

# CONSIDERATIONS ON THE LOCAL FISCAL PROCEDURE IN ROMANIA IN THE CONTEXT OF THE NEW (EU) REGULATIONS IN THE FIELD OF PROTECTION OF INDIVIDUALS WITH REGARD TO THE PROCESSING OF PERSONAL DATA

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## **Abstract**

*Privacy of personal data is a topical issue in the field of protection of individuals, if we look at the diverse possibilities of free circulation of information.*

*In this direction, the article presents the non-contentious administrative procedure in the fiscal field, from the point of view of the protection of individuals in the processing of personal data, and then analyzing the secondary and tertiary legislative approach for the concrete implementation of the law in this field, knowing that, on May 25, 2018, Romania must apply Regulation (EU) no. 679/2016 of the European Parliament and of the Council of 27 april 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.*

**Keywords:** *protection, individuals, personal data, local fiscal body, tax payer.*

**JEL Classification:** [K23]

## **1. Introduction**

The concept of processing personal data comes from ancient times, first of the individual's need to identify himself in social relations, and then from the process of collecting tributes to the kingdom. Of course, in the past, for the collection of tributes to the kingdom, there was no question of manifestation of will, as the consent of the individual in relation to the executive power is not currently required.

However, the question arises whether an individual, which by its nature collects and processes personal data, can be prevented from disclosing that information?

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This interrogation could resonate with an old romanian proverb that said, "can you stop the wind, the water and the mouth of the world?".

With the socio-economic development of states as well as international market relations, there has also been a need to organize a wider record of identifying the individual in society and to manage information about personal data taken from it or from other sources.

Among the states that have taken such measures are the United States of America (2 August 1790 - corresponds to the first US census more than one year after the inauguration of the president of Washington), the United Kingdom, France (1801) and others more developed European states. Immediate operation in retrieving personal information from individuals or other sources will later be part of the process of processing your personal data. After the mid 19th century, the foundations of standards for the protection of the individual's personal life began to be established by their inclusion in the legal norms of the states of law, and their effect was to be ascertained.

## **2. The theoretical framework for the protection of the individual's right to privacy in relation to the processing of personal data**

On november 4, 1950, in Rome, the member states of the Council of Europe signed the European Convention on Human Rights (Romania ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and Additional Protocols to that Convention by Law no 30/1994<sup>1</sup>), by which they committed themselves to universal protection of the fundamental rights and freedoms of the Universal Declaration of Human Rights<sup>2</sup>, in which case the aim being art. 12 according to which: "no one shall be subjected to arbitrary interference in his personal life, in his family, in his home or in his correspondence, nor in the affections of his honor and reputation.

Everyone has the right to law protection against such interference or touch." In order to strengthen the individual's right to privacy, the Member States have adopted the European Convention on Human Rights, which states in Article 8 1 and par. 2 that: "everyone has the right to respect for his private and family life, his domicile and his correspondence" and "the interference of a public authority with the exercise of this right is only admissible insofar as such interference is provided for law and whether it constitutes a measure which, in a democratic society, is necessary for national security, public security, the country's economic well-being, the defense of order and the prevention of criminal deeds, the protection of health or morals or the protection of the rights and freedoms of

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<sup>1</sup> Published in Official Gazette Part I nr. 135 of May 31, 1994.

<sup>2</sup> Adopted and proclaimed by the UN General Assembly through Resolution 217 A (III) of 10 december 1948.

others." Also, taking into account the increase in the cross-border circulation of personal data subject to automatic processing, the Member States of the Council of Europe signed on 28 January 1981 in Strassbourg the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data personally, ratified by Romania through Law no. 682/2001<sup>3</sup>, with the objective of strengthening measures to protect human rights and fundamental freedoms, in particular the right to respect for the privacy of the individual.

For the uniform application of the provisions on the processing of personal data at the level of the member states of the European Union, the European Parliament and the Council adopted on 24 October 1995 in Luxembourg Directive 95/46/EC<sup>4</sup> on the protection of individuals with regard to the processing of personal data individuals with regard to the processing of personal data and the free movement of such data.

