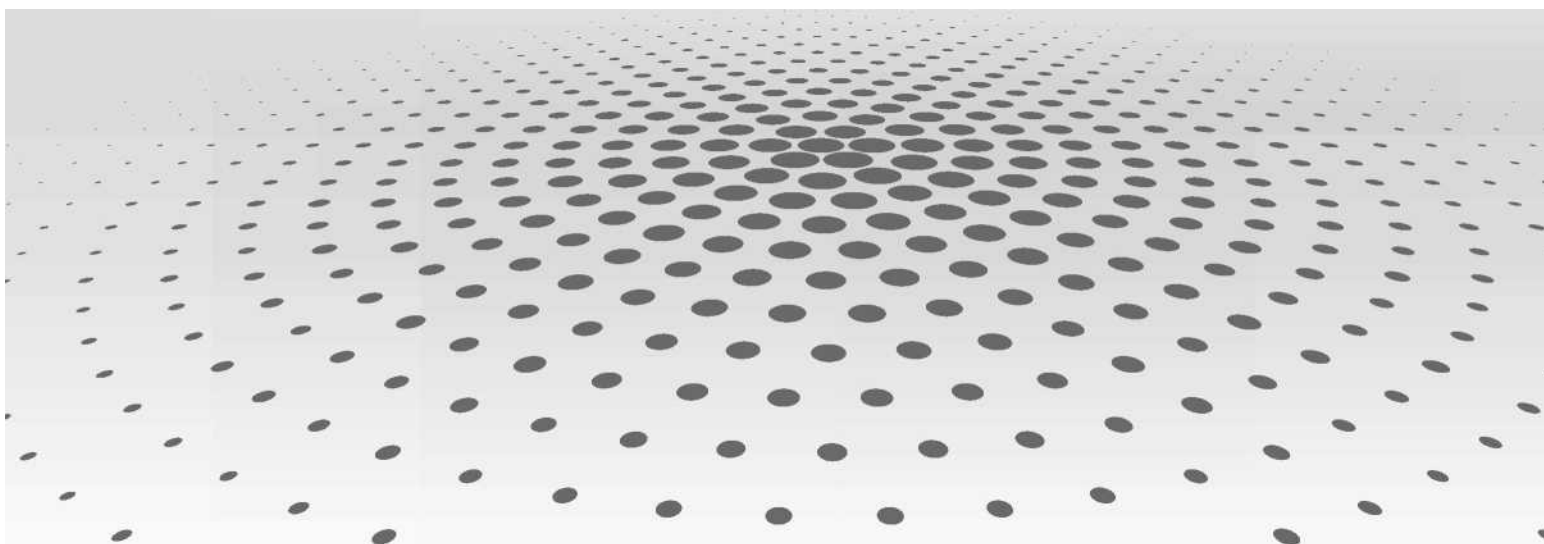




ANNUAL REPORT



**FOR THE ACTIVITY OF THE NATIONAL SPECIAL
INTELLIGENCE DEVICES CONTROL BUREAU**

2023





REPORT

FOR THE ACTIVITY OF THE NATIONAL SPECIAL INTELLIGENCE
DEVICES CONTROL BUREAU IN

2023



The main challenges facing the supervisory authority in the current environment are related to the penetration of new technologies in the implementation of secret means of collecting information from the special services, the exchange of information with their international partners, the lack of updated legislation and technological security. The difficulties in overcoming them stem from the need to find a balance between the public interest, the protection of national security and public order in a complicated international environment and a changed security environment, and the self-interest associated with guaranteeing the constitutional rights of the individual citizen as a fundamental value in a democratic society.

Sincerely,

Plamen Kolev

Chairperson of the National Special Intelligence Devices Control Bureau

A handwritten signature in blue ink, consisting of a horizontal line followed by a series of vertical and diagonal strokes, characteristic of the signature of Plamen Kolev.

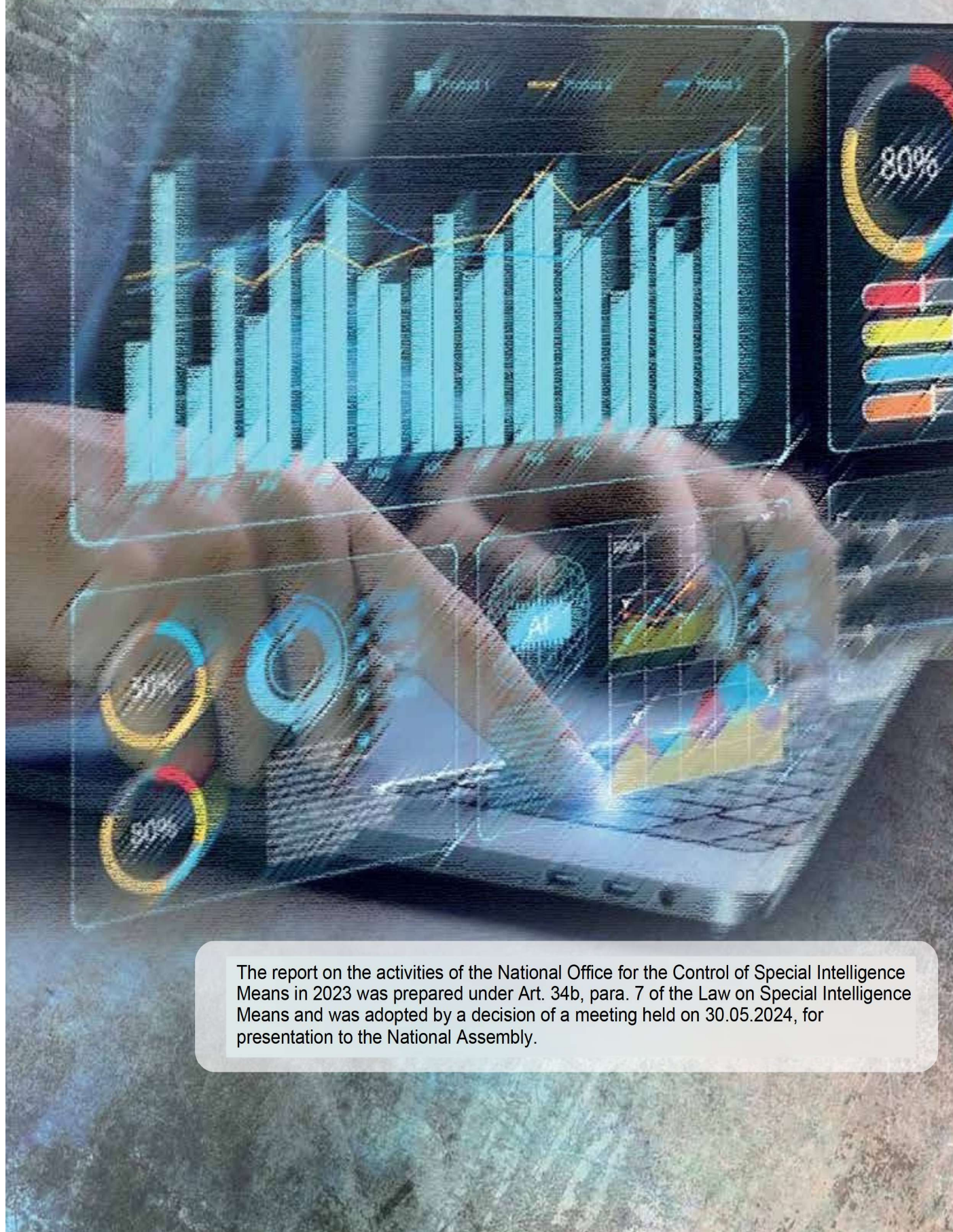
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ABBREVIATIONS USED

APO	Appellate Prosecutor’s Office
AC – Sofia	Court of Appeal-Sofia
ME	Material evidence
SCPO	Supreme Cassation Prosecutor's Office (until the entry into force of Act amending and supplementing the CRB, promulgated SG No. 106 of 22 December 2023)
SCCs	Supreme Court of Cassation
MAPO	Military Appellate Prosecutor's Office
MCA	Military Court of Appeal
MDPO	Military District Prosecutor's Office
MC	Military Court
SJC	Supreme Judicial Council
GDCOC	General Directorate Combating Organized Crime
GDBP	General Directorate Border Police
GDNP	General Directorate National Police
c.c.	Civil case
SANS	State Agency for National Security
SIA	State Intelligence Agency
SATO	State Agency "Technical Operations”
SG	State Gazette
ISD	Internal Security Directorate
SCIS	State Commission on Information Security
PTP	Pre-Trial Proceedings
EDPRB	European Delegated Prosecutors in the Republic of Bulgaria
EU	European Union, the Union
BBA	Bulgarian Bar Act
APIA	Access to Public Information Act
SMLDA	State and Municipalities Liability for Damages Act

JSA	Judicial System Act
SIMA	Special Intelligence Means Act
CCSSAUSMDAECA	Committee for Control of the Security Services, the Application and Use of the Special Means and the Data Access under the Electronic Communications Act, committee in the National Assembly
CIAF	Commission for Illegal Assets Forfeiture
CCC	Counter-Corruption Commission
CC of the Republic of Bulgaria	Constitutional Court of the Republic of Bulgaria
MoI	Ministry of Interior
MO	Ministry of Defence
NSIDCB, The Bureau, the National Bureau	National Special Intelligence Devices Control Bureau
CC	Penal Code
CCP	Code of Criminal Procedure
NA	National Assembly
DPD	District Police Directorate
DPO	District Prosecutor's Office
OCG	Organized criminal group
DC	District Court
PORB	Prosecutor's Office of the Republic of Bulgaria
RPO	Regional Prosecutor's Office
MPS	Military Police Service
MINS	Military Intelligence Service
SCPO	Sofia City Prosecutor's Office
SCC	Sofia City Court
SMDoI	Sofia Metropolitan Directorate of Interior
SIM	Special intelligence means



The report on the activities of the National Office for the Control of Special Intelligence Means in 2023 was prepared under Art. 34b, para. 7 of the Law on Special Intelligence Means and was adopted by a decision of a meeting held on 30.05.2024, for presentation to the National Assembly.

INTRODUCTION

As an independent oversight body, the NSIDCB oversees the procedures for requesting, authorising and implementing SIMs, the storage and destruction of information obtained through SIMs and is tasked with protecting the rights and freedoms of citizens against the unlawful use of SIMs.

The National Bureau carries out this activity in accordance with the provisions of the Special Intelligence Means Act.

The independence of the National Bureau in the exercise of its statutory powers is crucial to the fulfilment of its tasks.

The NSIDCB's oversight activity is focused on the relevant authorities making requests for the use of SIMs, issuing authorisations or refusals and giving enforcement orders. In carrying out its functions, the NSIDCB shall ensure the storage, destruction and use of information obtained through SIMs to ensure the protection of citizens' rights and freedoms against unlawful use of SIMs.

The monitoring of the procedures shall be implemented by carrying out inspections of the bodies referred to in Article 13, Article 34n, Article 15 and Article 20 of the SIMA according to a developed and approved methodology for monitoring and control of the procedures laid down in the SIMA.

The National Bureau also carries out inspections on motivated alerts received from citizens on the unlawful application of the SIM to them, according to established internal rules, which include requirements regarding the content of the alert to the NSIDCB, the procedure for its registration, the procedure for verification of the alert, and the procedure under which the citizen and the institutions are notified of the outcome of the inspection.

In accordance with the provisions of SIMA, NSIDCB shall perform its functions and powers to achieve the objectives of the Act, namely, to ensure transparency, traceability and stability, and to find effective ways to protect and respect the fundamental rights and freedoms of citizens against the unlawful use of SIM.

This report contains statistics on the procedures for requesting, authorising, applying for and using SIMs, for storing and destroying information obtained through SIMs, and on the MEs produced, presented in tables and charts, with a comparison with previous years. An analysis is provided of the results and problems identified during the inspections and recommendations for their elimination;

The report contains information on the inter-institutional workshops held, opinions issued and proposals for legislative changes relating to the improvement of SIMA and CCP procedures, and on activities to protect citizens' rights and freedoms. Information on international cooperation and participation in international fora in 2023 is also presented. The priorities in the work of the NSIDCB are outlined in the final section.

The National Bureau fulfils its objectives in compliance with the basic principles of legality, objectivity, impartiality, publicity and transparency.

An important objective for the current composition of the NSIDCB is to maintain a good inter-institutional dialogue with the legislative, judicial and executive authorities, as well as with the non-governmental sector, in order to consolidate and improve the good practices established since the establishment of the NSIDCB.

I. COMPOSITION OF NSIDCB. MEETINGS AND ADOPTED DECISIONS

The National Bureau is a legal entity with headquarters in Sofia and is the principal authorising officer. On 21.12.2018, by decision of the 44th National Assembly, the Chairperson of the NSIDCB, Vice-Chairperson and three members were elected for a term of 5 years. Since the second half of 2021, the National Bureau has been operating with an incomplete staff: Chairperson Plamen Kolev and members – Ognyan Atanasov, Iliya Ganev and Ognyan Stoichkov.

In 2023, the NSIDCB held 41 meetings. A total of 735 decisions were adopted.

During the reporting period, a total of 287 inspections of Article 13, Article 34n, Article 15 and Article 20 SIMA bodies were carried out by NSIDCB decisions (compared to 287 in 2022, 569 in 2021, 240 in 2020 and 230 in 2019), including 214 due diligence inspections of SIMA activities, one incident inspection and 72 inspections following reports from members of the public alleging that SIMAs had been unlawfully applied to them.

In 2023, SIMs were applied to 2,493 individuals and 61 SIMA Article 12(1)(4) procedures.

II. PROCEDURES PURSUANT TO SIMA

The use of SIM is justified in a limited range of cases, in the investigation of serious intentional crimes or crimes related to the protection of national security. They are carried out without the knowledge of the person concerned and, in so far as they constitute a significant invasion of privacy, require their use only where necessary, in the alternative to other means of investigation and evidence – if the circumstances cannot be established in any other way or if establishing them involves extreme difficulties. The law provides for effective prior, ongoing and ex-post control by both the authorities authorising the application of SIM and the authorities applying SIM, which is in line with the principles enshrined in the Constitution of the Republic of Bulgaria and international treaties guaranteeing the protection of citizens' rights.



