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# Two years of GDPR in Romania

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- The scope
  - We try to make a retrospective of how the GDPR was applied and is still applied in Romania, two years after the entry into force of General Data Protection Regulation 2016/679.
  - We analyze the way in which the National Supervisory Authority for the Processing of Personal Data (ANSPDCP) intervened and sanctioned the non-conformities in applying the GDPR provisions.
  - We frame the activity of ANSPDCP in relation to that of its counterparts from other EU countries.
  - We draw some conclusions.

# What actually GDPR is?

- The GDPR replaces an older directive "Directive 95/46 / EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with a view to the processing of personal data and on the free movement of such data".
- The development of the new directive took about four years (BURGESS, 2020).
- Regulation GDPR has in its center a primordial element: the individual. Individual data must be protected by appropriate measures.
- By personal data is generally understood that category of information that allows the direct or indirect identification of a living person, from the available data.

# What actually GDPR is?

- GDPR also apply to companies located outside the Union, which have activities in the territory of the EU states.
- GDPR introduces six principles that must be respected by any Data Processing Organization as described below:
  - Legality, fairness and transparency - process the data legally and correctly towards the data subject and explain to them why you are processing them in a language they can understand, without legal jargon.
  - Purpose limitation - do not use the data in any other way than that presented to the natural person;
  - Data minimization - don't process more data than you need to;
  - Accuracy - keeps the data updated;
  - Integrity and privacy - protects data by taking appropriate measures;
  - Responsibility - document the processes and be able to demonstrate respect for the above principles.

# What actually GDPR is?

- As the GDPR focuses on respecting the privacy of individuals, it gives them more rights and stronger control over how their data is used.
- These rights are presented in the table on the right.

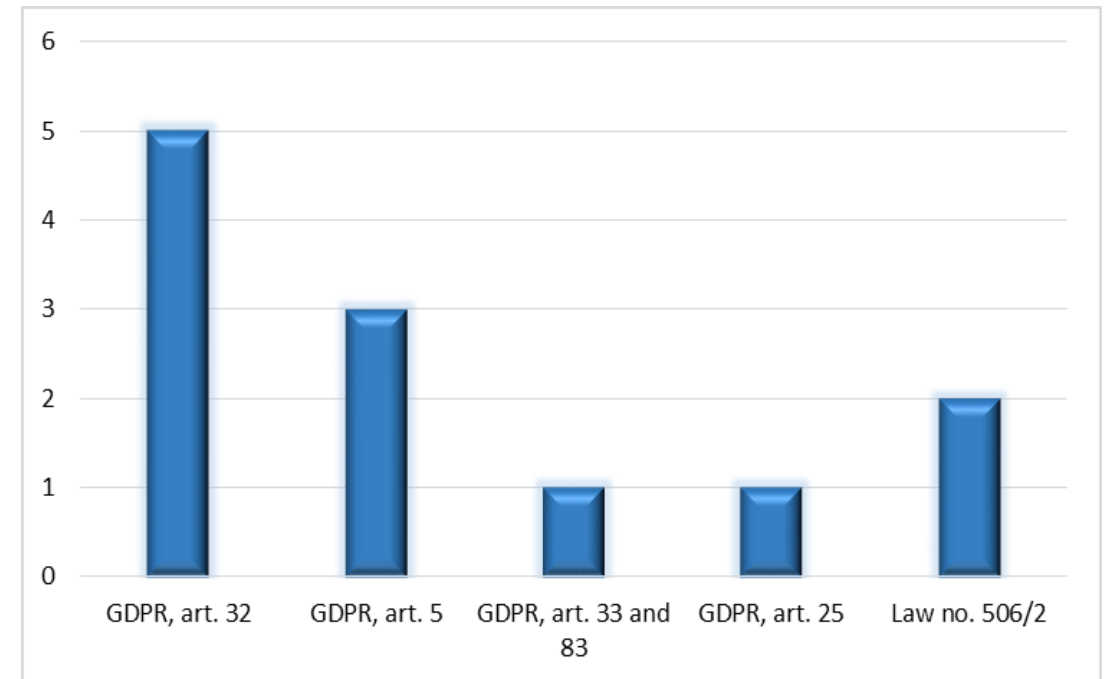
1	Right to be Informed	the person must be informed, inter alia of what data is being processed, why, for what purposes, to whom it is transmitted and what rights it has
2	Right of access by the data subject	the person has the right to access their personal information processed
3	Right to rectification	the person has the right to obtain the rectification of the incomplete and inaccurate information concerning him
4	Right to erasure	In some situations, the person has the right to request the deletion of data that are no longer needed
5	Right to restriction of processing	Restriction of processing when there is a basis
6	Right to data portability	The right of the person to request the porting of the data from one operator to another
7	Right to object	The right of the person to oppose processing, when there is a basis
8	Right to be not subject of an individual decision making taken as a result of automated data processing, including profiling	The person has the right to human intervention in the case of important decisions concerning him