The processing of personal data and their free circulation was an impediment for Romania during the pre-adherence period to the European Union and therefore, for the implementation on 21 November 2001, the Romanian Parliament adopted Law no. 677/2001<sup>5</sup>. On April 27, 2016, in Brussels, the European Parliament and the Council adopted Regulation (EU) 2016/679<sup>6</sup> 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, also known as the General Data Protection Regulation (GDPR). In accordance with art. 94 of this GDPR, Directive 95/46/EC is repealed with effect from 25 May 2018.

One reason for the repeal was that there was a difference between the levels of protection of personal data caused by differences in the transposition and application of Directive 95/46/EC<sup>7</sup>. At the same time, this GDPR proposes that, after adoption, it should be brought to Regulation (EC) no. 45/2001<sup>8</sup> on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, so that they can be applied with the entry into force of the GDPR. The principles on which the GDPR is based are:

- a) legality, fairness and transparency – assumes that the data are processed legally, fairly and transparently to the individual;

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<sup>3</sup> Published in Official Gazette Part I no. 830 of December 21, 2001.

<sup>4</sup> Published in "J.Of." no. L 281, November 23, 1995, p. 31-50.

<sup>5</sup> Published in Official Gazette Part I no. 790 of December 12, 2001.

<sup>6</sup> Published in "J.Of." no. L 119, May 4, 2016, pp. 1-88.

<sup>7</sup> Point 9 of Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC.

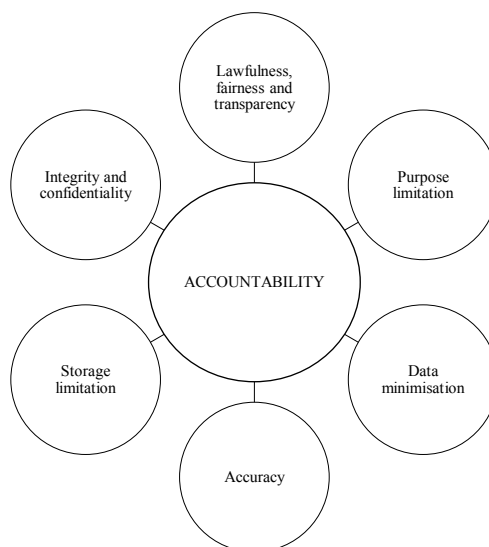
<sup>8</sup> Published in "J.Of." no. L 8, January 12, 2001, pp. 1-22.

- b) purpose limitations – assumes that data is collected for determined, explicit and legitimate purposes;
- c) data minimization – assumes that the data collected is appropriate, relevant and limited to what is required in relation to the purposes for which it is processed;
- d) accuracy;
- e) storage limitations – presumed to be kept in a form that allows identification of the data subjects for a period not exceeding the time required to meet the purposes for which the data are processed;
- f) integrity and confidentiality – assumes that they are processed in a way that ensures the adequate security of personal data, including protection against unauthorized or unlawful processing and loss, destruction or accidental damage by taking appropriate technical or organizational measures.

A last principle, which we consider to be the most important, determines that the operator who processes personal data is **responsible** for complying with the principles described above.

In this regard, GDPR recommends that the operator be able to demonstrate at any time that his interests are legitimate and compelling and prevail over the interests or fundamental rights and freedoms of the data subject.

Also, in order to demonstrate compliance, the operator should keep records of the processing of personal data.



*Figure 1*

In order to understand some terms used in the processing of personal data, we present some definitions, regulated by art. 4 of the GDPR, namely:

- "personal data" – means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- "processing" – means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- "controller" – means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- "supervisory authority" – means an independent public authority which is established by a Member State pursuant to article 51 from GDPR.

In order to ensure the control and guarantee that the processing of personal data as well as the security measures that must be taken to ensure the protection of individuals before this process, the capacity to establish mechanisms to ensure that this right is respected.

### **3. Mechanisms for the protection of individuals with regard to the processing of personal data and fiscal status in the local public administration in Romania**

It is known that when the supremacy of the fundamental law is invoked, it is necessary to have a mechanism with the right to control the conformity of the laws and normative acts that follow them with the fundamental law. As with the subject analyzed in this article, mechanisms for the protection of individuals with regard to the processing of personal data, called supervisory authorities, have been set up both at the European Union level and at national level.

