

RA MINISTRY OF JUSTICE
PERSONAL DATA PROTECTION AGENCY

ANNUAL REPORT

1ST YEAR OF ACTIVITIES

October 2015 – January 2016



FORWARD

I am honored to be the first Head of the newly established Personal Data Protection Agency of the RA Ministry of Justice. A serious responsibility was put on my shoulders: to form and build this institution during the upcoming five years.

One of the primary principles of the Agency is public accountability and transparency. With a great pride, in the Personal Data Protection International Day, I present the first public report of the Agency. The report reflects the Agency's work from October 9, 2015 since its establishment to January 26, 2016. Even though the period is too short for the tangible results, however the work done by 3 staff members of the Agency is impressive.

My vision of the Agency development is following:

1. As a former freedom of information activist, I think that one of the Agency's most important principles is to keep the high level of Agency's public accountability and transparency. I'm sure, for obtaining success there must always be a dialogue with the media and civil society.
2. I do not want the Agency to become a regular inspecting and punishing institution like many others in our country. There is no need to expand their lines. Our task is to encourage and promote personal data processing companies to carefully process and keep safe the personal data. Administrative responsibility is just an additional tool, not a blackjack that will force data processors to follow the Law.
3. The Agency should first carry out preventive function. Therefore we see ourselves more as a strategic regulator, policy shaper institution. Acting on our own initiative, we are developing guidelines on matters of public concern. Soon we will publish the guidelines developed by the Agency's position on Video Surveillance and Direct Marketing issues. This culture helps to fill the gap between rapidly growing reality and the Law through soft law.

We are at the beginning of a huge road. I am sure with the help of public's trust and cooperation, will be established a model institution and practice of the Personal Data Protection in Armenia.

Shushan Doydoyan, PHD

Head of the Personal Data Protection Agency

RA Ministry of Justice

Introduction

The Personal Data Protection Agency of the RA Ministry of Justice carries out its activities based on the principles of transparency and openness. This is the Agency's work style and reflected in Article 24 of the RA Law on "Personal Data Protection".

Hence, stressing the importance of informing public on the Agency's work, current situation and implementation measures regarding the provision of reliable and timely information, as well as accountable work, Personal Data Protection Agency presents this public report that includes the period of the Agency's work from October 9, 2015 (starting from the appointment of the Head of the Agency Ms. Shushan Doydoyan) to January 26, 2016.

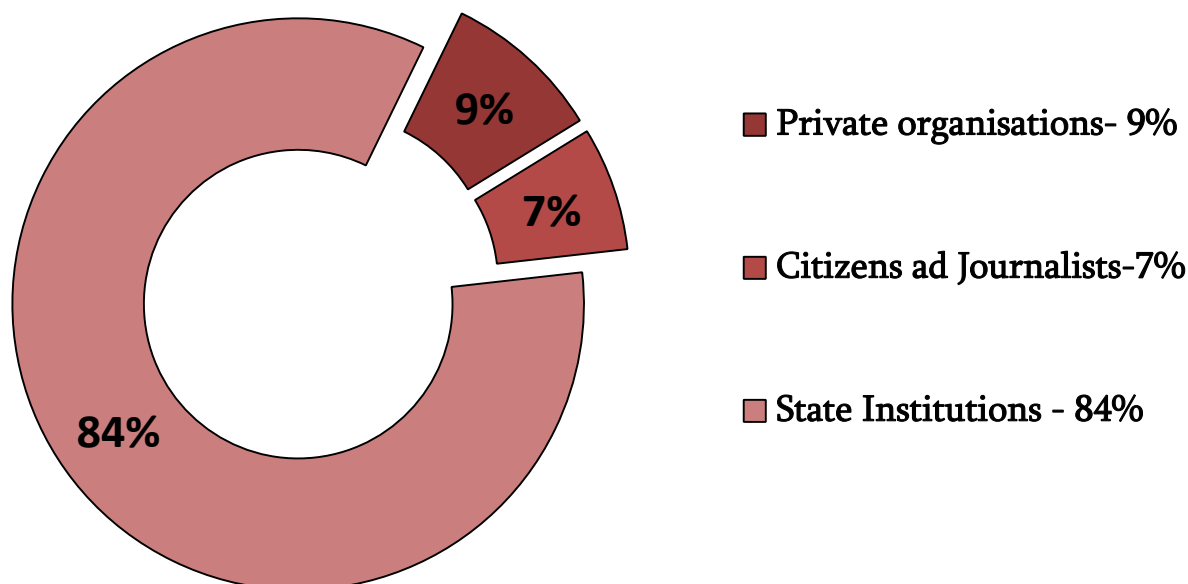
The Agency “once a year, submits a public report on the current situation in the field of personal data protection and on the activities of the previous year”
(Article 24

ACTION PLAN DEVELOPMENT AND ADOPTION

Personal Data Protection Agency has developed and adopted its two-year Action Plan for the years of 2015-2017 as a strategic document for the development of the Agency. The document's goal is to support efficient formation and development of the Agency.

