



OFFICE OF
THE DATA PROTECTION OMBUDSMAN

ANNUAL REPORT
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OMBUDSMAN 2019

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The Office of the Data Protection Ombudsman safeguards the rights and freedoms of individuals with regard to the processing of personal data

The Office of the Data Protection Ombudsman is an autonomous and independent authority that supervises compliance with data protection legislation and other laws governing the processing of personal data.

The Office of the Data Protection Ombudsman promotes awareness of the rights and obligations related to the processing of personal data, imposes administrative sanctions for violations of the General Data Protection Regulation of the EU if necessary, carries out investigations and inspections and issues statements on legislative and administrative reforms. The Data Protection Ombudsman cooperates with the supervisory authorities of other countries and represents Finland on the European Data Protection Board.


In 2019, Reijo Aarnio acted as the Data Protection Ombudsman and Jari Râman as well as Anu Talus acted as Deputy Data Protection Ombudsmen. The Data Protection Ombudsman and Deputy Ombudsmen are appointed by the government for terms of five years.

Everyone has the right to the protection of privacy and their personal data. The purpose of data protection is to define when and how personal data can be processed.

Objectives of the Office of the Data Protection Ombudsman

- We will promote the citizens' right to the protection of privacy and trust in the transparency of personal data processing in an increasingly digital society.
- We will successfully implement the objectives and effects of the data protection reform in national legislation and the activities of authorities.
- We will take preventive action to deter personal data breaches.
- We will promote the awareness of citizens, controllers and data processors of their rights and obligations related to data protection.
- We will promote the development of a single digital market within the EU.

Mission: Data protection is a success factor

- More comprehensive protection of personal data for private persons and the opportunity to manage their own data.
 - Prerequisite of success for companies and a reputation factor resulting from responsible operation.
 - A part of responsibility and reliability as well as the legal protection of an individual for the authorities.
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Data Protection Ombudsman Reijo Aarnio: 2019, a year of reforms

The duties and competence of data protection authorities are provided for in the General Data Protection Regulation (GDPR) of the EU ((EU) 2016/679) and the Data Protection Law Enforcement Directive ((EU) 2016/680). The Finnish Data Protection Act (1050/2018) that entered into force in early 2019 complements the GDPR, and the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security (1054/2018) that entered into force at the same time implements the Data Protection Law Enforcement Directive, ensuring that the law enforcement power of the Data Protection Ombudsman is as comprehensive as required by the Constitution of Finland. In addition, the Finnish Data Protection Act includes provisions on matters left at a margin of manoeuvre by the GDPR.

The intelligence legislation that had been prepared for a long time entered into force in the summer of 2019, and the Intelligence Ombudsman started to work independently. A new Intelligence Oversight Committee was established in the Parliament; the Data Protection Ombudsman carried out the checks required by the Parliament's Rules of Procedure before the work of the Committee started. In addition, the Intelligence Ombudsman and the Data Protection Ombudsman agreed on cooperation in order to carry out effective law enforcement tasks.

During the year, especially during Finland's Presidency of the Council of the European Union, the aim was also to promote the ePrivacy Regulation. The work was still not finished, however, and it was transferred to the responsibility of the next presiding country. At the same time, the EU approved the Directive on certain aspects concerning contracts for the supply of digital content and digital services ((EU) 2019/770). According to the Directive, digital services are also paid by providing personal data in addition to money.