At EU level it is regulated in art. 28 of Directive 95/46/EC that for the application of the provisions adopted on the basis of that act, each member state may provide for one or more public oversight authorities, a kind of personal

data ombudsman. In this respect, art. 41 of Regulation (EC) no. 45/2001 established the possibility of setting up an independent supervisory authority at the level of the EU, called the European Data Protection Supervisor (EDPS).

The overall mission of the EDPS is that it: monitors and ensures the protection of personal data and privacy when EU institutions and bodies process personal information of individuals; advises the EU institutions and bodies on all aspects of the processing of personal information as well as the EU legislator on legislative proposals and on new developments in policies that may affect privacy; monitoring of new technologies that may affect the protection of personal information; intervenes before the Court of Justice of the EU to provide specialized advice on the interpretation of data protection legislation; cooperate with national supervisory authorities and other supervisors to improve consistency in the protection of personal information (edps.europa.eu).

In Romania, the supervision and control of personal data processing was carried out by the People's Advocate institution (PA), whose purpose was to protect the rights and freedoms of individuals in their relations with public authorities, had to guarantee and protect in particular the observance of the right to the intimate, family and private life, regulated by the Romanian Constitution<sup>9</sup>, regarding the processing of personal data. Starting with May 12, 2005, Law no. 102/2005<sup>10</sup> on the establishment, organization and functioning of the National Supervisory Authority for Personal Data Processing (NSAPDP), according to which the supervision of respecting the right to privacy, family and private life regarding the processing of personal data has become the responsibility of NSAPDP.

By this approach we find that the way of organizing and functioning of NSAPDP, established according to the provisions of Decision of the Standing Bureau of the Senate no. 16/2005<sup>11</sup>, is similar to the one of the national Ombudsman, and the guarantee and protection of the right to privacy, family and private life in relation to the processing of personal data is the responsibility of NSAPDP, although this right, in its entirety, is protected still by PA.

When infringing the right to intimate, family and private life through the processing of personal data for purposes other than those legally regulated, we consider that the activity of the PA institution does not replace NSAPDP and therefore the PA can act accordingly. NSAPDP ensures the interpretation of

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<sup>9</sup> Art. 26 of the Romanian Constitution, revised in 2003, published in Official Gazette Part I no. 767 of October 31, 2003.

<sup>10</sup> Published in Official Gazette Part I no. 391 of May 9, 2005.

<sup>11</sup> Published in Official Gazette Part I no. 1004 of November 11, 2005.

legal provisions and concrete recommendations to operators and data subject (dataprotection.ro).

We can also appreciate that respecting the principle of equality of rights<sup>12</sup>, human rights and fundamental freedoms regulated by the Constitution of Romania must be fulfilled as they are enshrined in the fundamental law, except for the situation provided by art. 20 para. (2) of the same normative act, namely: "if there are inconsistencies between the covenants and treaties regarding the fundamental human rights to which Romania is a party and the internal laws, priority is given to the international regulations, unless the Constitution or the internal laws contain more favorable provisions."

In tax legislation there is a rule that: if, after applying the rules of interpretation, the provisions remain unclear, they are interpreted in favor of the taxpayer. It is obvious that by failing to comply with this rule the legal provisions outlined above and the provisions of art. 1 of Protocol no. 1/1952 (first Protocol to the European Convention on Human Rights), according to which: "every natural or legal person has the right to respect for his property.

No one shall be deprived of his property except for the cause of public utility and under the conditions laid down by law and by the general principles of international law...".

*Another data protection mechanism* is the Data Protection Officer (DPO), which aims to monitor the compliance with the provisions of the GDPR and other similar ones, including empowering, raising awareness and training the personnel involved in the processing operations, related audits and others.

It is worth mentioning these tasks to see if the human resource allocated to data protection is under-dimensioned in relation to the GDPR requirements and the specialist field of the operator to be monitored, especially since it is generally part of the operator's staff.

At the same time, given the principles underlying the performance of an institution/organization (efficiency, effectiveness and economy) and taking into account that DPO tasks need to be performed objectively, we agree that it is to be appointed by the operator but with the supervisory authority's opinion, thus considering that the DPO is under the umbrella of the supervisory authority.

