




Republic of Serbia
COMMISSIONER FOR INFORMATION OF PUBLIC IMPORTANCE AND
PERSONAL DATA PROTECTION


ANNUAL REPORT
ON THE ACTIVITIES OF THE COMMISSIONER FOR INFORMATION OF
PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION
FOR 2023

B e l g r a d e
March 2024

ПОВЕРЕНИК ЗА ИНФОРМАЦИЈЕ ОД ЈАВНОГ ЗНАЧАЈА И ЗАШТИТУ ПОДАТАКА О ЛИЧНОСТИ

2023. У БРОЈЕВИМА

 110 ЗАПОСЛЕНИХ

 БУЏЕТ ОДОБРЕНО: 333.323.000,00
РЕАЛИЗОВАНО : 329.098.903,61










ПРИСТУП ИНФОРМАЦИЈАМА ОД ЈАВНОГ ЗНАЧАЈА

	10.594 жалбе		740 мера за унапређење права јавности рада
	385 прекршајних налога		382 мишљења
	45 захтева за покретање прекршајног поступка		835 уступљених захтева
	438 одговора на тужбе		60 одговора на представке
	51 решење о дозволи извршења		69 захтева за информацијама о раду других органа
	4 захтева упућених Влади		221 спис предмета прослеђен Управној инспекцији
	5.238 годишњих извештаја органа власти		

ЗАШТИТА ПОДАТАКА О ЛИЧНОСТИ

	731 инспекцијски надзор		163 притужбе
	5 прекршајних налога		30 одговора на тужбе
	10 захтева за покретање прекршајног поступка		393 одговора на представке
	51 корективна мера		707 контролних листа
	1.393 лица за заштиту података о личности		324 мишљења
	12 представника страних привредних друштава		982 унапређења заштите и превентива
	56 обавештења о повреди података о личности		

ОБЕ ОБЛАСТИ ДЕЛОВАЊА

	27.317 појашњења путем телефона		230 међународна/домаћа сарадња		36 мишљења на нацрте закона и др. опште акте
	108 саопштења за јавност		340 захтева за информацијама од Повереника		36 предмета из области европских интеграција
	94 захтева у вези са информацијама о предмету		161 извештај		269 представки

COMMISSIONER FOR INFORMATION OF PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION

2023 IN NUMBERS

110 EMPLOYEES

BUDGET ALLOCATED: **333,323,000.00**

BUDGET REALIZED: **329,098,903.61**

ACCESS TO INFORMATION OF PUBLIC IMPORTANCE

PERSONAL DATA PROTECTION

10,594 complaints	740 measures to improve the right to transparency of work	731 inspections	163 complaints
385 infringement warrants	382 opinions	5 infringement warrants	30 replies to legal action
45 petitions for institution of infringement proceedings	835 referred cases	10 petitions for institution of infringement proceedings	393 replies to applications
438 replies to legal action	60 replies to applications	51 corrective measures	707 checklists
51 enforcement decisions	69 requests for information on the activity of other authorities	1393 personal data protection officers	324 opinions

4 communication with the Government	221 case files delivered to Administrative Inspectorate	12 representatives of foreign companies	982 improvements of protection and prevention
5,238 public authorities' annual reports		56 notifications re violation of personal data	

ALL FIELDS OF ACTIVITY

27,317 phone queries answered	230 international/domestic cooperation	36 opinions on draft laws and other general legal acts
108 public announcements	340 requests for information from the Commissioner	36 cases from the field of EU integration
94 requests for information on the case	161 reports	269 applications

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INTRODUCTION BY THE COMMISSIONER

The present report of the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter referred to as the “Commissioner”) for 2023 is the nineteenth annual report on the Commissioner’s activities with regard to implementing the Law on Free Access to Information of Public Importance (LFAIPI) and the fifteenth annual report on his activities relative to implementing the Law on Personal Data Protection (LPDP) that the Commissioner submits to the National Assembly of the Republic of Serbia.

The Commissioner’s work in 2023 was characterized primarily by an enormous increase in the number of processed cases, in sharp contrast to all previous years. This was particularly true of the cases in the field of free access to information of public importance and the number of complaints against actions taken by public authorities in response to requests for free access to information of public importance.

Thus, in 2023 the Commissioner opened a total of 27.603 cases (18.701 in 2022), namely 20.801 cases in the field of free access to information of public importance (13.285 in 2022), 5.211 cases in the field of personal data protection (4,116 in 2022) and 1.591 cases in both fields (1,300 in 2022).

The aforementioned data show that the number of cases formed in 2023 as compared to the number of cases formed in 2022 is higher by 8,902 cases. This is almost 50% more as compared to the previous year, which was in itself a record year ever since the office of Commissioner was introduced. This is particularly pronounced in the area of access to information, where the number of received cases exceeded 50% as compared to the previous year.

In parallel, in 2023 the Commissioner concluded the procedure in 20.138 cases in total (17.672 in 2022), namely 13.709 cases in the field of free access to information of public importance (12.769 in 2022), 4.930 cases in the field of personal data protection (3,589 in 2022), and 1.499 cases in both fields (1.314 in 2021).

This state of play can be attributed primarily to the systemic abuse of the right to access information of public importance, which has taken such proportions that the right itself has become threatened to a large degree and its protection is greatly hindered. This situation is practically the result of two facts:

1. deleting Article 13, of the LFAIPI, which regulated the situation of abuse of the right,
2. revised position of the Administrative Court on the issue of the obligation to bear the costs of filing a complaint by a lawyer.

As a result of the foregoing, this report is specific and prepared for a year in which there wasn’t a regular, usual situation in the field of access to information of public importance, as it used to be the case in all previous years.

For this problem to be solved as soon as possible, it is necessary to amend the law, and consequently, the Commissioner has already prepared a suitable proposal, which he forwarded to

the competent Ministry of Public Administration and Local Self-Government, and once the Government is formed, he will continue his activities to that end.

Regarding the status in the field of personal data protection, the most important activity in 2023 has been the adoption of the Personal Data Protection Strategy 2023-2030, and I expect that in 2024 the Action Plan for the implementation of this Strategy will be adopted, which will assign activities to competent entities, the implementation of which should lead to more efficient and better personal data protection in the Republic of Serbia. Along with this, it is necessary to amend the Law on Personal Data Protection as soon as possible, in accordance with the needs caused by the development of digitalization, the increasing use of artificial intelligence, and the increasingly frequent processing of biometric personal data.

Overall, the status in the areas of human rights protected by the Commissioner, despite the enormous efforts made by the Commissioner's Office to solve as many of the huge number of cases received as possible, has been encumbered by the aforementioned abuse of the right to access information of public importance, hence it has not reached the necessary level yet.

Nevertheless, I would like to highlight an extremely positive fact that in 2023 the Commissioner continued with the good practice of opening offices outside his seat in Belgrade. After the office in Novi Sad that he opened at the end of 2022, he opened another office in Niš. As the opening of these offices proved extremely useful, the Commissioner plans to open an office in Kragujevac in 2024 as well.

I am hopeful that the problem with the abuse of the right to access information of public importance will be solved in the shortest possible time in a systemic and adequate way and thus enable progress in improving the exercising of the rights protected by the Commissioner,

COMMISSIONER

Milan Marinović

General Information

- **Name of the authority:** Commissioner for Information of Public Importance and Personal Data Protection (the Commissioner)
- **Status:** An autonomous public authority, independent in the exercise of its powers
- **Seat address:** 15 Kralja Aleksandra Boulevard, 11000 Belgrade
- **Field office outside of the Commissioner's seat:** 21 Vojvode Šupljikca St., 21101 Novi Sad and 26 Generala Milojka Lešjanina St., 18000 Niš
- **Registration number:** 17600524
- **Tax Identification Number:** 103832055
- **Address for receiving the submissions:** 15 Kralja Aleksandra Boulevard, 11000 Belgrade
- **Address for receiving electronic submissions:** office@poverenik.rs
- **Founding:** The Commissioner as an autonomous public authority, independent in the exercise of his powers, was established under the Law on Free Access to Information of Public Importance (LFAIPI)¹ of 2004, while the Law on Personal Data Protection (LPDP)² of 2008 provided for the extension of the Commissioner's mandate to the field of personal data protection.

Commissioner's Mandate

The Commissioner is entrusted with a twofold mandate: to protect the right of free access to information of public importance under the LFAIPI and to protect personal data and supervise compliance with the LPDP.

1. Under the Law on Free Access to Information of Public Importance, the Commissioner³:

- monitors the compliance of public authorities with their obligations laid down in this Law and reports to the public and the National Assembly thereof;
- submits initiatives to adopt or amend legislation to implement and forward the right to access information of public importance;
- proposes the measures that public authorities need to take in order to improve their actions in compliance with this Law;
- undertakes the necessary measures to train the staff of public authorities and introduce them to their obligations with regard to the right to access information of public importance, to ensure effective application of this Law;

¹ "Official Gazette of the Republic of Serbia" Nos. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021

² "Official Gazette of the Republic of Serbia" Nos. 97/2008, 104/ 2009 - new law, 68/2012 - Constitutional Court decision, 107/ 2012, Article 1, paragraph 3.

³ Law amending the LFAIPI ("Official Gazette of the Republic of Serbia" No. 105/21)

- decides on complaints against decisions of public authorities which violate the rights governed by this Law;
- informs the public about the substance of this Law and the rights governed by this Law;
- gives opinions on draft laws and proposals of other regulations, as well as public policy documents, if these govern issues relevant for exercising the right to access information of public importance;
- initiates constitutional and legal reviews of laws and other general legal documents governing issues relevant for exercising the right to access information of public importance;
- issues and updates a guidebook with practical instructions for the effective exercising of rights governed by this Law, in the Serbian language and in other languages which are officially used under the law, and introduces the public to the substance of this guidebook on implementation of the law through the press, electronic media, the internet, public debates and in other ways;
- issues instructions for compiling and publishing directories on the activities of public authorities and, at their request, provides advice to ensure proper, complete and timely compliance with the obligation to publish the directories;
- keeps and maintains a single information system on the directories;
- files petitions for institution of infringement proceedings if public authorities fail to update and produce directories on their activities;
- lays down in detail the form and manner for the submission of annual reports by public authorities about their activities undertaken to comply with the Law and files petitions for institution of infringement proceedings against the responsible person if a public authority fails to submit an annual report to the Commissioner;
- submits an annual report to the National Assembly on the activities undertaken by public authorities to comply with the LFAIPI, as well as on his activities and expenses, in accordance with Article 36 paragraph 1, of the LFAIPI;
- orders public authorities to declassify requested data and takes decisions upholding the complaints and ordering the public authorities to grant the requester access to such data, in the procedure in response to complaints against decisions to deny requests concerning classified data referred to in Article 9, point 5, of the Law, if he finds that the reasons for classification are no longer applicable or that the data was not classified in accordance with the law governing data classification and protection of classified data, after reviewing the case file that the complaint pertains to in order to establish all relevant facts for deciding on the complaint;
- issues infringement warrants, in accordance with the law governing infringement proceedings, after determining that a complaint lodged on the grounds of failure of a public authority to process the request (“administrative silence”) is founded;
- administratively enforces his decisions by imposing enforcement measures and/or by fining the offending public authorities for failure to comply with the obligations set out in the Commissioner’s decision;
- files petitions for institution of infringement proceedings for the infringements under the Law on Free Access to Information of Public Importance, when in processing a complaint it is established that an infringement has occurred;
- performs other duties provided for in this Law.

2. Under the Law on Personal Data Protection, the Commissioner:

- supervises and enforces the LPDP within his powers;
- raises public awareness on the risks, rules, safeguards, and rights concerning data processing, especially where the data subjects are minors;
- gives opinions to the National Assembly, the Government, and other public authorities and organizations, in accordance with the regulations governing statutory and other measures relating to the protection of natural persons' rights and freedoms concerning data processing;
- raises the awareness of data controllers and processors of their obligations under this Law;
- at the request of data subjects, provides information on their rights under this Law;
- processes complaints of data subjects, determines whether the LPDP was breached and notifies the complainant on the course and outcome of the procedure he conducts in accordance with Article 82, of the LPDP;
- cooperates with the oversight authorities of other countries in connection with personal data protection, including in particular information exchange and provision of mutual legal assistance;
- performs inspection of compliance with the LPDP, in accordance with the LPDP and, correspondingly, the law governing inspection;
- files petitions for institution of infringement proceedings if he establishes breaches of the LPDP, in accordance with the law governing infringements;
- keeps current with the development of information and communication technologies, as well as commercial and other practices relevant for personal data protection;
- draws up standard contractual clauses referred to in Article 45, paragraph 11, of the LPDP;
- compiles and publishes the lists referred to in Article 54, paragraph 5, of the LPDP;
- issues the opinions in writing referred to in Article 55, paragraph 4, of the LPDP, when he maintains that intended processing actions could give rise to risks unless risk mitigation measures are implemented;
- keeps records on personal data protection officers referred to in Article 56, paragraph 11, of the LPDP;
- promotes the development of codes of conduct in accordance with Article 59, paragraph 1, of the LPDP and gives opinions on and approves codes of conduct in accordance with Article 59, paragraph 5, of the LPDP;
- obtains evidence of independence and expertise of legal entities and of absence of conflict of interest in the process of accrediting the legal entities tasked with supervising compliance with the codes of conduct in accordance with Article 60, of the LPDP;
- promotes the issuing of personal data protection certificates and relevant trademarks and labels in accordance with Article 61, paragraph 1, and lays down certification criteria in accordance with Article 61, paragraph 5, of the LPDP;
- conducts periodic reviews of the certificates in accordance with Article 61, paragraph 8, of the LPDP;

- lays down and publishes accreditation criteria for the certification body and obtains evidence of independence and expertise of legal entities and of absence of conflict of interest in the process of accrediting the certification body, in accordance with Article 62, of the LPDP;
- approves provisions of the contracts or agreements referred to in Article 65, paragraph 3, of the LPDP, which provide for personal data protection measures when such data are transferred in accordance with the law;
- approves binding corporate rules in accordance with Article 67, of the LPDP;
- keeps internal records on breaches of this Law and measures undertaken in the course of inspections in accordance with Article 79, paragraph 2, of the LPDP;
- compiles annual reports on his activities in accordance with Article 81, of the LPDP, and submits it to the National Assembly;
- performs other duties provided for in this Law.

Inspection and other powers

The Commissioner is authorized to:

- order the controller and the processor, and where necessary also their representatives, to provide him with any information he may request in the exercise of his powers;
- verify and assess the compliance with the provisions of the law and otherwise supervise personal data protection using his inspection powers;
- verify compliance with the certification requirements in accordance with Article 61, paragraph 8, of the LPDP;
- notify the controller or processor of any potential breaches of the LPDP;
- request from the controller and the processor and subsequently gain access to all personal data and information necessary for the exercise of his powers;
- request and gain access to all premises of the controller and the processor, including access to all devices and equipment.

The Commissioner is authorized to undertake the following corrective actions:

- to warn the controller and the processor by providing an opinion in writing that the intended processing activities may breach the provisions of the LPDP in accordance with Article 55, paragraph 4, of the LPDP;
- to issue a warning to the controller and/or the processor, if processing breaches the provisions of the LPDP;
- to order the controller and the processor to take action on the request of the data subject concerning the exercise of his/her rights, in accordance with the LPDP;
- to order the controller and the processor to bring processing activities in compliance with the provisions of the LPDP in a precisely specified manner and within a precisely specified time period;

- to order the controller to inform the data subject of the personal data breach;
- to impose a temporary or permanent restriction on processing activities, including a ban on processing;
- to order personal data to be corrected or deleted or restrict processing activities in accordance with Articles 29 through 32, of the LPDP, and order the controller to inform thereof other controllers, the data subject, and the recipients to whom personal data have been disclosed or transferred, in accordance with Article 30, paragraph 3, and Articles 33 and 34, of the LPDP;
- to revoke a certificate or order the certification body to revoke a certificate issued in accordance with Articles 61 and 62, of this Law, and to order the certification body to refuse to issue a certificate if the requirements for its issuance are not met;
- to impose a fine on the basis of an infringement warrant if it is found in the course of an inspection that an infringement occurred, which is punishable by a fixed fine under this Law, in lieu of or in addition to other measures provided for therein, depending on the facts of each individual case;
- to terminate the transfer of personal data to a recipient in a foreign country or an international organization.

The Commissioner is also authorized to:

- develop the standard contractual clauses referred to in Article 45, paragraph 11, of the LPDP;
- issue opinions to controllers in the process of obtaining the Commissioner's prior opinion, in accordance with Article 55, of the LPDP;
- issue opinions to the National Assembly, the Government, and other authorities and organizations, on own initiative or at their request, as well as to the public, on all issues concerning personal data protection;
- register and publish previously approved codes of conduct, in accordance with Article 59, paragraph 5, of the LPDP;
- issue certificates and lay down the criteria for the issuing of certificates, in accordance with Article 61, paragraph 5, of the LPDP;
- lay down the accreditation criteria, in accordance with Article 62, of the LPDP;
- approve contractual provisions and provisions of agreements, in accordance with Article 65, paragraph 3, of the LPDP; approve binding corporate rules, in accordance with Article 67, of the LPDP.

1. SUMMARY OF THE 2023 ANNUAL REPORT OF THE COMMISSIONER FOR INFORMATION OF PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION

This summary of the Commissioner's 2023 Annual Report presents the state of play regarding the application of the LFAIPI and the LPDP, measures and activities undertaken by the Commissioner, as well as obstacles and challenges in the exercise of the rights to access information of public importance and personal data protection.

In 2023, the Commissioner opened 27,603 cases, including 20,801 cases in the field of access to information of public importance, 5,211 cases in the field of personal data protection, and 1,591 cases in both fields of activities of the Commissioner.

The Commissioner concluded the procedure in 20,138 cases in total, including 13,709 cases in the field of access to information of public importance, 4,930 cases in the field of personal data protection, and 1,499 cases in both fields.

The majority of the cases pertained to: handling of complaints against breaches of the right to free access to information of public importance (**10,594**); supervision of personal data processing (**731**); checklists sent to controllers (**707**); implementing measures to improve transparency of the activities of the authorities in connection with the determination of status of public authority bodies, comments and suggestions concerning registration with the Single Information System of Directories, as well as compiling the directories and the submission of annual reports to the Commissioner (**740**); prosecution of infringements due to breaching the provisions of the LFAIPI (533). A considerable part of the activities pertained to: trainings on application of the LPDP and the LFAIPI; cooperation with relevant Serbian, international, and regional authorities and contribution to reporting activities in connection with Serbia's EU association process.

Full visibility of the role and the activities of the Commissioner, both in the field of free access to information of public importance and in the field of personal data protection, is an ongoing task for the Commissioner that he continued to perform in 2023 through the media, on websites, on the Open Data Portal, on social networks, etc. The media have attached much attention to the Commissioner's statements concerning the application of the LPDP and the passing of the Personal Data Protection Strategy, as well as the application of the Law on Free Access to Information of Public Importance, including in particular the issue of abuse of the right to access information of public importance, as well as individual cases of violation of the rights, the exercising of which is protected by the Commissioner.

In the course of 2023, the Commissioner issued **24 opinions** on draft laws from the viewpoint of the Commissioner's mandate pursuant to requests submitted by public authorities and **12 opinions** on other general legal documents. The Commissioner also issued **382 opinions** on correct application of the LFAIPI and **324 opinions** on correct application of the LPDP, and **3 prior opinions** (Art. 55, LPDP).in the course of 2023.

The job positions classification for the Commissioner's Office identifies 110 posts, which are staffed by 156 incumbents in total. According to the Commissioner's 2023 Staffing Plan, the Commissioner's Office should, in addition to the Commissioner, also have two Deputy Commissioners and 134 employees in 2023. The job positions classification for the Commissioner's

Office also includes an advisor post staffed by 3 employees, in accordance with Article 5, paragraph 5, of the Decision on Operation of the Office of the Commissioner for Information of Public Importance and Personal Data Protection, under which the Commissioner can have up to four advisors to the Commissioner, some of whom may be employed at this institution. Conclusive with 31 December 2023, the Commissioner's Office had 105 employees on permanent employment contracts and 10 persons on fixed-term employment contracts (6 of those were hired due to increased workload, while 4 were hired to substitute for absent civil servants). Also, 2 persons were hired on temporary duty contracts (TDY).

In the course of 2023, the Commissioner's Office had a total of 39 employees with security clearance to access classified information.

The activities of the Commissioner and his Office are funded under the law from the national budget of the Republic of Serbia. The Law on the Budget of the Republic of Serbia for 2023 allocates funding to the Commissioner for the funding source 01 – Budget Revenue in the amount of RSD 333,323,000.00.

On 23 September 2023 the recertification was successfully carried out according to the requirements of the standard SRPS ISO/IEC 27001:2013 and SRPS ISO/IEC 27701:2019.

In 2023, activities related to the maintenance and improvement of the Single Information System of Directories continued. In this system, the Directory is created in an electronic and machine-readable form, in accordance with the Guidebook for Publishing the Directory of Public Authority Bodies ("Official Gazette of the RS", No 10/22).

At the time of writing this Report, a total of 7,020 (seven thousand and twenty) public authority bodies published the Directories on their activities, including 2,082 local communities, 1,574 schools, 295 public companies, 159 courts, and all public prosecutor's offices. As regards the country's highest public authorities, the President of the Republic of Serbia, the Government of the RS, the Constitutional Court, the Supreme Court, the Prosecutor General's Office, and the National Bank of Serbia published their Directories. A total of 23 out of 25 ministries have prepared their directories.

The web portal "Commissioner's e-Government" has not yet been released into production for objective reasons.

In the course of 2023, the Commissioner continued to support the Open Data Portal at <https://data.poverenik.rs>, through which he makes the numerous data created in his work available to the general public, in a machine-readable format and in the form of visualizations.

In 2023, the Commissioner continued his successful cooperation with international organizations and forums, as well as with representative offices of numerous international or transnational organizations in Serbia. The Commissioner cooperated in particular with the competent institutions across the region and the territory of the former Yugoslavia in the fields of free access to information of public importance and of personal data protection.

In 2023, same as every year to date, the Commissioner submitted the 2022 Annual Report to the National Assembly and publicized it on his website. The National Assembly has not reviewed the Commissioner's Report. The National Assembly adopted the conclusions on reviewing the Commissioner's 2021 Annual Report at its plenary session held on 27 February 2023.

Among the most common reports submitted by the Commissioner to the competent public authorities are the reports and contributions to reports pertaining to progress in Serbia's EU integration processes.

I Commissioner's Activities in the Field of Free Access to Information

- **The right to free access to information protected by the Commissioner**

In the field of free access to information of public importance, in 2023 the Commissioner **handled 24,049 cases** concerning the protection and promotion of rights. Of these, 3,248 cases had are old cases from the previous year, while **20,801** cases were received in 2023. The Commissioner **completed 13,709 cases**, while **10,340** cases remained pending and have been carried forward to 2023.

The most common activities of the Commissioner in this field included **handling complaints filed by citizens, civil society organizations and other citizens' associations, journalists and other requesters of information of public importance for failure of public authorities to comply with requests for access to information or their refusal to provide information.**

In 2023, the Commissioner issued 385 **infringement warrants and filed 45 petitions for institution of infringement proceedings** due to breaching the provisions of the LFAIPI.

Other activities included: providing assistance to citizens in the exercise of this right through written opinions and clarifications for action, as well as provision of assistance to public authorities in complying with the law, in particular by issuing opinions and providing training; monitoring the compliance with the statutory obligation of public authorities pertaining to proactive publishing of information, specifically their information directories, in the Single Information System for Information Directories, and measures undertaken in this regard; issuing of opinions concerning the enactment of regulations and other legislative initiatives; measures relating to administrative enforcement of the decisions; preparation of publications and other means of publishing positions from the Commissioner's practice; participation in conferences and other expert events; communication concerning requests by information requesters filed with or referred to the Commissioner. The Commissioner was also processing the requests for access to information in which citizens and the media requested information of public importance created in the Commissioner's work.

The main hindrances to the exercise of the right to access information in 2023 included: an escalation of abuse of the right to access information, failure to enforce the Commissioner's decisions in a considerable number of cases, impeded exercising of the right to access information for journalists, and insufficient accountability of public authority bodies.

- *Handling of complaints*

The number of complaints formally lodged with the Commissioner on the grounds of violation of right to access information of public importance remains high continually, showing a year-over-year uptrend. In 2023, this institution received **16,711** complaints, which was an increase of **44.8%** compared to the previous year, while **2,983** pending cases of complaints had been carried forward from the preceding year.

The complainants/information requesters in 2023 were mostly **individual citizens and attorneys, civil society organizations and other citizens' associations, and the media.**

The Commissioner resolved **10,594 complaints** in 2023. The largest share of the resolved complaints, **3,927** in total or **37.07%** were lodged due to public authorities completely ignoring the requests for information and the requesters, i.e. the so-called “administrative silence”, while **1,052** or **9.93%** of the resolved complaints were lodged against the decision of the public authority denying the applicant's request as unfounded with reasoning. In **5,250** cases, which is **49.56%** of total resolved complaints, the public authorities provided incomplete replies, while in **330** cases or **3.11%** of the total number of resolved complaints in 2023, public authorities responded to requests for information with a statement of reasons and elements of the decision. In **35** cases or **0.33%**, complaints were lodged against the requesters' demand to be reimbursed for the expenses of the procedure.