1. Bodies under Article 13 of SIMA

The right to request the use of SIMs and to use the data collected through them and the MEs produced, in accordance with their competence, are:

Article 13(1) of SIMA:

- ✓ *structure of MoI: DDNP, DDBOP, DDGP, DVS, ODMVR;*
- ✓ *structure of SANS: specialised directorates (with the exception of the Technical Operations Directorate), territorial directorates and autonomous territorial departments;*
- ✓ *Military Intelligence Service at the Minister of Defence*
- ✓ *Military Police Service at the Minister of Defence;*
- ✓ *State Intelligence Agency*
- ✓ *District Prosecutor's Offices - for serious intentional crimes under Chapter Three, Section III of the Special Part of the Criminal Code;*
- ✓ *the specialised Anti-Corruption Directorate of the Anti-Corruption Commission.*

Article 13(2) of SIMA:

- ✓ *the supervising prosecutor in pre-trial proceedings;*
- ✓ *the European Public Prosecutor in cases falling within the competence of the European Public Prosecutor's Office under Regulation (EU) 2017/1939;*
- ✓ *the European delegated prosecutor for cases falling within the competence of the European Public Prosecutor's Office under Regulation (EU) 2017/1939.*

Article 13(3) of SIMA:

- ✓ *the administrative head of the Sofia Appellate Prosecutor's Office (or his authorised deputy) – for offences committed by a judge, prosecutor or investigator, including for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Criminal Code;*
- ✓ *the administrative head of the Military Appellate Prosecutor's Office (or his authorised deputy) – for offences committed by a judge, prosecutor or investigator involving a member of the armed forces, including for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Penal Code;*
- ✓ *the Deputy Prosecutor General at the Supreme Cassation Prosecutor's Office (as amended, State Gazette No. 106 of 2023) – for offences committed by the Chairperson of the Sofia Court of Appeal, the Military Court of Appeal or their Deputy;*
- ✓ *the Minister of the Interior or the Secretary General of the Ministry of the Interior authorised by him in writing – for offences committed by a judge, prosecutor or investigator, as well as for offences committed by the Chairperson of the Sofia Court of Appeal, of the Court of Military Appeals or by their deputy, including for the prevention of offences under Article 108a, paragraphs 1-4, 6 and 7, Article 109, paragraph 3, Article 110, paragraph 1, sentence 6, Article 110, paragraph 2, Article 308, paragraph 3, point 1 and Article 320, paragraph 2 of the Criminal Code;*
- ✓ *the Chairperson of the State Agency for National Security or the Deputy Chairperson authorised*

by him in writing – for crimes committed by a judge, prosecutor or investigator, as well as for crimes committed by the Chairperson of the Sofia Court of Appeal, of the Court of Military Appeals or by their deputy, including for the prevention of offences under Article 108a, paragraphs 1-4, 6 and 7, Article 109, paragraph 3, Article 110, paragraph 1, sentence 6, Article 110, paragraph 2, Article 308, paragraph 3, point 1 and Article 320, paragraph 2 of the Criminal Code;

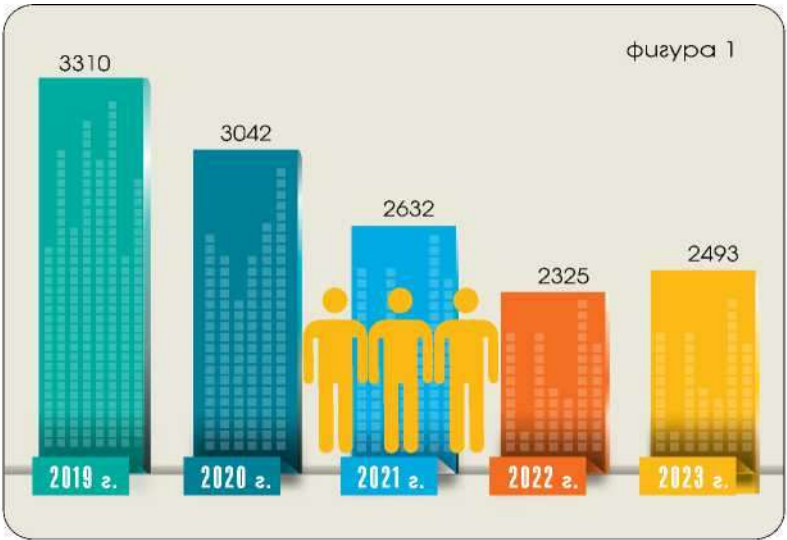
- ✓ *the Chairperson of the Commission for Combating Corruption or the Deputy Chairperson authorised in writing by him – for offences committed by a judge, prosecutor or investigator, as well as for offences committed by the Chairperson of the Sofia Court of Appeal, of the Court of Military Appeals or by their deputy, including for the prevention of offences under Article 108a, paragraphs 1-4, 6 and 7, Article 109, paragraph 3, Article 110, paragraph 1, sentence 6, Article 110, paragraph 2, Article 308, paragraph 3, point 1 and Article 320, paragraph 2 of the Criminal Code.*

Article 13(4) of SIMA:

- ✓ *the Prosecutor General of the Republic of Bulgaria (or by a deputy authorised by him) – for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Penal Code;*
- ✓ *the Chairperson of SANS (or his/her authorised deputy) for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Criminal Code;*
- ✓ *the Chairperson of the DAR (or his/her authorised deputy) for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Penal Code;*
- ✓ *the Chairperson of SANS (or his/her authorised deputy) for the prevention of offences under Article 108a(1-4)(6) and (7), Article 109(3), Article 110(1), sixth sentence, Article 110(2), Article 308(3)(1) and Article 320(2) of the Criminal Code;*
- ✓ *the Secretary General of the Ministry of the Interior - for the prevention of offences under Article 108a, paragraphs 1 to 4, paragraphs 6 and 7, Article 109, paragraph 3, Article 110, paragraph 1, sixth sentence, Article 110, paragraph 2, Article 308, paragraph 3, item 1 and Article 320, paragraph 2 of the Criminal Code.*
- ✓ *106 of 106) as an authority under Article 34n of SIMA – upon receipt of a request for legal assistance from a foreign state requesting the continuation of cross-border surveillance from the territory of other states into the territory of the Republic by officials of the requesting state.*

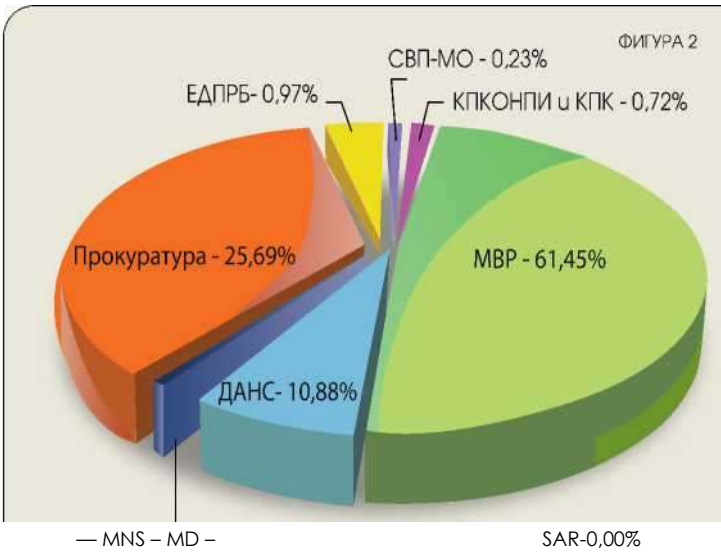
1.1. Requests

In 2023, SIM was used for 2493 persons. For comparison: in 2022 these were 2325 persons, in 2021 – 2632, in 2020 – 3042, and in 2019 – 3310. (Figure 1)



In 2023, the relative share of applicants in the total number of procedures initiated was:

MoI – 61,45%, PORB – 25,69%, SANS – 10,88%, EDPRB – 0,97%, CCUAAFC and CCC – 0,72 %, MPS – MD – 0,23%, MIS-MD – 0,07 %, SIA – 0,00 %. (Figure 2)



Structure	Relative share of procedures compared to previous years, in percent (%)				
	2023	2022	2021	2020	2019
MoI	61.45	62.83	53.08	51.12	53.73
PORB	25.69	23.62	33.86	36.98	37.95
SANS	10.88	11.27	10.02	7.28	5.69
EDPRB	0.97	1.04	0.09	-	-
CCACIAF and CCC	0.72	0.85	0.59	3.48	2.43
MPS-MD	0.23	0.40	0.02	0.22	0.20
MINS-MD	0.07	0	0	0	0
SIA	0	0	0	0	0

A comparison of the data shows that the procedures initiated by the MoI authorities and the Prosecutor's Office account for more than 88 % of the total.

In 61 cases¹, SIMs were used in a procedure under section 12(1)(4) of SIMA to establish the identity of persons who there was evidence and reason to believe were preparing, committing or had committed a serious intentional offence listed in the Act. (Figure 3)



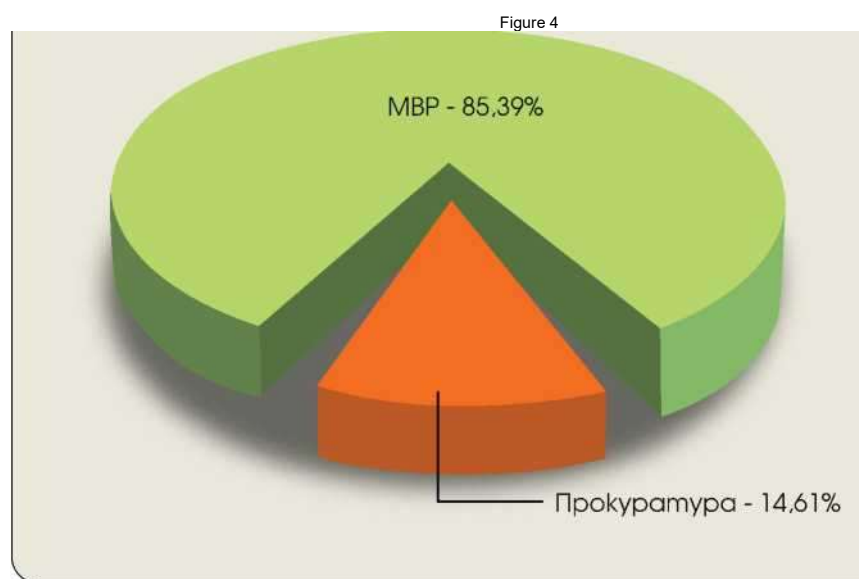
Comparing the data over the last few years, there has been a decrease in cases using this procedure.

In 2023 the procedures under Art. 12, para. 1, item 4 of SIMA are distributed among the authorities under Art. 13 of SIMA in the following ratio: Ministry of Interior – 85.39% (compared to 80.51% in 2022, 74.42% in 2021, 85.78% in 2020, 85.82% in 2019); Prosecutor's Office - 14.61% (compared to 12.71% in 2022 24.03% in 2021, 12.28% in 2020, 13.70% in 2019); SANS – 0% (compared to 5.93% in 2022, 1.55% in 2021, 1.78% in 2020, 0.48% in 2019); MPS – MD - 0% (compared to 0.85% in 2022, 0% in 2021). (Figure 4)

In 2023, SANS, SVR-MO, DAR, SVR-MO and KPKOPI/KPK did not prepare any requests

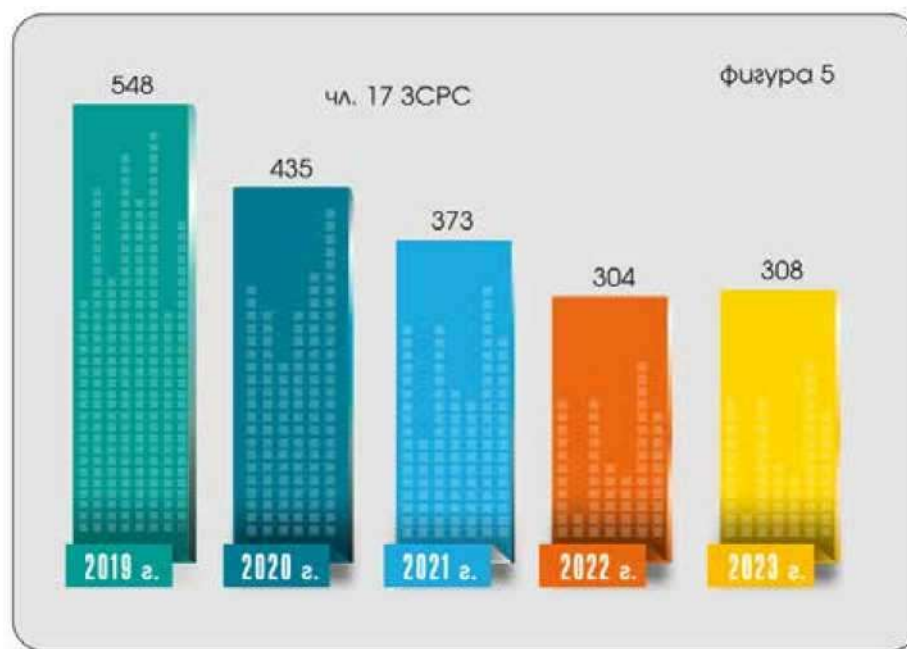
¹ According to data of the bodies referred to in Article 20 of 3CPC.

under procedures under Article 12(1)(4) of SIMA.



As evident from the chart, it is the MoI structures which use SIM most frequently in order to identify persons and detect offenders.

In 2023, according to 308 procedures (12.06% of the total number), the application of the SIM has started according to the order and under the conditions of Art. 17 of SIMA (for comparison: 304 procedures or 13.08% in 2022, 373 procedures or 13.51% in 2021, 435 or 14.38% in 2020, 548 or 16.56% in 2019). (Figure 5)



In 2023, in 13 procedures (0.51% of the total), implementation was initiated under the terms of Article 18 of SIMA (10 procedures or 0.39% in 2022, 12 procedures or 0.43% in 2021, 4 procedures or 0.13% in 2020, 15 procedures or 0.45% in 2019).

In two of the proceedings in 2023, where enforcement was initiated under the terms of Article 18 of SIMA, the court granted permission and upheld the actions taken up to the point of authorisation, and in the remaining 11 cases the SIMA Article 15 authority did not grant permission and ordered the destruction of the information collected. (Figure 6)

Figure 6



In 2023, the SIMA Article 13 authorities made 4,340 requests and SIMs were applied to 2,493 persons and in 61 identification proceedings.

This compares with 4,331 requests made in 2022 against 2,325 persons and 118 SIMA Article 12(1)(4) procedures, 2,761 procedures in 2021 against 4,580 requests, 3,196 procedures in 2020 against 5,368 requests and 3,569 procedures in 2019 against 6,039 requests.

As evident from the data, over the last five years, requests and procedures in 2023 have increased compared to those of 2022 – procedures have increased by 111 and requests by 9. Compared to the other years, requests and proceedings have decreased – compared to 2021, proceedings have decreased by 207 and requests by 240, compared to 2020, proceedings have decreased by 642 and requests by 1,028, and compared to 2019, proceedings have decreased by 1,042 and requests by 1,699.

1.2. Substantive legal bases for the use of SIM

According to the provision of Article 3, paragraph 1, the use of SIM is only permissible when it is necessary for the prevention, detection or investigation of serious intentional crimes expressly mentioned in the law, respectively in Article 172, paragraph 2 of the CCP.

In 2023, SIM were used most often for crimes under Article 354a of the Criminal Code (narcotic drugs) – 945 cases, Article 321 of the Criminal Code (OCG) – 857 cases, Article 234 of the Criminal Code (excise goods) – 150 cases, Article 195 of the Criminal Code (theft) – 121 cases, Article 301 of the Criminal Code (bribery) – 71 cases, Article 242 (crimes against the customs regime) – 76 cases, under Chapter One of the Special Part of the Criminal Code - 118 cases, Article 281 of the Criminal Code (human trafficking) – 141 cases, Article 167 of the Criminal Code (electoral crimes) – 126 cases.² (Figure 7)

² According to aggregate data from the SJC.

