



**DECISION no. 161 of the 9<sup>th</sup> of October 2018 on the approval of the  
Procedure for conducting investigations**

Pursuant to Article 55, Article 57 paragraph (1) letter h), Article 58, Articles 60 to 62 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/4/EC (General Data Protection Regulation),

Having regard to the provisions of Law no. 129/2018 for amending and supplementing Law no. 102/2005 on the set up, organisation and functioning of the National Supervisory Authority for Personal Data Processing, as well as for repealing Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data,

Having regard to the provisions of Law no. 190/2018 on implementing measures to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation),

Having regard to the provisions of Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, with further amendments and supplements, as well as the other applicable legal provisions with reference to the processing of personal data,

Having regard to the legal tasks of the National Supervisory Authority for Personal Data Processing with reference to the performance of investigations, under the cases and conditions stipulated in its competences, through the personnel authorised for this purpose, according to the law,

Based on the Report of the Control Department no. 153 of the 1<sup>st</sup> of October 2018 on the approval and publication of the procedure for conducting investigations, pursuant to the provisions of Article 3 paragraphs (5) and (6), of Article 10 paragraph (1) letters a) to d), of Article 12 and of Article 14<sup>1</sup> to 14<sup>6</sup> of Law no. 102/2005 on the set up, organisation and functioning of the National Supervisory Authority for Personal Data Processing, with further amendments and supplements, of the Regulation on the organisation and functioning of the National Supervisory Authority for Personal Data Processing, approved by the Decision of the Standing Bureau of the Senate no. 16/2005, with subsequent amendments and supplements,

the president of the National Supervisory Authority for Personal Data Processing issued the present decision.

Article 1

The Procedure for conducting investigations, presented in the annex, which is part of this decision, is approved.

Article 2

At the date of entry into force of this decision, any contrary provisions shall be repealed.

Article 3

This decision shall enter into force at the data of its publication in the Official Journal of Romania, Part I.

President of the National Supervisory Authority for Personal Data Processing,

Ancuța Gianina Opre

ANNEX:

**Procedure of the 9<sup>th</sup> of October 2018 for conducting investigations**

#### Article 1

In exercising the investigative powers provided by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/4/EC (General Data Protection Regulation), of Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, with further amendments and supplements, of Law no. 102/2005 on the set up, organisation and functioning of the National Supervisory Authority for Personal Data Processing, with further amendments and supplements, of Law no. 190/2018 on implementing measures to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation), as well as of the other applicable legal provisions with reference to the processing of personal data, the National Supervisory Authority for Personal Data Processing, hereinafter ANSPDCP, shall conduct investigations, by respecting the provisions of this procedure.

#### Article. 2

The investigations can be carried out:

- a) ex officio;
- b) based on the complaints.

#### Article 3

Ex officio investigations can be performed:

- a) following the proposal of the ANSPDCP's compartments with control competences;
- b) following the proposal of the president or of the vice-president of ANSPDCP, by written resolution;
- c) following the proposal of the other compartments within the ANSPDCP;
- d) following the personal data breach notifications submitted;
- e) for the verification of data and information regarding the processing of personal data, obtained by ANSPDCP from sources other than those subject to complaints, including on the basis of notifications or information received from another supervisory authority or from another public authority;
- f) for international cooperation, as well as with the other supervisory authorities of the Member States, in the field of personal data protection, including in the framework of joint operations and mutual assistance.

#### Article 4

(1) The proposal to conduct an ex officio investigation is done through a grounded note which shall contain the entity subject to the investigation, endorsed by the hierarchical chief and approved by the president of the ANSPDCP.

(2) In case of complaints, the performance of the investigations for handling them is approved by written resolution of the president of ANSPDCP who can delegate this task to the head of the specialised compartment.

#### Article 5

(1) The ex officio investigations are initiated according to the applicable legal provisions, in accordance with the conditions provided by the present procedure, and are carried out for the verification of data and information regarding the processing of personal data, obtained by

ANSPDCP from sources other than those subject to some claims. The data and information can be obtained from sources such as: correspondence received by ANSPDCP, mass media, accessing the Internet network, the documents drafted following other investigations or other documents within the ANSPDCP, cooperation activities with public or private entities or with supervisory authorities from abroad.

(2) The ex officio investigations can also be carried out in the form of data protection audits.