In stating the above solution, we also reiterate the GDPR provision that the operator decides whether the DPO may perform other tasks and attributions.

In continuation mention the fact that in the post-adherence period of Romania to the EU, references to personal data, respectively the necessity of their processing in the fiscal system are found in the following normative acts:

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<sup>12</sup> Art. 16 of the Romanian Constitution, revised in 2003, published in Official Gazette Part I no. 767 of October 31, 2003.

Law no. 571/2003 on the Fiscal Code<sup>13</sup> – regulates the legal framework for taxes and duties constituting the state budget and the local budgets – abrogated on 1 January 2016 by Law no. 227/2015<sup>14</sup> regarding the Fiscal Code and GO no. 92/2003 on the Fiscal Procedure Code<sup>15</sup>, approved by Law no. 174/2004<sup>16</sup> – represented the basis for the application of all special tax laws addressed to the taxpayer and regulated the activity of fiscal bodies in the administration of fiscal receivables – abrogated on 1 January 2016 by Law no. 207/2015 on the Fiscal Procedure Code<sup>17</sup>.

The secondary level regulatory acts issued for the specific execution of the laws described above are: GD no. 44/2004<sup>18</sup> for approving the methodological Norms for the application of Law no. 571/2003 on the Fiscal Code, abrogated on 1 January 2016 by GD no. 1/2016<sup>19</sup> for the approval of the methodological Norms for the application of Law no. 227/2015 regarding the Fiscal Code and GD no. 1050/2004<sup>20</sup> for the approval of the methodological Norms for the application of GO no. 92/2003 on the Code of fiscal procedure repealed on 1 January 2016 by Law no. 207/2015 on the Fiscal Procedure Code.

Among the mandatory elements that the Fiscal Procedure Code mentions them to be contained in a fiscal administrative act is highlighted the identification data – the first and last names in the case of individuals, the fiscal residence and the fiscal identification code<sup>21</sup>.

Among the tertiary level regulatory acts issued for the actual implementation of the legislation that concerns local taxes and duties and whose requirements include personal data, there are orders concerning standard forms for the establishment, detection, control, collection and prosecution of local taxes as well as other local budget revenues, namely: Order of the Ministry of Administration and Internal no. 1528/2006 and Order of the Minister of Public Finance no. 2052bis/2006<sup>22</sup>; OMAI no. 75/2009 and OMPF no. 767/2009<sup>23</sup>; Order of the Ministry of Regional Development and Public Administration nr. 1025/2014 and OMPF no. 872/2014<sup>24</sup>; OMRDPA nr.

<sup>13</sup> Published in Official Gazette Part I no. 927 of December 23, 2003.

<sup>14</sup> Published in Official Gazette Part I no. 688 of September 10, 2015.

<sup>15</sup> First published in Official Gazette Part I no. 941 of December 29, 2003.

<sup>16</sup> Published in Official Gazette Part I no. 465 of May 25, 2004.

<sup>17</sup> Published in Official Gazette Part I no. 547 of July 23, 2015.

<sup>18</sup> Published in Official Gazette Part I no. 112 of February 6, 2004.

<sup>19</sup> Published in Official Gazette Part I no. 22 of January 13, 2016.

<sup>20</sup> Published in Official Gazette Part I no. 651 of July 20, 2004.

<sup>21</sup> Art. 1 point 40 of the Law no. 207/2015 on the Fiscal Procedure Code.

<sup>22</sup> Published in Official Gazette Part I no. 1032 of December 27, 2006.

<sup>23</sup> Published in Official Gazette Part I no. 364 of September 29, 2009.

<sup>24</sup> Published in Official Gazette Part I no. 503 of July 7, 2014.



2068/2015<sup>25</sup>; OMRDPA nr. 2069/2015 and OMPF no. 4087/2015<sup>26</sup>; OMRDPA nr. 144/2016<sup>27</sup>; OMRDPA nr. 1069/2016, OMPF nr. 1578/2016 and Order of the Ministry of Internal Affairs nr. 114/2016<sup>28</sup>; OMRDPA nr. 2594/2016<sup>29</sup>.