# Monitoring the compliance with the GDPR in Romania

- In Romania, the national authority charged with observing the provisions of the GDPR and entitled to apply sanctions is „Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal” (ANSPDPCP), meaning National Supervisory Authority for Personal Data Processing. This authority has been operating since 2005, based on the law no. 102 of May 3/ 2005, by which the Authority was established and its responsibilities were set.
- Analyzing the activity of ANSPDPCP from the reorganization date (May 2018), following the entry into force of the regulation, and so far, we find that in 2018 no fines were applied but several organizational actions were carried out: a series of documents and procedures for internal use and for the settlement of complaints were elaborated and approved.

# Monitoring the compliance with the GDPR in Romania

- Among the provisions that were most frequently violated and, consequently sanctioned, are:
  - the right to information,
  - obtaining the explicit acceptance of the person,
  - lack of protection of data collected and processed, which created the possibility of their public disclosure,
  - the use of personal data for other purposes than those for which the subjects were informed.



The number of fines applied, grouped by laws and articles from laws

# Monitoring the compliance with the GDPR in Romania

## A selection of the highest fines applied in Romania since the entry into force of GDPR

No.	Date of application	The entity sanctioned	the amount of the fine	legal basis
1.	06/27/2019	UNICREDIT BANK S.A	613,912.00 lei	GDPR art. 25 item (1)
2.	07.02.2019	WORLD TRADE CENTER BUCHAREST S.A	71,028.00 lei	GDPR art. 32 item (4) referred to art. 32 item (1) and item (2)
3.	07.05.2019	LEGAL COMPANY & TAX HUB SRL	14,173.50 lei	GDPR art. 32 item (1) and item (2)
4.	08.09.2019	Artmark Holding SRL	10,000.00 lei	Law no. 506/2004 art. 12 item (1)
5.	10.01.2019	Raiffeisen Bank S.A. and Vreau Credit S.R.L	150,000 Euro Raiffeisen Bank	GDPR art. 32 item (4) in conjunction with art. 32 item (1) and item (2) and art. 33 item (1)
			20,000 Euro Vreau Credit SRL	
6.	09/26/2019	INTELIGO MEDIA SA	9,000 Euro	GDPR art. 5 item (1) lit. a) and b), art. 6 item (1) letter a) and art. 7
7.	10/15/2019	Vodafone Romania S.A	10,00 lei	Law no. 506/2004 art. 13 item (1) letter q) in conjunction with cu art. 13 item (5)
8.	11.07.2019	SC CNTAR TAROM SA	95,19 lei	GDPR art. 32 item (4) in conjunction with cu art. 32 item (1) and item (2)
9.	12.10.2019	Hora Credit IFN S.A.	total 14,000 euro	GDPR, art. 33 and 83
10.	12/16/2019	SC Enel Energie S.A.	To fines of 14,334.30 lei each	GDPR, art. 5 item (1) letter d), art. 6 item (1) letter a) and art. 7 item (1)
11.	02.11.2020	Vodafone Romania SA	3000 euro	art. 5 item (1) letter d) and f) in conjunction with cu art. 5 item (2)
12.	02/13/2020	ONG SOS-Infertilitate	2000 euro	GDPR, art. 32



- We may notice that the National Authority also applied fines based on other laws in force, which have as their object the processing of personal data, such as the law 506/2004, see items 4 and 7 in table in slide #8.
- It is also easily to notice that the number of fines applied under the GDPR is significantly higher than that imposed under other laws and that the number of those applied under Article 32 is the highest, equal to the sum of the number of fines applied under other articles.