#### Article 6

(1) The investigations may also be conducted in order to handle the complaints received by ANSPDCP, in accordance with the present procedure.

(2) The assessment and the handling of the complaints is performed in compliance with the Procedure for receiving and solving complaints, approved by decision of the president of ANSPDCP.

#### Article 7

Following the transmission of the notifications of personal data breach, the investigations are carried out on the basis of a note prepared by the bearer of the document, endorsed by the hierarchical chief/the head of the specialised compartment/his/her substitute and approved by the president of ANSPDCP/his/her substitute.

#### Article 8

Within the investigations, any aspects regarding the observance of the rules for the processing of personal data can be verified.

#### Article 9

(1) The ANSPDCP's control personnel have the right to carry out investigations and is empowered by ANSPDCP president's decision.

(2) ANSPDCP' control personnel are legitimised on the basis of the control card. The control personnel are forbidden to use the control card outside the duties for which it was appointed.

(3) In the case of on spot investigations, it is also mandatory to issue a mandate indicating the name of the controlled entity.

#### Article 10

The head of the compartment(s) with the control powers nominates the persons who shall carry out the investigation and establishes the date or period of its execution.

#### Article 11

The control personnel designated to be part of the control team has the obligation to announce in advance the ANSPDCP management in case there are reasons that could cause a conflict of interest, according to the applicable law, in relation to the investigation for which it was nominated, in order to changing the composition of the control team.

#### Article 12

(1) In the case of joint operations carried out on the territory of Romania, in which the personnel designated by another supervisory authority from a Member State of the European Union participate, he/she shall perform his/her duties within the limits of the mandate issued by the president of the ANSPDCP.

(2) In the case of joint operations of the supervisory authorities carried out on the territory of other Member States, the ANSPDCP control personnel shall be appointed by the president of ANSPDCP/his/her replacement, by written resolution.

(3) The control personnel designated to participate in the joint operations of the supervisory authorities carried out on the territory of other Member States shall exercise their investigative powers under the coordination and presence of the supervisory authority's staff in the receiving Member State.

#### Article. 13

The control documents (the letter of the announcement of the controlled entity and the mandate, as the case may be) and the other documents (the travel orders and the travel report, if applicable) are prepared in advance by the designated bearer and are submitted for endorsement/signature to the hierarchical chief and for signature/approval of the president ANSPDCP or their substitutes, as the case may be.

#### Article 14

(1) The investigations may be carried out with the notification of the controlled entity or may be carried out without notice, without prior written notice of the controlled entity.

(2) Where the investigation is conducted with the notification of the controlled entity, it is carried out starting with the date and time announced by ANSPDCP.

#### Article 15

ANSPDCP may postpone or suspend the investigation, including at the request of the controlled entity, for justified reasons.

#### Article 16

(1) The investigations can be carried out on the spot, at the premises of the authority or in writing.

(2) The modality of conducting an investigation at the authority's premises or in writing shall be determined by the hierarchical chief/his/her replacement by written resolution

### **CHAPTER II: Conducting on spot investigations**

#### Article 17

(1) On spot investigations consist of checks carried out at the premises/domicile/working point or other locations where the controlled entity carries out its activity or locations related to the processing in question, as the case may be.

(2) Within the on spot investigations, the ANSPDCP control personnel carry out the following activities:

- a) movement to the premises/domicile/working point or other locations where the controlled entity carries out its activity;
- b) presentation of the control card and of the mandate, as the case may be, to the representatives of the controlled entity, which shall ensure the participation of the competent persons to provide relations/information in the controlled field. The persons designated by the controlled entity/data protection officer participate in the control, by providing the information and documents requested by the control team, and sign the finalised control documents;
- c) in the situations provided by law, the presentation of the judicial authorisation issued by the president of the Bucharest Court of Appeal or by a judge delegated by it;
- d) request the registration of the travel order and the mandate, if any;
- e) the registration in the control register of the controlled entity of the data provided in Article 3 paragraph (2) of Law no. 252/2003 regarding the single control register, if any;
- f) presentation of the objectives of the investigation;
- g) verification of all aspects related to the object of the investigation by requesting any information related to the control's objectives;