The elements of personal data required by the normative acts described above include: name and surname, nationality, date of birth, personal numeric code, series and no.

Identity Card/Provisional I.C./Pasport, domicile (includes: country, county, city/town/commune, village/sector, str, no, bl, st, fl, ap.), etc.

In the area of the main local taxes – buildings, land, means of transport – the normative acts described above also regulate property identification in the case of immovable property (buildings or land with/without construction) as well as a means of transport, such as: street, administrative number, block, staircase, floor, apartm referitoare ent – for real estate; engine series, chassis series – for mobile goods.

The elements described above can indirectly lead to the identification of an individual if they are associated with other elements.

Also, the value of a building is considered to be personal in example no. 5 of the Opinion no. 4/2007 (dataprotection.ro) of Article 29 – working Group on Data Protection on the Concept of Personal Data (01248/07/EN WP 136).

In order to appreciate the considerable amount of personal data collected through the forms regulated by the above-mentioned normative acts and processed by the local tax authorities in the exercise of the duties of managing the fiscal receivables as evidenced in the fiscal administrative acts (eg: the imposition decision, the decision on the fiscal obligations accessories, etc.) give as an example the year 2016 in which, out of the 6 of the Bucharest Municipality, only one sector issued and communicated to the natural persons a number of 241417 imposition decisions and decisions on the fiscal obligations accessories (ditl3.ro). In this context, we can see that GDPR does not establish a value from which the processing of personal data can be considered to be widespread, referring only to data processing carried out at regional, national or supranational level.

Therefore, the operator does not know whether it is necessary before carrying out a data protection impact assessment to assess the specific degree of likelihood of materialization of the high risk and its severity. Also, the regulation does not describe the way in which the impact on data protection is assessed.

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<sup>25</sup> Published in Official Gazette Part I no. 975 of December 29, 2015.

<sup>26</sup> *Ibid.*

<sup>27</sup> Published in Official Gazette Part I no. 124 of February 17, 2016.

<sup>28</sup> Published in Official Gazette Part I no. 659 of August 29, 2016.

<sup>29</sup> Published in Official Gazette Part I no. 798 of October 11, 2016.

Perhaps by a methodological norm for the implementation of this regulation, which in our opinion should already exist, this will also be regulated. In the sense of the above, we find lately that on the Romanian market there are specialized economic operators in this field, who have different solutions and approaches regarding the way of application, even interpretation, of GDPR.

The way in which learners are trained is a general one and usually oriented towards the private domain, except for the local public administration system where many similar and different specific domains are located at the same time from one administrative-territorial unit to another.

References to the processing of personal data are found in the Romanian fiscal legislation in the form that this is done in compliance with the provisions of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data.

It also regulates a principle called the "fiscal secret", according to which the staff of the tax body is obliged to keep the secret of the information that it has gained knowledge of as a result of the exercise of its job duties, and in the category of the information considered as secret fiscal data includes taxpayer / payer data, such as: identification data, or any information obtained from statements or documents submitted by the taxpayer/payer or third parties.

According to the aforementioned orders, we note the significant increase in the number of forms through which personal data are collected and processed, although in the administrative-territorial units with a large number of inhabitants, there are sufficient incomes to the local budget to ensure the complete computerization of the system according to which the public administration is organized and operates. After examining legislation in the field, we can see that no code of conduct has been drawn up that takes into account the specific characteristics of local taxes, or working instructions on how to process personal data.

According to the provisions of the Local Public Administration Law no. 215/2001<sup>30</sup>, the public administration in the territorial-administrative units is organized and operates on the basis of the principles of decentralization, local autonomy, deconcentration of public services, eligibility of local public administration authorities, legality and consultation of citizens in solving local issues of particular interest. Therefore, we can easily find that from one administrative-territorial unit to another, the organization and functioning of public administration differ. In this context, there are local tax bodies, called specialized departments according to the Fiscal Code, which are directly

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<sup>30</sup> First Published in Official Gazette Part I no. 204 of April 23, 2001.

subordinated to the chief credit officer (usually the mayor) or the local council, and others are governed by a secondary or tertiary credit officer, as the case.