The complaints were mostly founded – **3,279 complaints** or **30.95%** of the total resolved cases⁴. As was the case in the previous years, 2023 saw a continuation of the trend of many procedures pursuant to founded complaints lodged with the Commissioner ending in **termination** of the procedure. In **1,210** cases (36.9%) of the total number of founded complaints, the procedures were terminated because the public authorities had in the meantime complied with the information request, upon learning of the complaint and receiving a request for a reply from the Commissioner,

⁴ When analyzing this data, it may appear that there is still a high percentage of well-founded complaints lodged due to the so-called “administrative silence”, but precisely one of the ways in which lawyers who abuse the right to access information act is to wait exactly for the sixteenth day before the end of the deadline for the processing of request to lodge a complaint (counting from the day of handing over the registered mail to the post office), in order to subsequently establish that the authority had sent a response to the request and requested information in a timely manner, but due to the way the post office works, the response arrived a few days after the complaint was filed. This will be discussed in detail under [3.2.1.1](#). However, regardless of this general trend pertaining to all complainants, when the percentage of only journalist complaints reported due to silence is observed separately, that number amounts to as much as 49.06%, see more under [2.A.3.2.](#) and [3.2.1.1](#).

but before a decision could be passed pursuant to the complaint, with the complainants formally withdrawing their complaints in **289** cases.

Out of the 866⁵ decisions passed by the Commissioner pursuant to complaints lodged by information requesters, in which he ordered public authorities to make information available, the authorities failed to comply in 218 cases or 25.1%, which means that the average rate of enforcement of the Commissioner's decisions was 74.83%.

As regards the structure of the complaints resolved in 2023, most of the complaints were lodged against **Republic-level national and other authorities and organizations: 7,288 complaints or 68.79%**, of which **473** complaints were lodged against **ministries and their subordinate authorities**, and **1,300 or 12.27%** against **public enterprises**, including **745** complaints against national-level public enterprises. Many complaints were lodged against **local self-government authorities and local public services and organizations**, as many as **1,749 or 16.51%**, as well as **judicial authorities and institutions, 186 complaints or 1.76%**.

In 2023, the Commissioner exercised his authority provided for in Article 26 of the LFAIPI in **149** cases when processing the complaints against right to access information and demanded of the respondent public authorities to present for a review the documents containing the information requested by the complainant, so the Commissioner could determine whether the information contained in those documents could be made available or not. In two cases, the respondent public authorities did not comply with the Commissioner's requests, which is why the Commissioner submitted to the competent magistrate court two petitions for the institution of infringement proceedings, while in 147 cases the public authorities submitted the requested documents to the Commissioner. One request was processed by the authority after the submission of the petition for the institution of infringement proceedings, so that in a total of 148 cases the Commissioner's request was complied with.

The share of the Commissioner's decisions upheld by courts has remained consistently high at more than **90.45%** since this authority began operating, which is the best indicator of the quality of activities undertaken by this public authority.

- *Enforcement of the Commissioner's decisions*

The Commissioner received 283 motions for administrative enforcement of the Commissioner's decisions in 2023.

In 2023, the Commissioner initiated the procedures for enforcement of his decisions, acting on motions filed by information requesters; however, with regard to cases where the requests to access information had been filed before 16 February 2022, while the previous version of the LFAIPI was in force ("Official Gazette of the Republic of Serbia" No. 120/04, 54/07, 104/09, 36/10), he could not implement such procedures by imposing fines. Such procedures were concluded by filing petitions to the Government to ensure compliance with the decisions through

⁵ In total 898 complaints, the Commissioner ordered the first-instance public authorities to provide the requesters with the information; with 866 decisions passed pursuant to these complaints because 32 complaints had been joined with other complaints.

direct enforcement⁶. The Commissioner filed 4 petitions with the Government to enforce his decisions, but received no feedback on any of those⁷.

- **Public Authorities' Compliance with Their Legal Obligations, Supervision, and Accountability**

The adoption of the Law on Amendments to the Law on Free Access to Information of Public Importance ("Official Gazette of the RS" No. 105/21) overhauled the manner in which information directories on the activities of public authorities are compiled, published and updated. It also increased the number of authorities required to produce such information directories. The most significant change concerns the manner in which such information directories are produced: they are now created on a platform kept and maintained by the Commissioner, namely the Single Information System of Information Directories (SIS). As of the time of writing this Report, **7,020** information directories by public authorities had been published in the SIS, while the total number of public authorities registered in the system is **7,375**.

All public authorities referred to in Article 3, of the LFAIPI, are obliged to submit an annual report to the Commissioner. Based on the Commissioner's records, it was determined that 12,257 public authorities have this obligation. The number of submitted reports for 2023 is **5,238**, while the number of registered public authorities for access to the Portal for submitting annual reports is 6,355. More than half of the public authorities that have this obligation according to the Law have not fulfilled their obligation to submit reports to the Commissioner.

According to the information provided in the reports submitted by public authorities for 2023 (**5,238** reports), 4,675 public authorities published their Directory in the Single Information System, and thus fulfilled their legal obligation. Also, it would appear that compliance with the legal obligation to provide training for employees on proper application of the Law on Free Access to Information has improved compared to previous years, given that the number of authorities that submitted their reports is much higher than in the past years (with 3,325 authorities reporting they have complied with this obligation).

Nevertheless, there is a slight drop in the number of reports, as compared to last year, submitted by authorities falling within the category of education institutions (schools, preschool facilities), which is 1,371, while the number of reports submitted by local self-government authorities (cities and municipalities) has slightly increased. A total of 630 local self-government bodies submitted their reports, while in 2022, 624 of them did so. An increase has also been noted in the number of reports submitted by national-level authorities and organizations (agencies, directorates, institutes, funds, chambers, etc.). Hunters' associations have largely complied with this

⁶ Article 28, paragraph 4, of the LFAIPI.

⁷ Out of the 475 petitions for enforcement in total filed by the Commissioner with the Government since 2010, while the previous version of the LFAIPI was in force ("Official Gazette of the Republic of Serbia" Nos. 120/04, 54/07, 104/09, 36/10), the Government failed to enforce a single decision. In 2022 alone, the Commissioner petitioned the Government to enforce his decisions in 53 cases. Thus, the legislative provision pertaining to the Government's role in enforcing the Commissioner's decisions has had no effect in practice from the very beginning, i.e. since 2010, when this issue was addressed through amendments made to the LFAIPI at the time.

legal obligation, with **161** of them submitting reports, and as many as **1,078** local communities have also complied.

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-government⁸, responsible for inspecting the compliance with the LFAIPI, notified the Commissioner that **“The Administrative Inspectorate supervised 340** in connection with the application of the regulations on free access to information of public importance, **following which the enforcement of 272 measures was proposed and 1 decision was taken ordering the public authority body to prepare an Information Directory.** At the same time, **the Administrative Inspection processed the decisions taken by the Commissioner in the complaint procedure, as well as 55 petitions of the applicants** in connection with the application of regulations on free access to information of public importance.

In 2023, the Administrative Inspectorate submitted no petitions for institution of infringement proceedings to magistrate courts for breaches of Articles 46-48, of the Law on Free Access to Information of Public Importance.

According to the data provided by Serbian magistrate courts which delivered such data to the Commissioner, in 2023 these courts received a total of 341 petitions for institution of infringement proceedings for the violation of the right to access information (Articles 46-48), and completed a total of 243 cases. According to the data of the Magistrate Court of Appeals in Belgrade, **in 2023 the Court received a total of 1,094 cases of appeals against the decisions of magistrate courts in the matter of freedom of access to information, and completed 1,156 cases.** An analysis of the provided data suggests that, **in 2023, similarly as in 2022, the Magistrate Court of Appeals upheld a much higher number of convictions by magistrate courts than had been the case in earlier years.**

⁸ Letter from the Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government No. 000490106 2023 14800 010 003 051 001 dated 23 January 2024.

Table No. 1 - Summary of the types and scope of the Commissioner's activities and measures in 2023 in the field of access to information of public importance

No.	Types of activities and measures	Total
1.	Cases received	20,801
2.	Pending cases carried forward from previous year	3,248
3.	Total cases handled	24,049
4.	Cases completed	13,709
5.	Complaints received	16,711
6.	Complaints resolved	10,594
7.	Infringement warrants issued	385
8.	No infringement warrant issued (no infringement found)	13
9.	No infringement warrant issued (statute of limitations)	10
10.	Lodged petitions to institute infringement proceedings	45
11.	No petition to institute infringement proceedings lodged (declined jurisdiction)	8
12.	No petition to institute infringement proceedings lodged (statute of limitations)	2
13.	No petition to institute infringement proceedings lodged (no infringement found)	44
14.	No petition to institute infringement proceedings lodged (no evidence)	1
15.	Notices to parties and public authorities on whether an infringement warrant issued was issued and a petition lodged to institute infringement proceedings	25
16.	Opinions concerning the application of the LFAIPI	382
17.	Replies to legal action lodged with the Administrative Court	438
18.	Motions to review decisions of the Administrative Court	6
19.	Ex Officio supervision pursuant to Law on General Administrative Procedure	11
20.	Processing the requests for information on the activity of / held by other authorities - the Commissioner advised the requesters on the correct procedure	69
21.	Motions for administrative enforcement of the Commissioner's decisions	33
21.1.	Taken decisions to proceed with executing the decisions	51
21.2.	Commissioner's petitions to the Government to provide assistance/enforce decisions	4
21.3.	Decisions terminating the enforcement of the decisions	25
21.4.	Motions for administrative enforcement dismissed on formal grounds	5
21.5.	Cases in which the Commissioner petitioned the Administrative Inspectorate to conduct inspections and institute infringement proceedings	221
22.	Written communication with public authorities concerning application of the LFAIPI (advice and instructions provided to public authorities with a view to improving transparency in connection with the publishing of Information Directories in the Commissioner's Single Information System and submission of Annual Reports to the Commissioner, as well as other communication)	740
23.	Replies to applications concerning the compliance with the LFAIPI	60
24.	Referred requests (Article 19)	835
25.	Motions for repeated proceedings (all upheld)	7
26.	Exemption request (denied)	1

II Activities of the Commissioner in the field of personal data protection

In 2023, the Commissioner had extensive activities in the field of personal data protection, due to the current situation in this field. This is supported by the number of opened cases (**5,211**), as well as the number of cases closed by the Commissioner (**4,930**).

- **Supervision**

In the course of 2023, the Commissioner **closed 731 supervision procedures** in total, including 549 scheduled and 182 unscheduled supervisions.

The conducted inspections resulted in taking 51 corrective measures, thereby pronouncing warnings to controllers and/or processors. The Commissioner conducted 721 field inspections and 33 desk inspections

The Commissioner initiated 769 supervisions in the course of 2023. In terms of structure of the controllers in respect of which the Commissioner initiated supervision procedures in the course of 2023, these supervisions largely pertained to the educational institutions (75.3%), which is a multiple increase compared to previous years, while there were 6% of all inspections involving companies, which was several times lower than in previous years.

The most frequent cause for initiation of supervision procedures was safety of personal data (73%).

The Commissioner filed 10 petitions for institution of infringement proceedings and issued 5 infringement warrants for violations of provisions of the LPDP in 2023.

The Commissioner processed 393 applications in the field of personal data protection, 36 of which were forwarded for further processing to another competent authority, notably Ministry of Interior, since they concerned video surveillance, which is governed by the Law on Private Security, while 1 application was forwarded to the Ombudsman.

As part of his efforts to act preventively and to educate, the Commissioner has compiled **checklists**, which contain questions that must be answered accurately and comprehensively. This helps the authorities supervised by the Commissioner to get acquainted with their obligations in advance, more precisely, what they need to do to ensure their personal data processing activities comply with the applicable regulations, thus preventing harm, and also what authorized officers from the Commissioner's Office will check in the supervision procedure.

From the effective date of the new LPDP through 31 December 2023, the Commissioner sent checklists to the addresses of **5,356** controllers, 4,295 of whom replied by the end of the reporting period (while 369 controllers failed to do so even after the Commissioner's intervention), while 49 controllers submitted checklists to the Commissioner of their own accord.

On the basis of the received checklists, the Commissioner conducted assessments of the level of risk for personal data processing in 4,344 cases.

Under the LPDP, the Commissioner has an obligation to keep accurate and up-to-date **records of personal data protection officers**. In 2023, **1,401 personal data protection officers were registered**. Since the effective date of the LPDP, a total of 5,779 data controllers and/or

processors submitted information on their personal data protection officer to the Commissioner, and 3,851 of those are public authorities.

Furthermore, since the effective date of the LPDP, the Commissioner has received **47 decisions on the appointment of representatives of foreign companies** in accordance with the LPDP.

- **Complaints**

The new LPDP introduces **the legal concept of complaints filed with the Commissioner**, as a remedy available to the data subject if he/she believes his/her personal data were processed in breach of the provisions of the Law.

In procedures pursuant to **complaints against violations of the rights of data subjects** referred to in Articles 26 through 40, of the LPDP, the Commissioner determines whether the controller has breached the data subject's rights and, according to the established facts, takes a decision, which both the data subject and the respondent controller may challenge by filing legal action to initiate an administrative dispute within 30 days of receipt of the decision.

In the procedure of determining breaches of data subjects' rights, the Commissioner acts in compliance with the Law on General Administrative Procedure.

A person may exercise the right to lodge a complaint with the Commissioner simultaneously with exercising the right to initiate other procedures for administrative or judicial redress.

In 2023, the Commissioner received **178 complaints**.

The Commissioner processed 219 complaints and **resolved 163 complaints** (122 from 2023 and 41 carried forward from 2022), while 56 complaints have been carried forward to 2024.

In the decisions taken pursuant to the lodged complaints, the Commissioner determined the complaints were founded in 48 cases and has taken decisions ordering the controllers to take action and process the requests. The Commissioner terminated the procedure by taking such decisions in 38 cases, because the controllers processed the requests before the Commissioner decided on the complaints (31), or because the complainant had withdrawn the complaint (7). The Commissioner dismissed 26 complaints on formal grounds and decided that 51 complaints were unfounded.

- ***Reasons for lodging complaints with the Commissioner***

The most frequent reasons for lodging the complaints with the Commissioner include **rejection or dismissal of the request by the controller (87), failure of the controller to process the request (51), and partial processing of the request by the controller (40)**.

- ***Violated rights on the grounds of which complaints were lodged with the Commissioner***

Requests in respect of which complaints were lodged with the Commissioner on the grounds of failure of data controllers to process them, concern the exercise of: **the right to access data**

(74.7%), **the right to deletion of personal data** (22.5%), **the right to correction and supplementation** (2.2%) and **termination of processing** (0.6%).

- ***Structure of respondent controllers against whom complaints were lodged with the Commissioner***

As regards the structure of data controllers against whom complaints were lodged with the Commissioner, the largest number of the complaints, as many as **128**, were lodged against non- or unsatisfactory processing on the part of public authorities across all levels and authorities and organizations with delegated public powers. Most of these (69) were lodged against non- or unsatisfactory processing of the ministries, namely, against the Ministry of Interior 43, Ministry of Finance 24, Ministry of Health 1, and Ministry of Justice 1 complaint.

• **Transfer of data to other countries or international organizations and binding corporate rules**

In the course of 2023, the Commissioner processed 1 **request for approval of binding corporate rules**, which was approved.

Also in the course of 2023, the Commissioner handled 1 **request for data transfer**, concerning data transfer to the United States of America, which was sustained and data transfer was approved.

Table No. 2 - Summary of the Commissioner's activities and measures in the field of personal data protection in 2023

No.	Types of activities and measures	Total
1.	Cases received	5,211
2.	Pending cases carried forward from previous year	798
3.	Total cases handled	6,009
4.	Cases completed	4,930
5.	Inspections	731
5.1	Corrective measures ordered	51
6.	Petitions to institute infringement proceedings	10
7	Infringement warrants issued	5
8.	No petition to institute infringement proceedings lodged (no evidence)	1
9.	No petition to institute infringement proceedings lodged (no infringement found)	1
10.	Processed checklists	707
11.	Complaints	163
12.	Replies to legal action	30
13.	Motions for administrative enforcement	2
13.1	Decisions terminating the enforcement of the decisions	1
13.2	Motions for administrative enforcement dismissed on formal grounds	1
14.	Notices of personal data breaches	56

15.	Applications	393
16.	Request for data transfer	1
17.	Request for approval of binding corporate rules	1
18.	Opinions	324
19.	Preliminary opinion (Article 55 of the LPDP)	3
20.	Analyses	1
21.	Records of requests to access retained data	113
22.	Processed records of personal data protection officers	1,393
23.	Processed decisions on appointment of representatives of foreign companies in accordance with the LPDP	12
24.	Consent issued to the Commission on Missing Babies	1
25.	Improvement of protection and prevention	982

III Protection of Rights before the Administrative Court and Other Courts

Judicial protection of free access to information in administrative proceedings before the Administrative Court is available as a means of reviewing the legality of the Commissioner's decisions and the decisions of the seven authorities that the complaints may not be lodged against with the Commissioner and which are exempted from protection before the Commissioner (the National Assembly, the President of the Republic of Serbia, the Government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court, the Prosecutor General, and the National Bank of Serbia).

A party dissatisfied with a decision has the right to file a complaint with the Administrative Court, same as the Prosecutor General, in cases a decision harms a public interest. Against the final decision of the Administrative Court, the party concerned and the Prosecutor General may file a petition with the Supreme Court to review a judicial decision, in cases where the Administrative Court ruled on a case with full jurisdiction.

According to the information available to the Commissioner, **in 2023, 2,338 lawsuits against the Commissioner's decisions in the area of free access to information** were filed with the Administrative Court. Of the 2,338 lawsuits filed, 474 lawsuits were filed against the Commissioner's decision, while 1,864 lawsuits were filed because the Commissioner did not reach a decision on the complaint within the legal deadline.

In the course of 2023, the Administrative Court **resolved a total of 150 lawsuits** (of the resolved lawsuits, 65 were from 2023, while 85 were from the previous period). The lawsuits were resolved as follows: 56 lawsuits were rejected, 46 were dismissed, 22 proceedings were terminated, and 26 lawsuits were sustained, i.e. the Commissioner's decision was annulled and the case was sent back for a new decision.

According to the information available to the Commissioner, during 2023, **72 lawsuits against the Commissioner in the field of personal data protection** were filed to the Administrative Court. Complaints were filed against decisions taken based on complaints, as well as by applicants who were dissatisfied with the Commissioner's handling of complaints within the framework of inspection.

In 2023, the Administrative Court **concluded 12 lawsuits** (1 from 2023 and 11 from the previous period), by rejecting the lawsuits as unfounded in all cases.

In 2023, according to the information available to the Commissioner, **15 requests for review of the Administrative Court's decision were submitted to the Supreme Court**, the Supreme Court rejecting 9 of these.

In 2023, **the Constitutional Court** received **30 constitutional appeals** against the Commissioner's decisions. In the course of 2023, the Constitutional Court has taken 11 decisions pursuant to constitutional appeals in the field of free access to information, by rejecting 10 constitutional appeals and sustaining 1, 11 decisions on constitutional appeals in the area of freedom of access to information, by rejecting all constitutional appeals, and 12 decisions on constitutional appeals in the area of personal data protection, by rejecting all constitutional appeals.

2. CURRENT STATUS AND IMPEDIMENTS TO EXERCISING THE RIGHT TO FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE AND THE RIGHT TO PERSONAL DATA PROTECTION

2.A. THE RIGHT TO FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE

2.A.1. Legal framework

Exercise and protection of the constitutionally guaranteed right to free access to information of public importance in Serbia are governed by the Law on Free Access to Information of Public Importance (LFAIPI). This Law has been amended and supplemented on a number of occasions, initially in 2007, when the requirements for the Commissioner's appointment were made more stringent, then in 2009, when its procedural and penal provisions were supplemented, and also in 2010, to determine competence for enforcement of the Commissioner's decisions. The most recent amendments to this Law were made in 2021, when major changes were introduced to address the existing issues in the implementation of the LFAIPI and the Commissioner's powers were significantly expanded. Namely, the Law amending the LFAIPI⁹ came into force on 16 November 2021 and became effective on 17 February 2022.

The new Law amending the LFAIPI of 2021, created normative conditions for eliminating some of the key issues in this field (unavailability of administrative enforcement for the Commissioner's decisions, inadequate liability of employees and responsible persons at public authorities for compliance with the obligations under the LFAIPI). Furthermore, arrangements have been adopted which will significantly improve the state of play in this field and ensure more effective exercise of right to free access to information (strong affirmation of the principle of proactive transparency, expansion of the scope of public authority bodies subject to the Law, increased powers of the Commissioner, opening of field offices of the Commissioner outside of Belgrade; so far, offices have been opened in Novi Sad and Niš, and the opening of an office in Kragujevac is underway). It is particularly significant that the Commissioner received new powers with this law, i.e. the authority to issue an infringement warrant, when, in connection with a complaint against not processing the request (administrative silence), it is determined that the complaint is founded (Art. 24, paragraph 6, of the Law), as well as the authority to submit a petition to institute of infringement proceedings for infringements prescribed by the Law, when in the complaint procedure it is judged that there is an infringement.

When it comes to international documents, the Commissioner once again points out that the Government Minister of Justice signed the Council of Europe Convention on Access to Official Documents ("Tromso Convention") dated 18 June 2009, but that convention has still not been ratified by the National Assembly, nor has the Government initiated the procedure for the ratification of that Convention by the National Assembly. The significance of that Convention, which entered into force on 1 December 2020, is that it represents the first general legally binding

⁹ "Official Gazette of the Republic of Serbia" No. 105 dated 8 November 2021.

document of the Council of Europe pertaining to access to official documents, regardless of the fact that the LFAIPI itself in certain segments provides a higher level of rights than the minimum required by the Convention, and which the Convention itself allows.

2.A.2. About Exercising the Right to Know in 2023 and the Impediments

The right to free access to information of public importance has continually been exercised in the Republic of Serbia to a great extent. It is mainly exercised by private individuals, followed by citizens' associations, journalists and members of the media, public authorities themselves, political parties and their members, attorneys, economic operators and others. Requesters have faced greatest difficulties when attempting to access information on budget spending, information on procedures before public authorities, and information on threats to and protection of the public health.

Unfortunately, for the second year in a row (since the enactment of the LFAIPI in 2004), it would appear that the greatest impediment to exercising the right to public to know is the enormous and systemic abuse of the right to access to information, which will be discussed in more detail below. Notwithstanding this fact, the number of well-founded complaints against breaches of the right to access to information remains high, coupled with a large share of the Commissioner's decisions that have not been complied with. The fact that the high percentage of complaints against the administrative silence of the public authorities pertaining to requests for access to information is lodged by journalists is of particular concern. Furthermore, the Commissioner has issued a significant number of infringement warrants to authorized and responsible persons in public authorities because of administrative silence in response to requests to access to information of public importance, and also filed a significant number of petitions for institution of infringement proceedings, which indicates that it is a good legal solution that the Commissioner received new powers in connection with infringement proceedings, on the one hand, but because of which the state of play in the field of access to information of public importance cannot be regarded as satisfactory to the required extent, on the other hand.

Improvements have been observed with regard to publishing information directories in the Single Information System of Information Directories, kept and maintained by the Commissioner, and submission to the Commissioner of annual reports on the actions undertaken to comply with the LFAIPI, albeit to an insufficient extent as well.

In essence, the overall state of play in the field of access to information is such that it may not be regarded as satisfactory to the required extent. At the same time, obtaining information from public authorities is still challenging, and even more so when these requests are made by the journalists, without lodging a complaint with the Commissioner or bringing legal action before the Administrative Court in situations where such complaints are not allowed.

Access to information is most commonly denied by claiming that the disclosure of the information would be a breach of someone's privacy (even when the persons concerned are public office holders and officials and the information concerns their work), often without proper reasoning or justification. There is also an uptrend of rejections of requesters' queries with the explanation that the requested information is not information of public importance in the sense of Art. 2, of the Law, although it fulfills all the elements prescribed by law in order to be considered information of public importance.

Although there is some improvement compared to last year, the degree of the Commissioner's decisions that are not complied with (cases when public authorities do not provide information to requesters even after the Commissioner has ordered them to) is still high, especially in cases of complaints by journalists. Although the journalists use the LFAIPI as a basic tool in their professional activity, it is increasingly difficult for them to obtain information on the work of public authorities, which, among other things, is confirmed by the high percentage of decisions that are not complied with (28.6%) that the Commissioner has taken based on their complaints, ordering the authorities concerned to make the information available to them. The number of unexecuted decisions of the Commissioner pursuant to complaints by journalists and media representatives is higher compared to the general trend (25.17%) when it comes to other complainants, which is not justifiable since it is a profession that seeks information in order to write and report to the public on topics of general public interest. In addition, as many as 49.04% of journalist complaints lodged with the Commissioner in 2023 were lodged due to the "silence" of public authorities. Therefore, it is clear that journalists find it very difficult to get information, i.e. it is difficult for them to exercise their right to access information of public importance without the intervention of the Commissioner.

Nevertheless, there has been a significant improvement in the state of play compared to the previous year. In 2022, there was a significant number of cases of the public authorities withholding information from the Commissioner when he requested it pursuant to his powers granted to him under Article 26, of the LFAIPI. In 2023 there were such cases, as well, but to a lesser extent. The reason for this lies in the fact that with the latest amendments to the LFAIPI, the Commissioner is authorized to file a petition for institution of infringement proceedings against the head of the authority if he is not granted access to any information medium pursuant to Art. 26, LFAIPI. Namely, in the course of 2023, in the process of resolving complaints against violation of the right to access information, in 149 cases, the Commissioner applied his authority referred to in Article 26, of the LFAIPI, and requested from the public authorities to provide to him for the purpose of inspection, precisely the documents containing information that is the subject of the requester's complaint, so he can determine whether the information contained in the documents may be made available to the complainant or not. In 147 cases, the authorities submitted the requested files and documents to the Commissioner for inspection, and in two cases they did not do so (regarding the latter, the petitions for institution of infringement proceedings were filed, after which the requested data were submitted in one of those two cases, so finally the total number of complying with the Commissioner's orders pursuant to Article 26, of the LFAIPI, turned out to be 148 out of total 149 cases).