- h) verification of any storage document, equipment, mean or support of the data necessary for the unfolding of the investigation;
  - i) prelevation of the documents, in a certified copy by the controlled entity, or of the relevant records that relate to the control object and their annexation to the minutes of the finding/sanctioning;
  - j) drawing up the minutes of finding/sanctioning, by highlighting the situations presented by the controlled entity, the declarations of its representatives and its own findings and the application of administrative sanctions or other types of corrective measures, as the case may be;
  - k) imposing the sanction of the fine in the event that its amount does not exceed the equivalent in lei of the amount of 300,000 euros;
  - l) applying the corrective measures provided by law;
  - m) drawing up the remedial plan for the situations provided by law;
  - n) issuing the necessary recommendations for the remediation of the ascertained deficiencies, as the case may be;
  - o) handing/communicating to the controlled entity a copy of the minutes of the finding/sanctioning.
- (3) Within the on spot investigations, the control personnel of ANSPDCP has the following obligations:
- a) to maintain contact with ANSPDCP and communicate, in principal, to the hierarchical chief or his/her substitute any particular situation occurred in relation to the control;
  - b) to have a decent behaviour in relation with the controlled entity;
  - c) when carrying out the investigation, the control personnel may request assistance from the police. The request for assistance may intervene prior to the investigation, as long as there are indications of a possible opposition to the investigation or during it;
  - d) to maintain the professional secrecy for an unlimited time over the confidential or classified they had access to.

#### Article 18

In case the legal representative of the controlled entity is not present during the investigation, he/she has the obligation to designate in writing or to empower a person(s) to represent the controlled entity.

#### Article 19

Within the investigation, the controlled entity has, in principal, the following obligations:

- a) to allow the control personnel, without delay, to start and conduct the investigation and to provide the necessary support to the control personnel;
- b) to ensure the access of the control personnel in the premises in which they carry out their activity, to any equipment, means or support for data processing/storage, in order to carry out the necessary checks to conduct the investigation, including those that can be accessed remotely;
- c) to make available to the control personnel any information and documents, regardless of the storage medium, necessary for conducting the investigation, including copies thereof;
- d) to make available to the ANSPDCP the requested documents, certified for compliance with the original;
- e) to provide in a complete form the required documents, information, records and evidences, as well as any necessary explanations, without being able to oppose their confidential character, according to the law;
- f) to allow the control personnel to use the audio-video/photo recording and storage equipment whenever the control team considers it necessary in the conduct of the control activity.

#### Article 20

- (1) Where the control personnel is prevented in any way in the exercise of the tasks, ANSPDCP may request the judicial authorisation given by the president of the Bucharest Court of Appeal or by a judge delegated by it.
- (2) The judicial authorisation for carrying out the investigation is requested by the compartment with powers of representation in court based on the documents made available by the compartment(s) with control tasks.
- (3) A copy of the judicial authorisation shall be communicated to the controlled entity prior to the commencement of the investigation.
- (4) The conclusion of the judicial authorisation may be appealed against in the High Court of Cassation and Justice, within 72 hours from its communication. The appeal is not suspension of execution.
- (5) Where the investigation is to be carried out, including simultaneously, in several spaces owned by the controlled entity, ANSPDCP shall introduce a single request, the court pronouncing by a conclusion indicating the spaces where the investigation shall be conducted.
- (6) In all cases, the investigation cannot begin before 08:00 and cannot continue after 18:00 and must be carried out in the presence of the person where the investigation is carried out or of its representative. The investigation can continue after 18:00 only with the written consent of the person where it is performed or of its representative.
- (7) The identification and preservation of the objects, as well as the applying seals are done according to the provisions of Law no. 135/2010 on the Criminal Procedure Code, with subsequent amendments and completions.
- (8) In order to avoid the risk of destroying documents relevant for investigations, the control personnel may proceed to the application of seals in the investigations carried out by ANSPDCP in the event of non-finalisation of the investigation on the day on which it began, as well as in any other situations where this measure is justified.
- (9) The controlled entity has the obligation to ensure the integrity of the seals applied until they are lifted by the control personnel. In case of removal or destruction of the seals, the control personnel shall proceed according to the provisions of Article 61 of the Code of criminal procedure in order to notify the criminal investigation bodies regarding the commission of the crime of breaking the seals provided by Article 260 of Law no. 286/2009 regarding the Criminal Code, with subsequent amendments and completions.
- (10) The control personnel shall record in the minutes of finding/sanctioning the activity of applying seals, respectively lifting them.