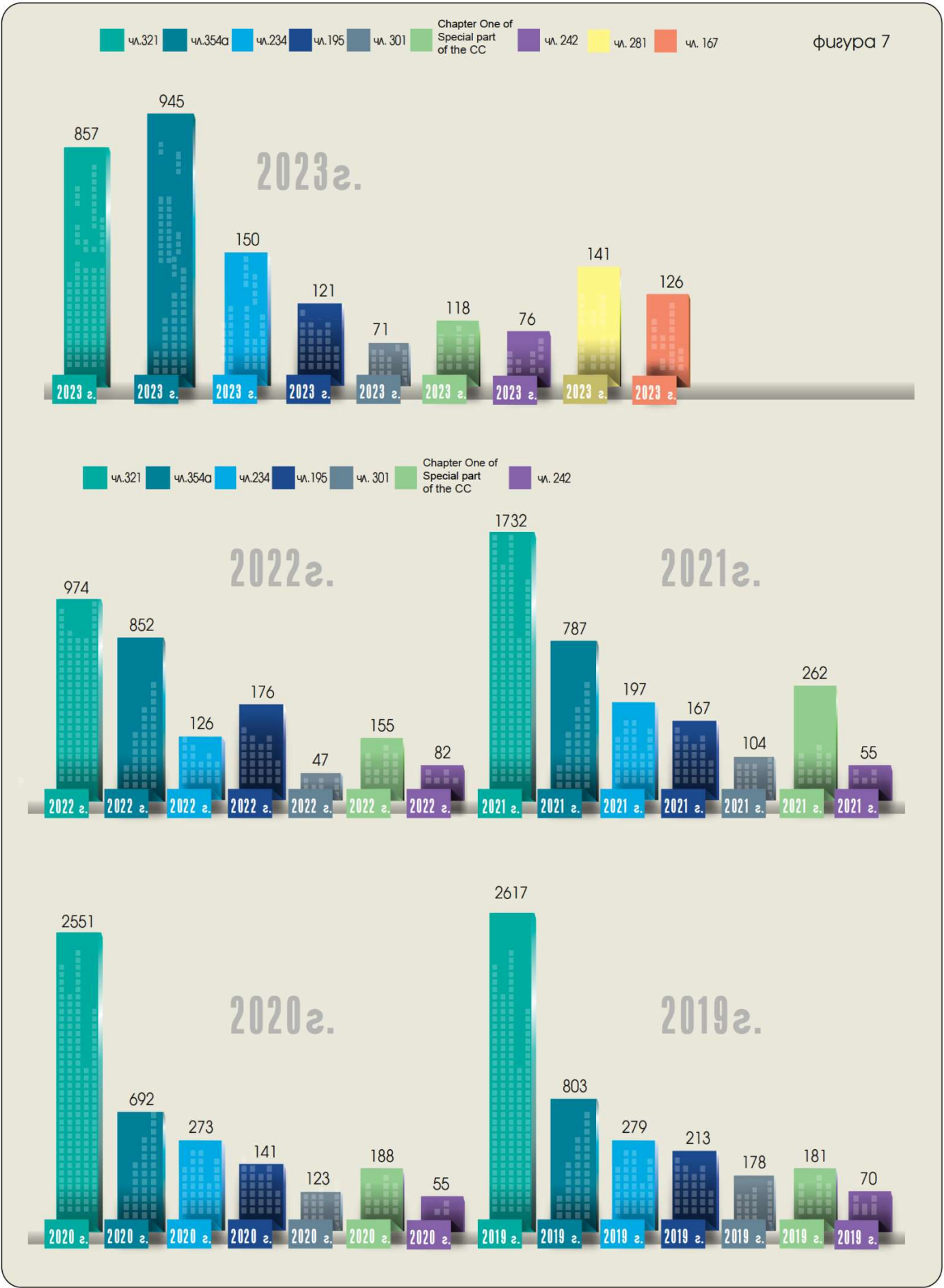


Fig. 7. The use of SIM to detect violent intentional crime for the period 2019-2023

The crimes for which SIM were most frequently requested and authorized during the period 2019-2023 are as follows:

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Crimes under the CC	2023	2022	2021	2020	2019
Article 354a	945	852	787	692	803
Article 321	857	974	1732	2551	2617
Article 301	71	47	104	123	178
Article 234	150	126	197	273	279
Article 242	76	82	55	55	70
Article 195	121	176	167	141	213
Chapter One of the CC	118	155	262	188	181

In 2023, again, the highest proportion of offences was under Article 354a of the Penal Code (as a stand-alone offence) and Article 321 (in relation to various secondary offences committed by OCGs, including under Article 354a of the Penal Code), accounting for over 51% of the total SIM authorisations, respectively – 945 authorisations under Article 354a of the Penal Code and 857 authorisations under Article 321 of the Penal Code. There has been a significant increase in requests for the use of SIM for the prevention, detection or investigation of offences under Article 281 and Article 167 of the Penal Code.

1.3. Analysis of the results of the supervision of the procedures under SIMA

In the course of inspections carried out by the NSIDCB in 2023, it was observed that as a result of constant interaction with the authorities under Article 13 of the SIMA, mandatory instructions given, meetings held with the administrative authorities in charge, with the operatives and individual applicants, violations identified in previous years have been overcome and such violations are being committed in fewer and fewer cases. Good practices have been put in place to improve the regime for the preparation of SIM requests and the control of their legality by administrative managers. The National Bureau notes as positive the organisation set up in the Ministry of the Interior to ensure that SIMs are not used by different bodies of the Ministry against the same person for different offences in order to comply with the statutory time limits. Instructions have been drawn up and approved by the Minister of the Interior to ensure that the procedures set out in SIMA are applied as far as possible.

Albeit to a lesser extent, some authorities under Article 13 of SIMA (Article 172(1) of the CCP) continue to commit breaches of statutory requirements in the preparation of SIM requests – the same failings have been identified in inspections by the NSIDCB in previous years. These have been used by the SIMA Article 15 authorities to issue SIM refusals and are as follows:

Preparation of requests by an incompetent authority:

- - In PTP initiated, requests for use of SIMs were made by the Director of the MHA or the Director of the DIG. The requests did not indicate that there were PTPs in place, but the court found that there were PTPs in place from the record and refused to grant SIM use authorizations. According to the provision of Article 13(2) of SIMA (Article 173(1) of CCP), the supervising prosecutor is competent to request the use of the SIM in case of PTPs;

- - for offences under Chapter Three, Section III of the Special Part of the Criminal Code,

requests are made by the directors of the DPoI or by a prosecutor from a district prosecutor's office instead of a district prosecutor, as is the provision of Article 13(1)(6) of SIMA;

- - a request for the use of SIM indicates that the offence was committed by an OCG and the request is made by a supervising prosecutor from a district prosecutor's office. Crimes under Article 321 of the Criminal Code are subject to the jurisdiction of the district courts or the SGS in the first instance;

- - in some requests, no evidence has been provided on the time limit for the investigation as required by Article 234 of the CCP. The order under Article 234(3) CCP to extend the investigation period in cases of legal and factual complexity of the case has not been applied. Thus, the judge is not aware whether the allowed time limit for the application of SIM will go beyond the PTP conducted, and the results obtained outside the PTP time limit have no evidentiary value.

Submission of requests before an incompetent authority:

- - In one case, a request for the use of SIM was found to have been filed in an incompetent tribunal for the detection of a crime involving a serviceman.

serviceman. The court ruled against the request, after which the Article 13(1) SIMA authority filed the request before the competent military court;

- - the request does not specify the place of the offence – there is no indication that the offence was committed in the area of the relevant district court. This leads to the inability of the authority under Article 15(1) SIMA (Article 174(1) CCP) to assess whether it has jurisdiction to authorise the use of the SIM because the territorial jurisdiction of the court before which the application is made has not been respected.

Lack of a full and complete statement of the facts and circumstances giving reason to believe that a serious intentional offence of those listed in Article 1 of SIMA which necessitate the use of the SIM.

- - Submission of unreasoned requests – the narrative does not set out sufficient facts and circumstances or operational information as required by Article 14(1)(1) and (2) SIMA;

- - the requests do not indicate which of the offences described requires the use of the SIM – arguments are put forward which have nothing to do with the substantive elements of the offences for which the criminal proceedings have been initiated and for which the person is charged. The grounds set out hypotheses of possible criminal offences under Chapter One of the Special Part of the Criminal Code, which are different from the criminal offences for the investigation of which the pre-trial proceedings were initiated. The requests contain contradictory information and are not reasoned as to the nature of the offence for which use of the SIM is requested.

- - The requests for use of the SIM describe the activities of the OCG in general terms and lack specificity. The 'permanence' of the OPG association is not substantiated in the request;

- - although the factual background is described in detail in the request, the material submitted to the judge lacks evidence of the criminal offences of the Criminal Code for which the use of SIM is requested – the material submitted with the request does not demonstrate the alleged criminal activity;

- - the reasons for the requests describe offences under one section of the law, while it is alleged

that criminal liability is sought from persons under another section of the Criminal Code;

- - Articles of the Criminal Code are referred to which do not fall within the provision of Article 3(1) of SIMA (Article 172(2) of the CCP) or the specific subparagraphs of the underlying offence are not specified;

- - the facts relating to the objective elements of the specified criminal offence in the Special Part of the Criminal Code are not described – the offence for which the pre-trial proceedings have been initiated does not fall within the scope of the provision of Article 3(1) of SIMA (Article 172(2) CCP);

- - there is no indication to which section of Article 321 of the CCP the request to use SIM refers.

No reference is made to the acts carried out to date:

- - In one judicial district, the massive practice of requesting the use of SIM in preliminary report cases continues. The material submitted to the judge shows that the files on the preliminary report were opened several days before the date on which the requests to use the SIM were made, on the basis of unverified information obtained from operational interviews with the persons named in the requests. No further details of the persons, reference to the criminal activity committed, appointment of forensic expert etc. were collected.

- - All other means of collecting evidence (operational and investigative measures under the Ministry of Interior Act, the SANS Act, the Military Reserve Act and the Conter Corruption Act, or means of evidence under Section I to VIII of Chapter Fourteen of the CCP) to establish facts and circumstances or to collect evidence have not been exhausted. The applications do not convincingly argue that the necessary evidence cannot be gathered in any other way and/or that gathering it would be accompanied by extreme difficulty. The detection of the alleged criminal activity should be carried out by conventional methods, since in this way data suitable to serve as evidence of the specific offence can be obtained and admitted.

Absence of evidence of involvement of the person for whom use of the SIM is sought in the alleged criminal activity.

- – in more than one case, it has been found that the authorities under Article 13 of SIMA (Article 173 of the CCP) do not indicate the connection, the involvement of the person for whom they are requesting the use of the SIM, with the alleged criminal activity.

- - From the results obtained from the attached SIM, no involvement of a magistrate in the alleged criminal activity has been established. On this basis, dismissals were also ordered for the other participants in the criminal activity, as this court no longer appears to have jurisdiction under Article 15(4) of the SIMA (Article 174(5) CCP).

Lack of identifying data on the objects against which the use of SIM is sought:

There is a lack of identification of the objects when the application of the method under Article 8 of SIMA is requested. There is no specification as to where the SIMA Article 8 means is to be applied and the relationship between the controlled person and the object to be penetrated. The ownership or use of the object to be penetrated is not specified. There is no indication as to what the need for the intrusion is.

Following the workshop held with the Article 13, Article 15 and Article 20 SIMA authorities, there has been a reduction in the number of cases where the objects for which the means under Article 8 SIMA is requested are not individualized. Judicial review has increased and refusals have been issued where such cases have been identified.

Requests for the use of the SIM do not meet the requirement of Article 14, paragraph 1, point 4 of the SIMA (Article 173, paragraph 2, point 5 of the CCP) to justify the requested initial period of 2 months:

- - some requests do not indicate the initial date from which application is to start, which has given judges grounds to rule refusals;
- - requests were found to exceed the maximum time limit for SIM application;
- On one request, the means of Article 5 were initially authorized,

Article 6 and Article 7 of SIMA for a period of 2 months. In addition, the means under Article 10b and Article 10c of SIMA were requested for a period of 2 months, i.e. beyond the period of the initial authorisation granted. The total SIM application period has not been exceeded, but the NSIDCB accepts that this practice is not a good one – additions with new operational modalities or with newly discovered communicators should be within the original authorisation period or a new request should be made after the expiry of the authorisation period.

Requests for extension of the period of application of SIM do not indicate the results obtained from the applied SIM on the initial requests.

- - SIM extension requests do not indicate the results obtained from the implemented SIMs as required by SIMA Article 21(3). In these cases, the judges assume that the application has not produced a result and it can be concluded that such a result will not be achieved by extending the application period. There are analyses of the results in the materials submitted to the court, but these are not reflected in the applications, which has given rise to refusals to grant extensions of time for SIM implementation;
- - some requests for SIM extensions contained only sketchy information on the results of SIMs used in a previous period, and much of the information presented was apparently obtained by other means;
- - in some SIMA Article 13(1) authorities, the practice continues of reproducing verbatim in continuation applications the results obtained from SIM applications.

There is a lack of reasoning as to the operational means to be applied:

- - in one judicial district, all requests for the use of SIMs ask for the use of the operational means of Articles 5 to 10 of SIMA, without giving reasons for the same and what results are expected to be achieved with them. There is no indication of where they are to be applied (for SIMA Articles 5, 6 and 7), where they are to be penetrated or what correspondence is to be inspected (for SIMA Articles 8 and 10) or what is to be marked (for SIMA Article 9), but the judge has authorised their application.

In the workshops held with the representatives of the Article 15 SIMA authorities, the NSIDCB's position was to give reasons for any operational means requested, so that the judge could assess whether it would achieve the results sought and whether its use was permissible and appropriate in view of the direct invasion of the controlled person's privacy.

- - the beginning of the requests refers to some operational means, while the content of the requests is motivated by other means. The court shall authorise only those indicated at the beginning of the requests;

- - does not indicate what results are expected to be achieved by applying the requested means of operation.

Lack of reasons for the impossibility of collecting the necessary data by other means.

Some requests do not provide reasons for the necessary data to be gathered by other means or a description of the exceptional difficulties involved in gathering it – Article 14(1)(7) SIMA (Article 173(2)(6) CCP). Failure to comply with this requirement of the law has given judges grounds to order refusals to use SIM.

Some requests for the use of SIM lack written notification to the administrative head of the relevant prosecutor's office before the request is made, as provided for in Article 173(1) sentence 2 of the CCP (Article 13(5) of the SIMA).

Lack of declaration – one case was found in which the request to use the SIM was not accompanied by the written consent of the person referred to in Article 12(3) of the SIMA (Article 173(5) of the CCP).

The breaches of the legal requirements found have given rise to the authorities under Article 15 of SIMA (Article 174(1) CCP) to order refusals to apply the SIM. This analysis also reflects the deficiencies that, while not affecting the legality of the SIMA procedures, the NSIDCB considers should be corrected. The violations and deficiencies cited have been identified in inspections in previous years, although the number has been significantly reduced.

It should be noted that some SIMA Article 13 bodies (Article 173 of the CCP), as a consequence of improved organisation, have completely overcome their admission. This is a positive result of the activities of the NSIDCB, the instructions and opinions given, and the communication with the administrative heads of the respective entities drafting the SIM requests. The National Office will continue its work in this regard in order to avoid violations of SIMA procedures.