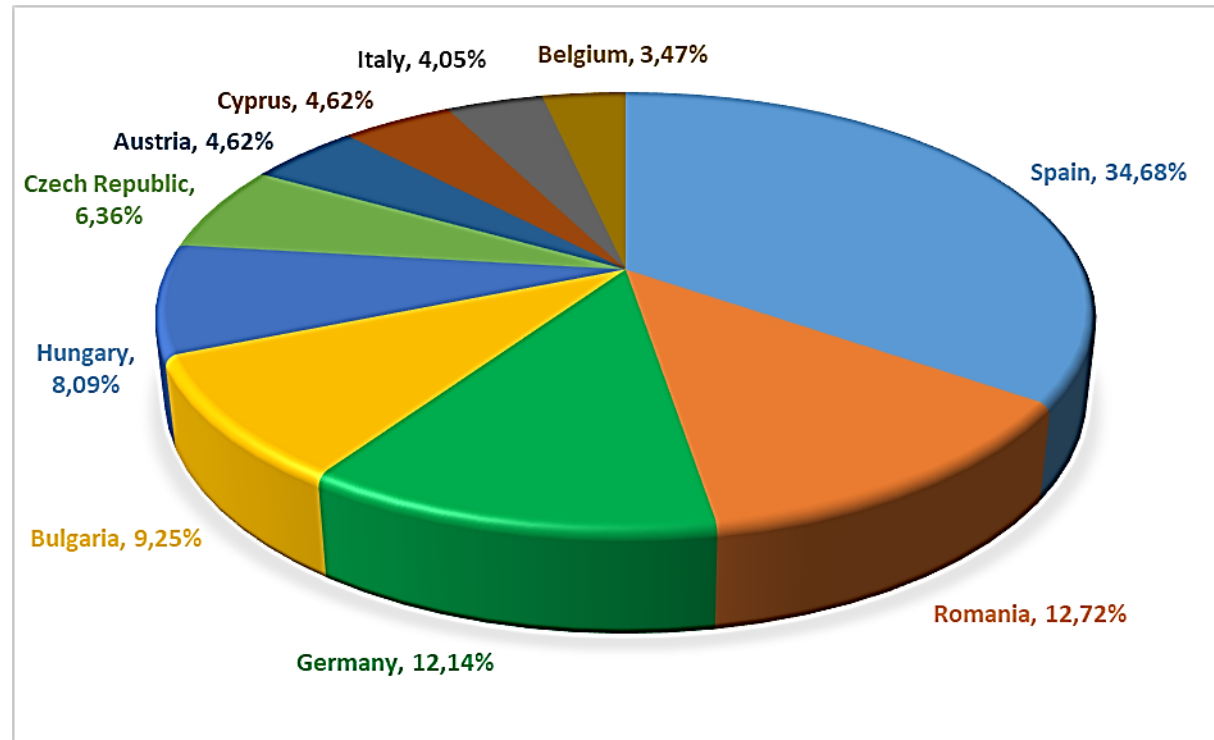
# A look over the fence

Top five fines in different countries in EU, applied for violation of art. 5 and 32 in GDPR\*

No.	Date of application	The entity sanctioned	The reasons	the amount of the fine	legal basis	Country
1	09.12.2019	Telecoms provider (1&1 Telecom GmbH)	The Controller is a company offering telecommunication services. A caller could obtain extensive information on personal customer data from the company's customer service department simply by entering a customer's name and date of birth. In this authentication procedure a violation of Article 32 GDPR occurred, according to which a company is obliged to take appropriate technical and organizational measures to systematically protect the processing of personal data.	9,550,000 euro	GDPR, Art. 32	Germany
2	28.08.2019	National Revenue Agency	Insufficient technical and organizational measures to ensure information security Leakage of personal data in a hacking attack due to inadequate technical and organizational measures to ensure the protection of information security. It was found that personal data concerning about 6 million persons was illegally accessible.	2,600,600 euro	GDPR, Art. 32	Bulgaria
3	21.11.2019	Futura Internationale	Futura Internationale was fined for cold calls after several complainants obtained cold calls, despite having declared directly to the caller and by post that this was not wanted. In particular, the decision pointed out that the CNIL's on-site investigation of Futura Internationale revealed, inter alia, that Futura Internationale had received several letters objecting to cold calling, that it had stored excessive information about customers and their health and that Futura Internationale had not informed individuals about the processing of their personal data or the recording of telephone conversations.	500,000 euro	GDPR, Art. 5, Art. 6, Art. 13 Art. 14, Art. 21	France
4	03.06.2019	IDdesign A / S	IDdesign had processed personal data of approximately 385,000 customers for a longer period than necessary for the purposes for which they were processed. Additionally, the company had not established and documented deadlines for deletion of personal data in their new CRM system. The deadlines set for the old system were not deleted after the deadline for the information had been reached. Also, the controller had not adequately documented its personal data deletion procedures.	200,850 euro	GDPR, Art. 5 item (1) e), Art. 5 item (2)	Denmark
5	07.10.2019	Telecommunication Service Provider	Non-compliance with general data processing principles. A large number of customers were subject to telemarketing calls, although they had declared an opt-out for this. This was ignored due to technical errors.	200,000 euro	GDPR, Art. 5 item (1) c) Art. 25	Greece