For example, the public institution, whose leader is a secondary credit officer, usually contains the organizational structure besides the specialized structures and structures that concern its administrative part (eg human resources, archive, informatics, accounting, public procurement, registry, labor protection, legal, etc.). Under these circumstances, we can distinguish at least three categories of targeted persons, for which the public institution collects and processes personal data, namely:

- taxable persons under the Fiscal Code and the Fiscal Procedure Code;
- citizens/persons, subject to the provisions of GO no. 27/2002<sup>31</sup> on regulation of petitions settlement activity, Law no. 544/2001<sup>32</sup> regarding the free access to public information, etc.
- employees, subject to legislation in the field of human resources, accounting, payroll, etc.

In the case of natural persons who are taxpayers, personal data can be collected directly from the taxpayer through statements/requests, or through acts of fiscal procedure.

These variants may be distinguished according to the way the documents are communicated, for example: directly to the local tax office, by post, via the online environment, by moving the local tax body to the taxpayer, by requesting the local tax authority to the taxpayer or third parties with whom he has or had economic or legal relations, etc.

It is known that the fiscal system in Romania is a declarative one, but if we analyze the fiscal legislation, we find that the statements are generally accompanied by supporting documents.

From this perspective, we can see that things are complicated, in the sense of collecting personal data according to the statements/requests and then the same data and other data that do not belong to that taxpayer but to another person or even more through the supporting documents after case (example of justifying document: the sale-purchase contract, contract for rent/commodity, etc.).

If, in the case of the taxpayer, the operator complies with the principles of legality, fairness and transparency, the collection of personal data not belonging to the data subject should be subject to the consent procedure and the operator to take measures to comply with the purpose limitations, minimum data and limitations on the storage of collected data.

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<sup>31</sup> Published in Official Gazette Part I no. 84 of February 23, 2002.

<sup>32</sup> Published in Official Gazette Part I no. 663 of October 23, 2001.

Concerning consent, we consider that it can not be invoked in the procedure for administering tax receivables because it would lead to the blocking of the activity of an operator with a large number of taxpayers in administration and the abolition of this service without which an administrative-territorial unit may exist. In order to observe the rights granted by the GDPR to the persons concerned, in the case of the local tax body, several considerations have to be made:

- the right to rectification – the exercise of this right only helps the tax authority in the procedure for the administration of tax receivables (for example: the communication of the fiscal administrative act – if the rectification consists of inaccurate data relating to identification data or tax residence);
- the right to erasure "the right to be forgotten" – in this case, the operator must first ensure that the data subject is only the taxpayer of the local budget and the provisions of the legislation on archiving documents, namely the Law on National Archives no. 16/1996<sup>33</sup>;
- the right to restrict the processing – where the data subject contests the accuracy of the data, the operator has the obligation to restrict the processing until the accuracy is verified;
- the right of the data subject to be informed about the rectification or erasure of personal data or the restriction of processing – we consider that in the case of local tax authorities such a measure involves disproportionate efforts, especially since the correspondence with the data subject means additional consumption of allocated resources of the local budget;
- the right to data portability – where the processing of personal data is based on consent, the operator holding a computerized system may be able to respect that right;
- the right to object – in relation to this right, it is to be noted that the operator before the decision is required to provide the taxpayer the opportunity to express his views on the findings of the tax authorities.

As shown above, the operator may become responsible for storing personal data for someone other than the intended person.

As far as the storage period is concerned, we consider that personal data collected and processed by the operator for the purpose of exercising the duties of administering the tax credits must be kept as long as the individual is paying taxes to the local budget respectively.

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<sup>33</sup> First published in Official Gazette Part I no. 71 of April 9, 1996.

With this consideration, we must also keep in mind the legislative requirements in the field of document archiving, knowing that there are categories of documents with a term of permanent storage or with other storage periods.

As far as citizens/persons are concerned, personal data can be collected directly from the taxpayer through requests/complaints/intimations.

As in the case of individual taxpayers, the variants through which personal data is collected may be separated according to the way these documents are received, for example: directly to the local tax office, by post, via the online environment.

Within this category of persons intervenes the consent, the procedure of which is regulated by the GDPR.

Therefore, before taking a petition containing elements of the nature of personal data, the operator should inform the data subject that he has to declare that he agrees to the processing of his or her personal data for that purpose.