A new organisation to support a customer service-oriented operating method

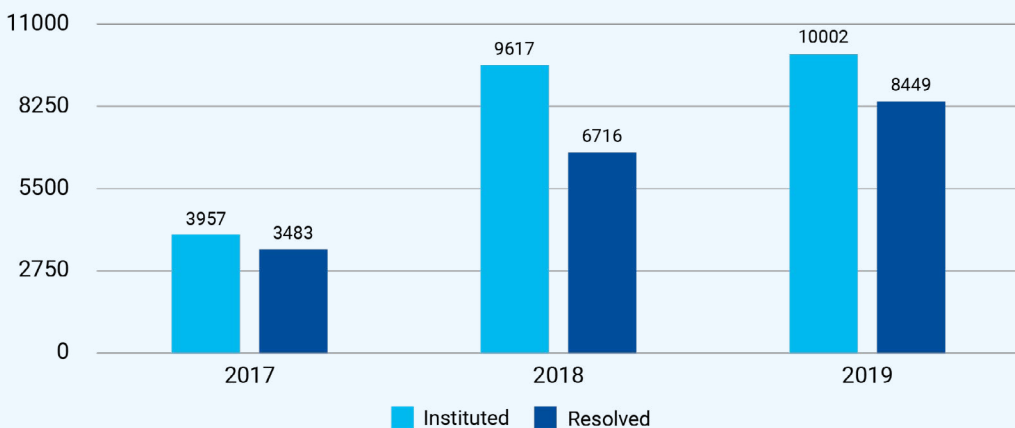
The number of cases instituted continued to rise. A large number of this growth was due to reports of personal data breaches, which represent approximately one third of all cases. The data protection reform meant a considerable challenge to the ability of the Office of the Data Protection Ombudsman to provide services. In addition to the increase in the number of cases, this was also often caused by the joint European method of processing them.

The Office of the Data Protection Ombudsman changed the rules of procedure to support the new customer service-oriented organisation. Three customer service teams were established at the Office; both of the Deputy Data Protection Ombudsmen and the Data Protection Ombudsman act as their leaders. In addition, the Office has horizontal customer service development teams; the aim is to ensure uniform decision practice and the efficient functioning of customer service processes with their help. A lot of attention was paid to the competence of the personnel and their ability to cope. When the Deputy Data Protection Ombudsmen started to work, the sanctions board of the Office became competent. However, it was not yet necessary to impose administrative financial sanctions during the operating year.

The communications of the Office were developed further; telephone guidance was reformed, a newsletter was started and entering the decisions of the Data Protection Ombudsmen into the Finlex collection of decisions began. The annual report of the Office of the Data Protection Ombudsman was presented at and processed by the Parliament.

European cooperation consumed a considerable amount of the Office's resources. In questions related to the interpretation of the GDPR, the European Data Protection Board that exercises the ultimate power of decision assembled monthly to a plenary session to make decisions. The Board also has twelve subgroups, and the Office of the Data Protection Ombudsman was represented in all of them.

Cases instituted and resolved



Artificial intelligence and profiling as hot topics

During the operating year, artificial intelligence, algorithms and profiling rose high up on the social agenda. I was heard by the Parliament when they discussed the Government report on information policy and artificial intelligence. As for the Aurora national artificial intelligence programme, it was reviewed by a working group appointed by the Ministry of Finance. The aim of the health and social services reform that was since dropped was to calculate a specific forecast related to the payment of capitation compensation and based on profiling for every citizen. On this topic, too, I was heard several times by the Constitutional Law Committee as well as the Social Affairs and Health Committee of the Parliament. The Parliament was particularly concerned about the relationship between profiling and individual automated decisions. Concerning certain other Government proposals, too, the Constitutional Law Committee in particular had to think about the use of algorithms from the perspective of not only data protection but also constitutional law in general.

In the processing of personal data, the question of joint controllers resulted in discussion in several fields and in the preparation of laws. In many cases, solutions were found to match the activities in practice. During the year, the European Data Protection Board prepared instructions to clarify the division of responsibilities.

The European Commission implemented a special programme against the manipulation of elections for the European Parliament election. In Finland, the Ministry of Justice, the Prime Minister's Office and the Security Committee started a training project with the purpose of increasing awareness

of the manipulation of elections. In this project, the Office of the Data Protection Ombudsman participated in training the representatives of political parties, among other things, because the manipulation of elections is typically also linked to profiling and the processing of personal data.

The Office of the Data Protection Ombudsman mainly reached the performance targets set for it well. However, the processing times of several types of cases were considerably long, partly also due to their supranational processing methods. At the start of 2020, a project to fix the issue was started at the Office.



Reijo Aarnio
Data Protection Ombudsman

The number of personnel grew, the organisation was renewed

During 2019, the number of personnel in the Office of the Data Protection Ombudsman increased to 46 people. When the Finnish Data Protection Act entered into force, two Deputy Data Protection Ombudsmen, Jari Râman and Anu Talus, were appointed to the Office.