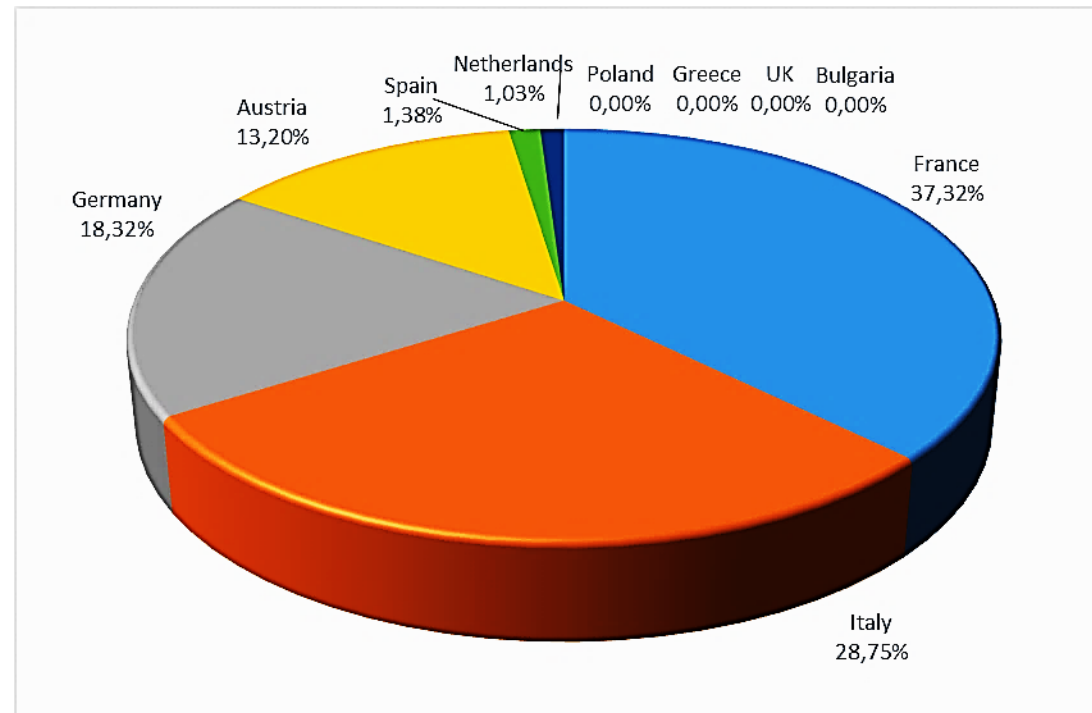
\* These articles produced the highest fines in table in slide 8