What made the work of the Commissioner's Office particularly difficult and burdensome in 2023 was the drastic increase in cases of abuse of the right to access information of public importance (situations in which lawyers find and hire collaborators to send requests for access to information of public importance and complaints solely for the purpose of collecting the costs of the procedure). The situation is by far more difficult compared to 2022, when a case of severe and unprecedented abuse of the rights by five connected complainants from Vranje was recorded, which the Commissioner reported on in detail to the National Assembly and to the public in last year's report.

The year 2023 bears witness to a full scope of the undesirable consequences caused by a suddenly revised position of the Administrative Court, taken at the 105th Full Judicial Panel held on 21 June 2022, regarding justifiability of reimbursement of legal expenses incurred by information requesters when hiring attorneys to represent them in procedures pursuant to complaints

filed with the Commissioner¹⁰. This resulted in the fact that starting from 1 January 2023 through 31 December 2023, as many as 82.5% of complaints were lodged through lawyers, compared to the previous 9.7% of complaints filed through lawyers annually, which was the average before the court's revised position. Expressed in numbers in 2023, the Commissioner received 16,711 complaints, which, along with 2,983 complaints carried forward from the previous year, resulted in a total of 19,694 complaints to be handled. In the area of freedom of access to information, a total of 20,801 cases were received, which in addition to the transferred 3,248 cases from the previous year meant handling a total of 24,049 cases in the field of access to information. Although a record 13,709 cases in the area of freedom of access to information were resolved in 2023 (of which 10,594 were complaints), it was not possible to resolve all cases within the deadline prescribed in the law, despite the fact that the Commissioner streamlined the activities of his office and issued orders to employees in almost all sectors in the Office to assist the Complaints and Enforcement Sector in the area of access to information in the activity carried out in that sector.

Namely, in the course of 2023, the Commissioner received 5,455 subsequent requests pursuant to Article 19, of the Law on Administrative Disputes (of which 4,554 requests were made only from 1 August 2023 through 31 December 2023), for the Commissioner to process as a second-instance authority and take a decision within an additional period of seven days. Although the Commissioner was able to resolve most of these requests within the deadline prescribed by law, there was a significant part he did not manage to resolve. This resulted in the fact that as many as 1,864 lawsuits were filed with the Administrative Court due to the "silence" of the Commissioner. If it is determined that these lawsuits are well-founded, the Commissioner will be obliged to pay from the Commissioner's budget the amount of 69,201,000.00 dinars (1864 x (minimum) 37,125.00 dinars according to the applicable lawyer's tariff, i.e. 24,750.00 dinars for preparing a motion and 12,375.00 dinars for the preparation of the reasoned submission), which according to the average euro exchange rate on the date of writing this report¹¹ amounts to 590,502.60 euros.

In addition, on the date of writing this report, the Commissioner obliged the first-instance authorities to pay the amount of 41,147,100.00 dinars¹² (351,113.57 euros at the average exchange rate on the date of writing this report) for the costs of the complaint procedure).

If the problem of systemic abuse of the right to access to information is not urgently resolved by adequate amendments to the law, the aforementioned figures will increase many times over, so tens and hundreds of millions of dinars will flow from the public budget into the "private pockets" of lawyers, who engaged with their associates to submit requests for access to information to first-instance authorities and they file complaints to the Commissioner solely for the purpose of collecting the costs of the procedure, and not for the purpose of exercising the right of public to know.

¹⁰ Namely, on that occasion, the Administrative Court, after more than 13 years, revised its position, finding that the public authority bodies are now obliged to reimburse the costs of legal representation to the complainants in case that the Commissioner determines that the complaint is well-founded. See more about this in [The Commissioner's Annual Report for 2022](#), under [2.A.3.1.](#)

¹¹ 8 March 2024.

¹² Observed starting from the day the Commissioner became aware of the revised position of the Administrative Court on 3 November 2022.

In addition, bearing in mind the trend that started in 2022 and has continued to date, the Commissioner's assessment is that in five years the Commissioner's institution will have between 50,000 and 80,000¹³, active and pending cases carried forward from previous years, unless an appropriate solution is found for the problem of abuse of the right. Needless to say, this will hamper the functioning of the institution of the Commissioner, it will threaten the exercise and the protection of not only the right to access information, but also the right to protection of personal data. Subsequently, this will make the work of the Administrative Court cumbersome, which is also in a very difficult situation due to the drastic increase in the number of lawsuits, which will ultimately result in a very difficult access to justice with all the consequences that this entails, including the position of the Republic of Serbia in the pre-accession negotiations for association with the European Union, especially regarding Chapter 23 (judiciary and fundamental rights).

It is already clear now that access to the requested information is very difficult for the journalists, associations dealing with the protection of human rights, persons seeking information on the protection of public health and endangering the environment, as well as all citizens seeking information in accordance with the purpose and the essence of the law, and which is a direct consequence of the massive abuse of the right to access information, because the capacity of the Commissioner, as the protector of the right to access information, is overwhelmed by handling the cases of persons who blatantly abuse the right to access information.

Judging from the trends in the field of access to information from year to year, starting from the adoption of the LFAIPI in 2004 onwards, it was soon noticed what are the consequences of the revised position that the Administrative Court has taken at the 105th Full Judicial Panel of the Administrative Court, which is why the Commissioner reacted instantly and sent letters to the competent authorities, in which he pointed out to the consequences of the Court's revised position (material consequences for the public budget and non-material consequences for the exercising of rights), made specific proposals to solve the problem of abuse of rights (proposals on how and which provisions of the LFAIPI should be amended and supplemented) and warned of further consequences if the problem is not solved quickly and urgently. The letters were sent to the Government of the Republic of Serbia (letter No. 073-17-1675/2023-03 dated 20 April 2023), to the Ministry of Public Administration and Local Self-Government (letter No. 073-17-1673/2023-03 dated 20 April 2023), to the Ministry of Finance (letter No. 073-17-1674/2023-03 dated 20 April 2023), and to the Administrative Court (No. 073-17-1184/2023-03 dated 20 April 2023).

In addition, the Commissioner and his associates met with representatives of the Ministry of Finance in June 2023 to point out to the financial consequences of the Court's revised position on the budget of both the Commissioner and the first-instance bodies. Three meetings were also held with the Minister of Public Administration and Local Self-Government to discuss the problem of abuse of the right to access to information and the need to amend the LFAIPI.

In the joint organization of the Commissioner and SIGMA (a joint initiative of the European Union and the Organization for Economic Cooperation and Development – OECD) on 8 November 2023 a round table was held on the challenges and potential solutions for the proper functioning of

¹³ The assessment is based on the trend followed since the moment the Administrative Court revised its position, and it concerns the total number of cases received in the field of free access in 2022 and 2023, the number of resolved cases in these years, the trend expressed in the receiving of new cases in the first two months of 2024, the complexity of the cases that need to be resolved, the number of employees at the moment in the Commissioner's Office, and the projection of hiring new employees (which depends on whether and to what extent the Commissioner will be granted funds for hiring new employees).

the system of access to public information in Serbia, which was attended by representatives of the SIGMA, the Government, the Ministries of Health, Education, European Integration, Justice, and Public Administration and Local Self-Government, representatives of the judiciary and representatives of Bar Associations of Serbia and Vojvodina. All participants in the discussion from the Republic of Serbia agreed that one of the measures to solve the problem of abuse of rights should be to amend the LFAIPI and that it is necessary for all competent authorities to cooperate in solving this problem.

This year, the Commissioner will also take all measures within his powers to solve the problem of abuse of rights in a systemic way and will continue to insist on amending the LFAIPI for the purpose of finding systemic ways to prevent abuse of rights. Immediately after the formation of the new Government of the Republic of Serbia, the Commissioner will send the initiative to the new Prime Minister and the new Minister of Public Administration and Local Self-Government on amending the LFAIPI with specific proposals for the amendment. He will also amend his act on the on job positions classification in order to increase the number of employees who handle the tasks of resolving complaints in the area of access to information. However, it is important to keep in mind that these measures have a limited scope and that the systemic problem must be solved in a systemic way.

What is good news regarding exercising the right to access information in 2023 is that the Administrative Court at the 112th Full Judicial Panel, held on 15 September 2023, has taken the position that in such administrative disputes in which the subject of the administrative dispute is an assessment of the legality of the decision of the Commissioner for Information of Public Importance, which, in the first paragraph of the operative part of the decision, suspends the proceedings on the requester's complaint due to the subsequent public authorities' processing of the submitted request, and in the second paragraph of the operative part the costs of the administrative procedure are refused, in the future it will act in accordance with the decision made in case II-4 U 30448/22 dated 2 March 2023, which practically means that the complainants are not entitled to the complaint procedure expenses in situations where the Commissioner suspends the processing of complaint. Thus, the material consequences of the abuse of the right to access to information are mitigated to some extent.

The National Assembly did not consider the annual report of the Commissioner for 2022 in the plenum, after doing so regularly for four years in a row. The reason for this probably lies in the fact that extraordinary parliamentary elections were called in 2023 and the Assembly was dissolved prematurely.

2.A.3. Basic Impediments to Exercising the Right to Access Information

The impediments to exercising the right to free access to information in 2023 included the following:

- 1) abuse of the right to access information,
- 2) the journalists' difficulty in exercising the right to access information,
- 3) non-compliance with the Commissioner's decisions, and
- 4) inadequate accountability.

It is crucial to understand that the abuse of the right to access to information, which stands out as one of the main impediments to exercising this right this year, same as in the previous years, has a direct impact on the proportions of the existence of the other three key hindrances (difficult exercise of the right to access information for journalists, non-compliance with the Commissioner's decisions, and inadequate accountability), because the Commissioner had to divert a significant and the largest part of his capacities to solving the cases of persons who abuse the right to access information and file complaints solely with the aim of collecting the costs of the procedure, at the expense of solving journalistic complaints and undertaking measures and using the powers vested in him within his competence for the administrative enforcement of the decisions.

The essential impediments to exercising the right to free access to information is reflected in the following:

2.A.3.1. Abuse of the right to access information

Deletion of the legal concept of abuse of the rights from the LFAIPI¹⁴ and revising the long-standing position of the Administrative Court regarding the reimbursement of representation costs in the complaint procedure at the 105th Full Judicial Panel 21 June 2021 are the reasons that led to a systemic and massive abuse of the right to access information as we are seeing today, on which the Commissioner reported to the National Assembly and to the public in his annual report for 2022, so that part will not be repeated in this report. Hence, in this report the consequences of these reasons for exercising the right to access information in 2023 will be presented.

Namely, before 2022, that is, before the Administrative Court revised its position in June 2022, in the period from 2015 through 2021, that is, before the right to access information of public importance began to be used in a harmful way, contrary to the essence, purpose and goal for which this right was established, the average number of complaints received by the Commissioner on an annual level by all complainants from the Republic of Serbia, was 3,627 complaints, while the total number of all cases received under freedom of access on an annual level averaged 5,244 cases. For the sake of full understanding of the consequences of the revised position of the Administrative Court on 21 June 2022, one needs to bear in mind that in the period from 1 January 2022 through 30 June 2022, 1,771 complaints were lodged with the Commissioner, while in the period from 1 July 2022 through 31 December 2022, a total of 7,440 complaints were lodged. Therefore, in 2022, a total of 9,211 complaints were received, and 13,285 of all newly received cases in the freedom of access. Then, during 2023, the number of newly received complaints rose to 16,711 complaints, which, along with 2,983 complaints carried forward from the previous year, meant 19,694 pending complaints, totaling 20,801 of all newly received cases. Therefore, in 2023, the Commissioner handled 24,049 cases (in addition to 3,248 cases carried forward from the previous year).

In other words, this means that during 2022 and 2023, the Commissioner handled an average of 12,961 complaints on an annual level against the previous annual average of 3,627, which is an increase of 357.34%. Given that the number of complaints also naturally entails an increase in the number of other cases in the area of access to information (proposals for an administrative decision, assigned requests, lawsuits filed with the Administrative Court, requests for information on the case, etc.) the average number of all cases received in the freedom of access on the annual level in 2022 and 2023 was 16,683 against the previous average of 5,244 cases, which is an increase of 318.13%.

If only the year 2023 is considered separately, in which the highest number of cases were received by the Commissioner's Office in the field of access to information, the data show that the volume of complaints received compared to the annual average, before the revised position of the Administrative Court, increased by 460.73% (16,711 against the previous 3,627), that is, of all cases in freedom of access to information by 382.93% (20,081 against the previous 5,244).

Persons, i.e. lawyers who abuse the right to access information engage with their associates, most often with persons employed in their office (very often employing them for this very purpose) to mass-send requests for access to information to various public authorities, most often targeting

¹⁴ The Law on Amending the LFAIPI ("Official Gazette" No. 105/21)

small public authority bodies who do not have enough human and material capacities, and then to send complaints to the Commissioner. Thus, some lawyers “on behalf of their clients”, i.e. associates and employees in their own office, lodged several hundreds of complaints, and in more extreme cases, over a thousand or more thousands of complaints. At the same time, these lawyers use various procedural manipulations in order to prevent the authorities from processing the request within due deadline, i.e. to prevent the Commissioner from deciding on the complaint, i.e. on the subsequent request from Art. 19, of the Law on Administrative Disputes, within due deadline. In some cases, serious violations of the law occur, which is why in 2023 the Commissioner informed the competent public prosecutor's office in two cases about indications that the actions of the two lawyers had elements of a criminal offense, and he also submitted two reports to the disciplinary prosecutor of the competent bar association.

What lawyers who abuse the law and their accomplices have in common is that they do not file requests and complaints in the public interest, to protect the right of public to know, but exclusively and only for the purpose of collecting the costs of the complaint proceedings and the administrative dispute. Although the institute of abuse of rights has been deleted from the LFAIPI, the principle of prohibition of abuse of rights belongs to general legal institutes (general legal principles) and as such does not even have to be explicitly prescribed. It is always in effect and always applied. Therefore, in 5,947 cases, the Commissioner rejected the complaints filed by the complainants, i.e. information requesters for the protection of the rights and legal interests of third parties, as well as for the protection of the public interest, i.e. for the lack of public interest - the interest of the public to know in situations where it is undoubtedly established that the requests and complaints were submitted exclusively in private interest, in order to collect the costs of the procedure. The legal basis for rejecting these appeals is in Articles 1, 2, 4, 23, and 24, paragraph 1, of the Law on Free Access to Information of Public Importance and Articles 6 and 7, of the Law on General Legal Procedure. Given that the position taken by the Administrative Court regarding the lawsuits filed against these decisions will have long-term legal consequences for the entire legal system of the Republic of Serbia, the Commissioner requested that the Administrative Court resolve the administrative matter by its own judgment, in a dispute with full jurisdiction (Art. 43, of the Law on Administrative Disputes). Namely, in these administrative disputes, it's about taking a position on an issue that is very important from the aspect of exercising and protecting human rights, so it is important to create a legal possibility for another court instance to review the correctness of the position taken by both the Commissioner and the Administrative Court. In other words, it is important to fulfill the legal requirements for submitting a request for review of a court decision to the Supreme Court of Serbia (Art. 49, of the Law on Administrative Disputes), given that in the field of free access to information, it is permitted to submit this extraordinary legal remedy only if the Administrative Court was deciding in a dispute with full jurisdiction. In addition, the Commissioner requested the holding of a verbal public hearing in this administrative dispute due to the complexity of the subject of the dispute (Article 34, paragraph 1, of the Law on Administrative Disputes).

Apart from the enormous financial consequences of the abuse of the right to access information, which was discussed in more detail in chapter [2.A.2.](#), there are also very serious non-material consequences for the exercise of rights, and these are, among others, the fact that the Commissioner had to redirect most of his resources to solving the cases of persons who abuse the right. Considering that the Commissioner, like any public authority, is responsible for spending public money, it is his duty to mitigate as much as possible the material consequences of the abuse

of the right to access to information and the costs, that is, the costs of the lost administrative dispute due to the so-called silence regarding the lodged complaints. The direct consequence of this is that the Commissioner cannot deal in a satisfactory manner with the problems of silence of the authorities regarding the requests of journalists for access to information and the non-compliance with the Commissioner's decisions, as well as filing the petitions for institution of infringement proceedings against the responsible persons in the public authorities who did not prepare and submit information directories and annual reports to the Commissioner, as he would otherwise be able to.

2.A.3.2. The journalists' difficulty in exercising the right to access information

The silence of public authority bodies with regard to requests for access to information is unacceptable and is a particularly serious form of violation of the citizens' rights to access information of public importance. Such behavior is especially undesirable and impermissible when it comes to requests for access to information submitted by journalists, since by the nature of their profession they are *par excellence* representatives of the public, who seek information in the public interest in order to report on topics of special interest to the public. Therefore, the fact that as many as 49.04% of journalist complaints lodged with the Commissioner in 2023 were due to the "silence" of public authority bodies is of particular concern. An additional problem is that in a significant number of cases, the public authority bodies, after the Commissioner requested a statement on the complaint and an explanation of the reasons for not processing the request, they justified it by saying that they didn't process the request, because they considered these to be the journalistic questions, not realizing that according to the standards and criteria of a democratic society, it is unacceptable for the public authorities to remain silent in response to any journalist's inquiry, regardless of whether it is a journalistic question or a request for access to information of public importance.

The percentage of the Commissioner decisions taken upon processing the complaints by the journalists and the media representatives that are not complied with is 28.6% and is higher than the general trend of 25.17% when it comes to other complainants.

In addition, for the first time it happened that the number of resolved journalistic complaints was significantly lower than the number of lodged complaints (in 2023, 101 journalistic complaints were resolved¹⁵, and 261 were lodged, , which stems directly from the fact that significant capacities of the Commissioner were mobilized to resolve the cases of persons abusing the right to access to information (Article 19, of the Law on Administrative Disputes). This was discussed in more detail in subsections [2.A.2.](#) and [2.A.3.1.](#)

All of the foregoing indicates that in 2023, the right of journalists to access information was significantly hindered. Therefore, it is one of the most important reasons why the problem of abuse of the right to access to information must be urgently solved in a systemic way.

2.A.3.3. Unenforced Decisions of the Commissioner

Among the unenforced decisions of the Commissioner, there is still a significant number of those related to all cases in which the request for access to information of public importance was

¹⁵ The structure of resolved complaints (101) includes the resolving of journalistic complaints carried forward from previous years.

submitted before 17 February 2022. The issue of administrative enforcement of such Commissioner's decisions dates back to and is strongly associated with the application of the Law on General Administrative Procedure that has been effective as of 1 June 2017, which imposes very high fines which the Commissioner should impose as penalties on public authorities as respondents in administrative enforcement procedures, to force them to comply with the decision and provide the requested information.

The background of this issue is described in detail in the Commissioner's 2017 Annual Report and will not be repeated here.

The Law amending the LFAIPI, which has been in force since 17 February 2022, provided for the execution mechanisms to be unblocked, in other words, the path has been cleared for resolving the two key issues affecting enforcement of the Commissioner's decisions, namely the issue of setting the amounts of fines and the issue of competence for enforcing the imposed fines. Fines will range between RSD 20,000 and RSD 100,000 and may be imposed multiple times. Imposed fines will be enforced by a court, in accordance with the law governing execution and security. Proceeds from the fines will constitute revenue for the national budget.

Nevertheless, considering that the largest part of the Commissioner's capacities in 2023 was mobilized to solve the problems related to the abuse of rights, the percentage of the decisions not complied with is still high at 25.17%. This percentage is still better compared to 2022, when the percentage of decisions not complied with was 27.06%, which indicates that the new powers of the Commissioner, primarily the option of filing a petition for the institution of infringement proceedings, have yielded the results. However, in order for the Commissioner to direct his capacities to the desired extent to the administrative enforcement of his decisions, it is necessary to urgently solve the problem of abuse of rights in a systemic way.

2.A.3.4. Inadequate liability

The status regarding liability for violations of the right to access information is perhaps best illustrated by the fact that the competent authority, namely the Administrative Inspectorate, once again did not file a single petition for institution of an infringement proceeding with the competent authorities in 2023, although supervision over the implementation of the LFAIPI is under the competence of the Ministry of Public Administration and Local Self-Government. This very fact shows that it is a good legal solution that the Commissioner was granted the powers to issue infringement warrants and file petitions for institution of infringement proceedings. In 2023, the Commissioner issued 385 infringement warrants in the field of access to information and filed 45 petitions for institution of infringement proceedings. As infringement warrants are issued in cases of the so-called "administrative silence", it is clear that the overall status is quite poor, because there should be zero tolerance of "administrative silence" in response to citizens' requests.

Furthermore, the level of compliance with other statutory obligations is likewise not satisfactory. More than half of all public authorities required under the Law to submit reports to the Commissioner have not done so. More precisely, annual reports were submitted by 5,238 public authorities, while over 12,000 authorities are required to do so. Also, many authorities have published the information directories on their activities in the manner required under the "new" law only after significant delays, while others have not yet complied with this obligation, considering that a total of 7,020 directories were published in the Unified Information System of Information

Directories¹⁶. Unfortunately, even in this segment, due to enormous abuse of rights, the Commissioner has been unable to focus his capacities to the desired extent on increasing the fulfillment of these obligations and file petitions for institution of infringement proceedings against those who did not fulfill the obligation to prepare and publish directories and submit an annual report to the Commissioner.

2.A.4. Typical Cases of Inadequate Actions by Public Authorities in Response to Requests for Access to Information in 2023

1. Obstruction of exercising the right to access information of public importance

Although the LFAIPI was adopted back in 2004, which means that it has been in use for almost 20 years, and although there is an ample practice of the Commissioner, which is published and easily accessible on the Commissioner's website, and despite the fact that numerous trainings are constantly held on the proper application of the LFAIPI, still a significant number of first instance authorities makes "beginner's" mistakes, not applying the basic procedural rules from the law prescribed in order to guarantee to the citizens that they can easily and quickly access the requested information. The effects of this include the citizens' are hampered in exercising their rights, and also the Commissioner is cumbered with unnecessary complaints and unnecessary payment of the costs of the complaint procedure at the expense of citizens as budgetary contributors.

The following two cases can be used to illustrate this.

In the first case, the complainant submitted to the Regulatory Authority for Electronic Media a request for access to information of public importance, in which she requested copies of the program reports on the basis of which the television stations received a license to provide the media service of television broadcasting via terrestrial digital transmission for the entire territory of the Republic of Serbia, stating that the subject of the request are the program elaborations with a developed program concept as defined in the conditions of the public competition for precisely specified televisions. In processing the submitted request, the first-instance authority allowed the complainant to access all information that she requested, about which an official note was made, but denied her right to a copy of the documents containing the requested information. Processing the complaint lodged against this action of the first-instance authority, the Commissioner found that the first-instance authority made a mistake when, after allowing the complainant, as a representative of the public, to have access to the documents containing that information, they refused to issue or deliver copies of these to her. This is due to the fact that the first-instance authority, by allowing access to the complainant, i.e. the public, provided access to the requested information, and since, in the specific case, the requested information had already been made available, the first-instance authority unjustifiably refused to provide the complainant with copies of the documents containing

¹⁶ Status on 12 February 2024.

that information, as requested by the requester, because the inspection of documents containing the requested information and the submission of copies of these documents are only ways of having access to the requested information, and such ways are, in the sense of Article 5, of the Law on Free Access to Information of Public Importance, a matter of choice of the information requester. Therefore, in his decision¹⁷, the Commissioner ordered the authority to make the requested information available to the complainant, with appropriate protection of personal data. This decision was not complied with.

In the second case¹⁸, the Commissioner found that denying the complainant to communicate the request for access to information as a transcript of a verbal statement was a hindrance, precluding the requester's exercising his right to free access to information of public importance, since Article 15, paragraph 7, of the Law on Free Access to Information of Public Importance expressly prescribes that the public authority is obliged to provide access to information also based on the requester's oral request presented for the record as transcript. Namely, processing the complaint in that case, the Commissioner found that the Public Utility Company "Komunalac" in Knić made an error when it did not allow the complainant to communicate an oral request for access to information of public importance in the form of a transcript of a verbal statement, which prevented him from exercising his right to free access to information of public importance, contrary to the provisions of the Law on Free Access to Information of Public Importance, and ordered the first-instance authority to enable the requester to communicate the request for access to information on the record. Bearing in mind that the requester of information may submit a request for access to information of public importance in any way prescribed by law at their free choice, and that the provisions of Art. 15, para 7, of the Law on Free Access to Information of Public Importance, explicitly prescribes the obligation of the public authorities to provide access to information based on the requester's oral request in the form of a transcript of a verbal statement, that oral requests are entered in a separate record and that the same deadlines apply as if the request was submitted in writing, the public authority was obliged, in the specific case, to enable the information requester to submit a request for access to information of public importance orally, entering it into the record as a transcript of a verbal statement, and to process it as if it had been submitted in writing. The fact that the first-instance authority sent the complainant a letter asking him to supplement the "request for access to information of public importance", in accordance with the provisions of Article 15, paragraph 2 and paragraph 5, of the Law on Free Access to Information of Public Importance, was not of any influence to the reaching of a different decision on that complaint, the reason being that the complainant expressly requested in his submission to be granted access to information orally for the record as transcript, by which he expressed his will as to the manner in which he wished to be enabled to exercise the right to access information of public importance, his request being in accordance with the provisions of Article 15, paragraph 7, of the Law on Free Access to Information of Public Importance. For this reason, there was no room for the first-instance authority to invite the appellant to supplement the request in accordance with the provisions of Article 15, paragraphs 2 and 5, of the Law on Free Access to Information of Public Importance, but it should have informed the complainant of the time and place when the complainant can come and submit a request for access to information of public importance orally for the record as a transcript of a verbal statement.

