
- e) sign completed assignments and the correspondence of the compartments under their leadership;
- f) inform the compartments' staff with regard to the leadership's decisions;
- g) make proposals for the better functioning of the compartments under their leadership and submit the staff's proposals for the leadership's approval;
- h) evaluate the staff under their leadership;
- i) make proposals regarding the structure of expenses necessary for the good organization and well functioning of the compartments under their leadership, in order to be included in the National Supervisory Authority's budget draft;
- j) make proposals regarding the records of the compartments under their leadership and they assume responsibility for the way in which the documents are stored until they are submitted to the National Supervisory Authority's archive;
- k) exert any other attribution set out by the job description or the National Supervisory Authority's President.

Article 11

The audit activity is organized and is subordinated to the National Supervisory Authority's President, under law.

Chapter 3 Attributions of the National Supervisory Authority's compartments

Article 12

The Department of personal data processors' and personal data processing records carries out the following attributions:

- a) receives and solves the assignments distributed to it;

- b) sets out the layout of the records mentioned in Article 18 paragraph (1) letters c) to e) of this Regulation;
- c) ensures the set up of an electronic data base with the data processors' records and personal data processing, as well as its administration;
- d) brings up the necessity of any preliminary control or investigation, as a result of analyzing notifications;
- e) elaborates technical procedures regarding personal data processing;
- f) ensures the informational support required by the well functioning of the National Supervisory Authority;
- g) elaborates and submits for the President's approval the procedure regarding receiving, analyzing and recording notifications for personal data processing;
- h) keeps records of the correspondence distributed or drawn up within the compartments;
- i) exerts any other attribution set by the President, under law.

Article 13

The Investigation department carries out the following attributions:

- a) makes proposals for and carries out preliminary controls and investigations at personal data processors, under law;
- b) solves complaints, intimations and requests received by the National Supervisory Authority;
- c) draws up notes in order to ascertain the result of preliminary controls and investigations;
- d) makes proposals for legal measures deemed necessary as a result of preliminary controls and investigations;
- e) informs the department of personal data processors' and personal data processing records with regard to the measures and decisions of the National Supervisory Authority's President, as a result of preliminary controls and investigations;
- f) follows up on the fulfillment of compulsory measures by personal data processors, as set out by the National Supervisory Authority;
- g) elaborates and submits for the President's approval the procedure of solving complaints, intimations and requests, as well as the procedure after which preliminary controls and investigations are carried out;
- h) keeps records of sanctions applied to personal data processors;
- i) keeps records of the correspondence distributed or drawn up within the compartment;
- j) exerts any other attribution set by the President, under law.

Article 14

The Bureau of authorizations carries out the following attributions:

- a) makes proposals for the approval of transfers of personal data to other states;
- b) makes proposals for the approval of personal data processing regarding the individual's health record, under law;
- c) points out the necessity of preliminary controls and investigations regarding personal data processing submitted for authorization;
- d) elaborates and submits for the President's approval the procedure of authorization of personal data transfers to other states, as well as the procedure of authorization mentioned at letter b);
- e) keeps records of all authorizations approved by the National Supervisory Authority;
- f) informs the Department of personal data processors' and personal data processing records of all authorized personal data transfers to other states, as well as all other authorized personal data processing;
- g) elaborates technical procedures regarding the transfer of personal data to other states;
- h) solves petitions regarding personal data processing submitted for authorization;
- k) exerts any other attribution set by the President, under law.