As a result of the good interaction with the authorities entitled to request the use of SIMs, the National Office supports the actions taken to strictly comply with the requirements of the law, as follows:

- - Measures have been taken on the part of administrative heads to use SIM only as a last resort for ME collection;
- - the implementing entity is provided with up-to-date data on the identity of persons and objects, as provided for in Article 23 of SIMA;
- - in requests for supplementation with communicators, the applicants have indicated that, although these are owned by third parties, they are used by the controlled entities;
- - requests for extension of the application period indicate in analytical form the results obtained from SIMs already applied;
- - timely action is taken to terminate a SIM in respect of a communicator found not to be in use by the controlled entity;
- - Detailed reports are prepared – in addition to the minimum legal requirements, they also reflect summary data of the results obtained from SIMs applied, which operational modalities have been applied, which modalities have not been applied and the reasons for this.

The National Bureau recognizes the improved performance in the preparation of SIM requests, supports the actions taken by administrative managers to ensure that SIMA procedures are not violated, and will continue to monitor compliance with legal requirements that ensure the protection of citizens' rights and freedoms against the misuse of SIMs.



Upon receipt of a request for legal assistance from a foreign state requesting the continuation of cross-border surveillance from the territory of another state to the territory of the Republic of Bulgaria by officials of the requesting state, the SCPO shall rule on the request and, if it accepts it for execution, shall submit a written reasoned request for authorization to the Chairperson of the SCC or to the Deputy Chairperson authorized by him. The Chairperson of the SCC or the Deputy Chairperson authorised by him shall immediately grant or refuse permission in writing to carry out the cross-border surveillance, giving reasons for his refusal. The authorization shall be sent through the Supreme Cassation Prosecutor's Office (amended, SG No. 106 of 2023) to the competent authorities of the requesting State, of which the competent Bulgarian authorities shall be notified.



2. SIMA Article 34n bodies

2.1. Requests

Pursuant to the provision of Article 34i of SIMA, special intelligence means may also be used, where provided for in an international treaty to which the Republic of Bulgaria is a party and which has entered into force, for the prevention and investigation of offences expressly referred to in the international treaty under which their use is permitted. The results obtained through such SIMs may be used both for the purposes of international legal assistance and for the purposes of an ongoing investigation on the territory of our country.

2.2. Substantive legal bases for the use of SIM

In 2023, there are no SIM request, authorization, and enforcement procedures under Article 34n of SIMA. The reason for this may be the heterogeneous practice reflected in the previous NSIDCB reports concerning the authorisation of the use of SIM at the request of foreign investigative authorities, expressed in the specificity of each individual case, as well as the different legislation in this area in the EU Member States – difference in the crimes for which it is permissible to apply SIM.

The Prosecutor's Office of the Republic of Bulgaria has made some proposals for improving the legal framework, which consist in the following:

to consider the possibility of better harmonising the texts of the SIMA, in particular Article 34n, with that of Article 40 of the Convention implementing the Schengen Agreement (the Convention). To clarify whether the Convention provides a suitable basis for the application of cross-border supervision in the event of a request for legal aid in the absence of a reference to Article 40 of the Convention in the relevant Annex to the Protocol on the conditions and arrangements for admission of the Republic of Bulgaria and the Republic of Romania to the European Union.

The Public Prosecutor's Office considers that it would be useful to distinguish between cross-border surveillance in the context of police cooperation between EU Member States and in the context of the execution of requests for judicial assistance based on the Second Additional

Protocol to the European Convention on Mutual Assistance in Criminal Matters between EU Member States, including in terms of the allocation of jurisdiction.

In the title and in the first three provisions of Chapter Four (b) of SIMA, in Articles 34i to 34l, indicate that in the context of international legal cooperation in criminal matters SIMA is also applicable to the execution of the European Investigation Order, not only to requests for legal aid and where this is provided for in an international treaty.

The legislative amendments proposed are aimed at improving our legislation by laying down a clear and precise procedure for the application of SIM on our territory when receiving a request from the relevant authorities of foreign countries, in order to prevent the violation of our national legislation and at the same time not to hinder the prevention or detection of a crime.



In order to carry out their functions under Council Regulation (EU) 2017/1939 of 12 October 2017, the European Public Prosecutor and the European Delegated Prosecutors shall participate in proceedings in cases falling within the competence of the European Public Prosecutor's Office. In their capacity as supervising prosecutors, they have the right to request the use of SIM in pre-trial proceedings for the detection of crimes in cases falling within the jurisdiction of the CPS, and to use the data and ME collected through them

3. European Prosecutor. European delegated prosecutors

3.1. Requests

In 2023, the European Public Prosecutor did not make any requests for the use of SIM. The European Delegated Prosecutors have made 42 requests in respect of 22 persons and objects, with the SGS having issued 36 refusals.

3.2. Substantive legal bases for the use of SIM

The requests for the use of SIM are for the investigation of offences under Article 248a(5), in conjunction with Article 248a(3), in conjunction with Article 26(2) of the Criminal Code, Article 253(1), in conjunction with Article 26 of the Criminal Code, Article 282(1), in conjunction with Article 282(2) of the Criminal Code, Article 302(2), in conjunction with Article 301 and Article 304b of the Criminal Code, and Article 321(3), in conjunction with Article 321(2) of the Criminal Code.

3.3. Analysis of the results of the supervision of the procedures under SIMA

While carrying out the due diligence, the NSIDCB found that the competent authority under Article 174(1) of the CCP (Article 15(1) of SIMA) had issued refusals on the following grounds:

The qualification of the offence under Section 282(1) of the CCP does not fall within the scope of offences for which SIM is applicable as it is not classified as a serious offence under Section 93(7) of the CCP. Rejections on the above grounds were issued in respect of 7 applications made in one pre-trial proceeding;

in the course of the pre-trial proceedings, the conventional means of collecting evidence provided for in the CCP in force have not been exhausted, precluding the application of the SIM under Article 172(2) of the CCP and requiring substantial personnel and financial resources. In this sense, the request should be legally permissible and indisputably necessary for the discovery of the objective truth. Denials have been rendered on 15 requests to use the SIM.;

8 requests were denied by the court on the ground that the use of SIM was not necessary for the investigation of the offence under Article 321, paragraph 3, in conjunction with paragraph 2 of the Criminal Code, as it was established from the materials in the case that the investigating authority already knew the role of the persons involved in the organised criminal group – leaders and participants;

6 requests for extension of the time limit for the use of the SIM, made in one pre-trial proceeding, were refused by the court. The reasoning was that although the materials submitted to it under Article 15(3) of SIMA contained the results obtained from the SIMs applied, nowhere in the applications was the result obtained from the application reflected. Thus, the provision of Article 21(3) of the SIMA was not complied with, which is a ground for refusal of each of the requests for extension of the period of application of the SIM.

It should be noted that the court has granted refusals on more than one ground in some applications. Other grounds for refusing to grant the SIM or for not considering the requests are as follows:

the court considers that it is seised of an offence outside the material scope of the provision of Article 172(2) CCP, therefore the requests appear inadmissible as regards the conditions for their

merits and in accordance with the failure to find a derogation of national law, specifically procedural law, pursuant to the norm of Article 5 § 3 of the "Council Regulation (EU) 2017/1939 of 12 October 2017 establishing enhanced cooperation in establishing a European Public Prosecutor's Office", which is mentioned as an additional argument in the request for the use of SIM;

there is no convincing reasoning in the requests on the basis of which a conclusion can be formed that circumstances cannot be established by the use of even minimal conventional means or that their establishment involves extreme difficulties, notwithstanding the fact that, as the full use of conventional means progresses, the perpetrators of the crimes on trial should immediately be considered to have been warned. This would lead to even greater conspiracy in the commission of the criminal offences and the use of SIM would be pointless;

some requests do not specify a start date from which SIM should be applied.

The organisational structure of the institution can also be pointed to as a reason for the irregularities in the drafting of the requests for the use of SIM by the European delegated prosecutors: it does not provide for an administrative head who is notified before the request is made and, if necessary, errors, omissions and inaccuracies are corrected in a timely manner.

In order to improve SIMA procedures in relation to the preparation of requests for the use of SIM, the NSIDCB considers that training of European Delegated Prosecutors is necessary.

***They have the power to authorise or refuse the use of SIMs:***

- by the Chairperson of the SCC (or by a Deputy Chairperson authorised by the Chairperson), including on a request for the use of SIM by the Supreme Cassation Prosecutor's Office (as amended, SG No 106 of 2023) as an authority under section 34n of SIMA.
- the Chairperson of the relevant District Court (or a Deputy Chairperson authorised by him);
- the president of the military court concerned (or by a deputy president authorised by him);
- the president of the Sofia Court of Appeal (or by a deputy president expressly authorised by him) - for offences committed by judges, prosecutors and investigators, and in respect of all participants in criminal activity, including persons and witnesses referred to in Article 12(2) and (3) of SIMA, if the case falls within the jurisdiction of the Sofia City Court;
- the Chairperson of the Court of Military Appeal (or a Deputy Chairperson authorised by him) - for offences committed by judges, prosecutors and investigators, and in respect of all participants in criminal activity, including persons and witnesses referred to in Article 12(2) and (3) of SIMA, where the case is not within the jurisdiction of the Sofia City Court;
- the Deputy Chairperson of the Supreme Court of Cassation in charge of the Criminal Division - for offences committed by the Chairperson of the Sofia Court of Appeal, the Military Court of Appeal or their deputy, and in respect of all participants in criminal activity, including persons and witnesses referred to in Article 12(2) and (3) of SIMA



The requests of the competent authorities are submitted to the authorities referred to in Art. 1 of the SIMA (Art. 174 of the CCP), which should give a reasoned decision within 48 hours.

In 2023, the authorities referred to in Article 13 of SIMA exercised their right to request the use of SIM by submitting a total of 4340 requests for persons and subjects to the authorities referred to in Article 15 of the SIMA. Of these, 3,594 were granted (2,550 on initial applications and 1,044 for extensions of time or to supplement initial applications by operational means or by communicator)³.

For comparison: In 2022, there were 4331 requests and 3562 authorisations (2588 on initial requests and 974 on extensions); in 2021, there were 4580 requests and 4056 authorisations (2602 on initial requests and 1454 on extensions); in 2020, there were 5368 requests and 5003 authorisations; in 2019, there were 6039 requests and 5396 authorisations.

(Figure 8)

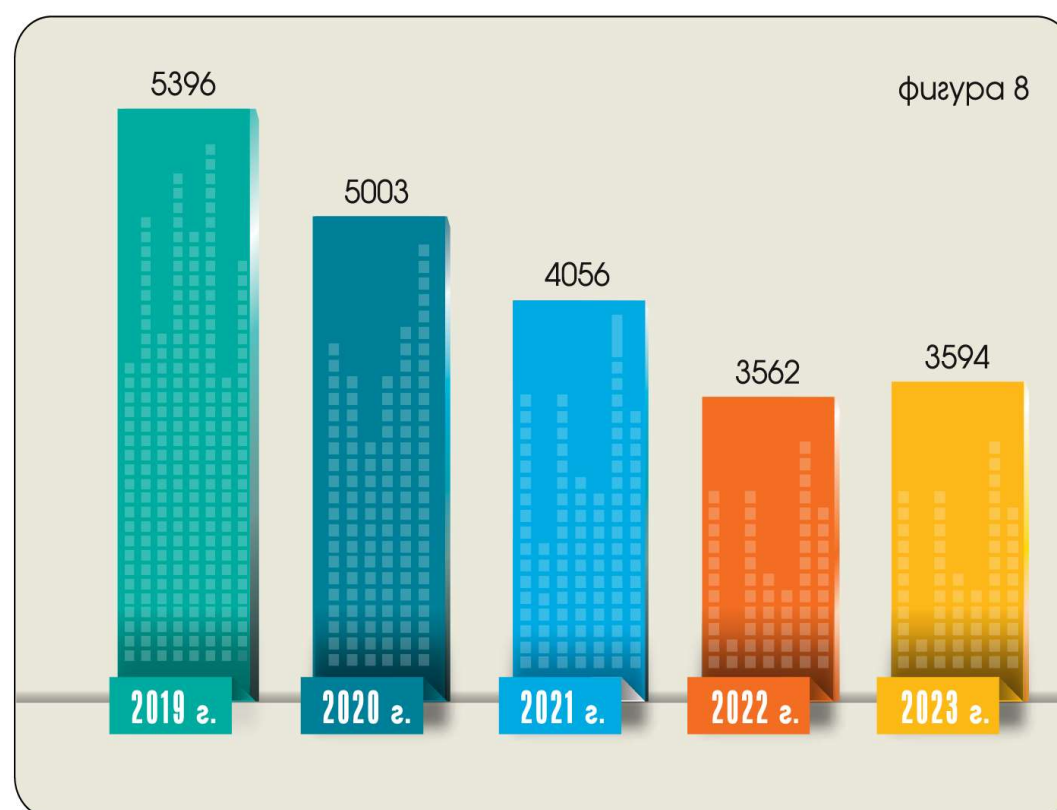


Fig. 8. Authorizations for the use of CPC for the period 2019 – 2023.

3 Based on aggregated data from the SJC and NSIDCB inspection data.

Court	Number of permissions	Court	Number of permissions	Court	Number of permissions
SCC	485	DC-Ruse	101	Sofia Military Court	30
DC-Plovdiv	345	DC-Razgrad	100	DC-Vratsa	28
DC-Stara Zagora	316	DC – Sofia	88	DC-Smolyan	27
DC-Blagoevgrad	277	DC-Velko Tarnovo	87	MC-Plovdiv	27
DC-Burgas	222	DC-Haskovo	83	DC-Targovishte	26
DC-Varna	156	DC-Gabrovo	62	DC-Montana	17
DC-Kyustendil	149	DC-Kurdjali	62	AC – Sofia	13
DC-Pazardzhik	150	DC-Shumen	57	MC-Sliven	2
DC-Vidin	137	DC-Dobrich	52	ASCC	0
DC-Pernik	133	DC-Silistra	43	MCA	0
DC-Pleven	133	DC-Yambol	42	SCCs	0
DC-Sliven	106	DC-Lovech	38		

The AC-Sofia received 19 SIM requests and issued 13 authorizations for 11 individuals. The number of SIM authorizations granted by SIMA Article 15 authorities does not correspond to the number of persons to whom SIMs were authorized and applied. In case of necessity, the period for the application of a SIM to the same person may be extended (Article 21(2) of SIMA), and a new authorisation may be granted within the authorised period for the application of a SIM to supplement an operational method or to include a new object used by the person.

In 2023 SIMs were applied in respect of three magistrates. The number of magistrates and the total number of persons to whom authorizations for the use of SIM were granted by the AC-Sofia varied, as the competent court also granted authorizations for all participants, including persons and witnesses under Article 12(2) and (3) of SIMA.

3.5. Refusals

In 2023, the judges issued 746 refusals out of the total number of SIM use requests ⁴ (in 2022 the refusals were 769, in 2021 the refusals were 524, in 2020 the refusals were 365, in 2019 the refusals were 643). (Figure 9)

⁴ Based on aggregated data from the SJC and NSIDCB inspection data.