¹⁷ Decision No.: 071-11-8916/2022-03 dated 19 December 2022.

¹⁸ Decision No: 071-11-2737/2023-03 dated 14 August 2023.

2. Inappropriate attempts to shift the regular costs of the procedure to information requesters

In the course of 2023, in a significant number of cases, first instance public authorities hired lawyers to write answers to the complaint lodged against them in the process of exercising the right to access information. This is an unjustified expense from the budget, because the response to the complaint is part of the regular cost of the procedure borne by the first-instance authority. In one such case, the Commissioner rejected the first-instance body's request for compensation of the costs of the procedure, and this was for the preparation of a response to the complaint through a representative from the ranks of lawyers, as unfounded¹⁹. Namely, regarding the costs that the public authority pointed out to in the response to the complaint in that case, for the preparation of the said response through the attorney, in the amount of 33,000.00 dinars, the Commissioner stressed that the provisions of Article 85, paragraph 1, of the Law on General Administrative Procedure, prescribe that the regular costs of the procedure are borne by the authority, and that the submission of the statement on the complaint to the Commissioner, in the sense of Article 24, paragraph 1, of the Law on Free Access to Information of Public Importance, represents a regular expense of the public authority in the administrative procedure, that is, in this specific case, the procedure for exercising the right to access to information of public importance. In addition, the provisions of Article 38, of the Law on Free Access to Information of Public Importance, prescribes that the head of the authority can designate one or more employees to process the requests for free access to information of public importance, and therefore, in the complaint procedure, it is not necessary to hire an attorney to prepare a response to the filed complaint, bearing in mind that the aforementioned is part of the regular scope of work of persons authorized to process the requests for free access to information of public importance, and based on Article 87, paragraph 2, of the Law on General Administrative procedure, and referring to Article 23, of the Law on Free Access to Information of Public Importance, the Commissioner rejected the request of the first-instance body.

3. Absence of adequate explanation as to why access to the requested information is denied

The right to access information, as a human right guaranteed in the Constitution, may only be limited exceptionally, under the conditions prescribed by LFAIPI. Bearing in mind this fact, when limiting the right, i.e. denying the right to access information, in the decision rejecting the request for access to the requested information the reasons for doing so must be explained appropriately. A very common mistake made by the first-instance bodies is that they fail to properly explain the reasons for rejecting the request. This is especially the case with decisions that deny access to classified data.

For the sake of illustration, the complainant submitted a request to the Republic Geodetic Authority, in which she requested for the following to be delivered to her: "Contract Municipal Assembly Požega 13 No. 361-17/78 dated 29 March 1979. (it is not specified who was the other contracting party); Decision of the District Commercial Court in Užice L.1/83 dated 29 March 1985;

¹⁹ Decision No.: 071-11-1711/2023-03 dated 26 June 2023.

certificate of the Municipal Administration of Požega 03 number 351-136/2011 dated 6 June 2011 to determine the legal status of existing buildings on the cadastral plots 358/1, 358/7, and 358/8 CM Požega; judgment of the Supreme Court of Serbia U.5647/06 dated 24 October 2007; Minutes of the Commission for Disclosure of Data for Public Inspection 951-1186/2011 dated 1 June 2011, and its amendment dated 6 June 2011." Processing the request in question, the first-instance body rejected the request with an appealed decision, referring, among other things, to Article 9, paragraph 1, point 5), of the Law on Free Access to Information of Public Importance. In the statement of reasons, in addition to the aforementioned provisions, he also referred to the provisions of Article 8, para 1 and 2, of the Law on Free Access to Information of Public Importance, and Article 2, paragraph 1, point 1), of the Law on the Protection of Trade Secrets, and stated that the requested information in the subject request refers to the company "R.M." P. d.o.o. from P., and that they are of confidential nature, since they contain data on the property and the value of that property belonging to the said company, as well as that in the specific case, "because of all the facts presented and the aforementioned legal provisions, the provision of Article 12, of the Law on Free Access to Information of Public Importance, may not be applied, which provision stipulates that if the requested information of public importance can be separated from other information in the document to which the public authority is not obliged to provide access to the requester, the public authority will provide the requester with access to the part of the document that contains only the separated information, and will inform him/her that the rest of the content of the document is not available, in accordance with the law." Processing the complaint against that decision, the Commissioner found that the first-instance body was wrong when they decided as in the operative part of the appealed decision and refused the submitted request, without first establishing all the facts of importance for making a decision in this administrative matter. Namely, for the first-instance body (which bears the burden of proof in the sense of Article 24, paragraph 4, of the Law on Free Access to Information of Public Importance) to deny access to the requested information on the basis of Article 9, paragraph 1, point 5, of that Law, in addition to one of the conditions from this article (that it is information or a document that is determined by a regulation or an official act based on law to be kept as secret information or represents a business or professional secret), it is necessary to fulfill the second condition - that this is information or a document, the disclosure of which could have serious legal or other consequences for interests protected by law that prevail over the interest in accessing information. In the specific case, the first-instance body, in the statement of reasons of the decision, did not, in accordance with the provisions of Article 16, paragraph 13, of the Law, state the reasons for determining the confidentiality of the requested documents and the reasons why the data should be kept secret, i.e. the reasons why the data were determined to be confidential, nor did he provide proof of the justification of the exemption from access to the requested information, i.e. he did not prove how the providing of the requested information to the complainant would entail and what kind of serious legal and other consequences for the interests protected by law, which prevail over the interest in accessing information, i.e. he did not prove that there is a causal relationship between the potential disclosure of information and the violation of the public interest. The fact that the first-instance body stated that the requested data is confidential data is not in itself a sufficient condition for exemption from access of the requested information in terms of the Law on Free Access to Information of Public Importance, but it is necessary, in accordance with the provisions of Article 8, of the Law on Free Access to Information of Public Importance, to prove that it is necessary in a democratic society for the purpose of protecting one of the more important

interests over the interest of the public to know, which he did not do. Therefore, the Commissioner annulled the first-instance decision and sent the case back for a new processing²⁰.

4. Status of public authorities

Although the "new" LFAIPI has been in force for more than two years²¹, many legal entities have not got acquainted yet with the latest amendments to the LFAIPI, i.e. with the fact that they have acquired the status of a public authority bodies under the new regulations, which for these authorities may entail their payment of costs of the complaint procedure, the issuance of an infringement warrant to the responsible persons in such legal entities if it is a question of complete silence and an obstructed access to the requested information for the citizens.

For the sake of illustration, the decision of the Commissioner²², among other things, ordered the University, which is privately owned, to make available to the complainant the information for the period from 2017 to 2022 on the number of students enrolled in basic academic studies, for each year in the specified period respectively; the number of students enrolled in master's studies for each year in the specified period respectively; the amount of funds paid by students who enrolled in the first year of basic academic studies for each of the aforementioned years respectively; the amount of funds paid by students who enrolled in master's studies for each of the aforementioned years respectively; and whether all students who enrolled in the first year in 2017 and 2018 completed their basic academic studies within the deadline. This is because this information is related to the exercise of public powers entrusted to the university by the Law on Higher Education, so such a university is a public authority body with regard to the requested information in the sense of Article 3, paragraph 9, of the Law on Free Access to Information of Public Importance, that is, a legal entity that has public powers with regard to information related to those powers, which is why it is obliged to make them available to the public. This decision of the Commissioner has been complied with.

Another illustrative case is the case of the company "Sreput" a.d. Ruma, which was ordered by the Commissioner to comply with the applicant's request for access to information of public importance²³, finding that the statement of this legal entity that it is not a public authority body cannot be accepted, because it maintains state roads on the territory of Serbia according to the contracts concluded with the Public Enterprise "Roads of Serbia", which means that it performs communal activity as an activity of general interest, for which reason this company is a public authority body in the sense of Art. 3, point 8, of the Law on Free Access to Information of Public Importance. An infringement warrant was issued to the responsible person in this legal entity.

²⁰ Commissioner's Decision No. 071-11-1537/2022-03 dated 4 April 2023.

²¹ Dated 17 February 2022.

²² No. 071-11-1099/2023-03 dated 25 May 2023.

²³ No. 071-11-2298/2022-03 dated 4 January 2023.

2.B. THE RIGHT TO PERSONAL DATA PROTECTION

2.B.1. Legal Framework

2.B.1.1. International Legal Framework

- **European Union**

1. Charter of Fundamental Rights of the European Union – Respect for private life and protection of personal data are guaranteed by Articles 7 and 8, of the Charter. The Charter is incorporated in the Lisbon Treaty and is binding on EU institutions and bodies and the Member States.

2. General Data Protection Regulation (GDPR) – Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC²⁴ is a key document in this field that has been directly applicable in the EU Member States since May 2018.

3. Law Enforcement Directive - Directive (EU) 2016/680 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, detection, investigation, or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977, took effect in May 2018. The Law Enforcement Directive protects personal data of victims, witnesses, and suspects in criminal trials and facilitates cross-border cooperation in the fight against crime and terrorism.

Acquis communautaire in the field of personal data protection includes also other regulations, as well as judgments of the Court of Justice of the European Union and decisions of the European Data Protection Board²⁵. A strong impetus to further improvement of relevant protection of personal data is provided by the European Data Protection Supervisor²⁶, as well as dedicated data protection units and high officials at Europol and Eurojust.

²⁴www.poverenik.rs/sr/meђunarodni-dokumenti6/meђunarodni-dokumenti-arhiva/3447-direktiva-95-46-e3.html

²⁵ The European Data Protection Board, formerly Article 29 Working Party, has the status of an EU body. It is comprised of representatives of national data protection bodies and the European Data Protection Supervisor. The EDPB has broad decision-making powers in disputes between national data protection bodies and provides advice and guidance on the key concepts of the GDPR and the Law Enforcement Directive.

²⁶ The European Data Protection Supervisor is an independent supervisory body which guarantees compliance of EU institutions and bodies with their data protection obligations. The main duties of the EDPS include supervision, counselling and cooperation.

Serbia's willingness to embark on the path of European integration, especially after 1 September 2013, the effective date of the Stabilization and Association Agreement²⁷ between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part, commits the country to harmonize its personal data protection legislation with *acquis communautaire* and other European and international privacy regulations (Article 81 of the SAA). In terms of international law, harmonization of national personal data legislation with *acquis communautaire* is Serbia's international law commitment under the Stabilization and Association Agreement.

- **Council of Europe**

1. **European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)**²⁸ – Article 8 guarantees the right to privacy.
2. **Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108)**²⁹ – the first legally binding international document in the field of personal data protection.
3. **Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data**³⁰
4. **Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+)**³¹

2.B.1.2. National Legal Framework

The legal framework for personal data protection in the Republic of Serbia is comprised of the following legislation:

1. Constitution of the Republic of Serbia – The provisions of Article 42 guarantee the right to personal data protection³²

²⁷ Law on Ratification of the Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part ("Official Gazette of the Republic of Serbia - International Treaties" No. 83/2008).

²⁸ The ECHR came into force on 3 September 1953 and has 47 parties. The Republic of Serbia became a party on 3 March 2004.

²⁹ Convention 108 came into force on 1 October 1985 and has 55 parties. The Republic of Serbia became a party on 1 January 2006.

³⁰ The Additional Protocol came into force on 1 July 2004 and has 44 parties. The Republic of Serbia became a party to the Additional Protocol on 8 December 2008.

³¹ The Protocol has not yet come into force; it has been open for signatures since 10 October 2018 and has 11 parties. The Republic of Serbia became a party to the Protocol on 26 May 2020.

³² Constitution of the Republic of Serbia, Article 42 - Protection of personal data shall be guaranteed. Collecting, keeping, processing and using of personal data shall be regulated by the law. Use of personal data for any purpose other than the one they were collected for shall be prohibited and punishable in accordance with the law, unless this is necessary to conduct criminal proceedings or protect safety of the Republic of Serbia, in a manner stipulated by the law. Everyone shall have the right to be informed about personal data collected about him, in accordance with the law, and the right to court protection in case of their abuse.

2. Law on Ratification of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data³³

3. Law on Ratification of the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data³⁴

4. Law on Ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data³⁵

5. Law on Personal Data Protection – LPDP

The LPDP is the key piece of legislation in the field of personal data protection. It was enacted in November 2018, but its effectiveness was delayed by nine months, until 22 August 2019.

In accordance with the need to complete the national legal framework, the Commissioner passed certain secondary legislation³⁶ on the basis of his obligations and power under the LPDP to regulate the field of personal data protection in more detail, including:

1. Bylaw on the Form and Manner of Keeping Records of Personal Data Protection Officers³⁷;
2. Bylaw on the Form and Manner of Keeping Internal Records of Breaches of the Law on Personal Data Protection and Measures undertaken in the Course of Inspections³⁸;
3. Bylaw on the Form of Notice of Personal Data Breach and Notifying the Commissioner for Information of Public Importance and Personal Data Protection of Personal Data Breaches³⁹;
4. Bylaw on the Form of the Complaint⁴⁰;
5. Decision on the List of Types of Personal Data Processing Activities that require a Data Protection Impact Assessment and an Opinion of the Commissioner for Information of Public Importance and Personal Data Protection⁴¹;
6. Bylaw on the Form of the Official Identity Document of Persons Authorized to conduct Inspections under the Law on Personal Data Protection⁴²;
7. Decision on Endorsement of Standard Contractual Clauses⁴³.

In addition to the secondary legislation passed by the Commissioner, there is one piece of secondary legislation passed and published by the Government:

³³ "Official Gazette of FRY - International Treaties", No. 1/92, "Official Gazette of Serbia and Montenegro – International Treaties", No. 11/2005 - new law, and "Official Gazette of the Republic of Serbia – International Treaties" Nos. 98/2008 - new law and 12/2010)

³⁴ "Official Gazette of the Republic of Serbia - International Treaties", No. 98/2008

³⁵ "Official Gazette of the Republic of Serbia - International Treaties", No. 4/2020

³⁶ All secondary legislation has been published in the Official Gazette of the Republic of Serbia and posted on the Commissioner's website www.poverenik.rs/sr/подзаконски-акти4.html

³⁷ "Official Gazette of the Republic of Serbia" No. 40/2019

³⁸ "Official Gazette of the Republic of Serbia" No. 40/2019

³⁹ "Official Gazette of the Republic of Serbia" No. 40/2019

⁴⁰ "Official Gazette of the Republic of Serbia" No. 40/2019

⁴¹ "Official Gazette of the Republic of Serbia" Nos. 45/2019 and 112/2020

⁴² "Official Gazette of the Republic of Serbia" No. 61/2019

⁴³ "Official Gazette of the Republic of Serbia" No. 5/2020

1. Decision on the List of Countries, Parts of Their Territory or One or More Sectors within Specific Industries in Those Countries and International Organizations which are considered to provide an Adequate Level of Personal Data Protection.⁴⁴

2.B.2. Main Impediments to Exercising the Right to Personal Data Protection

2.B.2.1. Deficiencies of the LPDP

The LPDP provides improved protection for the right to personal data protection and increases the scope of obligations and responsibilities for those who process data. Nevertheless, the main impediments to exercising the right to personal data protection are the numerous deficiencies of the LPDP, including in particular vague provisions and translated mechanisms which do not exist in the national legal system, which means its applicability remains questionable. The wording of the LPDP is largely an adapted translation of the GDPR (although the Recitals, as an integral part of the GDPR which provides the necessary background for interpreting the regulation, are not included in the LPDP), as well as the so-called Law Enforcement Directive, which governs personal data processing by the competent authorities in connection with criminal proceedings and threats to national safety. As a result of inadequate transposition of the Law Enforcement Directive, the LPDP establishes two parallel data protection regimes: a general one and a special regime, the latter being applicable to “competent authorities”.

The LPDP does not properly elaborate the procedural provisions governing the Commissioner’s processing of complaints. The LPDP includes a provision under which the data subject has the right to file a complaint with the Commissioner, which does not affect the data subject’s right to apply for other administrative or judicial remedies. And since the authorities before which such procedures may be conducted (the Commissioner, the Administrative Court, higher courts) have no obligation to notify one another or check whether such procedure is pending before another authority, this gives rise to the issue of compliance with the principle “*ne bis in idem*” (no double prosecution or punishment). This means that any procedure where multiple remedies are applied to protect data subjects’ rights threaten to undermine legal certainty.

Considering that many issues are not regulated at all or are not properly regulated in the LPDP and certain provisions are not specific enough, that certain articles include an unacceptably high number of paragraphs, and that cases of exemption from application of the LPDP are extremely numerous, its effective application is certainly hampered, and it is therefore necessary to amend it.

2.B.2.2. Lack of Harmonization of Other Laws with the LPDP

⁴⁴ “Official Gazette of the Republic of Serbia” No. 55/2019

The obligation imposed by Article 100, of the LPDP, under which the provisions of other laws pertaining to personal data processing were to be harmonized with the provisions of the LPDP by the end of 2020, has not yet been fulfilled.

Since the LPDP regulates the subject matter of data protection far more comprehensively than the previously applicable regime, including by prescribing the quality and content of the provisions of other regulations, and many regulations had been passed before the effective date of the LPDP, while in certain cases the Commissioner's opinions on draft laws have not been incorporated in the final provisions of the enacted laws, it is necessary to either amend the relevant regulations or consider passing new ones.

2.B.3. Development of a Personal Data Protection Strategy

On 25 August 2023, the Government of the Republic of Serbia adopted the Personal Data Protection Strategy for the period 2023-2030 ("Official Gazette of the RS" No. 72/2023). The Commissioner for Information of Public Importance and Protection of Personal Data expresses his great satisfaction with the adoption of the Strategy and thanks to the Government and the Ministry of Justice for accepting the Commissioner's initiative and recognized the importance of adopting this strategic document in the field of personal data protection in today's time, as well as thanks to all actors who contributed to the adoption of this strategy. The Strategy and accompanying Action Plan should solve the problems that are a consequence of the imprecision and incompleteness of the Personal Data Protection Act, as well as the absence of appropriate regulations in this area, such as data processing through video surveillance, digitization, and the relationship between the development of artificial intelligence and protection of personal data.

Bearing in mind the importance of the right to the protection of personal data as a right guaranteed by the Constitution and a human right recognized in numerous international legal instruments (including Convention 108 of the Council of Europe and the European Charter of Fundamental Rights of the EU), in the era of universal digitization and advanced information technologies, it is necessary to additionally strengthen the data protection mechanisms, while ensuring the smooth flow of data on the open (digital) European and world market.

Recognizing the importance of this issue, the Strategy establishes goals and measures for consistently harmonizing the legal framework of the Republic of Serbia with the EU rules and standards for the protection of personal data in order to ensure the improvement of citizens' rights in connection with the processing of their personal data, as well as greater productivity and competitiveness of the market, which is in the interest of both citizens and business entities as well as democratic society as a whole. Since information, including personal data, is the foundation of modern economic development on which many products and services are based, and data protection and security have become a truly global phenomenon, the vision pursued by this strategy is: Protected data - safer citizens!

A fair, clear, practical and harmonized legal framework governing data processing with full compliance with European rules and values, especially the rules governing the protection of personal data and the position of the Commissioner as an independent and independent body, requires to ensure appropriate financial, organizational, personnel and technical resources. Strengthening the capacity of this authority would lead to a strengthening of the Commissioner's role in raising public awareness of the risks, rules, protection measures and rights related to the

processing of personal data, which would mean an additional contribution to the measures taken so that the Republic of Serbia respects and promotes the basic values of the family of the European countries to which it undoubtedly belongs, as well as to additionally strengthen the existing personal data protection mechanisms, which, along with strengthening the individual rights of entities, also imply a better understanding and more efficient performance of the obligations of data controllers and processors, with clear and effective measures for the exercising of those rights. The establishment of a functional personal data protection system enables the European Commission to make a decision with effect throughout the EU that the Republic of Serbia provides an appropriate level of data protection, which will create the condition that the transfer of personal data from the EU countries to the Republic of Serbia can be carried out without additional administrative obligations.

2.B.4. Illustrative Cases Re the Right to Personal Data Protection

2.B.4.1. Illustrative Cases of Preventive Action by the Commissioner

1. The Commissioner received a request for opinion on whether a foreign legal entity, which is the controller or processor of personal data, obliged to appoint its representative, if it does not have its headquarters in the Republic of Serbia, but has a representative office that is registered with the Business Registers Agency in the Republic of Serbia?

The reply given by the Commissioner to the requester states the following:

The provisions of Article 44, paragraph 1, points 1) and 2), of the Law on Personal Data Protection ("Official Gazette of the RS" No. 87/2018 - hereinafter: the Law) set forth that the controller of personal data and/or the processor of such data, in the cases referred to in Article 3, paragraph 4, of the same law, are/is obliged to designate, in writing, its representative in the Republic of Serbia, unless the processing is occasional, does not include the processing special types of personal data referred to in Article 17, paragraph 1, to a great extent, or the processing of personal data relating to convictions for criminal offenses and punishable offenses referred to in Article 19, of that law, and is likely that they will not cause a risk to the rights and freedoms of natural persons, taking into account the nature, circumstances, scope, and purposes of the processing; that is, if the controller/processor is a public authority.

The provisions of Article 3, paragraph 4, of the Law, set forth that this law applies to the processing of personal data of a data subject who has a domicile, i.e. residence in the territory of the Republic of Serbia, by a controller/process that does not have a seat and/or domicile or residence in the territory of the Republic of Serbia, if the processing operations are related to: the offer of goods or services to data subject in the territory of the Republic of Serbia, regardless of whether that person is required to pay a compensation for these goods or services, or for monitoring the activities of data subject, if the activities are carried out on the territory of the Republic of Serbia.

The legal position of the representative office is governed by the provisions of Article 574, of the Companies Act ("Official Gazette of the RS", No. 36/2011, 99/2011, 83/2014 - new law, 5/2015, 44/2018, 95/2018, 91/2019, and 109/2021), according to which the representative office of a foreign company is its separate organizational part that can perform preliminary and preparatory

actions in order to conclude legal transaction of that company; that the representative office does not have the status of a legal entity; that the representative office can only conclude legal transactions in connection with its current business, as well as that the foreign company is responsible for obligations to third parties that arise in the business of its representative office.

The concept of the seat of a company is determined by the provisions of Article 19, of the Companies Act, and thus the seat of a company is the place and address on the territory of the Republic of Serbia from which the company's operations are managed and that has been determined as such by the memorandum of association, articles of association or general meeting's resolution, or by the decision of general partners or limited partners.

Bearing in mind the aforementioned, it is indisputable that a foreign company that performs certain activities through its representative office registered with the Business Registers Agency does not have its seat in the Republic of Serbia in the sense of the Companies Act. Nevertheless, the Commissioner is of the opinion that the term "seat", used in the Law, should be interpreted in the context of Regulation (EU) 2016/679 of the European Parliament and of the Council dated 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing of Directive 95/46/EC (General Data Protection Regulation), based on which the aforementioned law was adopted.

In that sense, it should be borne in mind that Article 27, of the General Data Protection Regulation, sets forth the obligation to appoint a representative only for those data controllers and processors referred to in Article 3, paragraph 2, of that Regulation, i.e. to controllers and processors "not established in the Union", whereby point (22) of the same act states that "Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in that respect." And this is also confirmed by the European Data Protection Board Guidelines No. 3/2018 on the territorial scope of the GDPR (regarding personal data), which was adopted by that board on 12 November 2019.

Accordingly, so that the Republic of Serbia would not impose more obligations on controllers and processors with regard to the processing of personal data than these operators have within the EU, and so that the domestic legal regime in that area would be harmonized with the legal regime valid in the EU, the Commissioner is of the opinion that a foreign company, which has established its representative office in the Republic of Serbia, which implies effective and real exercise of activity through stable arrangements, has no obligation to designate its representative, in the sense of Article 44, of the Law.

2. An attorney requested the Commissioner's opinion on whether the personal data controller, a legal entity based in the Republic of Serbia that is part of a multinational company, can designate as Data Protection Officer (DPO) a person with a residence outside Serbia and outside the EEA, who as such is already appointed by the central company?

The reply given by the Commissioner to the requester states the following:

The Law on Personal Data Protection ("Official Gazette of the RS", No. 87/2018) does not prescribe a requirement regarding the domicile/residence of a Data Protection Officer (DPO). Nevertheless, in Article 56, paragraph 8, this law prescribes that the Data Protection Officer is

appointed on the basis of his professional qualifications, especially professional knowledge and experience in the field of personal data protection, as well as the ability to perform the obligations from Article 58. of that law, that is, on the basis of qualifications and ability to: 1) inform and give an opinion to the controller or processor, as well as the employees who perform processing operations, about their legal obligations in connection with the protection of personal data; 2) monitors the implementation of the provisions of this law, other laws and internal regulations of the controller or processor pertaining to the protection of personal data, including issues of distribution of responsibilities, awareness raising and training of employees participating in processing activities, as well as control; 3) give an opinion, when requested, on the assessment of the impact of the processing on the protection of personal data and monitors the action according to that assessment, in accordance with Article 54, of this law; 4) cooperate with the Commissioner, represent a contact point for cooperation with the Commissioner, and consult with him regarding issues related to processing, including notification and obtaining opinions from Article 55, of this law. Also, data subjects can contact the Data Protection Officer regarding all issues related to the processing of their personal data, as well as in connection with the exercising of their rights prescribed in that law (Article 57, paragraph 6, of the Law on Personal Data Protection). The Data Protection Officer may perform other tasks and fulfill other obligations, and the controller or processor are obliged to ensure that the performance of other tasks and obligations does not bring the Data Protection Officer into a conflict of interest (Article 57, paragraph 8, of the Law on Personal Data Protection).