# A look over the fence



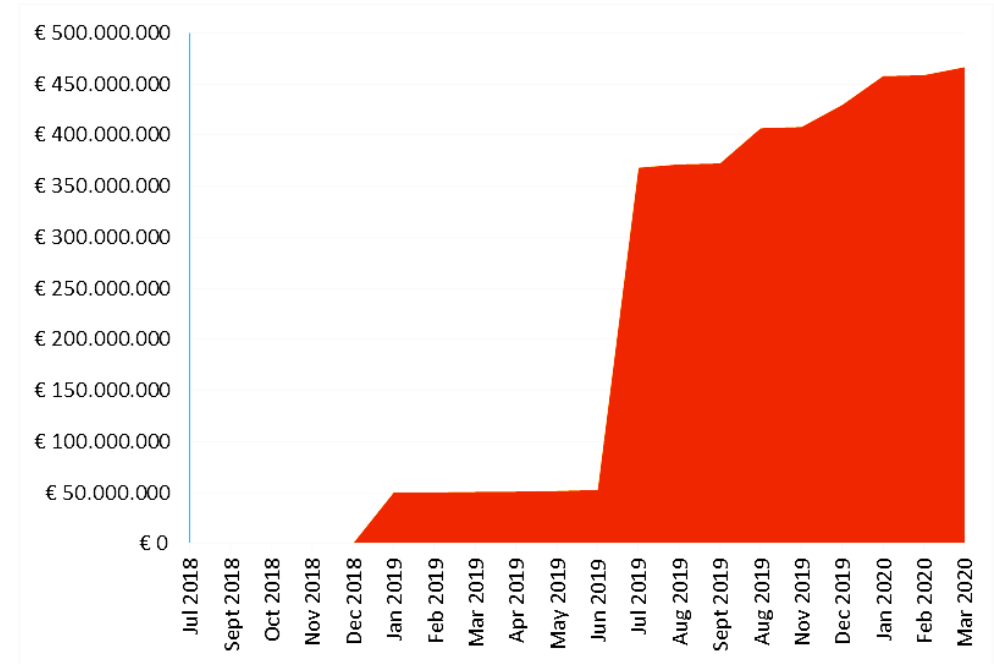
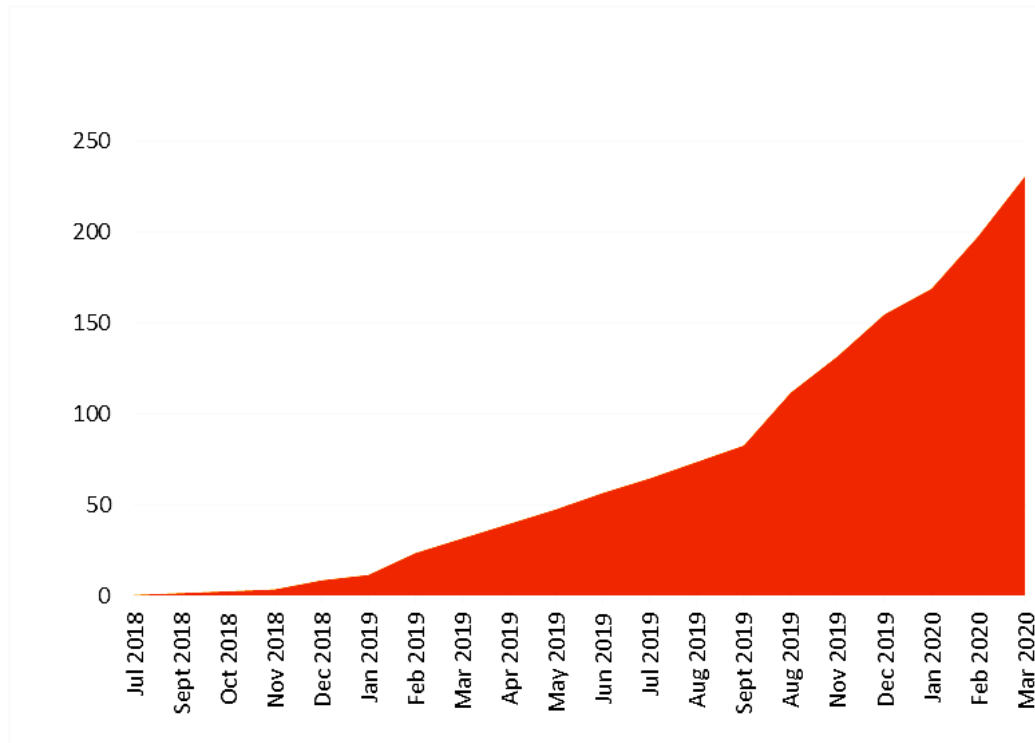
Top ten countries by number of fines (Source KDnuggets dot com)

# A look over the fence



Top ten countries by amount of fines (Source KDnuggets dot com)

# A look over the fence



The evolution of the overall number of fines and the overall sum of fines in EU Data Source (GDPR Enforcement Tracker, 2020)

- Judging by the number of fines applied in Romania since the entry into force of GDPR, we may be tempted to consider that ANSPDCP is doing its job. Considering the example of other countries in EU, which applies less fines but more consistent, that applies the same measure to private companies and for public institutions as well, we would be entitled to appreciate that there is enough room to improve the activity and make it more efficient.
- May be it is time to take a look at the Ministry of Education, where the results of the national competitions are publicly accessible on the ministry's website, with all the identification data of the competitors; to the way in which the collection of personal data is organized upon admission to schools and universities, to how candidates are informed about their rights, the purpose and duration of the data processing.