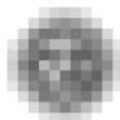




# The Czech Office for Personal Data Protection (Introduction)

Alena Kučerová  
Deputy President



úřad pro ochranu  
osobních údajů  
the office for personal  
data protection

# Office Building Principles

- **Independency:**
  - Laid down in the Personal Data Protection Act 101/2000
    - The Office is an independent body
  - Guaranteed by the appointment procedure of the president and inspectors
    - Nomination by the President
  - Special chapter of the state budget
  - Activities may be intervened only on the basis of law



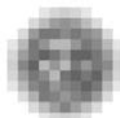
## The Office for Personal Data Protection

**President of the Office  
RNDr. Igor Němec**

Section of  
Supervising  
Activities

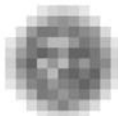
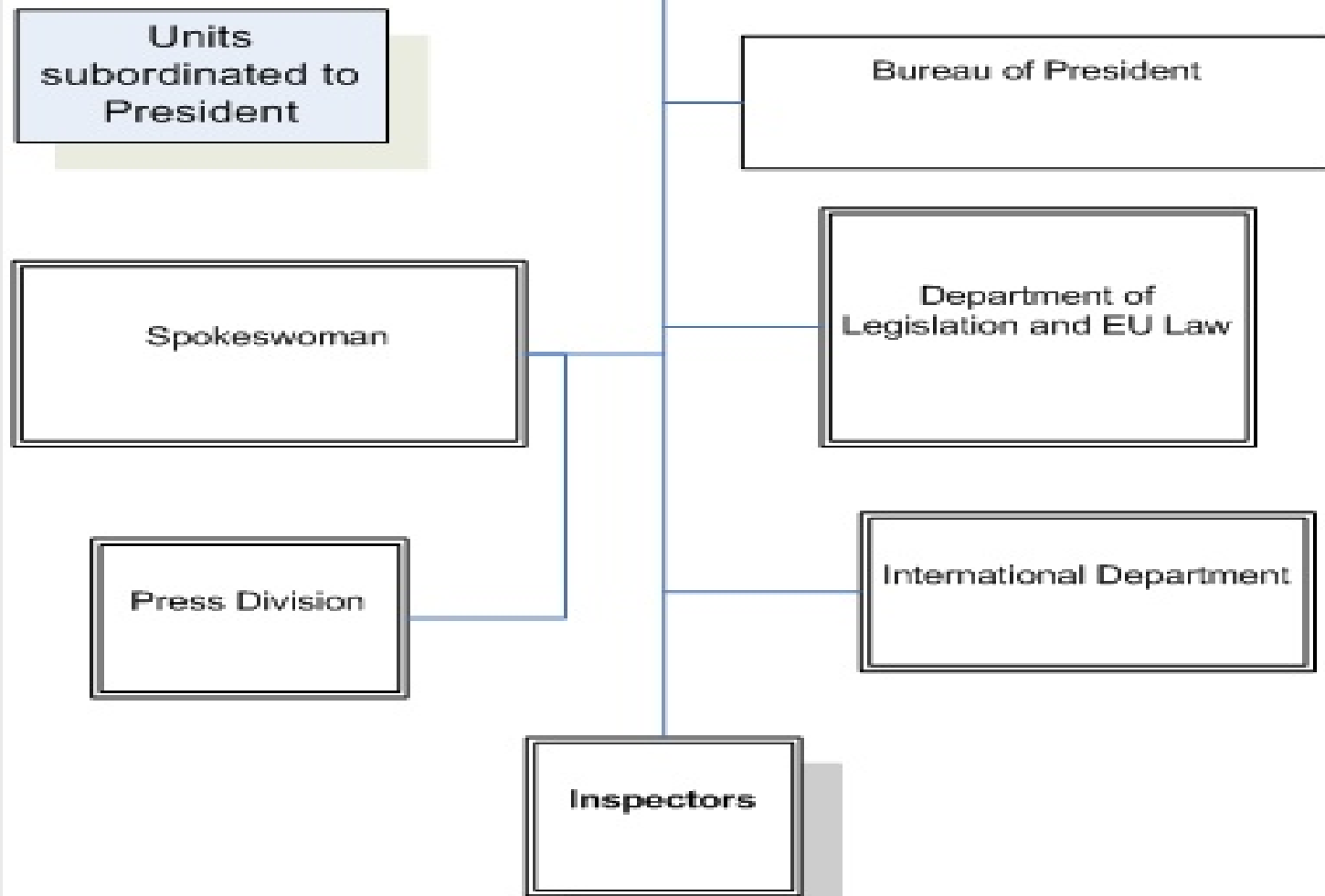
Units  
subordinated to  
President