#### Article 21

During the performance of the investigations, the control personnel may propose by a note, endorsed/signed by the hierarchical chief and approved by the president of ANSPDCP/his/her substitute, the carrying out of expertise, according to the law.

#### Article 22

- (1) During the investigations, the control personnel can hear the persons whose statements are considered relevant and necessary to carry out the investigation.
- (2) The result of the hearing is recorded by the control personnel in a note of hearing, signed by the participants. In the event that the audited persons refuse to sign the hearing note, mention shall be made in this regard of the respective writ.
- (3) The hearing note is attached to the minutes of finding/sanctioning.

#### Article 23

(1) The result of the investigation shall be recorded within the minutes of the finding/sanctioning concluded by the control personnel.

(2) Within the minutes of fining/sanctioning concluded, the control personnel must record the following:

- a) the date and place of concluding the minutes of fining/sanctioning;
- b) the identification data and positions of the members of the control team, including the number of the control badge;
- c) the number and date of the decision or mandate issued by the president of ANSPDCP and, as the case may be, the number and date of the mandate for the on spot investigations and the investigations not previously announced in writing;
- d) the object of the control;
- e) the identification data of the controlled entity;
- f) the identification data and positions of the representatives of the controlled entity;
- g) the findings resulting from the checks carried out;
- h) a description of the contravention, indicating the date and place where the deed was committed, the circumstances that may serve to assess the gravity of the act and, possibly, the damages, the normative act establishing and sanctioning the contravention, as well as the corrective measures and/or the sanction applied, if applicable;
- i) the term of exercise of the appeal and the court to which the complaint is filed, in case of applying an administrative sanction;
- j) if documents or other materials have been collected, their kind and nature;
- k) if the representatives of the controlled entity, who participated in the control activity, refused to record the objections regarding the content of the minutes of finding/sanctioning, after being informed of this right;
- l) mentions regarding the delivery/communication of the minutes of finding/sanctioning, in copy, to the representatives of the controlled entity;
- m) the reasons for which the representatives of the controlled entity did not sign the minutes of finding/sanctioning, indicating the identification data of the witness who attests the reasons for not signing the report, if it exists, or of the reasons that led to the drawing up of the minutes in the absence of a witness.

(3) The minutes of the finding/sanctioning shall be drawn up in a single exemplary, a copy of which shall be delivered to the legal or designated representative of the controlled entity.

(4) The minutes of the finding/sanction stamped by ANSPDCP is signed on each filled in page by the members of the control team and by the legal or designated representatives of the controlled entity.

(5) In case the legal or designated representative of the controlled entity is not present or, although present, refuses to sign the minutes of the finding/sanctioning, its copy is communicated within a maximum of two months from the conclusion of the report, by post, with acknowledgment of receipt, by displaying at the offender's domicile or premises or, exceptionally, through the court executors. The display operation is recorded in a report, signed by at least one witness.

(6) The minutes of the finding/sanctioning is the title of the debt and payment notification.

#### Article 24

(1) The administrative sanctions applied by ANSPDCP are the reprimand and the fine.

(2) Following the investigations conducted, by the minutes of the finding/sanctioning or by decision of the president of ANSPDCP, a warning can be issued for the controlled entity, if there is the possibility, through the processing operations that a controller or processor intends to perform,



to violate the applicable law. The president's decision is based on the minutes of the finding/sanctioning concluded by the control personnel and the related documents.

(3) The application of sanctions is made by the minutes of the finding/sanctioning concluded by the control personnel or by decision of the president of ANSPDCP, according to the law.

(4) In case the amount of the fine exceeds the equivalent in lei of the amount of 300,000 euros, the application of the fine is made by decision of the president of ANSPDCP, which is based on the minutes of the finding/sanctioning and the report of the control personnel.

(5) In the case of cross-border processing that attract the competence of ANSPDCP as the lead authority, as well as if the supervisory authority of a Member State of the European Union has refused the proposal to act as the lead supervisory authority, the application of sanctions and others corrective measures are carried out by decision of the president of ANSPDCP, which is based on the minutes of the finding/sanctioning and the report of the control personnel.

(6) In the situations provided in paragraphs (4) and (5), the decisions are drafted by the control personnel, endorsed by the head of the compartment(s) with the control tasks that carried out the investigation, by the head of the compartment that proposed the investigation, as the case may be, and by the head of the compartment with tasks for endorsement of the legality, and is signed by the president of ANSPDCP or its substitute.