Article 15

The Bureau of European integration and international affairs carries out the following attributions:

- a) manages European and international programs regarding personal data processing;
- b) makes proposals regarding the compliance of the Romanian legal system with the European one in view of personal data processing, in collaboration with other compartments;
- c) submits for the President's approval and implements the planned measures regarding the fulfillment of the obligations imposed by the European integration regarding personal data processing;
- d) elaborates the National Supervisory Authority's correspondence with similar foreign authorities and ensures a good collaboration with such authorities;
- e) draws up studies, comparative analysis and synthesis regarding the legislation, the common law and international common practices on personal data processing;
- f) takes part in drafting the National Supervisory Authority's advertising materials, as well as in organizing seminars and meetings, in collaboration with other compartments;

- g) organizes the foreign affairs' activity in accordance with the yearly plan approved by the President;
- h) organizes meetings with delegations and missions at the National Supervisory Authority's headquarters, and plans the National Supervisory Authority's participation at reunions to which it was invited;
- i) keeps records of the correspondence distributed or drawn up within the compartment;
- j) exerts any other attribution set by the President, under law.

Article 16

The Bureau of juridical affairs and communication carries out the following attributions:

- a) analyses and approves proposals for legal norms on personal data processing;
- b) makes proposals on the initiation of legal norms' drafts or the modification of legal norms already enforced regarding personal data progressing, in collaboration with other compartments;
- c) elaborates drafts of the President's decisions;
- d) represents the National Supervisory Authority in court, or in front of other public authorities, in accordance with the President's mandate;
- e) analyses and elaborates a legal approval for all documents and contracts submitted for the President's approval;
- f) exerts a legal control over the unfolding of the procedures regarding public acquisitions;
- g) elaborates press reviews and press releases, and submits them to the President's approval;
- h) organises press conferences, meetings and seminars;
- i) makes proposals on editing brochures, an informational review, as well as other advertising materials, in collaboration with other compartments;
- j) makes proposals on accrediting media representatives;
- k) makes proposals on the organisation of the work schedule with individuals or companies and manages the procedures regarding free access to public interest information;
- l) manages the procedures regarding the organisation of recorded documents within the National Supervisory Authority;
- m) ensures the well functioning of solving petitions and makes proposals on the improvement of this activity;
- n) keeps records of the correspondence distributed or drawn up within the compartment;
- o) exerts any other attribution set by the President, under law.

Article 17

- (1) **The Economics and human resources Department** consists of The Office for budget-finance and accounting, and The Human Resources Bureau. The Department's main attributions are:
 - a) coordinates the elaboration of the annual budget draft;
 - b) ensures the funds necessary for the National Supervisory Authority's activity;
 - c) organizes the management of the National Supervisory Authority's patrimony;
- (2) **The Office for budget-finance and accounting** carries out the following attributions:
 - a) elaborates the National Supervisory Authority's yearly budget draft and oversees its introduction in the State budget draft, under law;
 - b) organizes the budget's and patrimony's management and takes the necessary measures in order to ensure their integrity;
 - c) sets up measures regarding the organization and control of the accounting activity, under law;
 - d) organizes the preliminary financial controls regarding the use of approved financial resources;
 - e) elaborates the pay rolls regarding the staff's rights to wages, as well as the payment of such rights;
 - f) calculates the staff's travel deductions;
 - g) organizes and manages the procedures on public acquisitions, under law;
 - h) oversees the unfolding of contracts for utilities and those regarding public acquisitions;
 - i) organizes the acquisition of equipment and maintenance, and set up usage and security rules;
 - j) draws up the accounting and financial balance-sheets, under law;
 - k) evaluates the value of books received as gifts and submits the list to the management's approval;
 - l) makes a general inventory of the National Supervisory Authority's patrimony, under law;
 - m) organizes the activity regarding the working conditions' security and safety, as well as that of fire prevention;
 - n) organizes the archive's activity, under law;
 - o) keeps records of the correspondence distributed or drawn up within the compartment;
 - p) exerts any other attribution set by the President, under law.
- (3) **The Human Resources Bureau** carries out the following attributions:
 - a) organizes and ensures the enforcement of laws on personal data protection;
 - b) elaborates the positions' list and submits it to the President's approval;
 - c) organizes the staff's hiring and promotion exams and contests;
 - d) elaborates the documents necessary for hiring, promotion, payment of wage rights or ending legal work related issues, under law;

- e) oversees the enforcement of laws on wage rights;
- f) keeps records and completes the staff's professional files and work records;
- g) keeps the staff's records;
- h) coordinates the staff's evaluation activity;
- i) carries out assignments regarding the staff's evidence;
- j) produces and approves the staff's work-identification cards;
- k) keeps records of the staff's sick leave or other types of leaves;
- l) keeps records of the staff's professional training courses;
- m) keeps records of the correspondence distributed or drawn up within the compartment;
- n) exerts any other attribution set by the President, under law.