When appointing a Data Protection Officer, the data controller whose processing is subject to the Law on Personal Data Protection assesses whether the conditions established for this have been met, including whether the specific person has the necessary professional qualifications, knowledge and experience in the field of personal data protection, as well as the ability to perform the established tasks, taking into account the fact that the performance of the DPO's obligations implies not only knowledge of the Law on Personal Data Protection, but also other regulations pertaining to the controller.

The provision in Article 56, paragraph 5, of the Law on Personal Data Protection, sets forth that a group of economic operators can designate a common person as a Data Protection Officer, provided that this person is equally accessible to every member of the group. The concept of availability refers primarily to the ability to effectively perform the tasks of the Data Protection Officer, as a contact point, both within the organization itself and for the data subjects, as well as for the supervisory authority. The term "group of economic operators", in the sense of the provisions of Article 4, point 20), of the Law on Personal Data Protection, means a group of related economic operators, in accordance with the law governing the association of economic operators.

3. A high school applied to the Commissioner with a request for an opinion on whether the school's legitimate interest, as a personal data controller, can be a legal basis for the processing of personal data using video surveillance devices in classrooms?

The reply given by the Commissioner to the requester states the following:

In order for a certain processing of personal data to be permitted, it is necessary that the purpose of the processing is specifically determined, explicit, justified, and legal, that the processing is in accordance with the special regulations governing the subject area/activity, that there is an

appropriate legal basis, in terms of the provisions Article 12, of the Law on Personal Data Protection ("Official Gazette of the RS", No. 87/2018), and that the processing is carried out in accordance with the rest of the principles of processing from Article 5, of this Law, as well as in accordance with other, appropriate rules and obligations prescribed by this law, depending on the facts and the circumstances of each specific case. If the stated conditions are not met, such processing of personal data would not be permitted.

Bearing in mind that the responsibility for the processing action lies with the controller, it is the controller who must be able to prove, i.e. present the compliance of the intended processing with the Law on Personal Data Protection (provisions of Article 5, paragraph 2, of the Law).

The provisions of Article 108, of the Law on the Education System Foundations ("Official Gazette of the RS", Nos. 88/2017, 27/2018 - new law, 10/2019, 6/2020, and 129/2021) set forth that the institution brings an act which prescribes the measures, method, and procedure for the protection and safety of children and students during their stay in the institution and all activities organized by the institution, in cooperation with the competent body of the local self-government unit, which is obliged to implement, while the instructions for the preparation of this act are issued by the minister. Bearing in mind the aforementioned, we advise you to contact the Ministry of Education regarding the possible use of video surveillance equipment at school.

As it follows from the foregoing that the institution has a legally established responsibility for the safety of children and students, we are of the opinion that legitimate interest could not represent an appropriate legal basis for the intended processing of personal data, but, in the sense of the provisions of Article 12, paragraph 1, point 5) of the Law, this is public interest, i.e. processing that is necessary for carrying out the tasks in the public interest or executing the legally prescribed powers of the controllers. In this regard, we especially point out that the aforementioned provision does not represent a legal basis for processing data for another purpose, such as, for example, control of the implementation of educational work, i.e. recording (video surveillance) of employees, children and students, during the implementation of educational work.

4. An employer requested the Commissioner's opinion on whether he can introduce the use of a biometric reader that uses a fingerprint to verify the identity of a person, and aimed at controlling the presence of employees at the workplace, that is, recording the hours worked?

The reply given by the Commissioner to the requester states the following:

A natural person's fingerprint is biometric personal data about that data subject, and represents a special type of personal data, the processing of which for the purpose of unique identification of a person is, in accordance with the provisions of Article 17, paragraph 1, of the Law, prohibited in principle, and permitted only in exceptional cases prescribed by paragraph 2, of the same Article, of the Law, and, among other things, in the case when the processing is necessary in order to fulfill the obligations or apply the legally prescribed powers of the controller or the data subject in the field of labor, social insurance, and social security, if such processing is prescribed by law or collective agreement that sets out the application of appropriate measures to protect the fundamental rights, freedoms, and interests of the data subject (Article 17, paragraph 2, point 2) of the Law.

Accordingly, the employer could process special types of personal data of employees for the purpose of unique identification of the person only in the case when such processing is necessary for the performance of obligations or the application of the employer's powers prescribed by law, and if such processing is prescribed by law or a collective agreement that sets out the application of appropriate measures to protect the fundamental rights, freedoms, and interests of data subjects, while otherwise the processing would be illegal from the point of view of the application of the Law on Personal Data Protection.

According to the provisions of Article 91, of the Law on Personal Data Protection, the provisions of the law regulating labor and employment and collective agreements are applied to the processing of personal data in the field of labor and employment, with the application of the provisions of this law, from which it follows that the legal basis for personal data processing on data subjects in the field of work should be established by an appropriate regulation regulating labor, Since the Commissioner is not authorized to give an opinion on the application of these regulations, if necessary, you can contact the Ministry of Public Administration and Local Self-Government, or the Ministry of Labor, Employment, Veteran and Social Affairs, as competent state bodies.

In cases in which the aforementioned conditions for the processing of biometric personal data of employees by the employer would be met, it would be subject to the principles of processing prescribed by the provisions of Article 5, of the Law on Personal Data Protection.

In that sense, the employer, as the controller of personal data pertaining to employees, is obliged to perform the processing legally, fairly, and transparently as regards the data subjects, to collect the data for purposes that are specifically determined, explicit, justified, and legal and to further process them in a manner that is consistent with those purposes, to process only data that is appropriate, essential, and limited to what is necessary with regard to the purpose of processing, to take care that the data being processed are accurate and, if necessary, updated and stored in a form that allows the identification of the person only for the period necessary to achieve the purpose of the processing, as well as to carry out the processing in a way that ensures adequate protection of personal data, including protection from unauthorized or illegal processing, as well as from accidental loss, destruction, or damage by applying appropriate technical, organizational, and personnel measures. The controller is responsible for the application of all processing principles and must be able to demonstrate their application ("responsibility for processing" principle).

The controller is also obliged to comply with other obligations prescribed by the Law, such as: keeping records of processing operations (Article 47, of the Law); assessment of the impact of planned processing operations on the protection of personal data (Article 54, of the Law); requesting the Commissioner's prior opinion if the impact assessment performed indicates that the intended processing operations will produce a high risk if measures are not taken to mitigate the risk (Article 55, of the Law); designation of a Data Protection Officer in cases prescribed by the Law, and inclusion of that Officer in all tasks related to the protection of personal data in a timely and appropriate manner (Articles 56 and 57, of the Law), etc.

Since the controller is responsible for the correct application of the Law, which includes making a decision on the possible initiation of processing of personal data, in the specific case it is necessary, in accordance with the provisions of the Law on Personal Data Protection, for you to first determine the purpose of the processing in a clear, specific, and explicit manner, to then determine whether the intended processing is necessary to achieve that purpose, or whether the purpose of the processing can be achieved in another way, less invasive to the privacy of employees, and to determine whether there is an appropriate legal basis for the intended processing (in the sense

of Articles 17 and 91, of the Law on Personal Data Protection), as well as, taking into account the type of personal data to which the intended processing relates and the purpose of the processing, evaluate the impact of the intended processing on the protection of personal data and, subsequently, take a decision on whether all conditions for legal processing of personal data are met.

2.B.4.2. Illustrative Cases concerning the Exercise of Data Subjects' Rights in Complaint Procedures

1. The right to personal data protection belongs to the natural person data subject

Operative part of the Decision: The complaint is unfounded

Extract from the statement of reasons:

The Commissioner for Information of Public Importance and Protection of Personal Data, (hereinafter: the Commissioner), received on 31 January 2023 a complaint by AA from..., represented by an attorney-at-law as his legal representative..., filed for violation of the right to access personal data by PE "Elektroprivreda Srbije", Belgrade, as a data controller, (hereinafter: Data Controller). In the complaint, he states that the Controller refused the request based on the provision of Article 26, paragraph 3, of the Law on Personal Data Protection, asking for a copy of the request for the conclusion of the Contract on guaranteed electricity supply number.... dated... (dd/mm/yyyy) that the Controller concluded with BB. He further states that he had to give his consent to sign the contract in question, considering that he is a co-owner of the real estate and that he needs it in order to prove that his forged signature is on the contract, which means committing the criminal offense under Article 355, pertaining to Article 356, paragraph 1, point 3, of the Criminal Code. Along with the complaint, a request was submitted with proof of delivery, the response of the Controller No.... dated... (dd/mm/yyyy) and a power of attorney for representation dated... (dd/mm/yyyy).

(...)

Upon inspection of the case files, it was established that the Controller informed the complainant by letter number... dated..., among other things, that they could not process the request submitted pursuant to the Law on Personal Data Protection because he requested a copy of the request submitted by another person and which contained personal data of BB, with whom he concluded the Contract on full electricity supply at the measuring point in ..., as well as that in case the relevant documentation is requested by the competent authority upon pressing criminal charges, it will be delivered to him.

Article 1, paragraph 1, of the Law on Personal Data Protection sets out, among other things, that this law regulates the right to protection of natural persons in connection with the processing of personal data and the free flow of such data, the principles of processing as well as the rights of data subjects, while the provision of Article 2, paragraph 1, sets out that this law ensures the protection of the basic rights and freedoms of natural persons, especially their right to the protection of personal data.

Article 4, paragraph 1, point 1 of the Law on Personal Data Protection sets out that personal data is any data that refers to a natural person whose identity is determined or determinable, directly or indirectly, especially on the basis of personal identity data, such as name and identification number, location data, identifiers in electronic communication networks or one or more

characteristics of his physical, physiological, genetic, mental, economic, cultural, and social identity.

Article 21, paragraph 1, of the Law on Personal Data Protection provides *inter alia* that the controller shall undertake appropriate measures to provide the data subject with all information on the exercising of the rights provided for in Article 26, paragraph 1, of the this Law, in a concise, transparent, intelligible, and easily accessible form, using clear and plain language; paragraph 3 sets out that the controller shall provide information on the processing of the request referred to in Article 26 to the data subject without undue delay and in any event within 30 days of receipt of the request; paragraph 4 provides that, if the controller does not process the request of the data subject, the controller shall inform the data subject, without delay and at the latest within 30 days of receipt of the request, of the reasons for not taking action and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

Taking into account the content of the request, the Controller's response, the complaints, the statement of the complaint, and the cited legal provisions, the Commissioner finds that the complaint is unfounded, because the right to the protection of personal data, pursuant to the Law on Personal Data Protection, belongs to every natural person data subject, and as it follows from the content of the request that the complainant requested a copy of the request on the basis of which the Controller concluded a contract with another person, in this particular case it is not about the exercise of rights related to the processing of personal data in the sense of the provisions of Article 1, paragraph 1, and the provisions of Article 4, paragraph 1, point 1, of the Law on Personal Data Protection.

(...)

Number: 072-16-311/2023-06

2. The merits of the complaint filed due to the controller's failure to process a person's request within the legal deadline

Decision: The Serbian Orthodox Church as obliged entity a party to the Law on Personal Data Protection

Extract from the statement of reasons:

Upon inspection of the case files, it was established that the complainant submitted a request on 23 December 2022 to the Controller, the Serbian Orthodox Church Municipality ... under the auspices of the church "...", in which, among other things, he requested the erasure of the data pertaining to him that were entered in the baptism book of the Eparchy ... under the current number ... and the correction of the data in the baptism book by entering the address of the maternity hospital, his last name, father's occupation, father's residential address and mother's occupation and the fact that she was not baptized.

(...)

The provision in Article 21, paragraph 1, of the Law on Personal Data Protection, provides *inter alia* that the controller shall undertake appropriate measures to provide the data subject with all information with regard to the exercising of the rights provided for in this Law, in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means; paragraph 2 provides *inter alia* that the controller shall facilitate the exercising of data subject rights;

paragraph 3 provides *inter alia* that the controller shall provide information on the processing of the request to the data subject without undue delay and in any event within 30 days of receipt of the request; paragraph 4 provides that, if the controller does not process the request of the data subject, the controller shall inform the data subject without delay and at the latest within 30 days of receipt of the request about the reasons for not processing it and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

Under Article 79, paragraph 2, point 3, of the same Law, the Commissioner may order the controller and the processor to process the request concerning the exercise of data subject rights, in accordance with this Law.

Taking into account that the Data Controller did process (decide) on the request in the part in which the complainant requested the correction and erasure of data related to him, because he did not take appropriate measures within the legal period of 30 days to provide the data subject with all information with regard to exercising the rights prescribed by this law, nor did he inform him of the reasons for not processing the request in the aforementioned part, the Commissioner finds that the complaint is partially founded and that there has been a violation of the rights of the complainant in connection with the processing of personal data, because the Controller is obliged to provide the data subject with information about the processing of the request without undue delay, and in any event no later than within 30 days from the date of receipt of the request, and if he does not process the request of the data subject, he is obliged to provide the reasons for not processing it and inform that person without delay, which the Controller did not do.

The Controller's statement that the Commissioner is not competent to decide on the complaint because the Serbian Orthodox Church is independent of the state and independently performs its internal and public affairs based on the Law on Churches and Religious Communities, had no influence on making a different decision on the complaint. This is because the provision of Article 93, paragraph 1, of the Law on Personal Data Protection sets forth that if churches or religious communities apply comprehensive rules regarding the protection of natural persons with regard to processing, these existing rules can still be applied, provided that they are harmonized with this law, in which case, on the basis of paragraph 2, the provisions of this law on the inspection and other powers of the Commissioner referred to in Articles 77 to 79, of this Law, shall also be applied, unless a church or a religious community, has established a separate independent supervisory body that will exercise these powers, provided that such body meets the conditions provided for in Chapter VI, of this Law. Since the Controller did not submit that it has formed a special independent supervisory body that exercises inspection and other powers, the jurisdiction of the Commissioner for decision making in this case is undisputed, which, without meritorious decision on the merits of the request in the aforementioned part, on the basis of Article 79, paragraph 2, point 3), decided as in the paragraphs I and II of the operative part of the Decision.

3. Limitation of rights due to the protection of the rights and freedoms of the data subject

Decision: The complaint is unfounded

Extract from the statement of reasons:

The Commissioner for Information of Public Importance and Protection of Personal Data (hereinafter: the Commissioner) received on 2 November 2022, the complaint of underage AA,

which was submitted by the mother, BB from ..., as a legal representative via proxy, the lawyer VV from ..., due to the violation of the right to access personal data by the Health Center "Euromedik" from Belgrade, as data controller (hereinafter: Data Controller). In the complaint, it is stated that the complainant, underage AA, was entrusted to the care, protection, and upbringing and independent exercise of parental rights to mother BB based on the judgment of the First Basic Court in Belgrade P2 No.... dated 17 April 2014, amended by the judgment of the Third Basic Court in Belgrade P2 No. ... regarding the model of seeing the father; ...; that the father took the child to the Controller for an examination on ... in order to prevent his return to the mother; that on that occasion the doctor's findings and opinion were drawn up, and about which the mother found out from the submission that the father submitted to the Third Basic Court in Belgrade, in which the mother was portrayed as a violent person, ... The complaint expresses doubt about the existence of the said finding from 6 September 2022, also proposing that the Commissioner instructs the Controller to urgently deliver the said report to the legal representative in order to "get acquainted with its exact content and initiate other procedures depending on the content".

Upon considering the complaint, a decision was taken as in the operative part of the Commissioner's decision for the following reasons:

Upon inspection of the case files, it was determined that on 17 October 2022 underage AA, whose legal representative is his mother BB, submitted a request for access to information through the attorney, by which he asked the Controller to provide him with a copy of the data pertaining to him contained in the findings and opinion of the specialist doctor - psychologist dated 6 September 2022, considering that the mother, as his legal representative, found out about the existence of the same from the proposal for the adoption of a temporary measure submitted by his father to the Third Basic Court in Belgrade on ..., in which it is stated that he should live with his father, to change schools, and that his mother, as his legal representative, needs it in order to make a statement in his best interest regarding the same.

It was also established that the Controller, processing the request, in a letter dated 20 October 2022, informed the attorney that due to the confidentiality of the data of the patient, who was examined accompanied by his father, it is unable to submit the requested report, and that the father of underage AA stated that they can request the report from him or through the court.

In order to determine the complete and accurate factual status, the Commissioner reviewed the findings and opinion of the psychologist drawn up by the Controller on 6 September 2022, and determined that the same was made based on the statement of underage AA who came for examination accompanied by his father and that it contains the evaluation and final opinion of the doctor as stated in the father's submission - the proposal for the bringing of a temporary measure dated...(dd/mm/yyyy) to the Third Basic Court in Belgrade.

Article 1, paragraph 1, of the Law on Personal Data Protection sets out that this law regulates the right to protection of natural persons in connection with the processing of personal data and the free flow of such data, the principles of processing, as well as the rights of data subjects, obligations of controllers and processors of personal data, code of conduct, transfer of personal data to other countries and international organizations, supervision over the implementation of this Law, legal remedies, liability and penalties in case of violation of the rights of natural persons with regard to processing of personal data, as well as special cases of processing.

The provision in Article 2, of the Law on Personal Data Protection sets forth that this Law ensures the protection of the basic rights and freedoms of natural persons, especially their right to the protection of personal data.

The provision in Article 4, paragraph 1, point 1), of the same Law sets forth, among other things, that personal data is any data that refers to a natural person, in point 2) that a natural person is the person whose data is processed.

The provision in Article 21, paragraph 1, of the Law on Personal Data Protection, sets out that the controller shall provide the data subject with all information with regard to processing of their request referred in Article 26, without undue delay, and no later than within 30 days from the date of receipt of the request. That deadline can be extended by another 60 days if necessary, taking into account the complexity and number of requests. Paragraph 4 sets forth that if the controller does not process the request of the data subject, he is obliged to inform that person, without delay and at the latest within 30 days of receipt of the request, about the reasons for not processing, and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

The provision in Article 40, paragraph 1, point 9), of the Law on Personal Data Protection sets forth that the rights and obligations from Articles 21, 23, 24, 26, Articles 29 through 31, Article 33, Articles 36 through 39 and Article 53, as well as Article 5, of this Law, if these provisions refer to exercising the rights and obligations from Articles 21, 23, 24, 26, Articles 29 through 31, Article 33, and Articles 36 through 39, of this Law, may be limited if these limitations do not encroach on the essence of fundamental rights and freedoms and if this represents a necessary and proportionate measure in a democratic society for the protection of data subjects or the rights and freedoms of other persons.

Taking into account the content of the request, the response of the Controller, the complaints, the statements on the complaint, the content of the documents submitted with the complaint, as well as the cited legal provisions, the Commissioner finds that the complaint is unfounded. Namely, although the legal representative has the right to submit a request for access to data pertaining to and on behalf of a minor, it is indisputable that in this particular situation the legal representative wants to exercise the requested right on her own behalf and not on behalf of the underage AA, and that its purpose is not to protect the rights of the complainant. Given that the Controller's finding and opinion dated 6 September 2022, was drawn up based on the statement given by underage AA accompanied by another person, and not a legal representative, that it contains his personal data in the sense of the provisions of Article 4, paragraph 1, points 1) and 2), of the Law on Personal Data Protection, according to the Commissioner's opinion, delivering a copy of the same to the legal representative would jeopardize the rights of the person who made the statement in terms of the provisions of Article 40, paragraph 9, of the same Law. Therefore, the Commissioner finds that the limitation of the right to access data, in this particular case, of underage AA, for the aforementioned reasons, has its own justification, because otherwise it would make the position of the minor more difficult and would not be in his best interest.

Number: 072-16-1740/2022-06

4. Personal data that are processed for the purposes prescribed by law are not eligible for erasure

Decision: The complaint is unfounded

Extract from the statement of reasons:

(...)

Upon inspection of the case files, it was established that the complainant on 12 April 2023, in a submission entitled "complaint about the processing of personal data by the City...", the City Administration, the Department for General Administration and Common Affairs, requested to delete the data from her birth certificate from the section "subsequent entries and notes", i.e. data about the fact that her marriage with AA was divorced on the basis of the judgment of the Municipal Court, because she believes that this information should not be in her birth certificate, given that it is information that is outdated, incomplete, having no significance, and because it is about a person who has been legally sentenced to 8 months of suspended imprisonment for domestic violence.

...)

The provision in Article 30, paragraph 1, of the Law on Personal Data Protection sets forth that data subject has the right to have his/her personal data deleted by the Controller, and in paragraph 2, that the Controller is obliged, without undue delay, to delete the data from paragraph 1, of this Article, in the following cases: personal data are no longer necessary to achieve the purpose for which they were collected or otherwise processed; the data subject has revoked the consent on the basis of which the processing was carried out, and there is no other legal basis for the processing; the data subject has submitted an objection to the processing in accordance with Article 37, para 1 and 2, of this Law; personal data were illegally processed; personal data must be deleted in order to fulfill the legal obligations of the Controller and when personal data is collected in connection with the use of information society services from Article 16, paragraph 1, of the Law, and paragraph 5, among other things; that paragraph 1, of this Article, does not apply to the extent that the processing is necessary due to compliance with the legal obligation of the Controller, which requires the processing or the execution of tasks in the public interest or the execution of the Controller's official powers.

The provisions in Article 80, of the Law on Official Record Books ("Official Gazette of the RS" Nos. 20/09, 145/14, and 47/18) set forth, among other things, that extracts from the book of births are issued on the basis of official record books, in Article 81, among other things, to enter the following information in the extracts from the book of births: first name and last name, gender, day, month, year, and hour of birth, place and municipality-city of birth, and if the person was born abroad, the country; national identification number, citizenship, nationality and information about parents; in Article 82, paragraph 1, that extracts from the birth register contain the last data entered in the register by the time of issuing the extract.

Under point 44, of the Instructions on Keeping Official Record Books and Forms of These Books ("Official Gazette of the RS" Nos. 93/18 and 24/22) it is set forth that if the marriage has ended by divorce, a note must be entered in the column "subsequent entries and notes": "marriage concluded with ... (first name and last name of spouse) divorced by judgment ... (name and seat of the court, number and date of decision), which became final ... (date of finality of decision)", and point 105, paragraph 2, sets out that if the marriage terminated by divorce/annulment/death of the spouse, in the "subsequent entries and notes" section of the birth certificate, a corresponding note on the termination of the marriage is entered, and if the marriage was concluded more than once, a note on the termination of the last marriage is entered.

Taking into account the content of the request, the response of the Controller number ... dated.... (dd/mm/yyyy), the complaints, statements on the complaint, and cited legal provisions, the Commissioner finds that the complaint is unfounded. Namely, the provisions of Article 4, paragraph 1, point 1) of the Law on Personal Data Protection, set forth that personal data is any data that refers to a natural person whose identity is determined or determinable, so in this particular case, it is not

disputed that data processed in the book of births and extract from the book of births for the complainant are personal data referring to her, but, as it is about data that the authorized official of the Controller collects and enters into records and extracts from records as public documents and the basic official records on the personal circumstances of citizens within the scope of the competence established by law, in which he enters the reported facts, as well as the facts contained in the act of the competent body or institution, which he is obliged to check before entering and for the accuracy of which he is responsible, that the Commissioner finds that the data related to the termination of the complainant's last marriage were lawfully collected and processed for the purposes specifically determined, and prescribed by the Law on Official Record Books and the Instructions on Keeping Official Record Books and for the processing of which the consent of the person is not required, and they are not eligible for erasure because the conditions are not fulfilled, as prescribed by the cited provision of Article 30, of the Law on Personal Data Protection, about which the Controller informed the complainant.

Number: 072-16-1540/2023-06

5. No place for correcting and supplementing of data processed for the purpose of archiving

Decision: The complaint is unfounded

Extract from the statement of reasons:

The Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner) received on 20 March 2023 a complaint by AA from..., submitted through legal representatives, parents BB and VV due to violation of the right to correction and supplementation of personal data by Elementary School "Svetozar Marković" from..., as data controller (hereinafter: Data Controller) upon request for exercising the rights on the occasion of the inspection of 10 February 2023. In her complaint, she stated that the Controller ... refused by sending her a letter, to correct and supplement her data regarding participation in competitions, the awards she has won, recognitions, commendations, and diplomas during her eight-year education from 2014-2022.

(...)

In its statement on the complaint, the School stated that it is about data that have been archived and that it cannot retroactively change, because it's about data referring to a person who has completed eight years of education and is now attending secondary school, that after completing basic education and upbringing, the complainant was provided with all the necessary documents needed to continue education and that it does not understand the purpose of the request and the goal that the complainant wants to achieve.

Upon considering the complaint, a decision was taken as in the operative part of the Commissioner's decision for the following reasons:

The provisions in Article 21, paragraph 1, of the Law on Personal Data Protection set forth, among other things, that the controller is obliged to take appropriate measures to provide the data subject with all information related to exercising the of the rights prescribed by this law, in concise, transparent, intelligible, and easily accessible form, using clear and plain language; in paragraph 2, it is set forth, among other things, that the controller is obliged to provide assistance to the data subject in exercising their rights; paragraph 3, among other things, sets out that the controller is

obliged to provide the data subject with information on the processing of their request without undue delay, and in any case, no later than within 30 days from the date when the request was received, paragraph 4 sets forth that, if the controller does not process the request of the data subject, then he is obliged to inform that person without delay, and no later than within 30 days from the date when the request was received, about the reasons for not processing their request and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

Under Article 29, of the same Law on Personal Data Protection, the data subject has the right to have his inaccurate personal data corrected without undue delay. Depending on the purpose of the processing, the data subject has the right to supplement his incomplete personal data, which includes providing an additional statement.

The provisions of Article 92, paragraph 4, of the same Law, set forth that the provisions on the rights of data subject, *inter alia* referred to in Article 29, of this Law, do not apply if the processing is carried out for the purpose of archiving in the public interest, if it is necessary for the achievement of that purpose or if the application of these provisions of the law would make it impossible or significantly difficult to achieve it, with the application of measures referred to in paragraphs 1 and 2, of this Article.