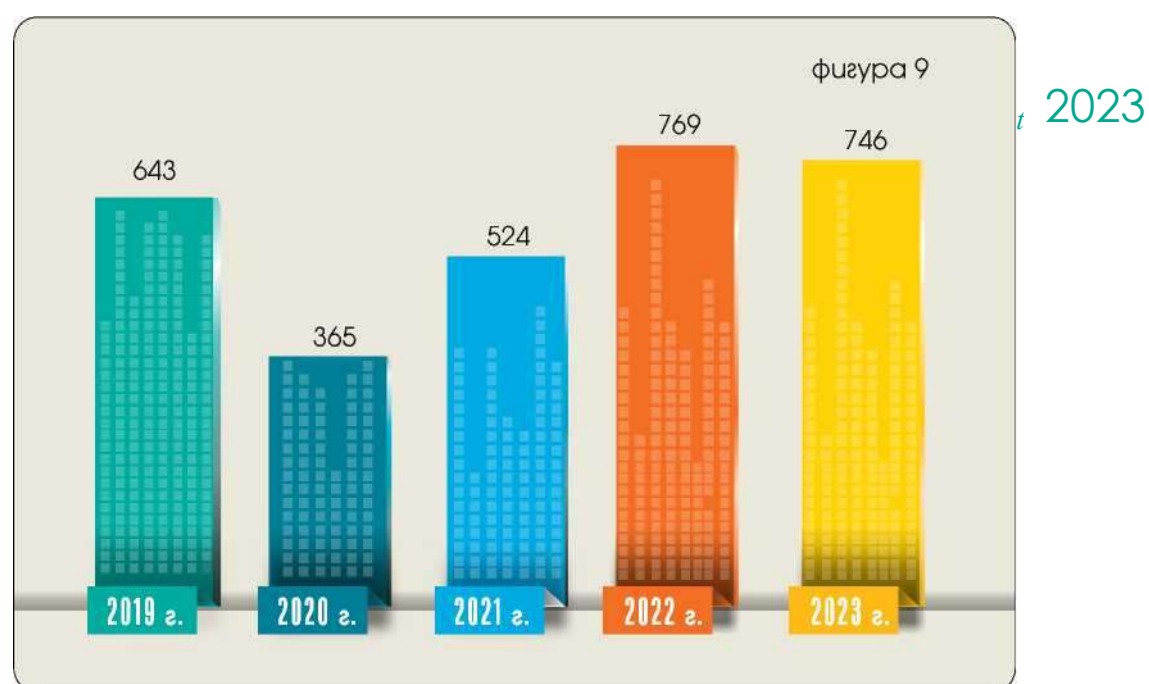


Fig. 9. Refusals for the use of SIM for the period 2019 – 2023.

And in 2023 the highest number of refusals were issued by the courts with the highest number of received requests – the SCC received 867 requests and issued 382 refusals, which is 44.06%, the District Court – Plovdiv received 419 requests and issued 74 refusals, which is 17.66%.

For 2023 and compared to previous periods, the relative proportion of denials issued by applicant is as follows:

Structure	Percentage of refusals (%)				
	2023	2022	2021	2020	2019
EDPRB	85.71	40.91	0	-	-
SANS	26.75	24.69	13.51	7.16	14.75
Prosecutor's Office	21.04	20.86	16.31	6.05	9.90
MoI	12.90	14.93	8.39	2.87	10.33
CCACIAF and CCC	19.35	11.11	0	2.67	20.69
MINS	33.33	-	-	-	-

During the year, the judges, in exercising their power relating to the control of the legality of SIMA procedures, also issued 229 acts in which they partially refused the application of SIM in respect of individual means of operation, communicators and elements of offences not covered by Article 3(1) of SIMA, or reduced the time limits requested for the application of SIM.

3.6. Analysis of the results of the supervision of the procedures under SIMA

As a result of the meetings held with the SIMA Article 15 authorities in October 2022 and with the SIMA Article 13, 15 and 20 authorities in October 2023, practices and the application of uniform criteria in the adjudication of requests for the use of SIM have been aligned.

Best practices have been put in place by the SIMA Article 15 bodies, which the National Office supports. Judicial scrutiny in requesting and authorizing SIM use is heightened, ensuring that procedures are legal and do not unduly restrict citizens' constitutional rights and freedoms.

In carrying out the inspections of the SIMA Article 15 bodies, the National Bureau found the

following:

- – the time limits for the use of the SIM in subsequent claims on the person already identified shall be deducted where the procedure in Article 12(1)(4) SIMA has previously been applied;

- – refusals shall be made where, for the same person and for the same offence, permission to use the SIM has been granted by the authorising authority at the request of another applicant;

- - Requiring applicants to give reasons for each of the means requested;

- – applicants are required, in addition to giving reasons for the time limits, to indicate in the request what results are expected to be achieved by the application of the SIM;

- – requiring applicants to submit detailed reports under Article 29(7) of SIMA.

Due diligence inspections of SIMA Article 15 authorities carried out in 2023 identified the following deficiencies in SIM authorisation:

- – granting of SIM authorizations on requests submitted by an incompetent applicant. In these cases, no application was initiated and the authorisations granted were revoked after the deficiencies were identified and the implementing entity notified the court;

- - authorising the use of the means referred to in Articles 8, 9 and 10 of SIMA without specifying where the intrusion would take place, what would be marked and what correspondence would be checked;

- - continuing the practice of failing to act within the 48-hour period referred to in Article 15(1) of SIMA;

- - the practice of leaving requests for the use of SIMs without consideration or without granting them instead of refusing them as required by law continues;

- - there have been cases of authorisations being granted to extend the time limit or to add a communicator without the original date being specified. It is stated that the authorisation is granted up to the maximum period from the date of the original request;

- - In isolated cases, the court has granted the addition of a means of operation for a period of 2 months instead of the remaining period on the original request;

- - the practice continues in certain judicial districts of requiring applicants who are not authorities within the meaning of section 173(1) of the CCP, or section 13(2) of SIMA, to notify the judge who granted the authorization and to seek an order from him ordering the destruction of the information gathered that is not being used to prepare the ME.



The power to secure and enforce a SIM is vested in:

- State Agency "Technical Operations";
- SANS Specialized Technical Operations Directorate;
- the Ministry of the Interior, for the application of SIM under Articles 10b and 10c of SIMA, and for the application of SIM under Article 10a of SIMA in cases where an undercover officer is used;
- the State Intelligence Agency, within its competence;
- the intelligence services of the Ministry of Defence, within the limits of their competence.



4. Bodies under Article 20 of SIMA

4.1. Operational means

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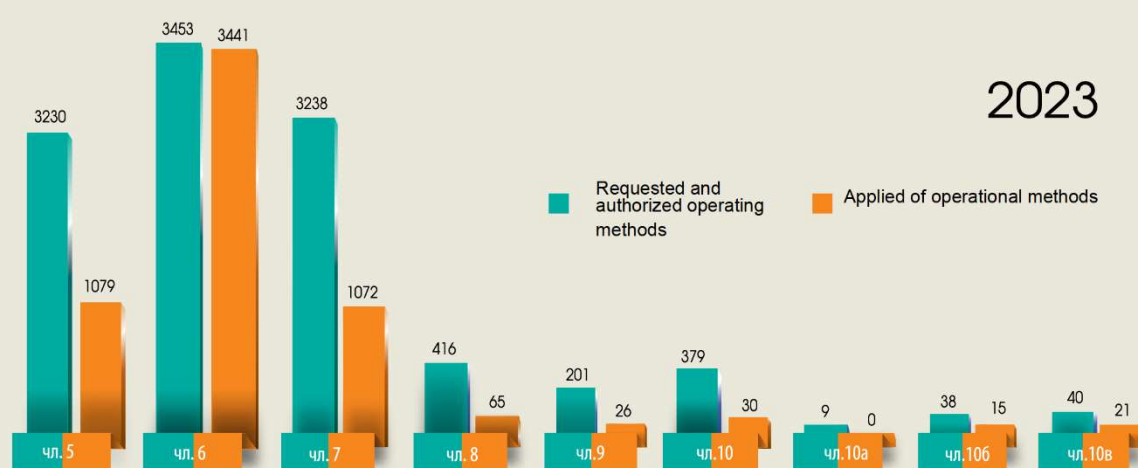
In 2023, a total of 5,749 modalities were applied (5,693 modalities in 2022, 6,370 in 2021, 7,465 in 2020, 8,472 in 2019), representing 52.24% of the authorised operational modalities. This compares to 54.55% in 2022, 53.25% in 2021, 51.70% in 2020 and 53.90% in 2019. The analysis of the statistics shows that over the years the highest (almost 100%) is the proportion of applied versus authorised means under Article 6 of SIMA, relatively low (less than 20%) is the percentage of applied versus authorised means under Article 8, Article 9, Article 10 of SIMA.

The due diligence carried out in 2023 and previous years found that in the mass case the simultaneous use of the means pursuant to Art. 5, 6 and 7 of SIMA and in practice only the method under Article 6 of SIMA is applied.

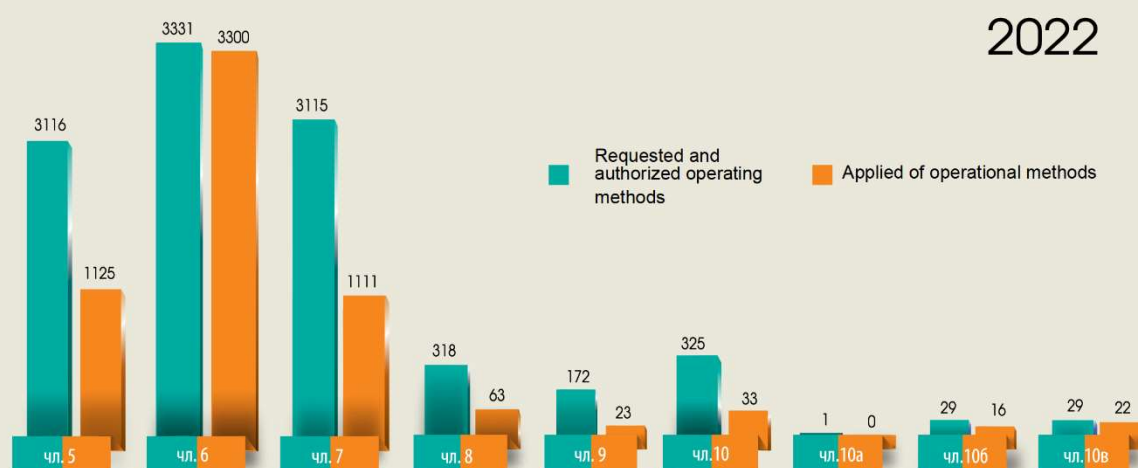
The number of operational means (authorised/applied) by type is as follows:

- Article 5 of SIMA (monitoring) – 3,230 (compared to 3,116 for 2022, 3,496 for 2021, 4,255 for 2020, 4,585 for 2019), with 1,079 attached (compared to 1,125 for 2022, 1,229 for 2021, 1,372 for 2020, 1,628 for 2019);
- Article 6 of SIMA (wiretapping) – 3453 (compared to 3331 for 2022, 3796 for 2021, 4644 for 2020, 5112 for 2019), with 3441 attached (compared to 3300 for 2022, 3758 for 2021, 4594 for 2020, 5076 for 2019);
- Article 7 of SIMA (tracking) – 3238 (compared to 3115 for 2022, 3500 for 2021, 4262 for 2020, 4593 for 2019), with 1072 attached (compared to 1111 for 2022, 1227 for 2021, 1363 for 2020, 1621 for 2019);
- Article 8 of SIMA (penetration) – 416 (compared to 318 for 2022, 439 for 2021, 456 for 2020, 578 for 2019), with 65 (compared to 63 for 2022, 62 for 2021, 71 for 2020, 68 for 2019) applied;
- Article 9 of SIMA (marking) – 201 (compared to 172 for 2022, 218 for 2021, 257 for 2020, 227 for 2019), with 26 (compared to 23 for 2022, 19 for 2021, 26 for 2020, 22 for 2019);
- Article 10 of SIMA (verification of correspondence) – 379 (compared to 325 for 2022, 434 for 2021, 478 for 2020, 546 for 2019), with 30 attached (compared to 33 for 2022, 31 for 2021, 39 for 2020, 28 for 2019);
- Article 8 of SIMA (controlled delivery) – 9 (compared to 1 for 2022, 2 for 2021, 3 for 2020, 2 for 2019), with 0 applied (compared to 0 for 2022, 2 for 2021, 0 for 2020, 0 for 2019);
- Article 8 of SIMA (fiduciary transaction) – 38 (compared to 29 for 2022, 39 for 2021, 42 for 2020, 38 for 2019), with 15 attached (compared to 16 for 2022, 14 for 2021, 16 for 2020, 11 for 2019);
- Article 10 of SIMA (undercover officer) – 40 (compared to 29 for 2022, 39 for 2021, 42 for 2020, 38 for 2019), with 21 (compared to 22 for 2022, 28 for 2021, 27 for 2020, 18 for 2019) attached. (Figure 10)