Action Plan represents the Agency's vision, review and evaluation of the situation in the field of protection of personal data, harmonization of the Law on "Personal Data Protection" and other laws (legislative framework for regulation), study and adaptation of international best practices on personal data protection, public education and awareness raising on personal data protection, as well as capacity building of the Personal Data Protection Agency (staff training and technical upgrading).

CONSULTATIONS AND PROCEEDINGS



The principles and legal regulations of the RA Law on "Personal Data Protection" were new not only to citizens, but also to public administration and local government agencies, and private companies who are processing personal data. Based on this consultation became one of the main functions of the Agency. During the first three months of existence 70 organizations and citizens asked for consultation from different public and private institutions. They were given oral and written advice on the implementation of the RA Law on "Personal Data Protection" and the personal data protection right.

The majority of applicants (58 people or 76% of all applicants) asked advice on the procedures of biometric and special category personal data processing and preparation of the notifications regarding it. The rest of the people applied for different matters (for example, about their obligations in the framework of the Law on "Personal Data Protection", the list of countries that have adequate level of protection of personal data, person's consent forms for processing personal data, etc.).

The vast majority (84%) of total 76 applicants are personal data processor State institutions (State institutions include not only State and Local Government Bodies, but also legal entities such as medical and educational institutions under their supervision (also colleges, public

service provider organizations in the field of public transportation, etc)). 9% (7 applicants) of applicants are private organizations, 7% (5 applicants) citizens and journalists.

The Agency initiated first administrative proceedings on the legality of personal data processing. One of the two proceedings initiated on the basis of the citizen's application and is about the use of citizen's vehicle records received from the video surveillance camera by Yerevan Municipality as an evidence of the offense/violation. A citizen asked to check the legality of the use of his personal data.

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The second procedure was initiated on the basis of a Closed Joint Stock Company's appeal against RA Ministry of Justice's State Register of Legal Entities. The request was related to the legality of the inclusion of the information on Company's shareholders by the State Register of Legal Entities' Register. CJSC required the State Register to remove from Register the information on shareholders, their parts of share and the change of the share parts. These two proceedings are in progress as of January 29, 2016.

SITUATION ANALYSIS AND ASSESMENT

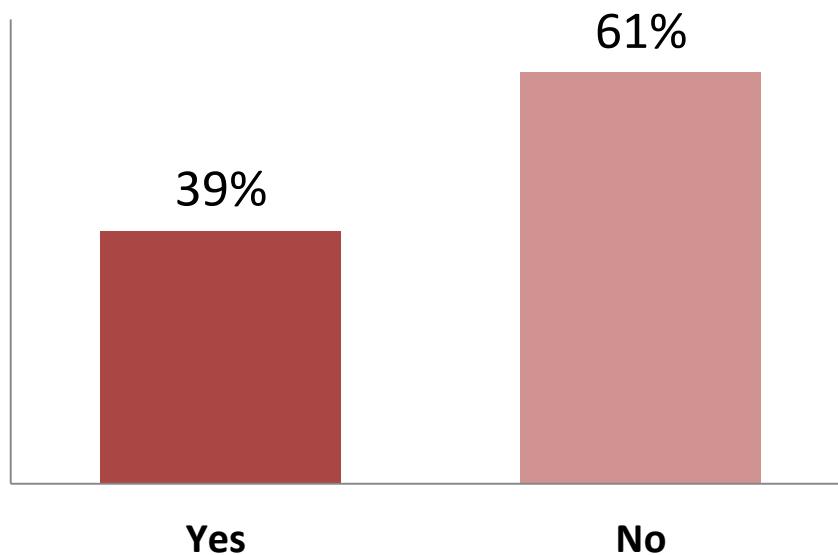
The Agency has developed professional opinion and analyzes on the Law on "Personal Data Protection" which includes:

1. Research on the EU Member States' best practices about:
 - Video Surveillance legal practice
 - Direct Marketing legal practice
 - Personal data protection authorities, functions, structure and the guarantees of independence.
2. Research on the RA and international bilateral and multilateral existing, signed or to be signed treaties containing provisions on the transfer of personal data, and comprehensive information was prepared on them.