The organisational structure of the Office of the Data Protection Ombudsman was also renewed. Three customer service teams were established in the Office; as a rule, one of them focuses on private sector and cross-border matters, the second on public sector and nationally processed matters and the third on matters related to the Data Protection Law Enforcement Directive and the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security. In addition to

administration, advisory and registry services have been centralised in the Administrative Unit. The Joint Functions team includes the IT senior specialists, communications and the Data Protection Officer.

In addition, process teams have been formed in the Office; they coordinate practices related to certain types of issues, such as personal data breaches, rights of the data subject, impact assessment and corrective powers.

The increase in the number of personnel of the Office of the Data Protection Ombudsman also affected the need for space. A project to find new premises was started during the year, and the Office moved to new premises in Lintulahti, Helsinki, in the spring of 2020.

Human resources	2017	2018	2019
Number of personnel at the end of the year	26	31	46
Person years	23	27.4	40.6
Absences due to illness, day(s) per person years	10.1	11.5	11.5
Average age	43.3	42.5	41.6
Education index	6	5.7	6.3

Finances of the Office of the Data Protection Ombudsman	Realisation 2017	Realisation 2018	Target 2019	Realisation 2019
Use of the operating expenses appropriation, €1,000	1,764	2,062	3,494	3,179
Total costs, €1,000	1,890	2,372	-	3,862

Deputy Data Protection Ombudsman Anu Talus:

The importance of international cooperation is growing

I started as the Deputy Data Protection Ombudsman in August 2019. Even though a lot of work had already been done at that time, it was also clear that there was a massive amount yet to be done.

Transferring into a new position offers a good chance to take a look at the development in the field. Only a few years ago, it was a good idea to start talks at events from the basic concepts, such as what is a data subject, controller or processor. When we were working on a media release at the start of the year, I wondered if data subject as a concept was already as widely understood as consumer. We have not quite reached this point yet. However, the overall level of competence has increased dramatically, and data protection has become mainstream. And the development is not over yet. In fact, in the future every Master of Laws should graduate with the basic ability to handle data protection matters.

As the Deputy Data Protection Ombudsman and the supervisor of my own team, I am responsible for cross-border issues and matters principally related to the private sector. These issues include,

among other things, journalism, elections, discussion platforms, blogs, banking activities, financing companies and granting credit, the field of telecommunications, online shopping, electricity, accounting, direct marketing, phone call recordings, social media, games, traffic, transport and travel – to name only a few subject areas. So, from this point of view too, there is plenty of work to be done.

The first Finnish steps to outline the application of the GDPR were also taken during the last year. Among other things, last year we issued the first decision on direct marketing based on the Planet 49 ruling of the Court of Justice of the European Union concerning the use of cookies. A decision on evaluating creditworthiness concerning automated decision-making that included discriminatory elements was also issued last autumn. Of other significant issues, the statement to the Supreme Administrative Court on a matter concerning the inspection of comparative tax information should also be mentioned. The decision of the Supreme Administrative Court issued at the start of 2020 confirmed the policy of the Data Protection Ombudsman in the matter.

In 2018 and 2019, Finland has acted as the leading supervisory authority in a total of seven One Stop Shop matters and as a supervisory authority concerned in 213 matters.

As stated in the Data Protection Ombudsman's own review, the work of the European Data Protection Board and its subgroups has started according to the work programmes. In addition to this, the European supervisory authorities are also cooperating in connection with the One-Stop-Shop. These official channels have also increased unofficial cooperation between authorities. In fact, international networking is extremely important in order to promote the goals of the Office of the Data Protection Ombudsman.

The first decisions have already been made via the One-Stop-Shop mechanism, but no major decisions by the European Data Protection Board have been issued yet. The Court of Justice of the European Union also issued rulings last year outlining the application of the GDPR. For example, the Planet 49 ruling issued in the autumn of 2019 clarifies the relationship between the ePrivacy Regulation and the GDPR for its part.

The Office's internal work to participate in the work of the European Data Protection Board's subgroups also started during the last year, and it is still ongoing. The goal is to create a working model that can effectively influence European decision-making. This is important for ensuring that the very pragmatic Finnish perspective will be represented in the European forums. It has been a great pleasure to observe how motivated the personnel of the Office of the Data Protection Ombudsman are to participate in the European data protection work.