The provisions of Article 80, paragraph 1, point 2), of the Law on Elementary Education ("Official Gazette of the RS", Nos. 55/13, 101/17, 10/19, 27/18- new law, and 129/21) prescribe, among other things, that school is to keep records of student success; according to the provision of Article 82, the records of students' success consist of data on elective programs and activities, on certificates, diplomas, as well as special diplomas for exceptional success, awards and commendations; and by the provision of Article 89, paragraph 2, all other data from the records, except for the data on the student's success related to the final grades at the end of the school year and the results of the final exam, are to be kept for 10 years.

Under the provision of Article 181, of the Law on the Education System Foundations ("Official Gazette of the RS", Nos. 88/2017, 27/2018 - new law, 10/19, 27/18-new law, 6/20, and 129/21) it is set forth that the purpose of processing data about which an institution, higher education institution, institution of elementary school, high school, and university students standard, that is, a publicly recognized organizer of activities keeps records is the efficient management of administrative and other procedures that are within their competence, exercising the right to issue a public document, exercising the right to quality and equally accessible education and upbringing for all children, students, and adults, monitoring and improving the quality and effectiveness of the work of the institution, that is, the higher education institution and its employees, monitoring the situation for the purpose of self-evaluation of the institution through effective management of records, using the available resources of the local community in accordance with the education and upbringing needs, improving cooperation and full involvement of the students' parents in the educational and upbringing process, monitoring, studying, and improving the educational level of students in the educational process, as well as preparing reports and performing other tasks within the competence of an institution, higher education institution, institution of elementary school, high school, and university students standard, that is, a publicly recognized organizer of the activity.

The provisions of Article 233, of the Statute of the Elementary School set out, among other things, that the purpose of processing data on which school keeps records is to monitor and improve the quality, efficiency, and effectiveness of the activities of the School and its staff, as well as the monitoring, studying, and improving the educational level of students and exercising the right to issue public documents.

Taking into account the established factual status and the cited legal provisions, the Commissioner finds that the complaint is unfounded, and that there is no violation of rights to the detriment of the complainant. This is because, in accordance with the provisions of Article 21, of the Law on Personal Data Protection, the Controller informed the complainant of the reasons for not processing her request, i.e. that he cannot correct and supplement the data referring to her, which he archived after she had completed the eight-year educational process. Given that the Controller archived the complainant's data regarding the success she achieved during her eight-year schooling in accordance with the cited provision of the Law on Elementary Education, and due to the fact that the purpose of processing this data was achieved by the very fact that the Controller issued the complainant a public certificate of completed education, in this particular case there is no place to apply the provisions of Article 29, of the Law on Personal Data Protection pertaining to documentary material that is processed for archiving purposes, and which the Controller is obliged to keep within the legally prescribed period in the form in which it was created.

072-16-1061/2023-06

6. Conditions for data processing in the records "Identification, fingerprinting, photography (forensic registration) and taking of other samples, forensic expertise and analyses, and management of the National DNA Register"

Decision: The complaint is well-founded

Extract from the statement of reasons:

(...)

Upon inspection of the case files, it was established that the complainant submitted the request on 23 August 2022 to the Controller in which he requested the erasure of his personal data, namely data from: 1. the National DNA Register - a collection of DNA profiles and the destruction of the collected DNA material from the same, and 2. from the "AFIS-Papillon" system of papillary line impressions of all 10 fingers, both palms with edges of the hands, control prints of papillary lines, four photographs of the face, and general data with a personal description.

It was further established that the Controller in his answer No. 88-804/21-2 dated 16 September 2022 informed the complainant that in accordance with Article 45, paragraph 4, of the Law on Records and Data Processing in Law Enforcement, data related to forensic registration are stored for 60 years, and therefore cannot be deleted.

Also, an inspection was made of the submitted copy of the letter of the Higher Public Prosecutor's Office in Belgrade KTR 2422/18 dated 11 February 2022, in which, among other things, it is stated that the data on the complainant are not processed for the purposes of criminal proceedings, because the same has not even been initiated.

The submitted copy of the letter of the National Forensic Centre No. xxx/xx dated xx.x.xxxx (dd/mm/yyyy) was inspected and it was determined that in that letter the complainant was informed that personal data referring to him as data subject and which were collected by order of the Higher Public Prosecutor's Office in Belgrade KTR xxx/xx dated xx.x.xxxx (dd/mm/yyyy), based on Article 140, of the Criminal Procedure Code, during which a buccal swab was taken from him, are kept in the DNA Register, in the collection of DNA profiles, as well as in the AFIS-PAPILON system, based on the forensic registration of the person, namely: papillary fingerprint lines of all 10

fingers, both palms with edges of the hands, control prints of papillary lines, four photographs of the face and general data with a personal description, and that in accordance with Article 45, paragraph 4, of the Law on Records and Data Processing in Law Enforcement, they are kept for 60 years.

(...)

Bearing in mind the foregoing, when deciding on a person's request for data erasure, the Controller is obliged to apply both the provisions of the Law on Records and Data Processing in Law Enforcement as a whole, and the provisions of the Law on Personal Data Protection as an umbrella law in the field of processing personal data, especially the provisions of Article 5, of that Law, which prescribes the principles of processing that all Controller are obliged to apply. In addition, one should take into account the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data with Protocols, which the Republic of Serbia ratified, as well as Council of Europe Committee of Ministers Recommendation No. R(87) 15 to the Member States, and the practice of the European Court of Human Rights (judgment of *S. and Marper v. United Kingdom* (petition No. 30562/04 and 30566/04, judgment of 4 December 2008). The aforementioned Convention also prescribes the principles of processing, i.e. that personal data that are processed should, among other things, be collected for explicit, specific, and legitimate needs and will not be processed in a way that is not in accordance with those needs, these should be appropriate, relevant, and not redundant with regard to the needs for which they are processed, as well as stored in a form that allows identification of the data subject for no longer than is necessary for the purposes for which this data is processed. In this regard, the Commissioner assesses in each specific case whether the conditions for erasure have been met, i.e. whether the purpose of the processing has been achieved, while taking into account, following European practice, the following criteria: the need to retain data in light of the completion of an investigation, a final court decision, especially an acquittal, rehabilitation, convictions served, amnesties; the year of the data subject; the gravity of the act and others. Namely, it is also necessary for the Controller to assess in each specific case whether the further processing of certain personal data is necessary in a democratic society, i.e. whether the interest of the society prevails over the right to privacy of the individual, as referred to in the provision of Article 7, paragraph 2, of the Law on Records and Data Processing in Law Enforcement, which prescribes the obligation to review the storage and erasure of data, and which refers to all records regulated by that Law.

Therefore, in order for certain processing to be allowed, in addition to the principle of legality, it is necessary to observe all the processing principles from Article 5, of the Law on Personal Data Protection cumulatively, thus also the principle of storage limitations.

It should also be borne in mind that, given the nature and amount of personal data that the cell samples contain, including the unique genetic code of great importance both for the individual in question and for his relatives, as well as the possibility to use the profile DNA to establish genetic relationships between individuals and draw conclusions about their ethnic origin, the storage of cell samples and DNA profiles in itself constitutes an interference with the complainant's right to respect for their private life. Therefore, since the law does not precisely regulate the conditions and method of storing and using data contained in samples and profiles, and it regulates in the same way the processing of personal data of persons for whom suspicion of having committed a criminal offense has been rejected and persons who have been declared guilty, although it is necessary to have clear, detailed rules related to the scope and application of such measures, as well as minimum protective measures, it is necessary, in each specific case, to carefully weigh the possible advantages

of modern scientific techniques in the criminal justice system in order to prevent crime and identify the perpetrators of criminal acts, versus the interest of protecting private life. Certainly, in the specific case, when the person was not found to have committed a criminal offense, the comprehensive and non-selective nature of the powers pertaining to the storage of the aforementioned data does not establish a fair balance between opposing public and private interests, because only the storage of data in the records of persons for whom grounds for suspicion that he committed a criminal act are dropped, stigmatizes a person and threatens his constitutional rights and does not establish a fair balance between conflicting public and private interests and cannot be considered necessary in a democratic society.

Given that, in this particular case, paragraph 4, of Article 45, of the Law on Records and Data Processing in Law Enforcement, prescribes that the data from paragraph 1, of that Article, which refer to forensic registration for the purposes of criminal proceedings, are stored 60 years, and that it is indisputable that the personal data of the complainant, since the Higher Public Prosecutor's Office stated in ... by an official note that there is no place to initiate criminal proceedings in the case of a certain criminal-legal event, are not processed for the purposes of criminal proceedings, the Commissioner finds that the reasons for which these personal data were entered into the records have ceased, i.e. that these data are not necessary to achieve the purpose for which they were collected - for the purpose of criminal proceedings, and elucidation of criminal acts and identification of perpetrators of criminal acts, and that the purpose for which the data was collected has been achieved. Therefore, the Controller no longer has the legal authority to process this personal data.

Also, from the foregoing, it follows that the Controller no longer processes the data in question for special purposes, and that the conditions for erasure related to data processing for which general rules apply now also apply in this case.

Therefore, since in this case the personal data are no longer necessary to achieve the purpose for which they were collected, the further storage of such data does not represent a necessary and proportionate measure in a democratic society, and the Commissioner finds that the prescribed conditions for erasure of the complainant's personal data have been met. Article 30, paragraph 2, point 1), of the Law on Personal Data Protection, as well as the conditions for erasure from Article 7, paragraph 2, of the Law on Records and Data Processing in Law Enforcement, from the National DNA Register - the collection of DNA profiles of persons who were subject to forensic registration of his DNA profile, notably, his DNA profile and the destruction of the remaining part of the biological sample (buccal swab) from which his DNA profile was obtained, as well as from the records of forensically registered persons - system for automatic processing of prints "AFIS-Papillon", prints of papillary lines of all 10 fingers, both palms with edges of the hands, control prints of papillary lines, four photographs of the face, and general data with a personal description, that is, from the records kept by the Controller, based on Article 45, of the on Records and Data Processing in Law Enforcement.

072-16-261/2023-06 dated 20 July 2023.

7. Scope of rights to access (Article 26, of the Law on Personal Data Protection)

Decision: The complaint is founded and the data controller (Health Center) is ordered to provide the complainant with a copy of data referring to her

Extract from the statement of reasons:

The Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner) received on 26 September 2023 a complaint by AA from ..., submitted through the attorney, lawyer BB from Belgrade, due to the violation of the right to access personal data by the Health Center ..., as a data controller (hereinafter: Controller), according to her request to exercise her rights with regard to personal data processing on 23 August 2023. In the complaint, she states that she received a letter number ... dated ... (dd/mm/yyyy) from the Controller with a vague explanation that all employees have the right to view her e-medical record, i.e. that all employees who have an administrative order (without notification of how many people have such an order) have the right to access all resources of the information and communication system even though it contains particularly sensitive data, as well as that the Controller refused to provide her with a copy of the data on who, how, and when the employees inspected her e-medical record with an explanation that he cannot provide her with copies of the said data because it is information that is his property and access to which is restricted, which is contrary to the provisions of Article 26, of the Law on Personal Data Protection.

(...)

After considering the complaint, a decision was taken as in the operative part of the Commissioner's decision for the following reasons:

Upon inspection of the case files, it was established that the complainant on 23 August 2023, in an application submitted on the basis of the provisions of Article 26, of the Law on Personal Data Protection, requested information from the Controller (Health Center) about who and how the employees may review her e-medical record, which one of the employees processes her data, who has access to her data, as well as information about the purpose of processing her data, the types of personal data that are processed, and the recipient or types of recipients to whom the personal data has been disclosed or will be disclosed, especially recipients in other countries or international organizations. In the request, she also asked for a copy of the data on who, how, and when the employees inspected her e-medical record in the period from 1 January 2022 through 21 August 2023.

(...)

In the statement on the complaint dated 9 October 2023, the Controller stated that, within the legal deadline, he processed the complainant's request by letter number ... dated ... (dd/mm/yyyy) by providing her with information regarding the processing of personal data in accordance with the provisions of Article 26, of the Law on Personal Data Protection. He also stated that in the same letter he refused to comply with the part of the request in which the complainant requested information on the identity of the person and data on access to her e-medical record for the reason that it is business data that can be subject to monitoring and inspection only by authorized persons, in terms of the provisions of the Rulebook on Data Management and Security of ICT System number ... dated (dd/mm/yyyy)

(...)

In order to make a correct decision, the Commissioner asked the Controller to submit a document - "history of changes" from the "Heliant" health information system, created by access to the complainant's e-medical record in the period from 1 January 2022 through 21 August 2023.

Upon inspection of the submitted document, it was determined that it contains the following information: employee's ID, employee's first and last name, patient's first and last name, reason for access, time of access, and description.

The provisions in Article 4, paragraph 1, point 1), of the Law on Personal Data Protection, prescribes, among other things, that personal data is any data referring to a natural person whose identity is determined or determinable, directly or indirectly, in point 2) that data subject is a natural person whose personal data is processed, and in point 3) that the processing of personal data is any action or set of actions with personal data or their groups, performed in an automated or non-automated manner, such as collecting, recording, sorting, grouping, and structuring, storing, matching or changing, disclosing, inspecting, using, disclosing by transmission, or delivering, duplicating, disseminating or otherwise making available, comparing, limiting, erasing or destroying.

The provision in Article 21, paragraph 1, of the same law prescribes, among other things, that the controller is obliged to take appropriate measures to provide the data subject with all information with regard to exercising the rights set out in this law, in a concise, transparent, intelligible, and easily accessible way; using clear and plain language; paragraph 4 provides that, if the controller does not process the request of the data subject, the controller shall inform the data subject without delay and at the latest within 30 days of receipt of the request about the reasons for not processing their request and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy

The provision of Article 26, paragraph 1, of the Law on Personal Data Protection, among other things, prescribes that the data subject has the right to request from the controller the information on whether it is processing his personal data and access to that data, as well as the following information: 1) about the purpose of processing; 2) on the types of personal data that are processed; 3) on the recipient or types of recipients to whom the personal data was disclosed, especially recipients in other countries or international organizations, and paragraph 3, of the same law, prescribes that the controller is obliged to provide to the data subject, upon his request, a copy of the data processed.

Under Article 79, paragraph 2, point 3, of the same Law, the Commissioner may order the controller and the processor to process the request concerning the exercise of data subject rights, in accordance with this Law.

Bearing in mind the content of the request, the Controller's response, the complaints, the statement on the complaint, the cited legal provisions as well as the content of the document - "history of changes" from the health information system "Heliant", which in paper form, according to the controller, contains all elements of electronic data processing, the Commissioner finds that the complaint filed due to the violation of the right to access personal data is founded and that the complainant has the right to a copy of her data, that is, all information related to the data processing referring to her, which is contained in the aforementioned document.

Namely, upon inspection of the document, it was determined that it was reached by searching the Controller's information and communication system by the complainant's first and last name, national identification number, and LBO number (social security number), as well as that the said document, in addition to the foregoing, also contains information about who, when, and for which purpose did the Controller's employees access and inspect the complainant's e-medical record. Bearing in mind the provision of the cited Article 4, paragraph 1, point 1), of the Law on Personal Data Protection, which, among other things, defines personal data as "any data referring

to a natural person", the Commissioner finds that it's a document that is indeed personal data referring to the complainant as data subject, because it contains personal data that directly determine her, as well as data that pertain to her, namely data about persons (first name and last name, ID) who accessed her e-medical record, reasons for access, time of access, and a description of the reason for access.

According to the Commissioner's assessment, it is not disputed that the data subject has the right to know this information, about the time and reason for access, so that she can check whether the data was processed for the purposes stated by the Controller. However, the fact is that the document also contains identification data of other persons employed by the Controller, the disclosure of which could violate their rights and freedoms. Therefore, in order to make a correct decision, in a situation where the interest of the right to access data and the interest of protecting the rights and freedoms of other persons are in conflict, the Commissioner performed a balancing test and found that there is no reason to limit this right due to the protection of the rights and freedoms of other persons, because it is about the data of employees who, on the basis of authorization, that is, by order and on behalf of the Controller, accessed the database of the information and communication system for the purpose of processing patient data. In this context, the identity data of the persons who accessed the e-medical record of the complainant, for the aforementioned rationale, cannot constitute a reason for the limitation of rights because they acted in accordance with their assigned powers. As the goal of the right to access personal data is to allow the person who is a data subject and to whom the data refers to be aware of the processing of his data and to check its legality, the Commissioner finds that by submitting a copy of the data in the manner prescribed by paragraph II of the operative part of the decision, the objective from Article 26, of the Law on Personal Data Protection is achieved, as well as the respect for the principle of transparent processing with regard to the complainant.

Number: 072-16-2621/2023-06

2.B.4.3. Illustrative Cases of Breaches of the Right to Personal Data Protection Found through Supervision

1. The public company took photos of the users of its services (including minors) in order to sell ski tickets, to use the services of the ski resort.

Extract from the statement of reasons:

The Commissioner issued a Warning to the Controller, because during the performance of his regular business activities, and in order to produce and sell ski passes, he photographed the users of his services, i.e. processed personal data that are not appropriate, essential, and limited in view of the stated purpose of processing, thereby acting contrary to the principles of processing, and these are "lawfulness, fairness, and transparency" and "data minimization" from Article 5, paragraph 1, points 1) and 3), of the LPDP as well as contrary to Article 12, of the LPDP.

Part of the established factual status (statement of the Controller):

The Controller collects personal data from users of its services, namely first name and last name, date of birth, photo, and domicile/residence address; that the processing during the purchase of ski passes at sales points is carried out on the legal basis from Article 12, paragraph 1, point 6), of the LPDP (legitimate interest); that the legitimate interest of the supervised subject is reflected in the possible occurrence of the insured event, loss/damage of the ski pass, prevention of resale of ski passes, and acquainting the user with the fact that they can be identified in situations when they cause an accident on the ski slope by their own irresponsible behavior; that personal data in electronic form are anonymized after four years from the expiration of the last pass; that ski passes are personalized and non-transferable to other persons; that it is necessary to store the collected personal data for at least three years in order to comply with insurance regulations; that the collection of the described types of personal data for the stated purposes is necessary in order to identify the users (of which, according to the estimates of the Controller, there are more than 100,000 per ski resort); that a distinction is made between children and adults in terms of issuing ski passes, because ski passes for children up to 6 years of age are free, and for children 6 to 12 years old they are cheaper than tickets for adults.

Having learnt about this event, the Commissioner carried out supervision, after which he issued a Warning to the Controller, because he does not process the photos of the users of his services as their personal data, legally, fairly, and transparently with regard to the data subjects, nor is it appropriate, essential, and limited to the purpose of processing. Namely, in order to achieve the purpose of the processing, the Controller needs data on the first name and last name, date of birth, e-mail address, and domicile/residence address, obliging the user to attach his photo, that is, to agree to be photographed, which is a form of excessive processing of personal data.

Within the given deadline, the Controller acted in accordance with the Warning and informed the Commissioner that he had changed his business policy (the implementation of which will come into force as of the 2023/2024 ski season) in such a way that he canceled the mandatory photography for customers of all categories for half-day, daily, two-day, three-day, four-day, and five-day ski passes.

Case number: 072-21-117/2023-07

2. The Center for Processing Compensation Claims and Assessing Damages, as a personal data controller, contacted an underage participant in a traffic accident without a legal basis, offering their services in faster recovery of damages.

Extract from the statement of reasons:

The Commissioner issued a Warning to the Controller, because he sent a letter (a sort of an offer for the services in compensation of damages in cases of traffic accidents) to the address of underage K.S. thus processing his personal data without a legal basis, thereby violating Article 12, paragraph 1, as well as Article 15, paragraph 1, of the LPDP.

Part of the established factual status:

Taking into account the content of the petition and the attached evidence delivered to the Commissioner, the statements of the present representative of the Controller, and in the specific

case the processing by the Controller for a person under the age of 15, which can only be legal if consent was given by the person who bears parental responsibility, and the impossibility of presenting documented consent as the legal basis of processing by the Supervised operator, the authorized persons of the Commissioner established that the described processing was carried out illegally.

Having learnt about this event, the Commissioner carried out supervision, after which he issued a Warning to the Controller. The Controller did not act in accordance with the Warning within the given deadline, so the Commissioner issued an infringement Warrant to the Controller.

Case number: 072-21-1848/2023-07

3. At a Bank, on the unique form on which there are printed personal data, the veracity of which is confirmed by a signature in order to be able to withdraw money, there is also a printed statement giving consent to the processing of personal data (for marketing/commercial purposes).

Extract from the statement of reasons:

The Commissioner issued a Warning to the Controller because he obtains consent for the processing of the personal data from the service user for marketing/commercial purposes within the written statement that also refers to other issues, where the request for consent was not presented in a way that separates it from other issues, which is contrary to the provisions of Article 15, para 1-4, of the LPDP, and in connection with Article 4, paragraph 1, point 12), and Article 12, paragraph 1, point 1), of the LPDP, as a result of which he acts contrary to the principle of "lawfulness, fairness, and transparency" referred to in Article 5, paragraph 1, point 1), of the LPDP.

Part of the established factual status (statement of the Controller):

Consent to the processing of personal data of clients for marketing purposes as a rule, i.e. in accordance with the General Rules of the Controller, is not marked in advance, but depends on the disposition of the client, and that, in the specific case, the applicant has previously given consent to the processing of personal data for this purpose, and for this reason she was not asked again when updating personal data. In order to simplify the procedure for signing various mandatory regulatory documents, and bearing in mind that there is a direct connection between the client's contact data and possible consent to the processing of the same data for marketing purposes, which are also communication channels for advertising messages between the Controller and the client, the chosen solution is that on the same form that confirms the correctness of personal and contact data, there is also the client's consent to the processing of personal and contact data for marketing/commercial purposes, bearing in mind Article 15, paragraph 2, of the LPDP.

Having learnt about this event, the Commissioner carried out supervision, after which he issued a Warning to the Controller, because it was determined that the Controller, in terms of processing personal data for the user of its services, uses the same form with which the client confirms the accuracy of his contact data and gives consent to the processing of the same personal data for marketing/commercial purposes, which is done by putting one signature under the whole of the text. Therefore, during the initial entry and update of user personal data, the Controller obtains consent for the processing of user personal data for marketing/commercial purposes within a written statement that also refers to other issues, and he also does this for other users of the services. At the same time, the request for giving consent was not presented in a way that separates it from those other questions, that is, from the part of the statement confirming the correctness of one's personal data, which is established on another legal basis, whereby the consent obtained in this way from the data subject cannot be considered as a voluntary, definite, informed, and unambiguous expression of the will of that person, by which that person, via statement or a clear affirmative action, gives consent to the processing of personal data referring to him. For these reasons, it was determined that the Controller acted contrary to the provisions of Article 15, paragraphs 1-4, of the LPDP, and in connection with Article 4, paragraph 1, point 12), and Article 12, paragraph 1, point 1), of the LPDP, thereby acting contrary to the principle of "lawfulness, fairness, and transparency" referred to in Article 5, paragraph 1, point 1) of the LPDP.

Within the given deadline, the Controller acted in accordance with the Warning and informed the Commissioner that he had changed *General Client Information* form. On the modified

form, starting from the specified date, clients sign in two places when entering or changing their personal data. In the personal data part, where the client confirms their accuracy with his signature and gives consent to the Bank to keep them in its records, in order to realize business cooperation. In the section Consent for the method of communication with the Bank, the client gives his consent for the channels through which he wishes to communicate with the Bank

Case number: 072-21-2607/2023-07

4. The applicant states that he was contacted by an unknown company from the phone number 06xxxxxxxxx; that they did not want to identify themselves, and that they were looking for his father, so he believes that the Commissioner should contact RATEL and determine which legal entity uses the phone number in question; as well as that it is necessary to carry out extraordinary supervision and check on what basis the said legal entity is processing personal data.

Extract from the response of the Commissioner:

Article 4, paragraph 1, of the LPDP prescribes that personal data is any data referring to a natural person whose identity is determined or determinable, directly or indirectly, especially on the basis of identity markers, such as name and identification number, location data, identifier in electronic communication networks or one or more features of his physical, physiological, genetic, mental, economic, cultural, and social identity. The same article prescribes that the data subject is the natural person whose personal data is processed; that the processing of personal data (hereinafter: processing) is any action or set of actions with personal data or their groups, performed in an automated or non-automated manner, such as collecting, recording, sorting, grouping, structuring, storing, matching or changing, disclosing, inspecting, using, disclosing by transmission, and delivering, duplicating, disseminating or otherwise making available, comparing, limiting, erasing or destroying; as well as that the controller is a natural or legal person, that is, an authority that independently or together with others determines the purpose and method of processing.

Article 12, paragraph 1, of the LPDP prescribes that the processing is lawful only if one of the following conditions is met: 1) the data subject consented to the processing of his personal data for one or more specially determined purposes; 2) processing is necessary for the execution of a contract concluded with the data subject or for undertaking actions, at the request of the data subject, before the conclusion of the contract; 3) processing is necessary in order to comply with the legal obligations of the controller; 4) processing is necessary in order to protect vital interests of the data subject or another natural person; 5) processing is necessary for the purpose of performing tasks in the public interest or exercising the legally prescribed powers of the controller; 6) processing is necessary in order to achieve the legitimate interests of the controller or a third party, unless these interests are overridden by the interests or fundamental rights and freedoms of the data subject, which require the protection of personal data, and especially if the person to whom the data refers is a minor.