2023



2022



2021

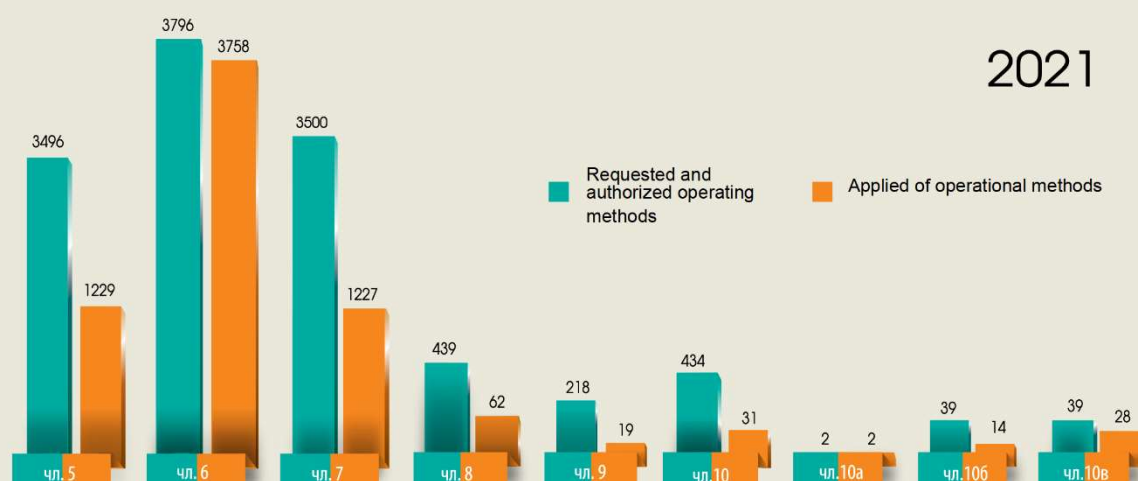


Figure 10

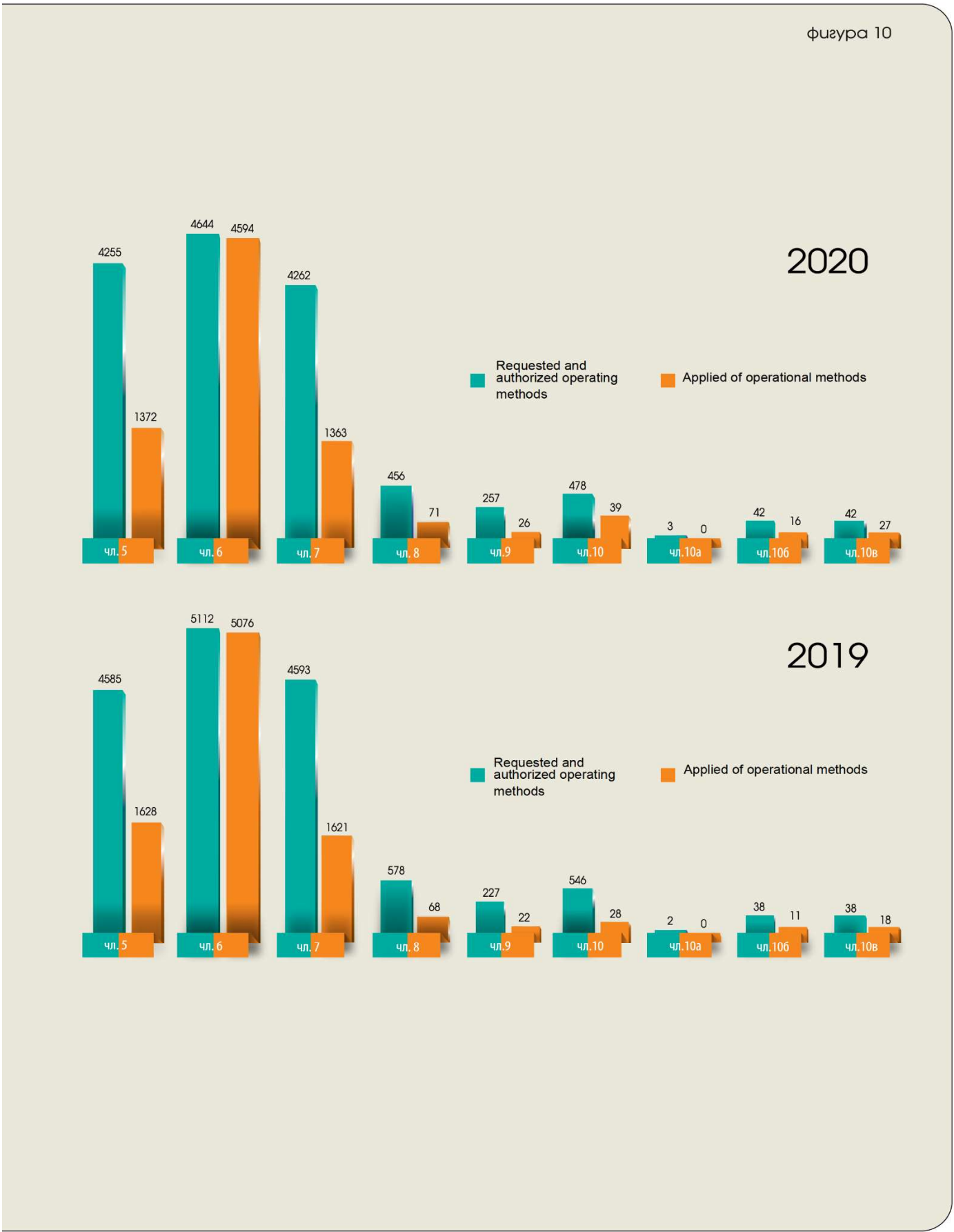


Fig. 10. Operational means authorised and applied for the period 2019– 2023

4.2. Cases where SIM has not been triggered

In the course of the due diligence checks carried out on the 2023 implementing authorities, 16 cases were identified where no SIM implementation under Article 22(3) of the SIMA had been initiated at SATO, of which:

- - 2 cases under Article 22(3)(1) of SIMA due to a SIM authorisation being granted for an offence outside those listed in Article 3(1) of SIMA.
- - 13 cases under Article 22(3)(2) of SIMA due to apparent factual errors in SIM requests or authorisations, in 10 of which the errors were corrected and SIMs were applied.

In cases where manifest errors of fact have been identified, the Chairman of SATO, or the Deputy Chairperson authorised in writing by him, as the authority referred to in Article 16(1) of SIMA, has not ordered the commencement of the SIM application. The implementing entity has notified in writing the SIMA Article 13 authorities and the SIMA Article 15 authorities of the apparent factual errors identified and what they consist of - most commonly a misspelling of the identifying details of the person or entity to whom SIM implementation is authorised, a misspelling of the uniform civil number of the person subject to SIM implementation, a misspelling of a communicator number, etc.

- - 1 case under Article 22(3)(4) of SIMA due to the inability to apply SIM.

4.3. Analysis of the results of the supervision of the procedures under SIMA

The authorities under Article 20(1)(1) and (2) of SIMA continue the practice of also sending notifications to the authorities under Article 15 of SIMA, for the purpose of further judicial review, in cases where it is found that a communicator for which SIM implementation has been authorised is not being used by the SIM-controlled person. This practice has also been imposed in respect of calls where there is a suspicion that they are made to persons practising freelance as lawyers and would fall within the provision of Article 33(3) of the Bar Act. From the checks carried out, it was found that following the directions issued by the NSIDCB, the authorities under Article 13 of SIMA take action under Article 23 of SIMA to provide up-to-date details of the user of the communicator or where it is suspected that the communicators are being used by lawyers in connection with their professional activities. Pending receipt of up-to-date information, the applying entity shall continue to apply SIM but shall not send the information received to the applicant. In cases where information that a conversation on a communicator falls under the hypothesis of Article 33(3) of the Bar Act is confirmed, the implementing entity shall immediately destroy the information received in accordance with Article 31(3) of SIMA.

The due diligence carried out found that the authorities referred to in Article 20 of SIMA are fulfilling their obligations under the law, despite the existence of some problems arising from imperfections in the legal regulation, such as:

limited powers of the SIMA Article 16 authority not to grant an injunction or to suspend the application of the SIMA in the hypothesis of Article 22(3) of the SIMA.

Article 22(3) of SIMA explicitly lists the cases in which the implementation of the SIM shall not be initiated or terminated by the entities referred to in Article 20(1) of SIMA. Outside of these, cases are also identified where:

- - a request for the use of a SIM is made by an incompetent authority or authorisation is granted by an incompetent court;
- - the total period authorised by the court exceeds the statutory period under Article 21 of

SIMA;

- - there is no consent in writing from the person referred to in Article 12(2) or (3) of SIMA for whom the authorisation to use the SIM has been granted, etc.

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In spite of the absence of an express legal basis, in order to prevent the unlawful use of SIMs and not to infringe the rights and freedoms of citizens, in the presence of the above-mentioned defects in the requests and authorisations for the use of SIMs, the authority under Article 16 of SIMA shall not order the use of SIMs and shall notify the relevant authorities under Articles 13 and 15 of SIMA to take action under its jurisdiction.

We consider that the limitative enumeration of individual hypotheses in the law is a prerequisite for the violation of citizens' rights in the application of SIM.

In order to ensure legality in the application of the law, it is necessary that the powers under Article 22(3) of the authorities under Article 16 of the SIMA be extended to cover all hypotheses where the application and the act of the court are found to be inconsistent with the law, including informing the supervisory authority, the NSIDCB, in a timely manner.



III. RESULTS OF SIM APPLICATION, STORAGE AND DESTRUCTION OF ACQUIRED INFORMATION.

1. Material evidence

In 2023, a total of 921 requests for the production of MEs (including 16 requests for the interrogation of an undercover officer) were received on SIM requests since 2023.

From the SATO, which has applied 5,225 operational modalities in respect of 2,261 persons and 60 procedures under section 12(1)(4) of SIMA, applicants have requested the production of 804 MEs.

From the SANS, which has applied 488 operational modalities in respect of 232 persons (including 46 persons on SIM requests since 2022) and 1 procedure under Article 12(1)(4) of SIMA, applicants have requested the production of 101 MEs.

From the Ministry of Home Affairs, which has applied 36 operational means in respect of 15 persons, the applicants have requested the production of 16 MEs through the questioning of an undercover officer before a judge.

In 2023, the SIMA Article 20 authorities produced a total of 1096 MEs, of which 770 were in respect of 2023 requests and 326 in respect of requests from previous years.

In 2023, there were 61 requests for the use of SIM under Article 12(1)(4) of SIMA, with 10 MEs issued.

The ratio between the number of requests for the preparation of MEs, including the number of persons with basic rights temporarily restricted by SIM, and requests under Article 12(1)(4) of SIMA was 36.06%.

The number of requests for the preparation of ME in 2023 increased compared to 2022 by 12.33%.

Following an analysis, it can be concluded that this trend is the result of both an increase in the number of procedures applied and the acquisition of a greater volume of information assessed by the authority under Article 13 of SIMA as necessary to prove the relevant criminal acts.

Cases where MEs prepared by SIMA Article 13(1) authorities are not joined to pre-trial proceedings continue. The main reasons for not using ME for criminal proceedings are that:

- ✓ the prosecutor refused to add the prepared ME to the evidentiary material because the applicant did not specify the information necessary to prove the criminal activity.
- ✓ at the time of their preparation, the criminal prosecution has ended (with a decree refusing to initiate criminal proceedings, a decree to terminate criminal proceedings or an agreement between the prosecution and the accused);

Due to the lack of a procedure, time limit and conditions for their storage and destruction in the legislation in force, currently the prepared SIM are stored by the authorities referred to in Article 13(1) of SIMA until pre-trial proceedings are initiated, and after the initiation of pre-trial proceedings – by the judicial authorities, indefinitely.

The ME prepared and sent to the judge who authorised the application of the SIM shall be kept in the private criminal case opened by him indefinitely and shall also not be destroyed.

In order to address the issue relating to the retention and destruction of ME, the NSIDCB National Bureau has tabled proposed legislative amendments in the 44th and 47th National Assembly.

During the due diligence checks, the NSIDCB found that in individual cases where there was a request for an ME to be prepared and in the process of its preparation the need for its use as evidence in the criminal proceedings had ceased (termination of a PTP, conclusion of a settlement, etc.), the SIMA Article 13 authority did not inform the relevant SIMA Article 20 and 15 authority thereof. The National Bureau considers that this is not a good practice, as the authorities under Article 20 of SIMA devote human and time resources to the preparation of the ME and a report reflecting its preparation, which will not be used in the process of proving a specific offence.

2. Destruction of information not used to prepare the ME

According to the provision of Article 31(3) of the SIMA, the information referred to in Article 24 of the SIMA, which is not used to produce ME, and the information referred to in Article 25 of the SIMA, whether or not it constitutes classified information, is destroyed by the entities referred to in Articles 13 and 20 (1) of the SIMA within 10 days of termination of application of the SIM. Destruction is carried out by a committee of three members in a composition determined by the head of the entity for which a report is drawn up.

Failure to comply with these requirements create conditions and prerequisites for the use of data collected through SIM outside the purpose of preventing, detecting and proving crimes (Article 32 of SIMA).

In 2023, as a result of the directions given by NSIDCB and action taken by the heads of the authorities under Article 13 of SIMA, the information not used for preparation of ME has been destroyed within the statutory time limit and only in isolated cases delay has been noticed. In the provision of Art. 175 para. 7, s. 2 of the Code of Criminal Procedure does not provide for a time-limit within which the judge who authorised the application of the SIM may order the destruction of the information which did not serve for the preparation of the ME. Cases in which the authority under Article 173(1) CCP (Article 13 SIMA) has sought an order for destruction of information under Article 25 SIMA within the ten-day period, and the judges have ruled outside this period, have been minimised.

This problem has been reflected in the NSIDCB reports of previous years, the main reasons being the different procedures set out in Article 175(7) of the CCP and Article 31(3) of SIMA, and the fact that there is no time limit for the authority under Article 174(1) of the CCP to rule on the request made.

In this regard and to avoid any possible misuse of information obtained from SIM, NSIDCB has submitted a concurring statement to the 44th and 47th National Assembly for amendment to the CCP.

In 2023, there have been isolated instances where a single report destroyed information that would not be used for the preparation of an ME, in multiple SIM use proceedings with respect to different individuals or sites under a single PTP or case of an operational report, which NSIDCB believes is not good practice.

During the 2023 SIMA procedure reviews, SIMA Article 13 authorities were instructed to prepare separate destruction reports for each SIM use procedure with respect to a single person or facility.

It should be borne in mind that Article 31(5) of SIMA does not specify a retention period and does not provide a procedure for the destruction of documents in relation to SIMA procedures. Pending the establishment of a statutory procedure for the destruction of the documents listed exhaustively in Article 31(5) of SIMA, their retention should continue to be carried out by applicants without time limit. These documents are of practical and reference value concerning the procedures carried out for the request, authorisation and application of the SIM, including the destruction of information obtained through them.

3. Preparation of a report to the authority referred to in Article 15 of SIMA

Within one month of termination of the application of the SIM, the authority which prepared the request is obliged to submit a report to the judge with details of the type, start and end of application of SIM, the ME produced and the destruction of the information collected (Article 29 (7) of SIMA).

During the inspections of SIMA procedures, it was found that judges require applicants to prepare much more detailed reports.

In addition to the requirements set out in the law, the reports provide information on whether the result sought was achieved, which of the authorised operational means were applied and other data relevant to the procedures. Separately, it was found that the judges required the applicants to submit with the report copies of the reports that destroyed the information not used to prepare the MEs. The National Bureau accepts these requests from the authorities referred to in Article 15 of SIMA as good practice, and through it the court exercises additional control over SIMA activity, the validity of the request to use SIM to achieve the intended purpose, and the extent to which and which operational means enable the intended results to be achieved.

In 2023, there are occasions when a single report reflects the results of several SIM use procedures in respect of different persons or objects in a single PTP or case on an operational record, which the NSIDCB considers is not good practice, and that there are isolated instances of failure to comply with the statutory time limit in section 29(7) of SIMA for the preparation and submission of the report to the judge who authorised the use of SIM.

In carrying out inspections of SIMA procedures in 2023, directions were given to prepare separate reports for each SIM use procedure in respect of a person or site, and to strictly comply with the one month time limit prescribed in section 29(7) of SIMA.

The NSIDCB shall promptly notify the heads of the relevant authorities and bodies of any breaches identified, with a view to making arrangements for their prevention in the future.

**PROTECTION OF CITIZENS' RIGHTS AND
FREEDOMS AGAINST THE UNLAWFUL
APPLICATION OF SIM.**



REPORTING OF IRREGULAR USE OF SPECIAL INTELLIGENCE MEANS

Where the report meets the requirements, a decision is taken at a meeting of the NSIDCB to carry out an inspection. If the alert specifies a certain scope of the verification (time period, specific facts, etc.), the inspection shall be carried out according to the request. If objects (means of communication, vehicles, premises, e-mail, etc.) are specified in the alert, the verification shall be carried out in respect of them upon presentation of a document of ownership or right of use. The sender of the alert shall be informed of this decision in writing, and of the powers of the NSIDCB under Article 34g of SIMA

Information on applied SIM shall be requested from the authorities under Article 20 of SIMA pursuant to Article 34f(1)(1) of the SIMA.

The information provided to the NSIDCB by the authorities under Article 20 of SIMA as to whether or not requests for the use of SIM have been received in respect of persons under investigation is protected by the implementing bodies as a state secret.

State Agency for
National Security

Ministry of
Interior

Military Intelligence
Service
MD

State Intelligence
Agency

State Agency
"Technical Operations"

Once the requested information has been provided, and subject to requests and authorisations for the use of SIM, a decision of the NSIDCB shall determine the composition of the audit team.

If no requests and authorisations for use of SIM have been received, the file shall be reported to a meeting of the NSIDCB and shall be deemed closed by decision.