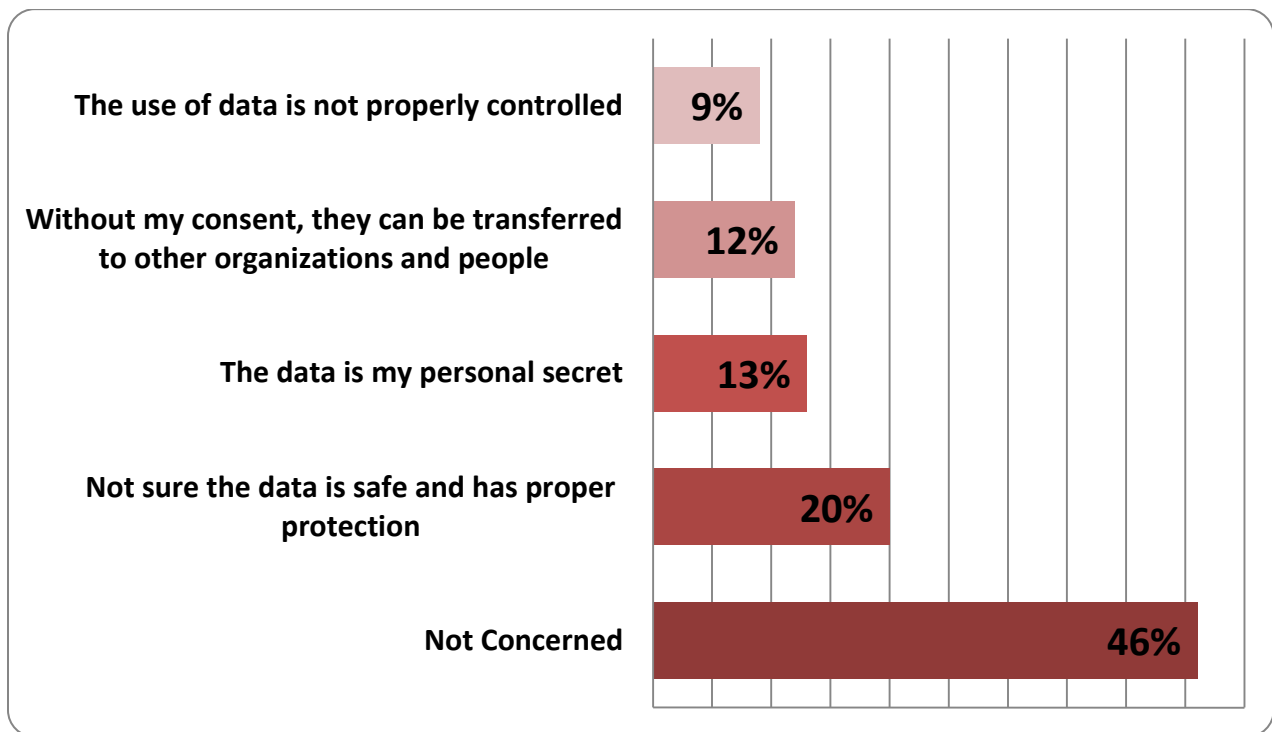
3. Review of the drafts of the Amendments and Additions/Addendums to the RA Law on "Police" (on the registration of records of characteristics of DNA) and the Amendments and Additions/Addendums to the RA Law on "Stock Companies" correspondence to the RA Law on "Personal Data Protection". Professional opinions were prepared.

To assess the challenges in the field of protection of personal data the Agency has been supported by the Caucasus Research Resource Center - Armenia. According to the Agency's request survey was conducted among 279 citizens on preliminary assessment of the current state of personal data protection. Below are presented few results of the survey.

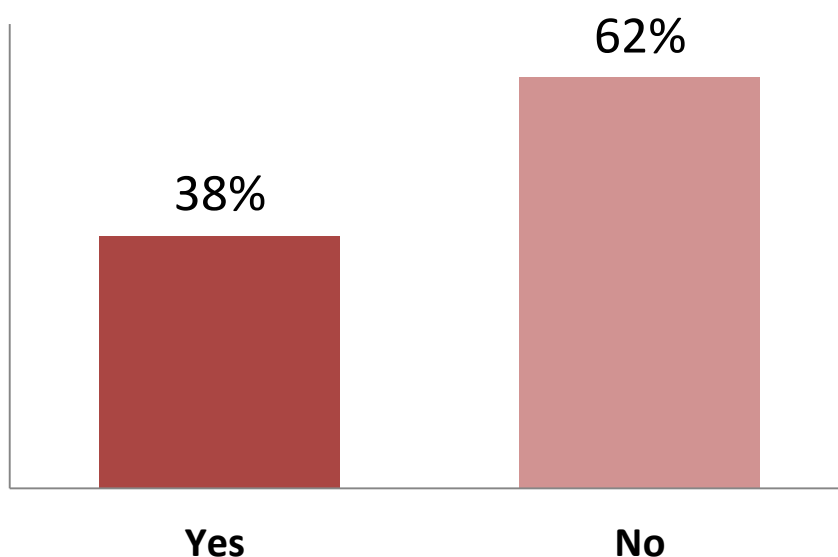
1. **Are you aware that according to the RA Law on "Personal Data Protection" you have the right to know, demand and receive the information about you stored in the organizations (public and private)?**



2. Are you concerned that the organizations (public and private) can keep your personal data? Please provide reasons for your concern.