#### Article 25

(1) Following the investigations, in addition to imposing the sanctions provided for by the law, ANSPDCP may also apply other corrective measures and may make recommendations.

(2) The corrective measures can be ordered through the minutes of the finding/sanctioning by the control personnel or can be ordered by decision of the president of ANSPDCP, as the case may be.

(3) The corrective measures that consist of obliging the controller or the processor to respect the requests of the data subject for the exercise of the rights, to ensure the compliance of the processing operations with the applicable legal provisions, obliging the controller to inform the data subject about a violation of the personal data protection may be ordered by the minutes of the finding/sanctioning or by the decision of the president of ANSPDCP.

(4) The corrective measures consisting, as the case may be, of temporary or definitive limitation, ban on the processing, rectification or deletion of personal data, restriction of processing, notification of these actions to the recipients to whom the personal data have been disclosed, the withdrawal of a certification or obliging the certification body to withdraw a certification issued or not to issue a certification if the certification requirements are not or are no longer met, the suspension of data flows to a recipient from a third country or an international organisation is provided only by decision of the president of ANSPDCP.

(5) The decisions ordering the application of the corrective measures shall be drafted by the control personnel, shall be endorsed by the head of the compartment(s) with control attributions who carried out the investigation, by the head of the compartment that proposed the investigation, as the case may be, and by the head of the compartment with tasks for endorsement of the legality and is signed by the president of ANSPDCP or his/her substitute.

(6) The decision must contain the following elements: the identification data of the ANSPDCP and the name of its legal representative, the identification data of the controller/processor, the personal identification number, as the case may be, a description of the facts and circumstances that may be had in the view of the individualisation of the measure, the indication of the legal basis according to which the deed is established and sanctioned, the corrective measures applied, the deadline and the method of payment of the fine, as the case may be, the deadline for exercising the appeal and the competent court.

(7) The decision ordering the application of the corrective measures is communicated to the controlled entity.

(8) After the expiry of the time limit for the application of the corrective measures, if the controlled entity has not proved the implementation of the measures ordered by ANSPDCP, a new investigation can be carried out, in compliance with this procedure.

(9) The monitoring of the observance of the measures ordered following the investigations is carried out by the control personnel, under the conditions of the applicable legal regulations.

#### Article 26

The administrative fine, the reprimand and the warning can be imposed distinctively or together with other corrective measures.

#### Article 27

In the case of the offenders who did not prove the payment of the fine within 15 days from the handing, respectively from the communication of the minutes of the finding/sanctioning or the decision, the control team transmits the enforceable title to the enforcement bodies, according to the law .

#### Article 28

(1) The data controller or processor may file an appeal against the minutes of the finding/sanctioning and/or the decision to apply the corrective measures, as the case may be, with the administrative section of the competent court, within 15 days from handing, respectively from communication of the minutes of the finding/sanctioning or of the decision of the president of ANSPDCP.

(2) Introducing the appeal suspends only the payment of the fine, until a final court decision is issued.

#### Article 29

(1) ANSPDCP may order, by decision of the president, the publication by the data controller or processor of any corrective measures applied, with the costs incurred by them, based on a grounded proposal or on the president's resolution.

(2) In case of non-observance of the measures ordered or in case of tacit or express refusal to provide all the information and documents requested during the investigation procedure or in case of refusal to submit to the investigation, ANSPDCP may, by decision of the president, impose a cumulative fine of up to 3,000 lei for each day of delay, calculated from the date established by decision. The decision of the president of ANSPDCP constitutes an enforceable title

#### Article 30

The control team may propose by note endorsed by the hierarchical chief/his/her substitute and approved by the president of ANSPDCP/his/her substitute, the notification of other competent authorities, as the case may be.

#### Article 31

In the case of investigations conducted at the proposal of other compartments within ANSPDCP, the results of the investigations are communicated to these compartments with the opinion of the hierarchical chief/substitute, by sending a note accompanied by a copy of the minutes of the finding/sanctioning.