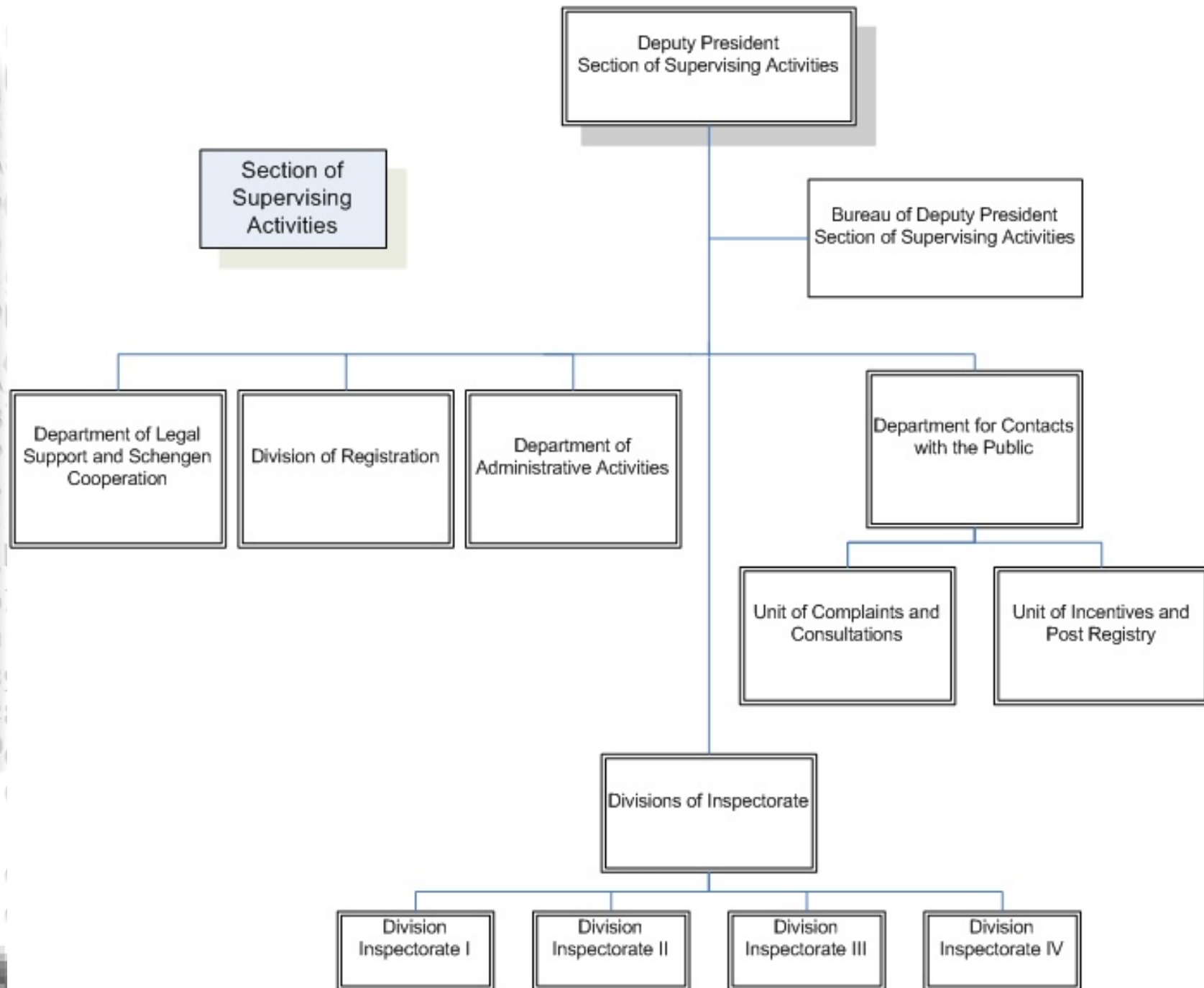
Economic and  
Operating  
Section

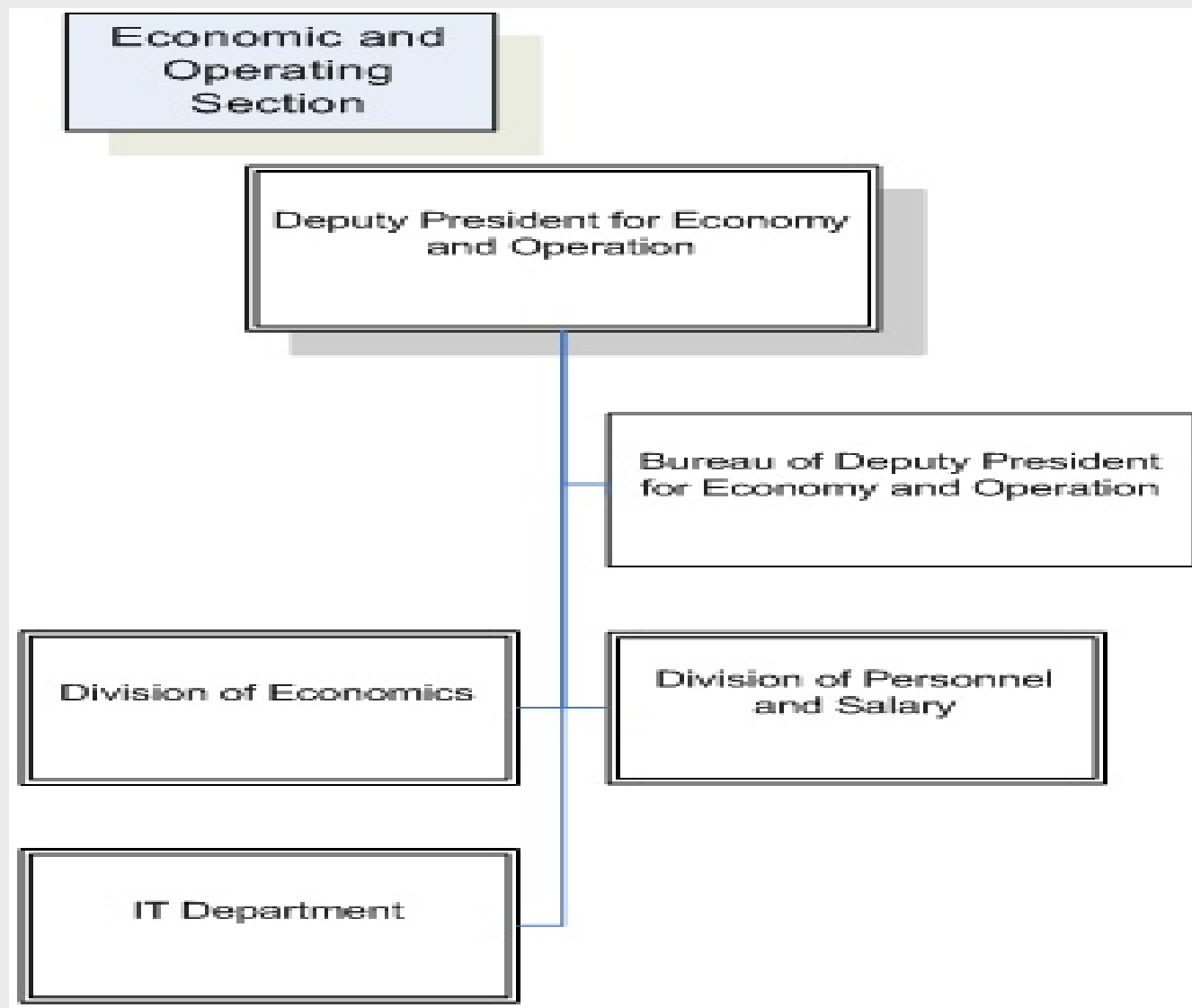




# President of the Office







# Structure of the Office, Staff and Budget

- **President of the Office**
- **7 inspectors**
  - **Section of the President** – staff 16
  - **Supervisory activities section** – staff 53
  - **Administrative and economic section** – staff 19
    - Total of 96 staff (cut-off date Feb. 2009)
  - **Funds budgeted for 2008:**
    - Approx. 88 mil Kč = € 3.2 million

# Supervisory staff

- 7 inspectors
- 4 inspectorates = 20 employees
- Number of supervisions in 2008:
  - New initiated:
    - **Data protection 112**
      - planned 20
      - incidental 92
    - **electronic communications 155** (*supervisions pursuant Certain information society services act – unsolicited commercial communications*)
      - incidental 151
  - Completed since last year and 2008:
    - Data protection 112
    - electronic communications 91



# Competencies of the Office

- **Competence in the field of personal data protection:**
  - Supervision over the observance of the obligations
  - Complaints handling
  - Administration of register of personal data processing
  - Discussing administrative penalties
  - Consultations
  - International co-operation

# Competencies of the Office (2)

- **Supervision in the electronic communications sector:**
  - Supervision over the compliance with the obligations in processing of personal data according to the Electronic Communications Act (No.127/2005 Coll.).
  - Supervision over the range of duties applicable to dissemination of commercial communications according to The Certain Information Society Services Act. (No.480/2004 Coll.).

# Supervisory competencies

- **Right to access to personal data processed** at the premises of controller or processor
- **Right to determine specific deadlines**, original documents and all important information about controlled processing
- **Right to control obligations in ensuring security** of personal data including technical documentation on processing and security measures
- **Right to order liquidation** of personal data
- **Right of on-spot supervisions**
- **Right to start offence and administrative sanctions proceedings**

# Process of supervision

- **Obligation to investigate** into existing situation
- **Obligation to respect the rights** and legally protected interests of controlled bodies
- **Obligation to maintain confidentiality** of facts found out during the inspection
- **Obligation to describe** all established facts in **supervision protocol**
  - Supervision protocol may be appealed to the President of the Office
  - In appellate process President of the Office consults with board of inspectors.

