

NATIONAL CENTER FOR PERSONAL DATA PROTECTION
OF THE REPUBLIC OF MOLDOVA



**Processing special categories
of personal data
by health institutions**



*18th Meeting of the
Central and Eastern European
Data Protection Authorities
CEEDPA*

Sarajevo, 11-12 May, 2016

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The National Center for Personal Data Protection &
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Personal data protection in the healthcare sector

2.1. Personal data processing in the classical healthcare services

2.2. Personal data protection vs. the digitalization of the healthcare sector

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Conclusions

1. The National Center for Personal Data Protection



- Founded in 2008
- Autonomous and independent authority
- Led by a a Director, appointed by the Parliament, by the majority of votes of the elected deputies on the proposal of:
 - the Chairman of the Parliament,
 - a parliamentary fraction or at least 15 deputiesfor a 5 year mandate .

Main POWERS:

- **Monitor and control** the lawfulness of PD Processing
- Carry out **investigations**
- Finds law infringements
- **Suspends or bans** unlawful PD processing
- **SANCTIONS** 
 - Proposed by the Center
 - **Applied by the Courts only**  (*Amendment foreseen*)



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2. Personal data protection in the healthcare sector



- ***Delicate area*** due to the ***massive processing of the special categories*** of PD

Paradox:

The healthcare legislation

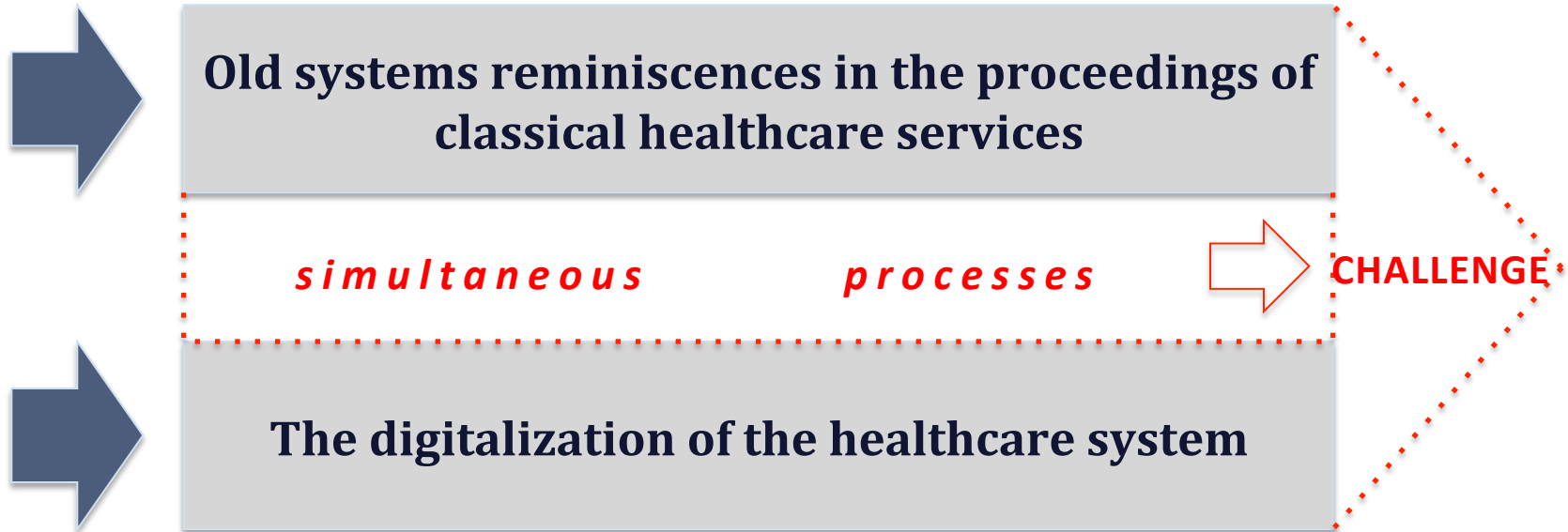
provides a very **high data protection safeguards** via the *patient data confidentiality* provisions

Longtime established **practices**
infringing both:
the confidentiality provisions and
the PDP rules

2. Personal data protection in the healthcare sector



Main directions where legitimacy problems are faced:



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2. 1. Personal data processing in the classical healthcare services



Practices from 3 distinct segments will be explored:



Practices at the administrative level



Practices involving health institutions and law enforcement bodies



Practices between health institutions and Mass Media

2.2 Personal data processing in the classical healthcare services



Practices at the administrative level

Examples:

- Personal ID n° or contagious disease diagnosis indicated on the medical file cover
- Non-formal transmission of information on the health status of patients between doctors intra & inter institutions
- Diagnosis included in the sick leave certificate provided to the employer

2.2 Personal data processing in the classical healthcare services



Practices at the administrative level
The sick leave certificate example

Actions undertaken by the Center:

Stage 1

Switch to coding diagnoses

Problem :
List of codes –
public document

Stage 2

Complete exclusion of
the indication

2.2 Personal data processing in the classical healthcare services



Practices between health institutions and law enforcement bodies

Example/Case study nr. 1:

Bodies involved:

- *The National Anticorruption Center,
- *The Intelligence and Security Service

Practice:

Systematic and Quasi-automated *information requests* from the *Psychiatric Health Institutions* about individuals on subject to the filing system *without individualized justification*

2.2 Personal data processing in the classical healthcare services



Practices between health institutions and law enforcement bodies
Example/Case study:

Actions undertaken by the Center:

1. Found the excessive nature of data processing
2. **Informed** the healthcare institutions on the fact
3. **Warned** them on their obligation of non disclosure of PD except in cases provided by the law and on the risk of being sanctioned for infringement

Outcome:

1. Health Institution ceased to provide envisaged data
2. Resistance of the 2 law enforcement bodies & pursue of requests
3. Cession of requests upon constant denial

2.2 Personal data processing in the classical healthcare services



Practices between *health institutions* and *law enforcement bodies*

Example/Case study nr. 2:

Actors involved: Lawyers/Attorneys

Practice: Collection of data from the health files of the health institutions (disease history, etc.) of **data subjects other than their clients**, without a court order/other mandate.

⚠ Access granted by the medical workers although prohibited by the healthcare legislation

Actions undertaken by the Center:

Initiated *contravention proceedings* regarding the doctors & the attorney

Outcome:

- The 3 doctors – ***found guilty by the Courts*** of disclosure of personal data to an unauthorized attorney.
- ***Warnings*** on the matter issued by the Ministry of Health to all the HIs

2.2 Personal data processing in the classical healthcare services



Practices between health institutions and Mass Media

Example:

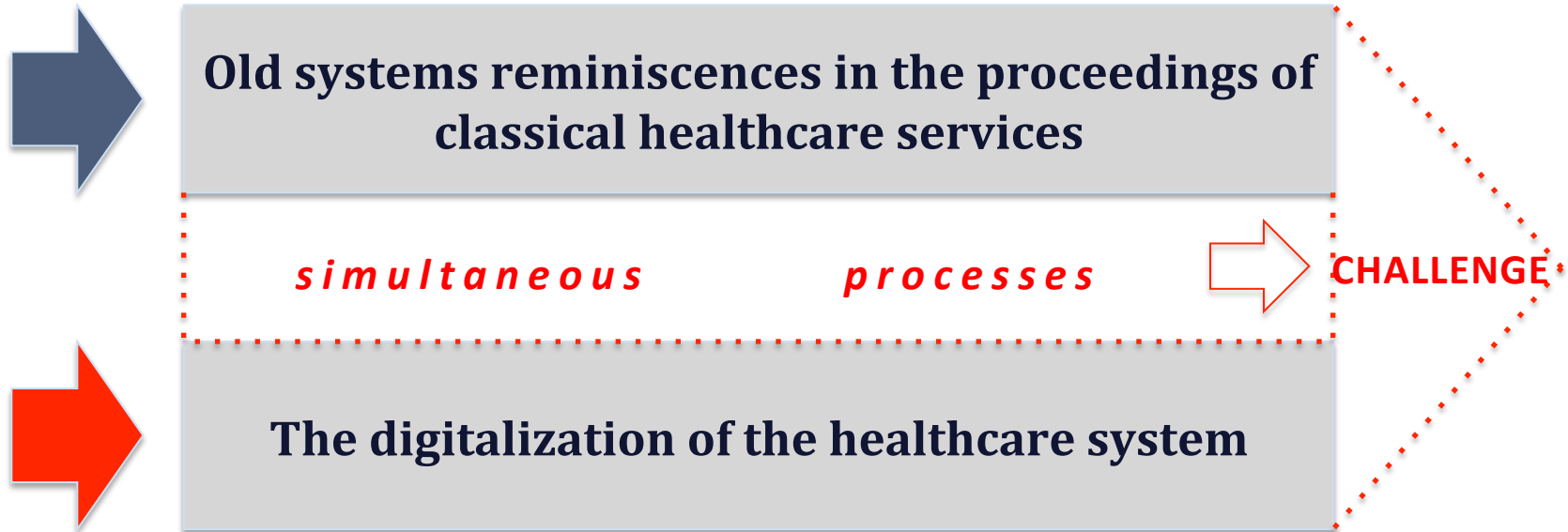
Random records the corridors of health intuitions, capturing without the consent of patients and hospital visitors

Still early stage of negotiation and game rules establishment within the media sector.

2. Personal data protection in the healthcare sector



Main directions where legitimacy problems are faced:



3. The digitalization of the healthcare system



State of play :

- fast digitization process due to:
 - technological development and
 - financial support encouraging the whole digital process.



Seriousness of the phenomenon:

- a huge amount of data
- high level automated processes difficult to monitor ex-post
- ***involvement of private entities*** in the development & maintenance of systems

Actions of the Center:

Issue detected for about 2-3 years, demarches sent to authorities.

Results until now:

the Center is included in the working groups for drafting / regulatory functionality of such systems.

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