During the last year, we also prepared for a so-called hard Brexit a few times – fortunately, it turned out to be unnecessary. However, there are changes upcoming to the transfers of data between the EU countries and the United Kingdom

at the end of this year. If the United Kingdom does not separate itself too far from the data protection principles of the EU, the Commission can still make a decision on the sufficient level of data protection. In that case, the change would not be very visible in the everyday life of controllers.

Cooperation with the Data Protection Ombudsman and the other Deputy Data Protection Ombudsman has also started out smoothly during 2019. It has been a pleasure to work with these excellent colleagues.



Anu Talus
Deputy Data Protection Ombudsman

Deputy Data Protection Ombudsman Jari Råman:

Issues related to internal security in focus

I started out in the new position of a Deputy Data Protection Ombudsman in May 2019, with issues related to the processing of personal data by the competent authorities in accordance with the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security as my area of responsibility. In addition to the Finnish Defence Forces and the police, which are the government controllers with the largest number of personnel, this area of responsibility of internal security also includes the Finnish Customs, the Finnish Border Guard, rescue services, activities of the Emergency Response Centres, immigration administration as well as courts of law, the National Prosecution Authority as well as the Criminal Sanctions Agency. I arrived right in the middle of a change that was in progress both outside and inside the Office.

The Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security entered into force at the start of 2019. It regulates the processing of personal data by internal security authorities

as a general law. Some of the reforms of the authorities' branch-specific laws as well as the Act on the Use of Airline Passenger Name Record Data in the Prevention of Terrorist Offences and Serious Crime that entered into force during the spring of 2019. Parts of the legislative reform and implementation were and still are in progress. Therefore, it is still too early to say anything about how well the legislation works in practice.

In addition, the focus of the work during 2019 has been on international cooperation as a part of the European Data Protection Board and other expert working groups of the European Union. The interoperability of the many internal security information systems of the EU was developed during the year, both on the level of statutes as well as in practice. The work, which was raised as a clear priority by the Justice and Home Affairs of the Commission, was highly visible during Finland's Presidency. In addition, progress was made with the development of regulations on electronic evidence. Discussion about the data protection issues of these systems will certainly continue further.

A key part of the international cooperation also included participating in the work of the European Data Protection Board's subgroups as well as the work of joint monitoring groups on the Schengen Information System (SIS II), the European Asylum Dactyloscopy Database (Eurodac) and the central EU Visa Information System (VIS).

The year was a period of strong reorganisation in the Office of the Data Protection Ombudsman. At the same time, the available resources increased: for example, there are now five person years available for monitoring the internal security authorities. The new organisation brought with it a chance to change and develop operating methods in the Office.

An inspection plan concerning the internal security authorities was prepared for the first time for 2020. Key objects of inspection during the current year include implementing accountability and impact assessment, the use of facial recognition technology that has given rise to many questions, and some of the legal innovations in sector-specific legislation on personal data. The plan has also taken the monitoring and inspections of EU information systems related to internal security in accordance with the special regulations concerning them. In the future, the inspection plan will be updated annually.

During 2020, the Office of the Data Protection Ombudsman carries out a total of 17 inspections related to internal security organisations.



Jari Råman
Deputy Data Protection Ombudsman

Focus areas of data protection activities

Rights of the data subject

The rights of the data subject are defined in the third chapter of the General Data Protection Regulation and the fourth chapter of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security. The rights of data subjects include, for example, the right to access, rectify and erase data and the right to not be subject to a decision based solely on automated processing. These rights are the data subjects' toolbox, with which they can influence how their data are processed.

In the work of the Office of the Data Protection Ombudsman, the rights of the data subject are visible in two ways. The Office processes complaints and denunciations by data subjects in cases, in which it is suspected that the processing of personal data violates data protection regulations. In addition, the Office produces proactive guidance and educational material and responds to different kinds of queries from data subjects. The Office's website and telephone guidance in particular are important channels in this work.

During 2019, the activities have also focused on strengthening the uniform processing and decision practice of the cases that are instituted, both within the Office and as a part of the harmonisation work of the European Data Protection Board.

Personal data refers to all data related to an identified or identifiable person.

The data subject is the person to whom the personal data relates.

A controller is a person, company, authority or community that defines the purposes and methods of processing personal data.