This statement may be expressed in written, electronic or verbal form. If, in the case of the taxpayer, personal data can be processed in several purposes without consent, then in the case of the claimant the consent of the data subject is necessary for all purposes.

At the same time, within this category, the data subject has the following rights: the right to rectification, the right to erasure "the right to be forgotten", the right to restriction of processing, the right of the data subject to be informed about rectification or erasure of personal data or restriction of processing, the right to data portability and the right to object.

In the case of employees, we appreciate that the operator will consider that the processing of personal data is done on the basis of consent so as to avoid any conflict with the provisions of the GDPR.

Returning to the DPO appointed by an operator – a local tax body – we can see from the above that he has to perform during the process of collecting and processing personal data not only tasks concerning taxpayers, but also related to citizens/persons and employees. From this perspective, we can appreciate that the volume of data to be monitored is very high, with different ways of collecting and processing them.

Also, the requirements of normative acts in the fiscal field are complemented by those of other normative acts.

## **Conclusions**

The local tax office is the specialized department of an administrative-territorial unit that carries out the activity of administration of local taxes – local budget revenues. The organization and functioning of this structure differs from one administrative-territorial unit to another.

The Romanian tax system is declarative but proven by documents. Therefore, personal data is collected both through statements and through supporting documents.

The multitude of normative acts that supplement or alter existing ones as well as the significant increase in forms through which personal data are collected and processed make it increasingly difficult to protect personal data against unauthorized processing or disclosure to others.

There are administrative-territorial units with a large number of inhabitants where is sufficient income to the local budget so as to ensure the complete computerization of the public administration system, but the plurality of non-harmonized legislative requirements makes the decision of the public authorities more and more difficult.

In this regard, the GDPR recommends the consistent and homogeneous application of the rules on the protection of the fundamental rights and freedoms of individuals with regard to the processing of personal data.

Therefore, we consider that the legislative power in Romania, at the initiative of NSAPDP, should proceed with the alignment of the normative acts so that all the principles and rights regulated by the GDPR are respected.

Other administrative-territorial units have the under-dimensioned human resource in relation to the legislative requirements and have no income to enable them to informatisation the public administration system. In this sense, we note that although GDPR emerged as early as 2016, and as shown above, the specialized structures are organized differently from one administrative-territorial unit to another, so far no codes of conduct have been developed wich to taking into account the specific characteristics of local tax administration, or working instructions/guidelines clear on how to assess the impact on data protection, respecting the principles and rights governed by the GDPR, so that regardless of the type of the organization and functioning or the size of the taxpayers who are in the administration, the specialized structure can comply exactly.

The emergence on the Romanian market of some economic operators that train public and private personnel in the processing of personal data, we consider that they only feed the two systems with different interpretations of GDPR as long as no codes of conduct have been drawn up which take into account the specific characteristics of the various sectors of activity.

Taking into account that the designated DPO from the staff, by an operator, has to perform the specific tasks so as to ensure the protection of the individuals against the processing of personal data illegally or their disclosure to unauthorized persons, we believe that it should be under the umbrella of the supervisory authority, precisely to eliminate any abuse that may come from the operator (eg: keeping records of stored personal data both in written and electronic form and

assigning other tasks and attributions specific to the operator's activity, reasonably outweigh the ability to manage them by a single employee).

At the same time, it is important to bear in mind that the local fiscal system in Romania is not fully computerized and at national level not centralized so as to allow personal data protection measures at national level, which can be directly monitored NSAPDP and why not the EDPS. And because, besides subjecting local tax authorities to internal control/internal audit, external audit, implementation of quality standards and managerial internal control, the system of personal data protection must be implemented, it is hard to believe that structures that have a fully or partially computerized system or collect and processes personal data in written form, they will be able to apply GDPR requirements as of may 25, 2018.

If in the past the personal data protection system was not given a particular importance, due to the volume of data and the speed with which the data circulate, especially in the online environment, this process has become a phenomenon that is a problem of topical.

Even if it seems impossible to fully protect the individual against the processing of personal data, under a computerized data collection and processing system, at least they can intervene through preventive measures by applying advanced protection techniques and methodologies.

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