Article 21 of the LPDP prescribes that the controller is obliged to take appropriate measures to provide the data subject with all information on exercising the rights referred to in Article 26, of the LPDP, in a concise, transparent, intelligible, and easily accessible form, using clear and plain language, especially if it is information intended for minors. Such information shall be provided in

written or other form, including electronic form, if appropriate. If the data subject so requests, the information may be provided orally, provided that the identity of the data subject has been established beyond doubt. The controller is obliged to provide information on the processing of the request from Article 26, of the LPDP, to the data subject within 30 days, or within an extended period of another 60 days. If the controller does not process the request of the data subject, the controller shall inform the data subject, without delay and at the latest within 30 days of receipt of the request, of the reasons for not taking action and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

Article 26, of the LPDP, prescribes that the data subject has the right to request from the controller the information on whether the latter is processing data subject's personal data, to have access to that data, as well as the right to get certain information on their processing, and has the right to get a copy of the data processed from the controller upon request.

Article 30, paragraph 1, of the LPDP, prescribes that the data subject has the right to have his personal data erased by the controller, and paragraph 2, of the same Article, prescribes that the controller is obliged, without undue delay, to erase the data from paragraph 1, of this Article, in the following cases: 1) personal data are no longer necessary to achieve the purpose for which they were collected or otherwise processed; 2) the data subject has revoked the consent on the basis of which the processing was carried out, pursuant to Article 12, paragraph 1, point 1), of this Law, and there is no other legal basis for the processing; 3) the data subject has submitted an objection to the processing in accordance with: a) Article 37, paragraph 1, of this Law, and there is no other legal basis for processing that prevails over the legitimate interest, right, or freedom of the data subject; b) Article 37, paragraph 2, of this Law; 4) personal data were processed unlawfully; 5) personal data must be erased in order to fulfill the legal obligations of the controller; 6) personal data were collected in connection with the use of information society services from Article 16, paragraph 1, of this Law. The data subject submits a request to the controller on exercising the rights referred to in paragraph 1, of this Article. Paragraphs 1 through 3, of this Article, do not apply to the extent that processing is necessary due to: 1) exercising the freedom of expression and information; 2) compliance with the controller's legal obligation, which requires the processing or carrying out of tasks in the public interest or executing the legally prescribed powers of the controllers; 3) achieving the public interest in the field of public health, in accordance with Article 17, paragraph 2, points 8) and 9), of this Law; 4) purposes of archiving in the public interest, purposes of scientific or historical research, as well as statistical purposes, in accordance with Article 92, paragraph 1, of this Law, and it is reasonably expected that the exercising of rights from paragraphs 1 and 2, of this Article, could make it impossible or significantly threaten the achievement of the goals of that purpose; 5) submission, achievement, or defense of a legal claim.

In order for the data subject to exercise any of these rights, it is necessary that they submit a request to the controller with regard to exercising the rights in connection with the processing of personal data, which, in accordance with the provisions of Article 26, of the LPDP, may request the following information from the controller: whether it is processing personal data about that data subject, what is the purpose of the processing, the type of personal data being processed, about the recipient or types of recipients to whom the personal data has been disclosed or will be disclosed to them, and especially the recipients in other countries or international organizations, about the required period of personal data storage, or if that is not possible, about the criteria for determining that period, about the existence of the right to request from the controller the correction or erasure of his personal data, the right to limit the processing, and the right to object to the processing, about

the right to submit a complaint to the Commissioner, available information about the source of personal data, if the personal data were not collected from the data subject, about the existence of the automated decision-making procedure, including profiling from Article 38, paras 1 and 4, of this law, and, at least in those cases, relevant information about the logic used in this, as well as about the significance and expected consequences of that processing for the data subject.

Article 82, of the LPDP, prescribes that the data subject has the right to file a complaint with the Commissioner if he believes that the processing of his personal data has been carried out contrary to the provisions of this Law.

Article 84, of the LPDP, prescribes that the data subject has the right to seek a judicial remedy if he believes that, contrary to this law, his right prescribed by this law has been violated by the controller or processor by the action of processing his personal data. Filing a lawsuit in court does not affect the right of this person to initiate other administrative or judicial remedies. With a lawsuit for the protection of rights referred to in paragraph 1, of this Article, the court may be required to oblige the defendant to: provide information referred to in Art. 22 through 27, Art. 33 through 35, and Article 37, of this Law; correction and/or erasure of data on the plaintiff referred to in Art. 29, 30, and 32 of this Law; limitation of processing referred to in Art. 31 and 32, of this Law; providing data in a structured, commonly used, and electronically readable form; transfer of data to another controller referred to in Article 36, of this Law; termination of data processing referred to in Article 37, of this Law.

On the basis of the foregoing, and bearing in mind the nature of the problem that you presented in your application, you may, in accordance with Article 26, paragraph 1, of the LPDP, submit a request to the controller for the exercise of rights regarding processing, in which you will request the delivery of all information referred to in that Article with regard to processing your personal data.

Upon receipt of that request, the controller is obliged to provide you with the requested information within 30 days from the date of receipt of the request, or within an extended period of another 60 days if necessary, taking into account the complexity and number of requests.

Following the receipt of the aforementioned information, you may submit a request to the controller to erase your personal data in accordance with Article 30, of the LPDP. The controller is obliged to process such request within the previously mentioned deadlines for processing the request for the provision of information.

Should the controller fail to process your request, he is obliged to inform you without undue delay, and in any case, no later than within 30 days from the date of receipt of the request, about the reasons for not processing your request and about your right to lodge a complaint with the Commissioner and seek a judicial remedy. You have the same rights in the event that the controller does not inform you about processing your request.

At the same time, we would like to inform you that Article 145, paragraph 1, of the Law on Electronic Communications ("Official Gazette of the RS" No. 35/23, hereinafter: LEC) sets forth that the provider of publicly available communication services between persons to whom the end user would, in written or electronic form, report and describe the method and/or content, approximate date and time of a malicious or harassing call, is obliged to record and save data on the identification of that incoming call or a text message, the date and time of the call or text message or the call attempt. Paragraph 2, of the same Article, sets forth that the provider of a publicly available communication service between persons is obliged to issue to the end user referred to in paragraph 1, of this Article, a corresponding confirmation in written or electronic form about the

report of malicious or harassing calls or text messages, while paragraph 3, of the same Article, sets out that if the provider of a publicly available communication service between persons determines that, based on the report referred to in paragraph 1, of this Article, a malicious or harassing call or text message was sent from the number of its end user, it is obliged to send a warning to that end user, i.e., in case of repeated harassment, take other appropriate measures to prevent further harassment. Paragraph 4, of the same Article, sets forth that if the provider of a publicly available communication service between persons determines that, based on the report referred to in paragraph 1, of this Article, a malicious or harassing call or text message was sent from a user number in the network of another provider of communication service between persons, then it forwards the harassment report referred to in paragraph 1, of this Article, to that service provider, so that the other service provider may issue a warning to its end user, or in case of repeated harassment, take other appropriate measures to prevent further harassment, including the measure of temporary or permanent exclusion of the end user, while paragraph 5, of this Article, sets forth that providers of publicly available communication services between persons are obliged to cooperate in order to monitor and detect malicious or harassing calls or text messages, and in particular to exchange data on the number from which and to which the malicious or harassing call or a short message was sent and to process the forwarded applications referred to in paragraph 4, of this Article.

Article 163, paragraph 1, of the LEC prescribes that the inspection of the implementation of this law, regulations governing the activity of electronic communications, as well as international agreements in the field of electronic communications inspector, is performed by the Ministry responsible for telecommunications, through the electronic communications, and paragraph 2, of the same Article, prescribes that the inspection of the application of this law and the regulations governing the activity of electronic communications in the territory of the autonomous province shall be carried out by the autonomous province through its authorities.

Case number: 072-21-3151/2023-07

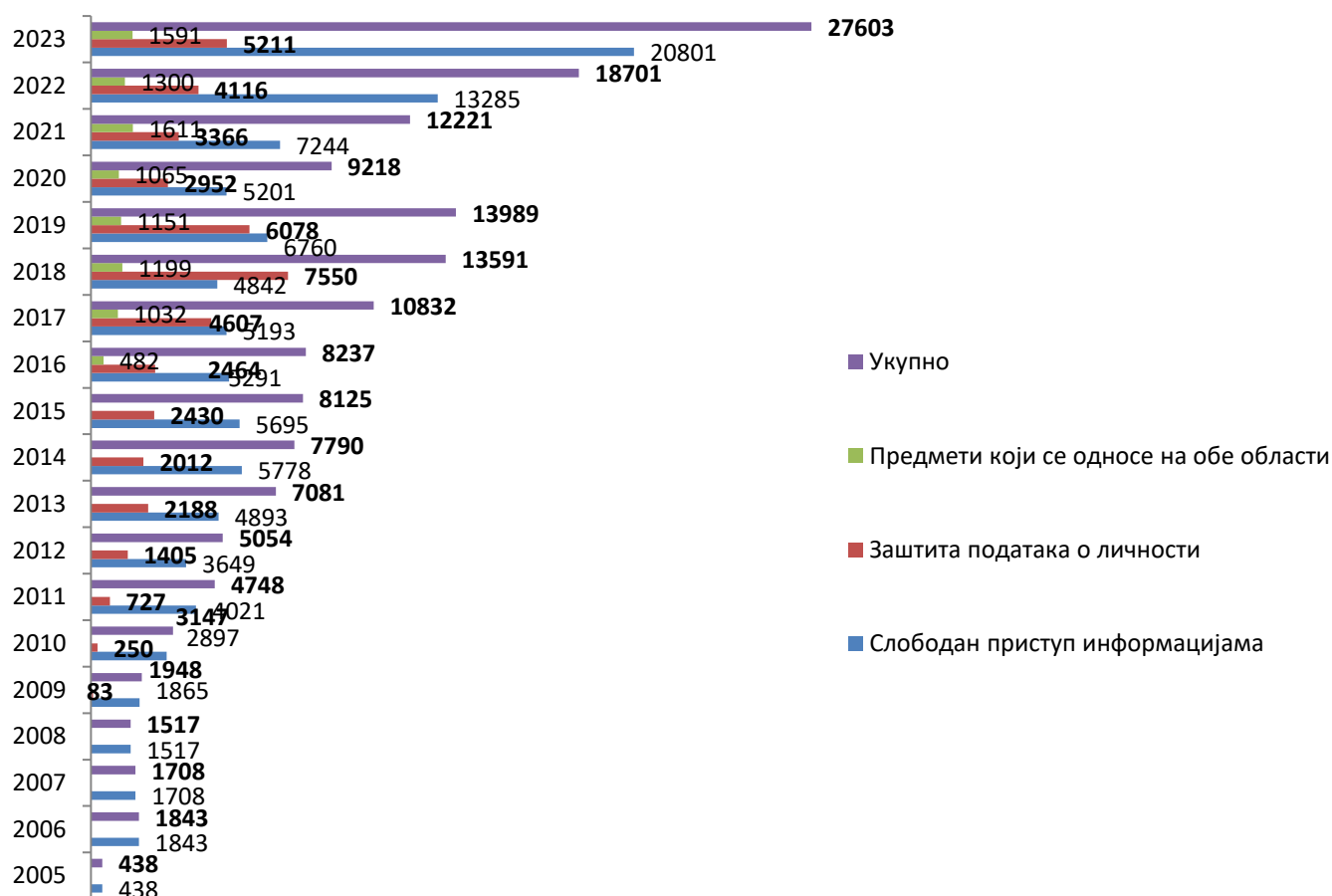
3. COMMISSIONER'S ACTIVITIES

3.1. SUMMARY OF OVERALL ACTIVITIES

In 2023, the Commissioner opened 27,603 cases, including 20,801 cases in the field of free access to information, 5,211 cases in the field of personal data protection, and 1,591 cases in both fields of the Commissioner's activity.

In 2023, the Commissioner handled a total of 31,686 cases, since 4,083 pending cases had been carried forward from the previous years. Out of that number, over 87%, or 27,603 cases were opened by the Commissioner in 2023.

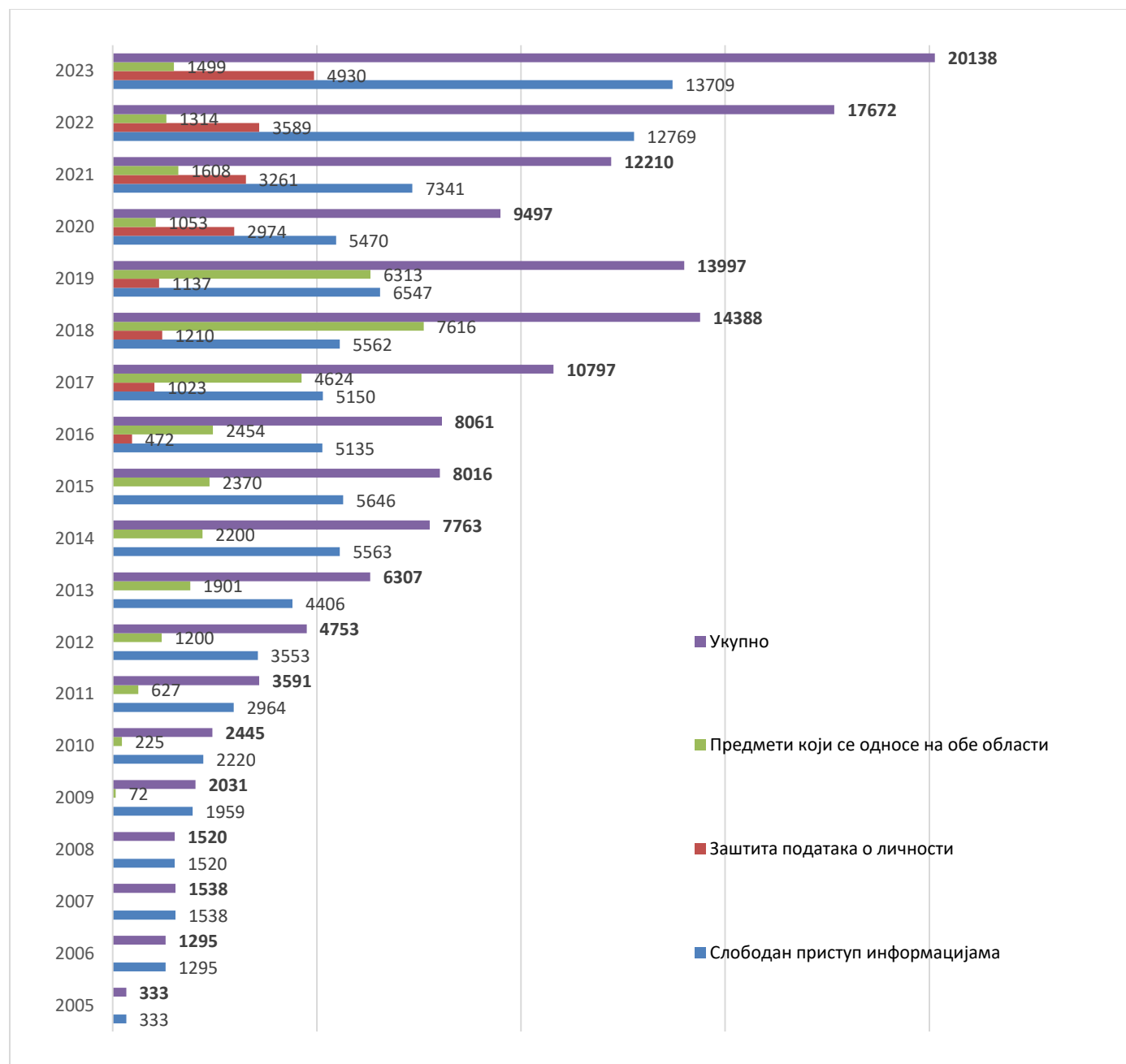
Graph No. 1 - Number of opened cases by years



Total
Cases in both fields
Personal data protection
Free access to information

**In the course of 2023, the Commissioner concluded the procedure in 20,138 cases, including 13,709 cases in the field of access to information, 4,930 cases in the field of personal data protection, and 1,499 cases in both fields.
There were 11,548 pending cases carried forward to 2024 (10,340 – freedom of access, 1,079 - personal data protection, and 129 - in both fields).**

Graph No. 2 - Number of resolved cases by years



Total
Cases in both fields
Personal data protection
Free access to information

Table No. 3 - Commissioner's activities in 2023
The Commissioner's activities in 2023 included mainly:

1.	Resolving cases pursuant to complaints against breaches of free access to information and the right to personal data protection.	In total, 10,757 complaints were resolved (10,594 complaints re free access to information; 163 complaints re personal data protection).
2.	Initiation of inspections of compliance with and implementation of the LPDP.	The Commissioner initiated 771 inspections of compliance with and implementation of the LPDP, including 566 scheduled and 202 unscheduled inspections.
3.	Closing of inspections of compliance with and implementation of the LPDP.	The Commissioner closed a total of 731 cases in the field of inspection.
4.	Opinions on draft laws and other general legal instruments.	The Commissioner issued 36 opinions on draft laws, bills and other regulations to public authorities, upon request of these public authorities. Of those, 24 opinions concerned draft laws, while 12 concerned other general legal instruments.
5.	Provision of assistance to natural persons and legal entities and public authorities or data controllers in exercising the rights or in proper application of the LFAIPI and the LPDP by clarifying vague issues and procedures.	The Commissioner issued 709 opinions and replies on correct application of both laws, including 324 on correct application of the LPDP, 3 preliminary opinions of the Commissioner (Article 55, of the LPDP), and 382 opinions on correct application of the LFAIPI.
6.	Prosecution of infringements.	The Commissioner issued 390 infringement warrants (385 for breaches of the LFAIPI and 5 for breaches of the LPDP), and filed 55 petitions for institution of infringement proceedings (45 for breaches of the LFAIPI and 10 petitions for institution of infringement proceedings for breaches of the LPDP.).
7.	Provision of assistance to citizens in connection with their free access to information requests or personal data protection requests referred to the Commissioner by authorities which to not hold the requested information so the requests could be forwarded to the relevant authorities that will be able to provide the information.	835 cases.
8.	Other communication of an advisory and instructional nature with public authorities concerning the compliance with the LFAIPI, in connection with compliance with the regulations on promoting transparency, in connection with the submission of annual reports to the Commissioner and compiling and publishing information directories in the Commissioner's Single Information System, which contribute to continual improvements in the proactive publishing of	740 cases.

	information, an increase in the volume of information on the public authorities activities published on their websites and the active role of public authorities in facilitating the exercising of rights.	
9.	Activities concerning Serbia's EU accession process.	The Commissioner submitted 29 contributions and reports, including those submitted to: the Ministry of Justice, the Ministry of Public Administration and Local Self-Government, the Ministry of European Integration, and the Anti-Corruption Agency.
10.	Public announcements by the Commissioner addressing the general public.	108 times.
11.	Activities concerning submission of information on personal data protection officers and the appointment of representatives of foreign companies in accordance with the LPDP.	1,401 controllers submitted records on data protection officers, of which 1,393 were processed, while 12 decisions on the appointment of representatives of foreign companies in accordance with the LPDP were submitted to the Commissioner in 2023.
12.	Issuing of checklists.	Checklists were sent to the addresses of 769 controllers. Of those, risk assessments were conducted in 664 cases. (A total of 660 data controllers submitted completed checklists at the Commissioner's request, while 4 controllers submitted completed checklists to the Commissioner of their own accord. On the basis of received completed checklists the Commissioner assessed the level of data processing risks.)
13.	Processing the requests for free access to information of public importance.	340 requests for free access to information of public importance addressed to the Commissioner were processed.
14.	Activities concerning the enforcement of the Commissioner's decisions.	35 cases were terminated and total 87 acts were brought.
15.	Replies to the Administrative Court to legal action brought in administrative disputes against the Commissioner's decisions and failure to resolve complaints within the statutory period, the so-called "administrative silence".	468 replies.
16.	Replies to citizens' applications concerning issues of exercise of rights in the fields of personal data protection and free access to information, as well as issues that are outside of the Commissioner's mandate.	722 replies.
17.	Submission of case files to the Administrative Inspectorate for requested inspections in situations where public authorities fail to comply with the decisions passed by the Commissioner.	221 cases.

18.	Telephone calls by citizens, journalists, and representatives of the media, as well as employees of public authorities, to consult on matters concerning the exercising of the rights within the Commissioner's mandate.	The Commissioner answered 27,317 telephone calls.
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Table No. 4 - Structure of resolved cases

No.	Freedom of access - 13,709 cases resolved	Number of resolved cases
1.	Complaints	10,594
2.	Processing the cases involving infringements for breaches of the LFAIPI	533
3.	Motions for administrative enforcement	33
4.	Motions for repeated procedures	7
5.	Opinions	382
6.	Measures to improve transparency	740
7.	Applications	60
8.	Replies to legal action	438
9.	Petitions to review decisions of the Administrative Court	6
10.	Referred requests	835
11.	Requests for information on the work of other authorities	69
12.	Exemption request	1
13.	<i>Ex Officio</i> supervision pursuant to Law on General Administrative Procedure	11

Table No. 5 - Structure of resolved cases

No.	Personal data protection - 4,930 cases resolved	Number of resolved cases
1.	Inspections	731
2.	Processing infringements for breaches of the LFAIPI	17
3.	Complaints	163
4.	Replies to legal action	30
5.	Notices of personal data breaches	56
6.	Applications	393
7.	Requests for data transfer	1
8.	Requests for approval of binding corporate rules	1
9.	Opinions	324
10.	Opinions	3
11.	Preliminary opinions (Article 55)	1
12.	Records of requests to access retained data	113
13.	Checklists	707

14.	Processed records on personal data protection officers	1,393
15.	Decisions on the appointment of representatives of foreign companies in accordance with the LPDP	12
16.	Improvement of protection and prevention	982
17.	Motions for administrative enforcement	2
18.	Consent issued to the Commission on Missing Babies	1

Table No. 6. - Structure of resolved cases

No.	Both fields - 1,499 cases resolved	Number of resolved cases
1.	Public announcements	108
2.	Requests for information submitted to the Commissioner	340
3.	Requests concerning case information	94
4.	Claims for expense reimbursement	4
5.	Cases in the field of European integration	36
6.	National cooperation	161
7.	International cooperation	69
8.	Opinions on draft laws and other general legal instruments	36
9.	Initiatives and proposals	10
10.	Reports and information	161
11.	Applications that do not concern the Commissioner's mandate	269
12.	Other communication with public authorities, controllers, and the public	184
13.	Trainings	27

3.1.1. Commissioner's Opinions

1) Opinions on draft laws

In the course of 2023, the Commissioner issued **24 opinions on draft laws** upon request from the relevant public authorities. All opinions were given from the viewpoint of the Commissioner's mandate.

- The Ministry of Labor, Employment, Veteran and Social Affairs was given an opinion on the Draft Law on Occupational Safety and Health from the viewpoint of the LPDP;
- The Ministry of Construction, Transport, and Infrastructure was given an opinion on the Draft Law on Amendments to the Law on Railways with the reasoning and analysis of the effects of the law, from the viewpoint of the LPDP;
- The Ministry of Family Welfare and Demography was given an opinion on the Draft Law on Amendments to the Law on Financial Support for Families with Children, from the viewpoint of the Commissioner's mandate;

- The Ministry of Information and Telecommunications was given opinions on the Draft Law on Electronic Communications, the Draft Law on Information Security, the Draft Law on Electronic Media, the Draft Law on Public Information and Media, all from the viewpoint of the LPDP;
- The Ministry of Health was given opinions on the Draft Law on Amendments to the Law on Human Cells and Tissues, Draft Law on Amendments to the Law on Transplantation of Human Organs; Draft Law on Amendments to the Law on Health Insurance, Draft Law on Medical Documents and Records in the Field of Healthcare; all from the viewpoint of the LPDP;
- The Ministry of Education was given opinions on the Draft Law on Amendments to the Law on Textbooks, Draft Law on Amendments to the Law on Elementary Education; Draft Law on Amendments to the Law on the National Qualifications Framework of the Republic of Serbia; Draft Law on Amendments to the Law on the Education System Foundations, Draft Law on Amendments to the Law on Secondary Education, and Draft Law on Amendments to the Law on Dual Education; all from the viewpoint of the LPDP;
- The Ministry of European Integration was given an opinion on Draft Law on the Confirmation of the Sectoral Agreement between the Government of the Republic of Serbia and the European Commission setting out provisions for the management and implementation of Union financial assistance to the Republic of Serbia under the instrument for Pre-accession Assistance in the policy area of Agriculture and Rural Development (IPARD III); from the viewpoint of the LPDP;
- The Ministry of Finance was given opinions on the Draft Law on Amendments to the Law on Public Procurement, Draft Law on Amendments to the Budget Law for 2023, and Draft Budget Law for 2024; from the viewpoint of the Commissioner's mandate;
- The Ministry of Interior was given an opinion on Draft Law on Amendments to the Law on National DNA Register; from the viewpoint of the LPDP;
- Statistical Office of the Republic of Serbia was given an opinion on the Official Statistics Draft Law on two occasions, from the viewpoint of the LPDP.

2) Opinions on drafts and proposals of other legal instruments

In the course of 2023, the Commissioner issued **12 opinions on drafts and proposals of other legal instruments** upon request from the relevant public authorities. All opinions were given from the viewpoint of the Commissioner's mandate.