Chapter 4

Regulations on the National Supervisory Authority's correspondence records. The National Supervisory Authority's registers.

Section 1 The National Supervisory Authority's correspondence and registers

Article 18

- (1) The correspondence is recorded in registers, stored by the National Supervisory Authority.
- (2) The National Supervisory Authority, in view of its legal attributions, elaborates, mainly, the following documents:
 - a) decisions, authorizations, advises, instructions and recommendations of the President;
 - b) addresses to personal data processors, as well as to other public authorities and institutions;
 - c) addresses to individuals whose personal data are processed;
 - d) yearly reports;
 - e) explanations, grounding notes and reports submitted for approval;
 - f) complaints and suits to courts or other judicial authorities, as well as notifications to criminal investigation authorities;
 - g) notes and proceedings;
- (3) Addresses to other authorities, individuals whose personal data are processed and to personal data processors are elaborated are carried out *ex officio* or at their request, in view of the National Supervisory Authority or its leadership's legal attributions.

Article 19

- (1) The National Supervisory Authority's registers are:
 - a) the general register for entries and sent correspondence, which keeps a chronological list of acts of information, complaints, notifications and all other documents regarding the National Supervisory Authority's activity, including the financial or administrative ones;
 - b) the register on requests and answers regarding the free access to public interest information;
 - c) the register of the personal data processors;
 - d) the register of the personal data processing;
 - e) the register of personal data transfers to other states;
 - f) the register containing all documents regarding solving requests, complaints and intimations that may be constituted into a file;
 - g) the register of decisions, advises and recommendations issued the President;
 - h) the register of documents issued by the President in the exert of his legal attributions regarding the National Supervisory Authority's internal activity, where they are recorded and numbered;
 - i) the special register of secret and confidential correspondence, where documents with such character are recorded, without being revealed, and then submitted to their designated addressee;
 - j) the archive register.
- (2) The registers may also be recorded in electronic format.
- (3) At the end of every year, after the last operation has been recorded, except those mentioned in paragraph (1) letters c) to e), a conclusion proceeding will be issued and also signed by the vice-president.
- (4) In view of an efficient unfolding of the National Supervisory Authority's activity, the President may approve other registers to be kept, in accordance with his legal attributions.

Section 2 Recording, distributing and solving correspondence

Article 20

- (1) The National Supervisory Authority's received or drawn up correspondence is recorded in the general register for entries and sent correspondence, except correspondence determined by law as secret or confidential by the President's decision, recorded in the special register of secret and confidential correspondence.
- (2) All correspondence addressed to the National Supervisory Authority must be in writing, in accordance with legal provisions, and may be sent by mail, including electronic mail, fax or may be submitted personally or by representative.

- (3) The correspondence from personal data processors as a result of the obligation mentioned in article 22 paragraph (1) of Law no. 677/2001 is recorded in the general register for entries and sent correspondence, and, if necessary, in the registers mentioned in article 18 letters c), d) or e) of this Regulation.

Article 21

- (1) The correspondence recorded in the general register for entries and sent correspondence, will be distributed to the compartments within the National Supervisory Authority through courier, under a resolution from the person designated by the President.
- (2) The distributed correspondence is submitted to the compartment's staff through a resolution from its leader.
- (3) The staff within the compartments is obligated to keep records of the documents submitted and of those issued by them.

Article 22

The work related proceedings are established within each compartment, are signed by its leader and are submitted for the President's approval.

Article 23

The compartments' leaders sign or, if necessary approve, documents leaving the organizational structure under their leadership and keep records of such documents.