# Most frequent breaches

- Unlawful processing of inaccurate or excessive data
- Unlawful transfer of data to other controllers
- Insufficient or missing information for data subjects
- Processing of sensitive data without expressive data subject's consent
- Poor security measures for personal data
- Unsolicited commercial communications

# Complaints handling process

- **Complaints handling is free of charge**
  - The Office accepts instigations from anybody, other authorities, e.g. courts, ombudsman, police, media.
  - The Office accepts anonymous complaints.
- **Assessment of complaints**
  - Unjustified complaints: info. duty – see below
  - Justified complaints: supervisory process goes on.
    - The Office informs the complainant within 30 days on **how his complaint has been handled.**



# Complaints handling

- **Methods of submitting complaints in 2008:**
  - Breach of Act 101**
    - 697 administrated complaints
    - 202 complaints handed over for inspection
  - Breach of Act No. 480/2004**
    - 1458 administrated complaints
    - 155 complaints handed over for inspection
- **Questions, answers and consultations:**
  - Office´s legal obligation towards anybody:
    - Questions by post and e-mail – 1778
    - Personally discussed - 68
    - By phone – 8356

# Registration process

- Notification process is limited by:
  - Exemptions from PDP Act.
- Obligations concerning intended data processing
  - Obligations of controllers to notify:
    - Controller's identification details,
    - Purpose of processing
    - Category of data subjects and of personal data relating to them
    - Sources of personal data
    - Place of processing
    - Recipient or category of recipients



# Administrative punishment

- Discussing administrative offences in the area of PDP Act in 2008:
  - Administrative proceedings on sanctions:
    - Total - 115
    - Appealed - 33
      - Appeals body is the President of the Office
    - Challenged by the Court - 13
      - Decision of the President may be challenged by a lawsuit at the Administrative Court
    - Sanctions for breach of law up to CZK 10 million (approx. € 300 000)
      - Sanctions are not income of the Office's budget

# Administrative punishment

- **Discussing administrative offences in the area of special processing of personal data:**
  - Act on register of population and birth numbers
  - Act on conflict of interests
  - Act on asylum
  - Act on travel documents
  - Act on the regulation of advertising
  - Criminal process code
    - Appeals body is the President of the Office
    - Decision of the President may be challenged by a lawsuit at the Administrative Court.

# International co-operation

- **Based on Act 101 and on EU documents:**

- Article 29 Data Protection Working Party
- Council of Europe
- OECD

- **Based on standard bilateral relations:**

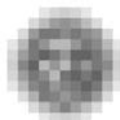
- 2001/2002 Phare twinning project CZ00/IB/OT/03
- 2003/2004 Phare twinning light project CZ01/IB/OT/01-TWL
- In 2006 new twinning light project with Austrian partners
- In 2006 the Office is senior partner (with Spanish DPA as junior partner) in the CARDS project in Bosnia and Herzegovina

- **Co-operation with independent supervisory bodies:**

- JSB Europol, JSA Schengen, JSA Customs

# Communication strategy and praxis

- **Means imposed by law:**
  - Official journal
  - Annual report
- **Permanent communication means created by the Office:**
  - Web pages
  - Quarterly press conferences
  - Information bulletin
  - Projects oriented to public
- **Communication used occasionally**
  - Morning TV broadcasting
  - Public-law radio and Radio discussions
  - Discussions and lectures



# National legal regulations

- **Charter of fundamental rights and freedoms:**

- Article 10: Right to protection against unauthorized gathering, publication or other misuse of personal data

- **General law (*lex generalis*) - Act 101**

- Effective from 1 June 2000

- **Special law (*lex specialis*)**

- Provisions in special legal regulations

- Act on the Police
    - Act on conflict of interests

# Act 101/2000

- **Fundamental legal regulation in the area of personal data protection**
  - Provides for establishing of the Office for Personal Data Protection
  - Offers basic definitions in personal data protection
  - Defines general principles of personal data processing
    - Legitimacy and lawfulness of processing
    - Necessity of processing
    - Purpose principle
    - Accuracy of data
    - Transparency of processing
  - Lays down the rights of data subjects

# Act 101 Principles

## ■ Information and instructions for data subjects

### — Rights of data subjects

- Right to be informed on processed data
  - ✓ Content of the information is given
- Right on access to data
- Right to demand explanation from the controller or processor
- Right to demand improvement
- Right to turn for aid to the Office
  - ✓ After the request at the controller or processor has failed
  - ✓ Directly

## ■ Security of data

- ### — Technical and organizational measures



**Thank you  
for your listening**

**Are there any questions?**