A processor is a third party processing personal data on behalf of a controller.

Data subjects have the right

- to obtain information on the processing of their personal data;
- of access to data;
- to rectification of data;
- to the erasure of their data and to be forgotten;
- to restrict the processing of data;
- to data portability;
- to object to the processing of their data;
- not to be subject to a decision based solely on automated processing
- receive help from the authority monitoring data protection.

Not all of these rights can be exercised in all situations, depending on factors such as the basis for the processing of personal data.

Supporting the work of Data Protection Officers as a goal

Data Protection Officers are internal experts, who monitor the processing of personal data in their organisation and provide advice on compliance with data protection regulations. They are also important contact persons for the supervisory authority as well as data subjects in data protection matters.

During 2019, Office of the Data Protection Ombudsman added answers to the most common questions concerning Data Protection Officers on its website. In March, the Office of the Data Protection Ombudsman sent a newsletter for the first time; the newsletter is targeted especially at those working as Data Protection Officers, but also other people interested in data protection issues. The newsletter of the Office of the Data Protection Ombudsman is published approximately six times per year. The aim is to increase the cooperation and communication targeted at Data Protection Officers further in the coming years.

An organisation is required to appoint a Data Protection Officer if it

- processes sensitive data on a large scale;
- monitors individuals regularly, systematically and on a large scale; or
- is a public authority other than a court of law.

The Office of the Data Protection Ombudsman had been notified about 1,828 Data Protection Officers by the end of 2019. Organisations have a statutory obligation to notify the Office of the Data Protection Ombudsman about their Data Protection Officer.

Personal data breaches formed the largest group of cases

Notifications of personal data breaches formed the largest individual group of cases instituted at the Office of the Data Protection Ombudsman in 2019. During the year, the processing of notifications has been developed and made more efficient by means such as implementing a standard response for those personal data breaches that are unlikely to lead to any further actions. Making requests for further information has also been developed with regard to Office 365 personal data breaches. Breaches of this type form a significant part of the serious personal data breaches reported to the Office of the Data Protection Ombudsman.

Certain common features can be identified in the personal data breaches. It is often difficult for the controllers to ascertain which personal data have ended up in the possession of external parties. There is also room for development in how fast controllers can detect personal data breaches. In addition, there may be deficiencies in the general information technology skills of small organisations in particular.

The Office of the Data Protection Ombudsman was notified of 3,839 personal data breaches in 2019.

If a personal data breach can cause a risk to the rights and freedoms of natural persons, the Office of the Data Protection Ombudsman must be notified. The notification obligation started in May 2018.

Processing cross-border matters

Cross-border processing means either

- processing of personal data which takes place in establishments in more than one EU Member State where the controller or processor is established in more than one Member State or
- processing of personal data which takes place in a single establishment of a controller or processor in the EU, but which substantially affects data subjects in more than one Member State.

When the processing of personal data crosses borders, the European supervisory authorities monitor the processing of personal data in cooperation.

During 2019, the Office of the Data Protection Ombudsman further developed the processes that had been created the previous year for processing cross-border matters. The internal process clinics of the Office of the Data Protection Ombudsman aimed to ensure that the processing of cross-border matters progresses smoothly and uniformly. Operating methods and the processing of matters were developed to correspond to the new instructions by the European Data Protection Board.

The EU supervisory authorities have resolved cross-border matters in cooperation ever since the application of the GDPR started in May 2018.

Of the cross-border matters that were instituted during 2019, the Office of the Data Protection Ombudsman was named as the leading supervisory authority in two matters and as a supervisory authority concerned in 107 matters.

Transferring personal data abroad

Transferring personal data out of the EEA always requires appropriate grounds for the transfer and compliance with the other requirements imposed by data protection legislation. The GDPR increased the number of grounds for transfer and updated some of the grounds that were already in place.

The Office of the Data Protection Ombudsman participated actively in the work of a subgroup of the European Data Protection Board on international transfers. The goal of the subgroup is to clarify the preconditions for transfer and give instructions on the grounds for transfer in accordance with the GDPR. The website of the Office of the Data Protection Ombudsman was also updated during the year with instructions on the requirements for transferring personal data outside the EEA.