3. When you sign a contract or an agreement, for example with a bank or telecommunication company, do you get to know how they are going to use the data you transmitted to them?



PUBLIC AWARENESS AND TRAININGS

To ensure public awareness the Agency presented its goal, objectives and functions via different media.

By the Invitation of the “Union of Manufacturers and Businessmen (employers) of Armenia” the Agency staff conducted trainings for 9 private companies’ representatives on the specifics, subject matter, purpose, principles and the scope of the obligations defined by the RA Law on “Personal Data Protection” for data processing private companies.

Video Surveillance and Direct Marketing guidelines developed by the Agency soon will be presented to the public through workshops, social networks and media.

DEVELOPMENT OF SOFT LAW ON STRATEGIC ISSUES

Personal Data Protection Agency values and gives great importance to such strategic issues in the field of personal data protection that are relevant and concern everybody.

By implementing a preventive function and being a strategic regulator the Agency on its initiative, has developed guidance on issues of public concern.

The Agency on its own initiative examined video surveillance and direct marketing appliance issues, and developed appropriate guidelines for effective regulation and for the purpose of balancing it with the protection of personal data. This culture helps to fill the gap between rapidly growing reality and the Law through soft law.

VIDEO SURVEILLANCE

In terms of personal data person's photo allows direct or indirect identification of a person. Therefore, the recording and surveillance through video camera (video surveillance), is considered as personal data processing and has to meet personal data processing, using and protection requirements and principles.

Video surveillance is becoming more and more popular in Armenia. People are watched at almost every step, so it is extremely important to conduct surveillance for solely legitimate and necessary purposes and boundaries. Taking this into account the Agency developed a Video Surveillance Guide in accordance with the RA Law on "Personal Data Protection" and EU standards, which will be released in February, 2016. The main goal of the Guide is to ensure implementation requirements and legal regulations of conducting video surveillance in public places, state and private institutions, residential buildings, etc. Based on the reports of the citizens and on its own initiative the Agency will carry out video surveillance legality check.

DIRECT MARKETING

Another widely discussed issue of public concern is direct marketing, when telecommunication companies transferring mobile and fixed phone numbers to the third parties for sending promotional and/or informational messages and/or making marketing calls.

Citizens, even if they gave their consent of using their phone number for marketing purposes during the contract signing with the telecommunication company (when they became a subscriber of a particular company), often do not realize the consequences of it or do not know how to cancel the "service".

With this in mind, the Agency has studied the international experience of direct marketing regulation. Based on the study of international practice and the received information, the Agency intends to develop a package of proposals aimed at regulating direct marketing field directed to telephone service provider companies

NOTIFICATIONS

According to the 3rd part of the Article 23 of the RA Law on “Personal Data Protection” “the processor, prior to the processing of biometric or special category personal data, shall be obliged to notify the authorized body for the protection of personal data of the intention to process data”. By the way, the processors, who processed personal data prior to the entry into force of the Law and continue processing personal data after the entry into force of the Law, shall be obliged to send the mandatory notification provided for by the Law to the authorized body for the protection of personal data.

As of January 26, 2016 the Agency has already received 37 notifications.

The Agency prepared and sent letters to data processors about mandatory notifications, reminding them on their obligation to submit notifications on biometric or special category personal data processing to the Personal Data Protection Agency.

The obligation to submit a mandatory notification was a new requirement for data processor government agencies and private organizations.

As was mentioned in “Consultations” section, the majority of applicants applied to the Agency were concerned on the biometric and special category data processing issues and the preparation and issuance of the appropriate notification.

Besides phone consultations the notification the notification sample was developed and as an advisory guideline provided to interested parties. As of January 26, 2016 the Agency has already received 37 notifications:

INTERNATIONAL COOPERATION

Cooperation has been established between Personal Data Protection Agency of the RA Ministry of Justice and EU member states' similar authorities. Currently projects of joint events, activities and mutual visits are being planned.

Joint cooperation programs on personal data protection were discussed with the EU delegation in Armenia, the Council of Europe Yerevan Office, and OSCE Yerevan Office. The Agency has submitted Agency's strengthening comprehensive program to its' international partners.

Head of the Personal Data Protection Agency of Armenia Ms. Shushan Doydoyan was nominated as a representative of Armenia in the Council of Europe "Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD)".