Chapter 5

The National Supervisory Authority' staff

Article 24

The National Supervisory Authority's staff, hired from the People's Advocate, benefits from the provisions of article 19 paragraph (2) of Law no. 102/2005.

Article 25

- (1) The staff from the People's Advocate will be hired, in no longer than 45 days after this Regulation, on the positions determined by The National

Supervisory Authority's President, on request approved by the President and examination.

- (2) The staff from the People's Advocate, hired as provided in paragraph (1) continues to benefit of the specific wage outputs it had, including outputs for confidentiality and stability, as continuous outputs.
- (3) The examination procedure mentioned in paragraph (1) is established through the President's decision.

Article 26

The conditions for occupying leadership positions, other than that of vice-president, as well as all other positions, will be determined by the National Supervisory Authority's President.

Article 27

In order to accomplish special assignments, specialists' help may be requested, by hiring such staff members on a determined period of time.

Article 28

- (1) Staff's wages shall be determined in accordance with the level of wages provided by law for similar positions in the Parliament's structure.
- (2) The National Supervisory Authority's staff wage outputs provided for similar positions in the Parliament's structure, under law.

Article 29

The National Supervisory Authority's staff has the right to holiday leaves, as well as all other types of leave, in accordance with those provided for by law, for similar positions in the Parliament's structure.

Article 30

The evaluation of the staff's professional activity is carried out in accordance with the legal provisions regarding similar positions in the Parliament's structure.

Article 31

While exercising its attributions, the staff's obligations are:

- a) to act with professionalism, loyalty, fairness and promptitude;
- b) to continue its professional training regularly;

- c) to act politely and promptly to individuals' requests;
- d) to ensure the application of the principle of equality of treatment while issuing decisions, solving complaints, requests or intimations;
- e) to exert the its attributions in complete accordance with the legal provisions;
- f) not to be influence in its activity by personal or political interests;
- g) to ensure individuals' access to documents in accordance with legal provisions;
- h) to wear an identification card.

Article 32

The staff's disciplinary responsibility is engaged in accordance with legal provisions enforced, for every category of the National Supervisory Authority staff's members.

Chapter 6 **Final and transitory provisions**

Article 33

Until the staff s transferred to the National Supervisory Authority, the calculation and payment of wages, as well as those of persons hired by the National Supervisory Authority in the margin of 50 positions mentioned in the provisions of Law no. 102/2005, including the President's wage, shall be done by the People's Advocate.

Article 34

The yearly award for the staff hired by the National Supervisory Authority from the People's Advocate shall be granted by the latter.

Article 35

In order to ensure the continuous activity regarding personal data processing, the National Supervisory Authority may take over from the People's Advocate inventory items, in proportion with the staff transferred.

Article 36

The National Supervisory Authority shall take over from the People's Advocate the funds necessary to fulfill the obligations mentioned in the Plan of imperative

measures for European integration November 2004-december 2005, as provided for in the 2005 budget.

Article 37

The National Supervisory Authority possesses a set of five automobiles, one of which shall be an off road vehicle, and a monthly fuel consumption of 500 liters of petrol/automobile. Exceeding the fuel consumption limit will only be allowed in order to ensure preliminary controls and investigations provided by the European Parliament's and Council's Directive 95/46/CE of October 24th 2005 on the protection of individuals with regard to personal data processing and the free movement of such data, as well as Law no.677/2001.

Article 38

The expenses related to the staff's compulsory trips at the Working Party's reunions Article 29 and those of the Committee Article 31 set up by the Directive 95/46/CE, will be awarded by the People's Advocate until the National Supervisory Authority's budget division from the latter.

Article 39

The National Supervisory Authority's headquarters is in Bucharest, Eugeniu Carada no 3, S. 3 until the repositioning facilitated by the Government's offering of a new location.

Article 40

The annex is part of this Regulation.

Article 41

The Regulation enters into force after its approval by the Standing Bureau of the Senate and its publication in the Romanian Official Journal, Part I.