### **CHAPTER: Conducting the investigations at the premises of ANSPDCP**

#### Article 32

(1) In the case of the investigations carried out at the ANSPDCP's premises, the designated control personnel sends a letter of convocation of the representatives of the controlled entity, specifying the

date and time of the beginning of the investigation. The letter shall mention the obligation of the controlled entity to present at the ANSPDCP's premises, as the case may be, with documents, relevant records, information equipment according to the control object, the identity documents of the legal representative/authorised person and of the controlled entity, including the stamp in the case of public authorities and the control register, if applicable.

(2) The investigations at ANSPDCP's premises are carried out in compliance with the applicable rules applicable in this procedure.

(3) Exceptionally, as the case may be, the minutes of the finding/sanctioning may be concluded at the premises of the authority, without summoning the representatives of the controlled entity, when it is decided that there is sufficient/relevant evidence for the finalisation of the investigation, based on the note of the control team approved by the chief hierarchical.

(4) The controlled entity may submit objections to the minutes of the finding/sanction, which are an integral part of it, within 15 days from the date of handing/communication of the minutes of the finding/sanction.

(5) The minutes of the finding/sanctioned unchallenged at the competent court within 15 days, according to the law, constitutes an enforceable title, without any other formality.

(6) In the case of investigations at the ANSPDCP's premises, the procedure for drawing up, communicating the minutes of the finding/sanctioning and the decisions of the ANSPDCP's president, as well as the follow-up of the measures ordered by the minutes, is the one applicable to the on spot investigations.

#### **CHAPTER IV: Conducting the written investigations**

##### Article 33

(1) In the case of written investigations, a letter is sent to the controlled entity, drawn up by the bearer of the document and signed, as the case may be, by the hierarchical chief or the president of ANSPDCP/their substitutes, requesting information, data and documents necessary to solve the case under investigation. The letter mentions the obligation of the controlled entity to respond in writing, with the annexation of evidence in certified copies for compliance with the original and within the deadline established by ANSPDCP.

(2) Depending on the response received, it may be decided to continue the investigation in writing or on spot, in compliance with the applicable rules, or it may be decided to finalise the investigation by concluding the minutes of the finding/sanctioning at the premises of ANSPDCP.

(3) Where, following the written investigations, no facts were held that would impose the administrative sanction of the controlled entity, the finalisation of the written investigation is accomplished by a note of finalisation of the investigation, drawn up by the control personnel/the designated bearer, endorsed by the hierarchical chief and approved by the ANSPDCP's president, who can delegate this attribution to the chief of the control compartment that carried out the investigation.

(4) The controlled entity may submit objections to the minutes of the finding/sanction, which are an integral part of it, within 15 days from the date of handing/communication of the minutes of the finding/sanction.

(5) The minutes of the finding/sanctioned unchallenged to the competent court within 15 days, according to the law, constitutes an enforceable title, without any other formality.

##### Article 34

In the case of written investigations, the procedure for drawing up, communicating the minutes of the finding/sanctioning and of the decisions of the ANSPDCP's president, as well as of the follow-up of the measures ordered by the minutes, is the one applicable for the field investigations.

## **CHAPTER V: Conducting investigations to public authorities/bodies**

### Article 35

(1) In case of finding the violation of the legal provisions by the public authorities/bodies, the control team concludes the minutes of the finding/sanctioning by which the sanction of the reprimand is applied and to which a remedial plan is attached.

(2) The deadline of remedial is established according to the risks associated with the processing, as well as the necessary steps to be taken in order to ensure the conformity of the processing.

(3) The model of the remedial plan that is annexed to the minutes of finding/sanctioning is the one provided in the annex to Law no. 190/2018.

(4) Within 10 days from the expiration of the term of remedial, ANSPDCP can resume control. If following the control it is found that the public authorities/bodies did not fully comply with the measures provided in the remedial plan, ANSPDCP can apply the administrative sanction of the fine, taking into account the criteria provided in Article 83 paragraph (2) of the General Data Protection Regulation.

(5) In the case of investigations at public authorities/bodies, the provisions of this procedure are applicable, as the case may be

## **CHAPTER VI: Final dispositions**

### Article 36

(1) All the documents to be communicated to the controlled entity, except those provided in Article 23 paragraph (5), are sent by post with acknowledgment of receipt/fax/e-mail or through the judicial executors, in exceptional cases.

(2) The communication of the documents is done by the control personnel who carried out the investigation.

### Article 37

If the provisions of the General Data Protection Regulation regarding cooperation and consistency mechanism become incidental, the provisions of this document and the documents issued by the European Data Protection Board shall apply accordingly.