1. The audit team shall carry out an on-site inspection of the procedures for the authorisation, application and use of SIMs, and the storage and destruction of the information acquired through them;
2. Prepares a report on the results of the verification, reflecting the factual findings, formulating conclusions and reasoned proposals for decisions;
3. The NSIDCB shall take a decision on the report at a meeting. If necessary, the NSIDCB may, by decision, instruct the audit team to clarify additional facts and circumstances related to the subject matter of the verification.

If the procedures set out in the SIMA are followed correctly, the file shall be deemed closed and the whistleblower shall not be informed of the outcome of the audit.

In case of violations of the procedures, the NSIDCB shall take the following measures on the basis of Article 34g and Article 34f, paragraph 5 and paragraph 6 of the SIMA:

In the event of evidence of unlawful use and application of SIM, refer the matter to the prosecution authorities and the heads of the bodies referred to in Articles 13 and 20 of the SIMA

Inform citizens ex officio that they have been subjected to unlawful use of SIM, in accordance with the provision of Article 34g(2) of the SIMA

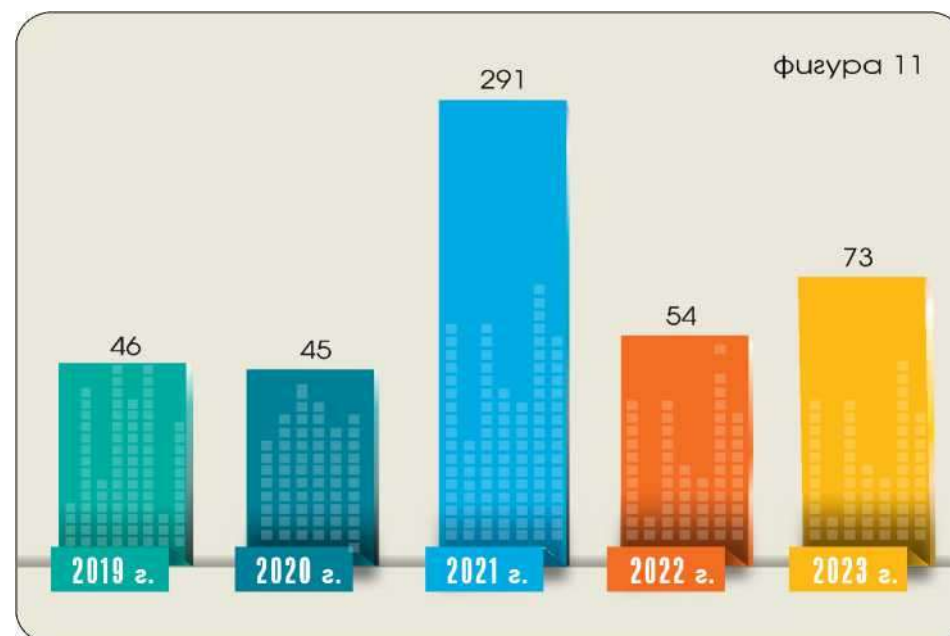
in the event of evidence of unlawful authorisation of the use of SIM, refer the matter to the prosecutor's office and notify the Supreme Judicial Council and the Minister of Justice

IV. PROTECTION OF CITIZENS' RIGHTS AND FREEDOMS AGAINST THE UNLAWFUL APPLICATION OF SIM

1. Reports of unlawful application of SIM

In 2023, by decisions of the NSIDCB, 72 inquiries were carried out on reports of citizens alleging that SIMs had been improperly applied to them, and 1 inquiry on a self-referral by the Bureau under Article 8(1)(9)(b) of the Rules of Procedure of the NSIDCB and its administration.

For comparison: in 2019 – 46 inspections, in 2020 – 45 inspections, in 2021 – 291 inspections, in 2022 – 54 inspections. (Figure 11)



All the reports received have been considered at the meetings of the NSIDCB. Inspections of 7 reports from 2022 were completed in 2023. In 69 cases the checks were completed in 2023. In 4 cases the checks were completed in 2024.

The checks carried out revealed 1 case of SIM misuse. Pursuant to Article 34g(1) of SIMA, the citizen was notified that SIMs were being unlawfully applied to him in terms of the incompetence of the court that authorised their use, in accordance

with the provision of Article 15(1) of SIMA, in conjunction with Article 35(4) of the CCP.

Pursuant to Article 34f(5) and (6) of SIMA, the NSIDCB notified the competent authorities.

In 2023, notification letters were sent on the basis of Article 34g(1) of SIMA to 8 citizens in respect of whom SIMs were misapplied, as identified by inspections carried out in 2021 and 2022, subject to the provision of Article 34g(2) of SIMA.

2. Proceedings under SMLDA and APIA.

In 2023, the NSIDCB notified nine citizens that SIMs had been unlawfully applied to them. The unlawful use of SIMs is included within the scope of the State's strict liability for damages from

unlawful acts of law enforcement (with the enactment of the amendment to the SMLDA by SG No. Proceedings shall be carried out under a special procedure before the civil court. The order of the procedures for the authorisation, application and use of SIM, and the storage and destruction of information obtained through them, established in the SIMA, determines the competence of the State bodies involved in the SIMA procedures. It should be noted that the SCCs has established consistent case law in cases under Article 2(1)(7) of SMLDA. The Supreme Court of Cassation perceives the NSIDCB 's decisions finding illegal use of SIM as official certifying documents issued by a competent authority within the scope of its powers, which have material probative value of the facts and circumstances certified therein, but the judgement of illegality contained in the instructions related to improving the mode of use and application of SIM is mandatory only for the bodies providing and applying these means. According to the SCCs such judgment is not binding on a court hearing a claim for damages brought by a citizen notified by the NSIDCB of the wrongful application of the SIM against him. In proceedings for damages, the citizen enjoys the substantive evidentiary value of the act concerning the factual findings, but it is not a matter of legality.

In 2023, the following proceedings were initiated on the basis of Article 2(1)(7) of the SMLDA:

Civil case No. 9874/2023 in the inventory of the SGS, GA, I-1 chamber, with a claim under Article 2, paragraph 1, point 7 of the ЗОДОВ against the Prosecutor's Office of the Republic of Bulgaria by a citizen notified by the NSIDCB that SIMs were unlawfully applied to him. On 20.05.2024, the court passed a judgment ordering the PRB to pay compensation to the citizen for non-pecuniary loss suffered as a result of the unlawful use of SIM. The judgment is not final.;

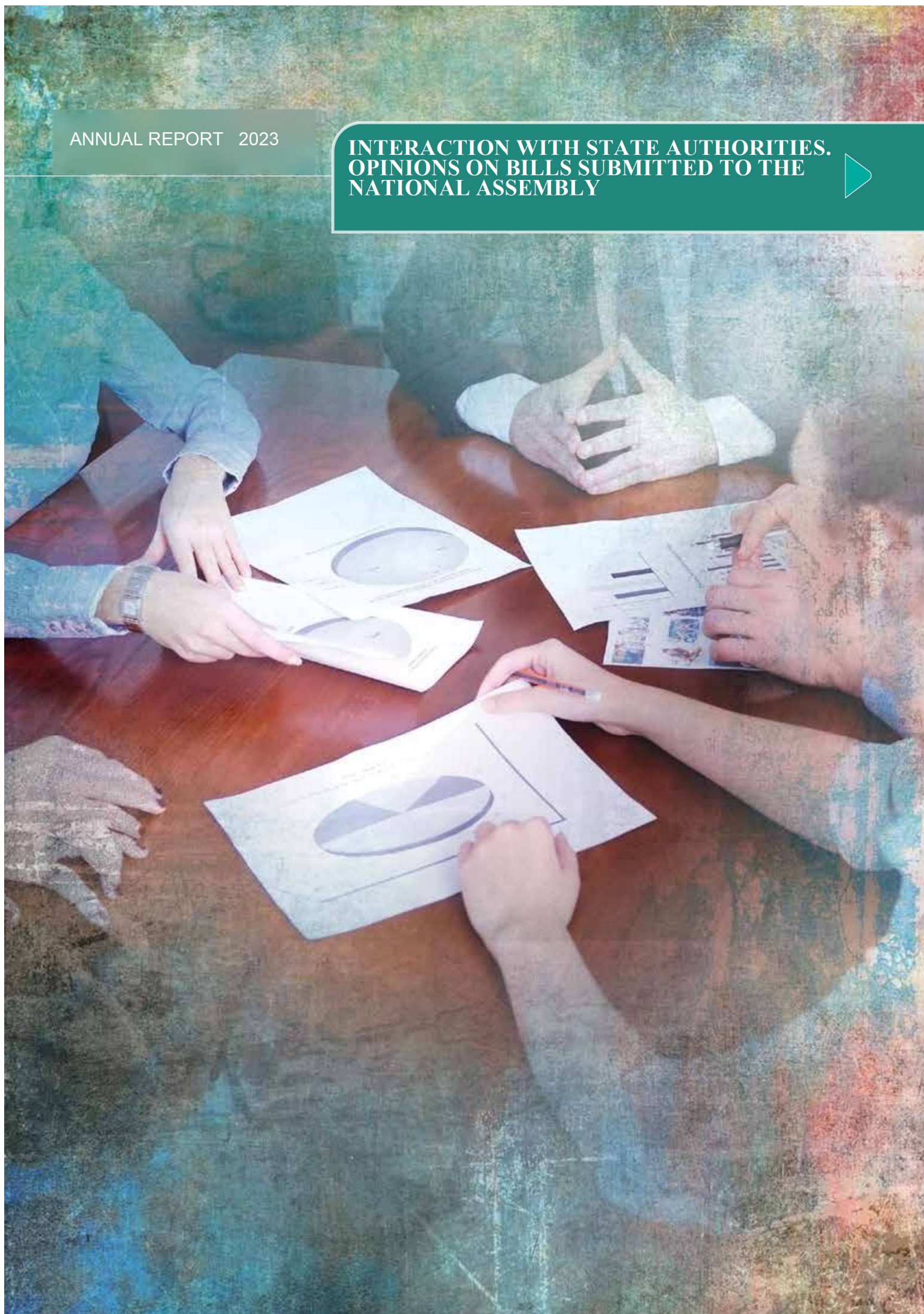
Civil Case No. 11179/2023, SGS, I GA, 10th Chamber, by a citizen notified by the NSIDCB that SIMs were unlawfully applied to him. The action was brought against the Prosecutor's Office of the Republic of Bulgaria and the SGS for non-pecuniary damage resulting from the unlawful use of SIM. The civil proceedings were discontinued and the case was sent to the Sofia District Court;

civil case No. 2430/2023 on the records of the District Court – Pazardzhik with a partial condemnation claim under Article 2(1)(7) of the SMLDA against the Prosecutor's Office of the Republic of Bulgaria for non-pecuniary damage caused by an unlawful request to the court for the use of SIM. On a report received by the NSIDCB from the citizen, an inquiry was conducted to ascertain whether SIM had been unlawfully applied to him. The National Bureau found no violation in the SIMA and CCP procedures. The Court accepted the findings of the verification as evidence and dismissed the writ petition. The judgment has become final.

During the reporting period, no requests for access to public information were received and no decisions were taken to grant or refuse access to public information.

ANNUAL REPORT 2023

INTERACTION WITH STATE AUTHORITIES.
OPINIONS ON BILLS SUBMITTED TO THE
NATIONAL ASSEMBLY



V. INTERACTION WITH STATE AUTHORITIES. OPINIONS ON BILLS SUBMITTED TO THE NATIONAL ASSEMBLY

1. Working meetings

In 2023, the National Office organised and held a workshop with the authorities under Article 13, Article 15 and Article 20 of SIMA. The meeting was also attended by a representative of the CCCISDHEC to the National Assembly and the Vice Rector of the Academy of the Ministry of Interior. The holding of the workshop with representatives of all the authorities involved in the SIMA procedure is an important step towards an inter-institutional dialogue between the competent authorities in a joint search for solutions to improve the SIM use and enforcement regime.

The meeting aimed at presenting and discussing the gaps, breaches and good practices identified in the course of the 2023 due diligence in requesting, authorising and implementing SIMs, and in storing and destroying the information acquired through them, as well as finding the best solutions from the authorities using the SIMA procedures.

The representatives of the Article 13, Article 15 and Article 20 SIMA bodies agreed on proposals to standardise practice, which would lead to the resolution of controversial cases in favour of citizens' rights and the creation of sustainable practices against unlawful SIM enforcement. The suggestions for improving SIMA and CCP procedures were along the following lines:

Implementation of the SIM request form discussed at the meeting;
the request for the use of the SIM to indicate whether the person is a candidate for elective office within the meaning of the Electoral Code (for the period between the publication of the candidate lists and the announcement of the election results). The applicant to verify this in advance;
the Specialised Anti-Corruption Directorate of the Anti-Corruption Commission, as the authority referred to in section 13(1)(7) of SIMA, to indicate in the request the special capacity of the person under section 6

of the Anti-Corruption Act and the legal basis of its jurisdiction;
state in the reasons for the request which of the listed offences the use of SIM is requested for the prevention, detection or investigation of;
where supplementation is requested, state only the means of the SIM for which the supplementation is requested;
where supplementation is requested by the inclusion of a new operational capability or communicator, the time limit should be within the scope of the already authorised request for use of the SIM;
the supervising prosecutor to request the use of the SIM for the duration of the pre-trial investigation. This should be specified in the request;
the offence under Article 321 of the Penal Code is an independent ground for requesting and authorising the use of a SIM. The specific execution of the criminal activity for each of the persons should be specified, as well as the time and place of its execution.

If there is evidence of secondary criminal activity carried out in conjunction with the formation/leadership/participation in an OCG, the request and authorisation should contain the facts and circumstances of that activity.

the request for the use of the SIM in respect of a person of the OCG should specify the place of

commission of the offence in order to properly determine the territorial jurisdiction of the authority under Article 15 of the SIMA;

when requesting the use of the "undercover officer" operational method, the authorisation should include the identification number which has been given by the judge. In the event of an extension of the period of application of the SIM, the same identification number shall be entered;

in the case of a request to use the basic operational modalities at the same time as those referred to in Articles 10b and 10c of SIMA, the authority referred to in Article 15 of SIMA is recommended to issue separate orders in order to comply with the need-to-know principle;

a notification under Article 22(4) of SIMA shall be sent by the implementing entity to the relevant authorities under Articles 13 and 15 of SIMA after the SIM implementation procedure has been fully completed and not after the time limit for each authorised request has expired. The notification shall indicate the operational modalities applied;

the provision of Article 175(7) CCP is only applicable to the authorities referred to in Article 173(1) CCP;

a report under Article 29(7) of SIMA shall be prepared after the SIM implementation procedure has been fully completed for each person/object separately. A report shall not be prepared after the expiry of the time limit referred to in Article 21(1) of SIMA where a request for extension of the time limit for application has been made pursuant to Article 21(2) and (3) of SIMA;

the NSIDCB's view on the need to establish a single electronic registry across the Article 15 SIMA authorities to avoid duplication of SIM requests was reiterated.

The National Bureau organised and held a workshop with the management of the SISS and with representatives of the Ministry of Home Affairs on the need to find a practical solution regarding the storage of requests and authorisations for the use of SIM deferred in closed cases on a preliminary basis. The current legislation does not provide for a procedure and time limit for the destruction of the documents in relation to SIMA procedures. The National Bureau maintains that, until such a procedure is established, their retention should continue to be carried out by the applicants without time limit.