Corrective powers in use

Due to the GDPR, the Office of the Data Protection Ombudsman can use corrective powers of different degrees. During 2019, the Office issued orders to controllers focused on implementing the rights of a data subject and changing processing measures as well as notifying data subjects about a personal data breach. In addition, reprimands were issued on deficiencies in the processing of personal data.

A sanctions board is responsible for imposing administrative financial sanctions; the board consists of the Data Protection Ombudsman and the two Deputy Data Protection Ombudsmen. No administrative financial sanctions were imposed during 2019, however.

One of the focus areas of the Office of the Data Protection Ombudsman was harmonising the processing of matters related to the corrective powers and the sanction practice. A working group was established in the Office for the purpose; it draws up internal instructions and supports the work of individual referendaries.

In 2019, the Office of the Data Protection Ombudsman issued

- three orders to ensure the compliance of personal data processing measures with the GDPR
- 39 orders to notify data subjects about a personal data breach
- 41 reprimands for processing measures that violate the GDPR.

Matters instituted and resolved from 2017 to 2019

The table presents how many cases have been instituted and how many cases have been resolved by the Office of the Data Protection Ombudsman in 2017–2019. The statistics have been printed out from the case management system at the end of the year in question.

The case management groups of the Office of the Data Protection Ombudsman changed in May 2018 with the reform of the data protection legislation. Most of the cases have been recorded under tasks in accordance with the General Data Protection Regulation and the Data Protection Law Enforcement Directive starting from 25 May 2018 (groups 80–210).

The prior consultation (high risk) group of cases includes prior consultations due to the high residual risk, notifications required by the national legislation (Data Protection Act, section 31(3)) as well as issues related to lists of high or low risk processing measures.

	2017		2018		2019	
	Instituted	Resolved	Instituted	Resolved	Instituted	Resolved
Tasks in accordance with the GDPR and the Data Protection Law Enforcement Directive (groups 80–210)	0	0	7,133	3,601	9,290	7,483
- Prior consultation (high risk)	0	0	4	4	45	8
- Statements	0	0	180	154	206	215
- Codes of Conduct	0	0	3	2	1	1
- Transfers of personal data	0	0	31	22	78	68
- EU and international cooperation	0	0	647	217	1,085	831
- Rights of the data subject	0	0	601	147	868	463
- Supervision	0	0	326	59	669	180
- Personal data breaches	0	0	2,220	1,100	3,840	3,620
- Guidance and advice	0	0	1,894	823	2,014	1,481
- Data Protection Officers	0	0	1,227	1,073	483	616
- Board of Experts	0	0	0	0	1	0
General issues (groups 01–29)	497	473	494	468	584	551
- General, financial and human resource issues	322	306	404	368	580	545
- Statements	144	136	78	89	1	2
- Statements on administrative reforms	31	31	12	11	3	4
International matters (groups 30–39)	203	196	140	133	26	36
- European Union	131	127	91	93	19	22
- Other international cooperation with data protection authorities	30	29	12	11	6	7
Ex ante control and guidance by the Data Protection Ombudsman (groups 40–49)	2,864	2,399	1,632	2,173	100	345
- General guidance	175	146	166	185	87	100
- Enquiries and requests for guidance by controllers	695	562	443	531	1	73
- Processing of personal data with IT within the scope of the notification obligation	763	619	435	605	1	61
- Statements to the Data Protection Board, Administrative Courts and the Supreme Administrative Court	29	30	5	5	0	0
- Requests for information by the Data Protection Ombudsman	17	12	9	15	11	10
- Enquiries and requests for measures submitted by data subjects	1,185	1,030	574	832	0	101
Orders of the Data Protection Ombudsman and other ex post control (groups 50–59)	391	369	212	335	2	33
- Further methods related to inspections	2	4	1	3	0	0
- Implementing the right of access of the data subject	162	168	78	97	2	33
- Implementing a claim for rectification by the data subject	168	146	69	154	0	0
- Statements to the prosecutor and courts of law	57	51	64	80	0	0
- Applications to the Data Protection Board	2	0	0	1	0	0
Decisions of the Data Protection Board (groups 60–69)	2	1	0	1	0	0
Unclassified	0	0	6	5	0	1
Total	3,957	3,438	9,617	6,716	10,002	8,449



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