### Article 38

The template of the control card and the template of the minutes of the finding/sanctioning are provided in the annexes no. 1 and 2 of this procedure.

ANNEX no. 1:

<b>FOTO</b>	<b>Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal</b>	<b>20_</b>	<b>20_</b>
<b>Președinte, .....</b>	<b>Legitimație de control Nr. ....</b> <b>Nume .....</b> <b>Prenume .....</b> <b>Funcția .....</b>	<b>20_</b>	<b>20_</b>

ANNEX no. 2:

**Proces-verbal de constatare/sanționare  
Nr. ....**

Încheiat astăzi: ..... (data), ..... (localitatea, județul, țara)

Subsemnatul/a, ..... (nume și prenume), având funcția de ....., legitimație de control nr. ...., ..... (nume și prenume), având funcția de ....., legitimație de control nr. ...., ..... (nume și prenume), având funcția de ....., legitimație de control nr. ...., în cadrul Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal, în baza deciziei președintelui autorității nr. .... și a împuternicirii aprobate de președintele autorității, înregistrată cu nr. .... din ....., pentru efectuarea unei investigații (se completează/se barează, după caz.), la:

domnul/doamna, ..... (nume) ..... (prenume), domiciliat(ă) în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., posesor al cărții/buletinului de identitate seria ..... nr. ...., cod numeric personal ....., având ocupația/funcția de ..... la ..... (Se completează ocupația, funcția și locul de muncă numai în cazul în care aceste date sunt relevante pentru obiectul controlului.)<sup>1</sup>, cu sediul în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ....,

domnul/doamna, ..... (nume) ..... (prenume), domiciliat(ă) în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., posesor al pașaportului (alt document de trecere a frontierei de stat) seria ..... nr. ...., statul emitent ....., data eliberării ....., tichet de înscriere a contravențiilor seria ..... nr. ....<sup>2</sup>

<sup>1</sup> Se completează în cazul în care operatorul/împuternicitul/reprezentantul este persoană fizică, iar celelalte opțiuni se barează.

<sup>2</sup> Se completează în cazul în care operatorul/împuternicitul/reprezentantul este persoană fizică cetățean străin, persoană fără cetățenie sau cetățean român cu domiciliul în străinătate, iar celelalte opțiuni se barează.

..... (denumire), cu sediul în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., înmatriculată la registrul comerțului cu nr. ...., cod de identificare fiscală ....., reprezentat(ă) prin domnul/doamna ..... (nume) ..... (prenume), domiciliat(ă) în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., posesor al cărții/buletinului de identitate seria ..... nr. ...., cod numeric personal .....<sup>3</sup>, având funcția de ....., în vederea verificării ..... (obiectul controlului, conform împuternicirii).

Am constatat următoarele:

.....  
.....  
.....  
.....  
.....  
.....

S-a constatat săvârșirea următoarelor fapte (Se menționează fapta, data și locul comiterii acesteia, precum și temeiul legal.):

.....  
.....  
.....  
.....  
.....  
.....

Pentru faptele constatate, se aplică următoarele sancțiuni/măsuri corective (Se menționează distinct fiecare sancțiune aplicată și/sau măsura corectivă, după caz.):

.....  
.....  
.....  
.....  
.....  
.....

Contravenientul poate achita jumătate din minimul amenzii prevăzute de lege<sup>4</sup> în termen de 15 zile de la data înmânării/comunicării procesului-verbal.

<sup>3</sup> Se completează în cazul în care operatorul/împuternicitul/reprezentantul este persoană juridică, iar celelalte opțiuni se bazează.

Datele dumneavoastră personale sunt prelucrate de Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal în scopul îndeplinirii atribuțiilor legale de autoritate ce monitorizează aplicarea legislației privind protecția datelor personale. În vederea realizării acestui scop, datele pot fi dezvăluite unor terți. Datele dumneavoastră sunt stocate pe perioada necesară îndeplinirii atribuțiilor, după care vor fi arhivate potrivit legislației aplicabile.