Representatives of the NSIDCB participated in the training of Ministry of Interior officials – using SIM, at the Ministry of Interior Academy, on the following topics:

- Nature, legal regulation and principles of SIM use.
- Preparation of a request for SIM use – sample form of the request for SIM use. Contents according to Article 14(1) of SIMA:
- Admissible deficiencies giving grounds for total or partial refusals of SIM use by the authorities referred to in Article 15 of SIMA.
- Cases in which the authority referred to in Article 16 of SIMA has not given a written order to apply the SIM or has given an order to terminate the application of the SIM before the expiry of the time limit.
- Action on receipt by the implementing authority of a notification under Article 22(3) of SIMA.

- Retention and destruction of information acquired through SIM. Use of enforcement results.
- Report under Article 29(7) of SIMA.

The National Bureau considers that it is necessary and useful for the staff of the Ministry of the Interior to conduct training in order to improve their activities under SIMA.

The Chairperson of the NSIDCB and an official from the Specialised Administration Sector participated in a seminar on the "Application of SIM to persons holding senior public office within the meaning of Article 6 of the ACPOA" at the invitation of the ACPOA.

In continuation of the established fruitful cooperation with the General Directorate for Combating Organised Crime – Ministry of Interior, representatives of NSIDCB participated as lecturers in organised seminars on the following topics:

- Enhancing the capacity of the Directorate General for Combating Organized Crime for more effective investigation of organized transnational crime;
- Application of the EUA and SIMA to document and detect corruption crimes. NSIDCB findings, recommendations and best practices identified. Co-operation and collaboration with SATO and other structures of the DGCOC-MoI on corruption crimes. The role of Eurojust in international cooperation in investigating corruption cases;
- Good practices through the application of the ECA and SIMA for the documentation and detection of counter-terrorism crimes. NSIDCB findings and recommendations. Cooperation and collaboration with the Customs Agency and other structures of the DGCOC-MoI on counter-terrorism. The role of Europol in international cooperation with the Counter-Terrorism Unit.

2. Opinions on proposed legislative changes

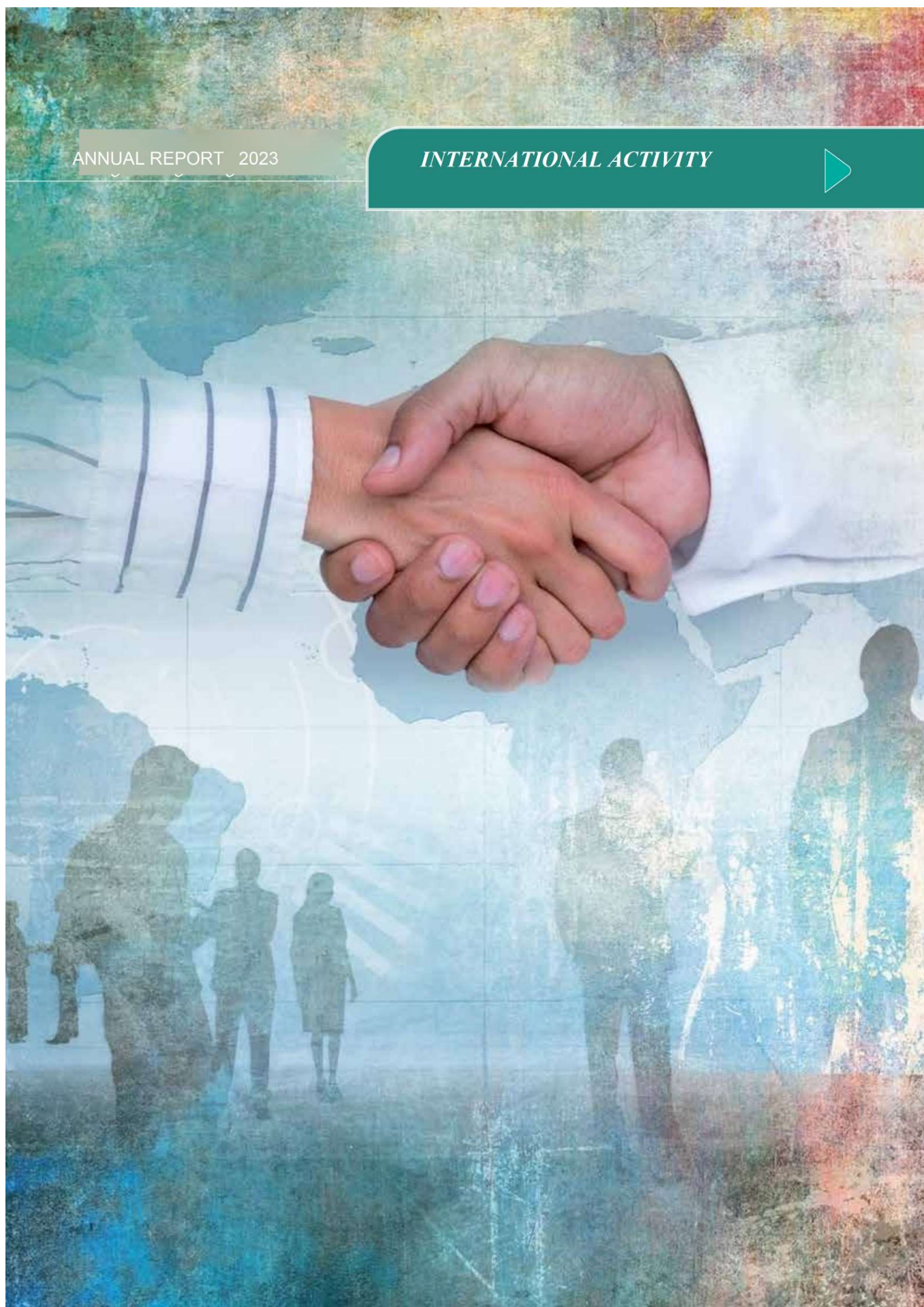
In the exercise of its functions under section 34f(1) of SIMA during the period 2019 – 2023, the National Bureau has identified certain difficulties in the implementation of the statutory procedures set out for the use and enforcement of SIMs and the retention and destruction of information acquired through them. To overcome these, proposals of the NSIDCB, in consultation with the authorities under Articles 13, 15 and 20 of SIMA, for amendments to the existing regulations that would improve the procedures as spelt out in the CCP and SIMA have been brought to the attention of the Commission for Control over Security Services, Application and Use of Special Intelligence Means and Access to Data under the Electronic Communications Act.

The National Bureau has expressed its opinion to the Commission for Control over Security Services, Application and Use of Special Intelligence Means and Access to Data under the Electronic Communications Act, the Committee on Legal Affairs and the Committee on Internal Security and Public Order of the 48th National Assembly in relation to the Draft Law on the Amendment and Supplementation of the CCP, No. 48-254-01-17/2022 and the Draft Law on the Amendment and Supplementation of the CCP, No. 48-254-01-80/2022. The proposals considered for amendments to the CCP are in the direction of increasing the number of authorities and their powers in the use of

SIM. The NSIDCB, in pursuance of its mandate under section 34b(1) of the SIMA, advocates the principle understanding not to increase the number of applicants under section 13 of the SIMA as this would lead to the possibility of duplication of SIMA procedures, exceeding the permissible time limits for SIM application and abuse of the constitutional rights of citizens.

The National Bureau has expressed its views to the Commission for Control over Security Services, Application and Use of Special Intelligence Means and Access to Data under the Electronic Communications Act on Bill No. 49-302-01-19/2023, introduced in the National Assembly by the Council of Ministers, which makes amendments to SIMA and the Credit Institutions Act to include the territorial units of the DGCA as authorities under Article 13(1) of SIMA. The NSIDCB's view is that by increasing the number of bodies entitled to request the use of SIM at the same time as other bodies preventing or detecting the same offences, the conditions are created for the application of SIM to the same person for the same offence by different bodies or authorities under Article 13 of SIMA.

In 2023, in connection with a letter received from the Ministry of Justice, the National Bureau provided detailed information with a view to preparing the Bulgarian State's position on complaint No. 45864/22, Kanev and the Bulgarian Helsinki Committee v. Bulgaria, before the ECtHR.



VI. INTERNATIONAL ACTIVITY

International exchange of information. Participation in international forums and conferences of supervisory authorities

Also in 2023 the National Bureau continued to develop international cooperation within its statutory powers as an independent state body.

The Chairperson of the NSIDCB, Mr. Plamen Kolev, and Mr. Ognian Stoichkov, a member of the National Bureau, participated in the fifth European Intelligence Oversight Conference 2023 (EIOC 2023). The conference was organised by the EOS Committee (Norwegian Parliamentary Committee for Oversight of Intelligence and Security Services), in cooperation with the Danish Intelligence Oversight Board (TET) and the two Swedish oversight bodies – the Security and Integrity Board (SIN) and the Swedish Inspectorate for Foreign Intelligence (SIUN).

The European Intelligence Oversight Conference is being realised for the fifth time, with representatives of oversight bodies from 16 countries as well as participants from other organisations gathering in Oslo in 2023.

During the conference, key topics related to the challenges of intelligence oversight, systems of oversight as well as ECtHR case law were discussed. Discussions focused on improving legislation and enhancing oversight relating to sensitive intelligence in line with new technologies and modern ways of gathering information from intelligence and security services.

Mr. Plamen Kolev, Chairperson of the National Bureau, presented the annual report on the activities of the NSIDCB in 2022

Accountability and communication in the work of intelligence oversight bodies are critical to enhancing public confidence in the work of intelligence agencies. The current problems in the international work of intelligence services were addressed, related to the lack of regulations on the oversight of intelligence at the international level, as well as the violations committed by intelligence services. Participants united around the proposal to create a global platform for information sharing, cooperation and research.

The European Intelligence Oversight Conference 2023 provided an opportunity for intelligence and national security overseers from different countries to exchange experiences, views and best practices, as well as to develop new approaches to support security and to protect fundamental human rights.

In November 2023, Mr. Plamen Kolev and Mr. Ognian Stoichkov also participated in the International Intelligence Oversight Forum (IIOF2023), which was held in Washington, DC, USA. This is the first forum organized in North America, after the five previous editions were hosted by European countries. The forum was organized courtesy of the American University Washington College of Law's Technology, Law and Security Program, and the Robert Strauss Center for International Security and Law at the University of Texas at Austin.

The forum was attended by representatives of oversight bodies from various democratic countries around the world, with the main objective of enhancing cooperation and communication between similar bodies, as well as sharing practical experiences.

NSIDCB's participation in such forums is key to promoting international cooperation and the exchange of information and positions on topical issues related to national security and the protection of citizens' rights and privacy. The National Bureau continued its trend in 2023 to be a stable and reliable partner of the international community working in the field of security and protection of citizens' rights and freedoms.

An invitation has been extended to the National Bureau to organise and host the European Intelligence Surveillance Conference in 2025 or 2026



VII. ORGANISATION OF ADMINISTRATIVE WORK

1. Structure of the administration

The total number of staff is 21 full-time employees, of which 19 employees are actually employed by the end of 2023.

1.1. General administration

The general administration supports the performance of the NSIDCB's powers, enables the activities of the specialised administration to be carried out and carries out the technical activities related to the administrative services. The General Administration has set up the Finance and Accounting Sector, which carries out the planning, management and control of financial resources, the financial provision of the activities of NSIDCB and its administration.

1.2. Specialised administration

The specialised administration assists in the performance of the NSIDCB's powers by taking part in audits carried out by the authorities referred to in Articles 13, 15 and 20 of the SIMA regarding compliance with the law with regard to activities relating to the authorisation, use and enforcement of the SIM or the storage or destruction of the information acquired through them, by analysing, systematizing and summarising information and drawing up expert opinions and proposals.

2. Financial activity Budget and financial control

The National Bureau applies a programme budget format implementing a budget programme 'Control of Special Intelligence Means' in the functional area 'Monitoring of authorisation, application and use of special intelligence means'.

With Art. 47, para. 1 of the State Budget Act of the Republic of Bulgaria for 2023, a budget of the National Bureau in the amount of BGN 1,921,100 was adopted.

The total income reported at the end of 2023 is – £10 and expenditure incurred is £1,454,237.

In 2023, a financial audit was carried out by the Court of Auditors of the RB on the 2022 annual financial statements of NSIDCB. The final audit report issued is of the opinion that the financial statements of the National Bureau give a true and fair view of its financial position, its financial results and its cash flows as at 31.12.2020.

Financial management and control at NSIDCB is implemented through the financial management and control system comprising policies, procedures and activities designed to provide reasonable assurance that the objectives of the organisation are achieved through compliance with legislation, internal acts and contracts; reliability and comprehensiveness of financial and operational information; effectiveness, efficiency and economy of operations; safeguarding of assets and information; and prevention and detection of fraud and irregularities. Procedures are in place for the ongoing monitoring of the implementation of financial commitments and contracts and for the ex-post evaluation of performance.

Indicators	Act for 2023 (in BGN)	Refined plan for 2023 (in BGN)	Report as of 31.12.2023 (in BGN)	Execution % compared to the refined plan
REVENUE:		0	-10	
Other revenue			-10	
EXPENDITURE:	1,921,100	1,921,100	1,454,237	75.70%
Current expenditure	1,826,600	1,826,600	1,439,473	78.81%
Staff	1,400,100	1,410,882	1,229,336	87.13%
Maintenance and other running costs	426,500	415,718	210,137	50.55%
Capital expenditure	94,500	94,500	14,764	15.62%

VIII. CONCLUSION

The mission of the National Bureau is to ensure the legality of the procedures for the use of special intelligence by law enforcement and law enforcement agencies – that it is used only for the prevention, detection and investigation of serious intentional crimes under the provisions of the Law on Special Intelligence and the Criminal Procedure Code, as well as in relation to activities related to national security. Compliance with SIMA and CCP procedures does not result in a violation of citizens' rights and freedoms.

The National Bureau continues to work towards achieving its main strategic objectives:

Actively monitor SIM request, authorization, and enforcement procedures and the organization of the retention and destruction of information obtained through the use of SIMs by modifying the format and frequency of inspections performed on Article 13, Article 15, Article 34n, and Article 20 SIMA entities.

Actively follow up on reports from members of the public which constitute a significant source of information in order to identify misuse of SIM.

Exchange of information with related international supervisory bodies, legislative decisions and best practices in other countries related to the protection of citizens' rights in order to improve national SIM enforcement activities.

Introduction of a single electronic register for SIM in Article 15 SIMA authorities and electronic registers in Article 13 and Article 20 SIMA authorities.

Improving procedures related to the implementation of SIM and the protection of citizens' rights, based on the study and analysis of international experience, legislative solutions and good practices in other countries.

Improvement of NSIDCB activities in line with European Court of Human Rights decisions and

challenges in the use of new technologies by implementing bodies, and the need to prepare opinions on proposed changes to national legislation.

Driven by an understanding of the importance of communication and the duty to be responsible, objective and impartial in every case, we hope to convince the public that we are making every effort to protect the rights and freedoms of citizens to the fullest extent possible.

Along with the main objective of reporting to the National Assembly, the publication of the report is aimed at informing the public about the SIMA monitoring functions carried out in 2023 and increasing transparency in reporting on the National Bureau's activities.

ANNUAL REPORT

2023