Persoanele ale căror date personale sunt prelucrate de către ANSPDCP pot să își exercite drepturile de acces la date, de rectificare, ștergere, restricționare, de opoziție în conformitate cu dispozițiile art. 15-19 și 21 din RGPD, precum și dreptul de a depune o plângere la ANSPDCP pentru modul de soluționare a cererilor de exercitare a acestor drepturi, printr-o cerere trimisă la adresa [anspdc@dataprotection.ro](mailto:anspdc@dataprotection.ro). Mai multe informații puteți obține accesând site-ul [www.dataprotection.ro](http://www.dataprotection.ro).

<sup>4</sup> Prevederea este aplicabilă numai în cazul autorităților/organismelor publice, pentru contravențiile stabilite în baza Legii nr. 190/2018 privind măsuri de punere în aplicare a Regulamentului (UE) 2016/679 al Parlamentului European și al Consiliului din 27 aprilie 2016 privind protecția persoanelor fizice în ceea ce privește prelucrarea datelor cu caracter

Alte mențiuni (obiecții)/Nu au fost formulate obiecții (Se completează/se barează, după caz.):

.....  
.....  
.....

Anexe (documente certificate pentru conformitate cu originalul; înregistrări; plan de remediere pentru autoritățile/organismele publice; autorizație judiciară etc

.....  
.....  
.....  
.....

Constatările de mai sus au rezultat în urma verificărilor și discuțiilor purtate cu reprezentanți ai operatorului/împuțernicitului:

1.Numele și prenumele .....

Funcția .....

Semnătura .....

2.Numele și prenumele .....

Funcția .....

Semnătura .....

3.Numele și prenumele .....

Funcția .....

Semnătura .....

Prezentul proces-verbal conținând ..... pagini completate a fost întocmit într-un exemplar a cărui fotocopie s-a înmănat azi, ....., domnului/doamnei (reprezentant al operatorului/împuțernicitului) .....

Contravenientul<sup>5</sup> nu este de față  sau refuză .

Se confirmă de către:

Martor: ..... (nume) ..... (prenume), domiciliat(ă) în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., posesor al cărții/buletinului de identitate seria ..... nr. ...., cod numeric personal .....

(semnătura)

Motivele care au condus la întocmirea procesului-verbal în lipsa unui martor:

.....  
.....  
.....  
.....

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personal și privind libera circulație a acestor date și de abrogare a Directivei 95/46/CE (Regulamentul general privind protecția datelor).

<sup>5</sup> Se bifează și se completează opțiunea corespunzătoare, iar celelalte se barează.

.....  
.....  
În aceste cazuri, procesul-verbal se comunică persoanei contravenientului în termen de cel mult două luni de la data încheierii procesului-verbal, prin poștă, cu confirmare de primire

Fapt pentru care s-a încheiat procesul-verbal de afișare anexat, semnat de martorul ..... (nume) ..... (prenume), domiciliat(ă) în ..... str. .... nr. ...., bl. ...., sc. ...., ap. ...., posesor al cărții/buletinului de identitate seria ..... nr. ...., cod numeric personal .....

(semnătura)

Prin executor judecătoresc

Prezentul proces-verbal de constatare/sanționare constituie titlu de creanță și înștiințare de plată.

Vă înștiințăm că aveți obligația de a achita amenda prevăzută în procesul-verbal de constatare/sanționare nr. .... din .....

Potrivit prevederilor art. 25 alin. (3) din Ordonanța Guvernului nr. 2/2001 privind regimul juridic al contravențiilor, aprobată cu modificări și completări prin Legea nr. 180/2002, cu modificările și completările ulterioare, aveți obligația ca în 15 zile de la înmânare/comunicare să achitați amenda contravențională, în caz contrar urmând să se procedeze la executarea silită.

Amenda se va achita în contul Trezoreriei Statului unde aveți sediul fiscal, cod cont 20A350102, în termen de 15 zile de la înmânare, respectiv de la comunicare, urmând ca în același termen să transmiteți o copie de pe chitanță sau ordin de plată Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal.

Pentru contravențiile constatate în baza prezentului proces-verbal, se poate face plângere la instanța competentă, în termen de 15 zile de la înmânare, respectiv de la comunicare.

Împuternicit al Autorității Naționale de  
Supraveghere a Prelucrării Datelor cu  
Caracter Personal,

Reprezentant al  
operatorului/împuternicitului/contravenient,

.....

.....  
.....

Am primit fotocopia procesului-verbal<sup>6</sup>.  
Contravenient,

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<sup>6</sup> Se semnează de către contravenient sau se barează de către agentul constatatator, după caz.