- The Ministry of Interior was given an opinion on : Agreement between the Government of the Republic of Serbia and the Government of the Republic of Italy on the mutual recognition and exchange of driver's licenses in terms of the LPDP; Draft Agreement on the status of the Republic of Serbia and the EU in operational activities carried out by Frontex in the RS; Proposal of the basis for conducting negotiations and concluding an Agreement between the Republic of Serbia and the European Union on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia, with a Proposal

for Conclusion and Reasoning, as well as the text of the Draft Agreement; all from the viewpoint of the LPDP;

- The Ministry of Science, Technological Development and Innovation was given an opinion on Proposal for a Conclusion by which the Government adopts Ethical Guidelines for the development, application and use of reliable and responsible artificial intelligence, from the viewpoint of the Commissioner's mandate;
- The Ministry of European Integration was given an opinion on Draft Proposal of the Sectoral Agreement between the Government of the Republic of Serbia and the European Commission setting out provisions for the management and implementation of Union financial assistance to the Republic of Serbia under the instrument for Pre-accession Assistance in the policy area of Agriculture and Rural Development (IPARD III); from the viewpoint of the LPDP;
- The Ministry of Justice was given an opinion on the Personal Data Protection Strategy Proposal for 2023-2030, from the viewpoint of the LPDP;
- The Ministry of Family Welfare and Demography was given an opinion on the Protocol on the Provision of Cross-sectoral Services through the software solution "I'll keep you safe" in order to protect children from abuse, neglect, violence, and exploitation; from the viewpoint of the LPDP;
- The Ministry of Mining and Energy was given an opinion on the Regulation on Amendments to the Regulation on the Vulnerable Energy Customers on two occasions; from the viewpoint of the LPDP;
- The Ministry of Human and Minority Rights was given opinions on Draft Proposal of a Report on Gender Equality in the Republic of Serbia for 2022, from the viewpoint of the LPDP;
- The Ministry of Public Administration and Local Self-Government was given opinions on Regulation on the Implementation of Internal and Public Competition for filling vacancies in autonomous provinces and local self-government units, and on Proposal for a Regulation on Central Personnel Records, all from the viewpoint of the LPDP.

3) Opinions concerning the Application of the LPDP

In the course of 2023, the Commissioner issued a total of **323 substantiated opinions** concerning the application of the LPDP, including: 213 opinions issued to citizens, attorneys and the media, 4 opinions issued to NGOs and other associations and trade unions, 22 opinions issued to legal entities (private companies, insurance companies, banks, mobile operators, internet providers), 79 opinions issued to government authorities, local self-government authorities, health care and social welfare institutions, education institutions, and public enterprises, and 5 opinions issued to residential community managers). In **1** case, the Commissioner addressed the **Ministry of Finance** regarding the implementation of the Law on Fiscalization.

In 2023, the Commissioner also issued **3 preliminary opinions** in accordance with Article 55, of the LPDP, concerning data protection impact assessment. These opinions were issued to a ministry (1), local self-government authority (1), and public company (1).

3.1.2. Reporting

As part of compliance with the obligations under the law, the Commissioner receives reports and contributions to reports by public reports and submits to public authorities his reports and contributions to reports.

In accordance with Article 130a), of the Law on Electronic Communications⁴⁵, the Commissioner receives reports and records of access to retained data from operators of electronic communications. As of the time of writing of this report, the Commissioner has received such reports in respect of the preceding year from **97 operators** of electronic communications, on the basis of which it was determined that the operators received a total of 117,737 requests for access to retained data and that they processed 117,363 such requests.

In compliance with his legal obligation, the Commissioner submitted an annual report on his activities for 2022 to the National Assembly of the Republic of Serbia, which the National Assembly did not consider. The Commissioner published the annual report on his activities for 2022 on his website www.poverenik.rs.

In accordance with Article 43 of the LFAIPI, public authorities are required to submit to the Commissioner annual reports on the actions they have undertaken to comply with the LFAIPI. Out of the 12,000 public authorities in total, only 5,238 have submitted such reports to the Commissioner in respect of the preceding year.

The submitted annual reports have shown the following:

- A total of 42,080 requests regarding free access to information were registered; out of that, 34,480 were accepted and processed, 813 were dismissed, and 2,867 were rejected;
- 10,099 complaints were registered: 1,787 for rejection of requests, 4,223 for non-compliance with requests, and 2,094 other complaints;
- 3,325 public authorities reported to have conducted trainings, while 5,124 regularly maintain data storage media;
- 4,675 of the public authorities that submitted their reports have published their Information Directories in the SIS;
- 153 public authorities charged the expenses of issuing copies containing information of public importance. The amount of charged expenses according to the reports is RSD 1,464,423.00;
- As regards categories of requested information, according to the reports submitted by public authorities these concerned:
 1. Budget (salaries, donations, sponsorships, contracts...) – 12,593 requests,
 2. Environment protection – 1,237 requests,
 3. Public health – 721 requests,
 4. Issues within the mandate of public authorities – 24,155 requests.

⁴⁵ "Official Gazette of the Republic of Serbia" Nos. 44/2010, 60/2013 – Constitutional Court Decision and 62/2014 and 95/2018 - new law.

Out of the **42,080** requests for free access to information, **27,452** or **65.24%** of the total number were filed by citizens, while members of the media submitted 2,929 requests, or 6.96%. Representatives of political parties submitted 871 requests or 2.07%, while non-governmental organizations and other citizens' associations submitted 6,318 requests or 15.01%

According to the data the Commissioner obtained from the Treasury Administration of the Ministry of Finance⁴⁶, and had the chance to review, a total of RSD 189,000.00 was credited to the account used for the payment of necessary expenses of issuing copies of documents containing information of public importance (840-742328843-30). However, according to the data presented in the reports submitted by public authorities, the amount of expenses charged in 2023 was RSD 1,464,423.00. This likely means that public authorities charged the expenses through their own accounts.

In accordance with Article 18, of the Law on Records and Data Processing in Law Enforcement, the Ministry of Interior (MoI) submitted to the Commissioner its Annual Report on Implementation of the LPDP at the MoI for 2023⁴⁷, informing the Commissioner of the following:

- that in the course of 2023, they recorded a total of 178 requests from citizens for the exercising of rights related to the processing of personal data with regard to which they sent 62 notifications about the processing of personal data, per requests for the exercising of the right to erase data, he sent 101 notifications to the applicants on the limitation of rights, while according to the remaining requests, he enabled correction and/or updating of data, inspection, delivery of a copy and erasing of data, as per 5 requests, the procedure is still in progress;

- that they complied with all the decisions of the Commissioner and erased the data from the records, that is, provided the right to access and inspect, and a copy of the data;

- that in 2023, they recorded two data breaches when personal data from the "Event Diary" were published on the social network "Twitter" by a police officer from the Valjevo Police Department and when a minor's personal data was breached by the police officer enabling her underage daughter to photograph information about an underage person, which was then forwarded to another person via the social network "Snapchat";

- that in the course of 2023, an Assessment of the impact of the intended actions of processing biometric personal data using the video surveillance system was carried out, for which the Commissioner's opinion was obtained, and

- that pilot projects for the use of cameras on police vehicles and police uniforms were started in 2023.

Other reports and contributions to reports submitted by the Commissioner to public authorities concern primarily Serbia's EU integration processes. Such reports were submitted to the following recipients in 2023:

- **Ministry of Justice:** Revised Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q4 2022; Revised Alert Mechanism Report for Chapter 23 for Q4 2022; Responses to additional questions of the European Union based on the semiannual Report on Implementation of Action Plan for Chapter 23, namely three questions in the part 3.4 and to

⁴⁶ Letter No. 401-00-2743-2/2023-001-007 dated 12 January 2024.

⁴⁷ Letter 02/8 No. 07-7-413/2023-3 dated 19 January 2024.

questions 6.1 and 6.5.; The form related to the benefits of negotiations in the negotiation process of Serbia with the European Union for Chapter 23; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q1 2023; Updated information for Alert Mechanism Report for Q1 2023; Report on Implementation of the National Programme for Adoption of the *Acquis* (NPAA) 2022-2025 for Q1 2023; Report on the Self-assessment of the Achievement of Interim Benchmarks for Chapter 23, which refers to the period from 2016 through Q2 2022; European Commission's annual Serbia Report 1 January – 31 May 2023 within the mandate of the Commissioner for Information of Public Importance and Personal Data Protection; contributions to the National Programme for Adoption of the *Acquis* (NPAA) 2022-2025 for Q2 2023; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q2 2023; Table on the Achievement of Interim Benchmarks which refers to the application of the Law on Free Access to Information of Public Importance for Chapter 23 for January – June 2023; Responses to questions in connection with the implementation of the UN Convention against Corruption in order to prepare discussions within the framework of the compliance review; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q3 2023; Alert Mechanism Report in accordance with the status of the implementation of activities in Q3 2023; Report on Implementation of the National Programme for Adoption of the *Acquis* (NPAA) 2022-2025 for Q3 2023, within the Commissioner's the mandate; Responses to questions from the Self-Assessment Checklist of the Republic of Serbia within the mandate of the Commissioner for Information of Public Importance and Personal Data Protection with regard to the implementation of the UN Convention against Corruption; Report on the Self-assessment of the Achievement of Interim Benchmarks for Chapter 23: "Judiciary and Fundamental Rights" for Interim Benchmark 29; Report on the Self-assessment of the Achievement of Interim Benchmarks for Chapter 23: "Judiciary and Fundamental Rights" for Interim Benchmark 50; Report on the Self-assessment of the Achievement of Interim Benchmarks for Chapter 23 in the part Fundamental Rights - Responses to additional questions related to Interim Benchmark 50;

- **Anti-Corruption Agency:** Summary Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – subchapter "Fight against Corruption", consolidated data for all three quarters and for the last Q4 2022; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – subchapter "Fight against Corruption", for Q1 2023; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – subchapter "Fight against Corruption", for Q2 2023; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – subchapter "Fight against Corruption", which includes information on the implementation of activities which are due in the Q3 2023, as well as for those that are continual;
- **Ministry of European Integration:** Report on Implementation of the National Programme for Adoption of the *Acquis* (NPAA) 2022-2025 for Q4 2022; Report on the Achievement of Interim Benchmarks for Chapter 23: for July – December 2022; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 - subchapter "Fight against Corruption", for Q1 2023; European Commission's annual Serbia Report 1 January – 31 May 2023 – in the field

“Democracy”, within the mandate of the Commissioner for Information of Public Importance and Personal Data Protection;

- **Ministry of Public Administration and Local Self-Government:** European Commission’s annual Serbia Report 1 January – 31 May 2023 – Public administration reform within the mandate of the Commissioner for Information of Public Importance and Personal Data Protection.

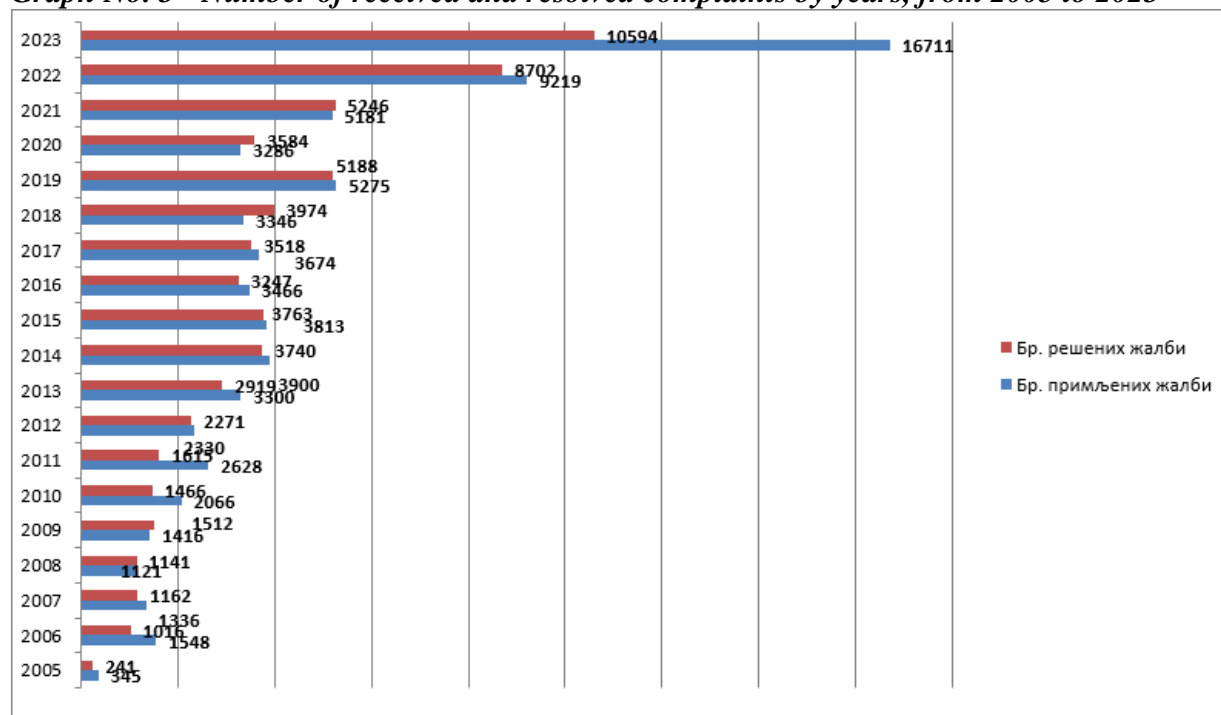
3.2. COMMISSIONER’S ACTIVITIES RE PROTECTING AND FORWARDING THE RIGHTS TO ACCESS INFORMATION OF PUBLIC IMPORTANCE

3.2.1. Protection of the right to free access to information by the Commissioner

3.2.1.1. Handling of Complaints

The number of complaints formally lodged with the Commissioner on the grounds of violation of the right to free access to of information of public importance remains continually high, with an upward trend year-on-year, as presented in the *graph* below. **In 2023, this institution of the Commissioner received the highest number of complaints ever during one calendar year since its formation, namely 16,711 complaints, while 2,983 pending complaints had been carried forward from the preceding year.**

Graph No. 3 - Number of received and resolved complaints by years, from 2005 to 2023



No. of resolved complaints
No. of received complaints

The cause of enormous increase in the number of complaints lodged in 2023 lies in the sudden change of the position of the Administrative Court, determined at the 105th Full Judicial Panel held on 21 June 2022, regarding justifiability of reimbursement of legal expenses incurred by information requesters when hiring attorneys to represent them in procedures pursuant to complaints filed with the Commissioner. Namely, after more than 13 years, the Administrative Court changed its position, finding that the public authorities are now obliged to reimburse the costs of representation by lawyers to the complainants, in the event that the Commissioner determines that the complaint is founded. In order to understand how the change of the court's position affected the increase in the number of complaints, the following should be taken into account:

In the period from 1 January 2022 through 30 June 2022, 1,771 complaints were lodged with the Commissioner, and in the period from 1 July 2022 through 31 December 2022, a total of 7,440 complaints were lodged. Consequently, during 2023, the number of complaints increased to 16,711 complaints, which, along with 2,983 complaints carried forward from the previous year, meant 19,694 pending complaints to handle. For these reasons, all the data in this report, which refer to the field of access to information, should be taken with a grain of salt, in the sense that the general overview may indicate a significant improvement in the status in the field of access to information (fewer number of founded complaints, etc.), although trends, without data on complaints by persons who lodged complaints through a lawyer, with the sole and basic goal of collecting the costs of the procedure, are quite similar compared to previous years. It may also indicate a worsening of the situation in certain segments (e.g. it may seem that there is still a high percentage of well-founded complaints lodged due to the so-called "silence of the administration", but precisely one of the ways in which lawyers act is to wait exactly for the sixteenth day of the deadline expiry for processing the request to lodge a complaint (counting from the day of handing over the registered items to the post office), although it would be subsequently determined that the authority sent a timely response to the request and the requested information, but due to the way the post office works, the response arrives a few days after the complaint is lodged). Therefore, all the data in this report should be viewed in the light of the fact that the abuse of the right to access to information, which following the change of the position of the Administrative Court gained systemic proportions, can create a somewhat distorted impression of the real state of play in the field of access to information.

The Commissioner resolved 10,594 complaints in 2023. 3,927 or 37.07% complaints were lodged due to public authorities completely ignoring the applicant's requests for information ("administrative silence"). 1,052 complaints or 9.93% of the total number of resolved complaints, were lodged against decisions of public authorities which rejected the applicant's requests as unfounded and provided a statement of reasons. In 5,250 cases, or 49.56% of the total number of resolved complaints, public authorities provided incomplete replies to information requests, while in 330 complaints, or 3.11%, public authorities replied to information requests by notices containing elements of a decision, in the total number of resolved complaints in 2023. In 35 cases,

or **0.33%**, complaints were lodged against the requesters' demand to be reimbursed for the expenses of the procedure.

The complaints were largely **founded** – **3,279** complaints or **30.95%** of the total number of resolved complaints. Nevertheless, if we review these figures in the light of the fact that out of 10,594 resolved complaints, 5,947 complaint was rejected due to the protection of the public interest, because the complaints were filed solely in personal and private interest to collect the costs of the proceedings, and not in the public interest to know (out of which 4,860 complaints were submitted by two lawyers, whose manner of working and acting was reported to the competent public prosecutor's office, and disciplinary reports were also submitted to the competent bar association) it is clear that that the actual percentage of well-founded complaints lodged with the Commissioner is still very high.

In 2023, as in previous years, the trend of many procedures pursuant to founded complaints lodged with the Commissioner ending in **termination of the procedure** continued. In **1, 210 cases (36.9%)** out of the total number of founded complaints the procedure was terminated, because the public authorities had in the meantime complied with the information request, upon learning of the complaint and receiving a request for a reply from the Commissioner, but before a decision could be taken pursuant to the complaint, with the complainants formally withdrawing their complaints in **289** cases. This shows that the trend of previous years continues, namely that the right to access information is still difficult to exercise without the Commissioner's intervention, which entails wasteful or unnecessary involvement of employees and spending of public money, since there was no actual reason for denial of information before complaints were lodged. Nevertheless, during 2023, in a large number of cases, the termination occurred for reasons that cannot be attributed to the fault of the first instance authority and their negligent attitude towards submitted requests for access to information (postal strike for a long period of time, delay in the delivery of letters, abuse of rights by lawyers (filing a complaint on the first day after the deadline expiry, the lawyers evading the delivery of a letter that has already arrived, etc.).

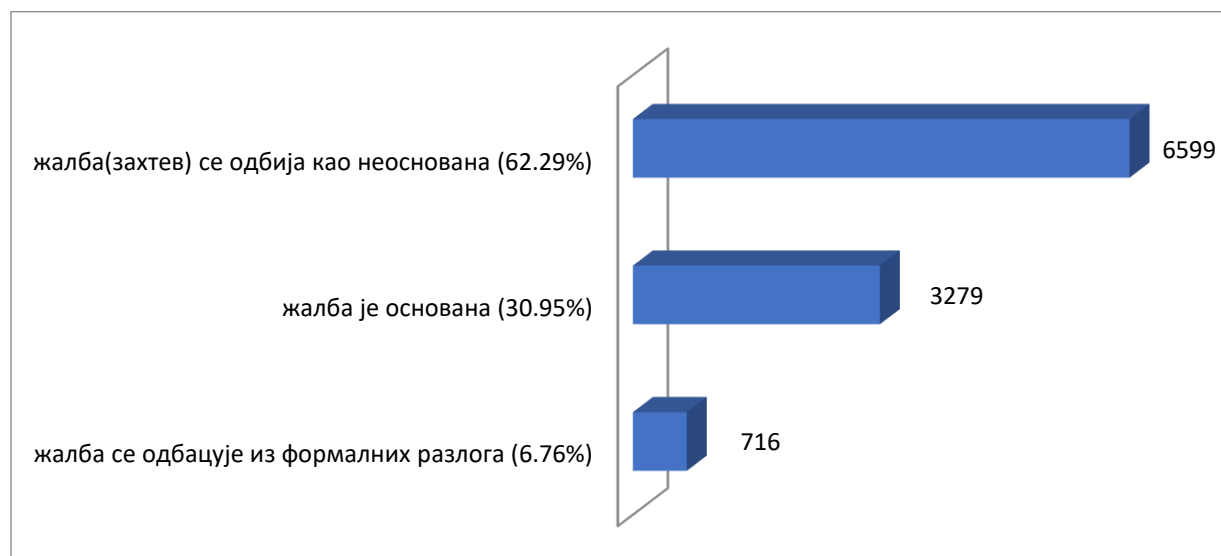
According to the data held by the authorities who submitted their reports to the Commissioner (Art. 43 of the Law on Free Access to Information of Public Importance), the total of **42,080** requests for exercising the right to free access to of information of public importance were submitted to those authorities in 2023.

Almost one half of the authorities having the legal obligation to submit annual reports to the Commissioner complied with this duty in 2023, namely **5,238** or 42,73% out of the total of **12,257** of the authorities that unmistakably have a statutory obligation to submit the reports. This was the highest number of reports submitted so far, which was probably due to amendments to the Law on Free Access to Information of Public Importance and infringement liability for failure to submit information directories to the Commissioner. Nevertheless this number is still far from satisfactory and indicates that the public authorities continue to be negligent regarding their obligations prescribed by the Law on Free Access to Information. Since amendments to this Law specified ten categories of public authorities, including various categories of companies and other legal entities, it is impossible to identify the exact number of these entities. Criteria to determine whether a legal entity is included in the category of public authorities include whether it is vested with public powers, whether it performs an activity of general interest, and also the manner of its establishment,

ownership stakes, composition of managerial bodies and the manner of financing, which is why the scope of public authorities is very wide and variable.

The graphs below show to which information the requests and complaints filed by requesters pertained in 2023, who requested the information, against which authorities the complaints were lodged, what reasons public authorities invoked when they passed decisions rejecting information requests, decisions taken by the Commissioner in handling the complaints and how public authorities complied with the Commissioner's decisions.

Graph No. 4. - Decisions taken by the Commissioner pursuant to complaints



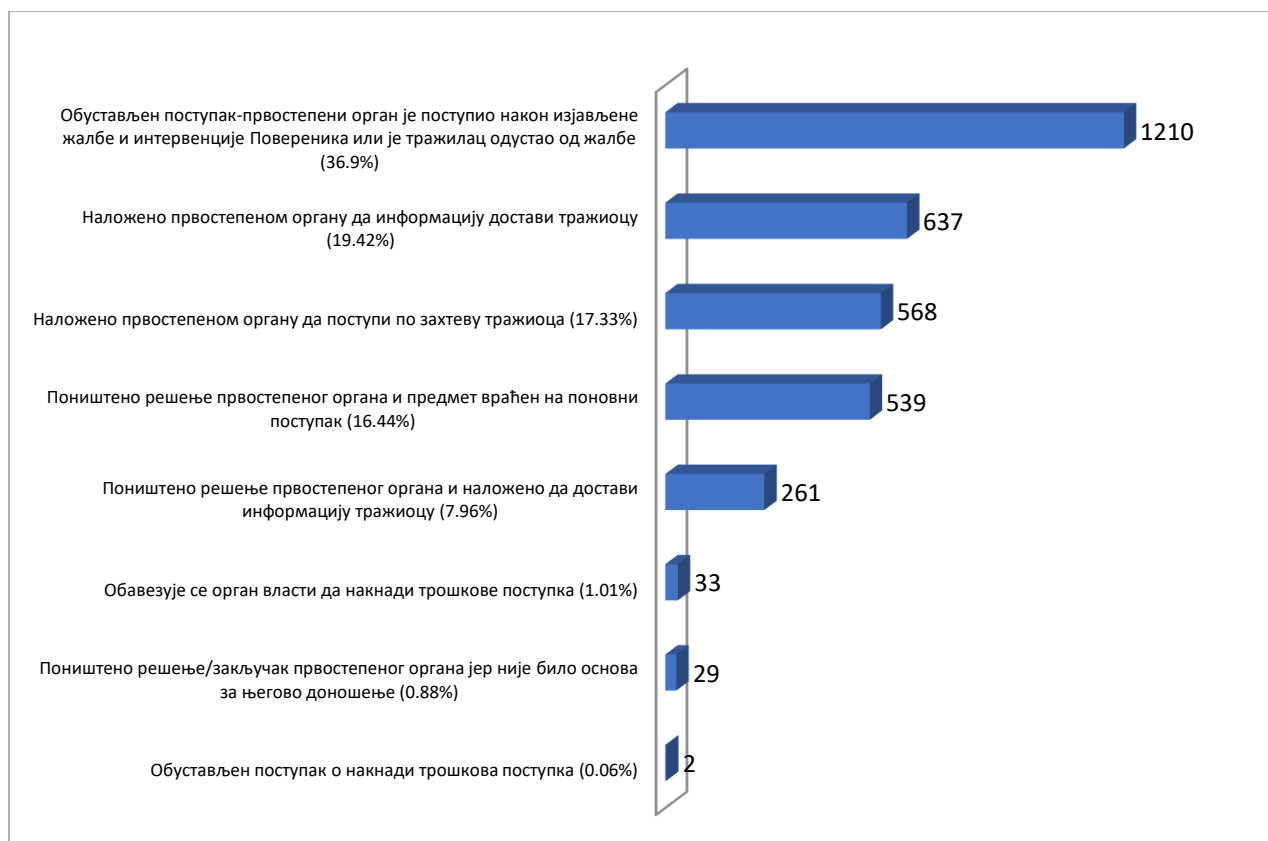
Complaints (requests) rejected as unfounded

Well-founded complaints

Complaints dismissed on formal grounds

Graph No. 5 - Commissioner's decisions pursuant to founded complaints⁴⁸

⁴⁸ In a total of 898 complaints, the Commissioner ordered the first-instance authorities to provide information to the applicant, more precisely 866 decisions were taken in those cases, and 32 cases were joined during resolution.



Procedure terminated - first-instance authorities complied with the request after complaints were lodged and after the Commissioner intervened or requesters withdrew their complaints

First-instance authorities ordered to make information available to the requester

First-instance authorities ordered to comply with the applicant's request

Decisions of first-instance authorities overturned and case returned for repeated proceedings

Decisions of first-instance authorities overturned and authorities ordered to make information available to the requester

Public authorities required to reimburse expenses of the procedure

Decisions/Conclusions of first-instance authorities overturned due to lack of proper legal basis for their taking

Procedure of reimbursing expenses of the proceedings dismissed

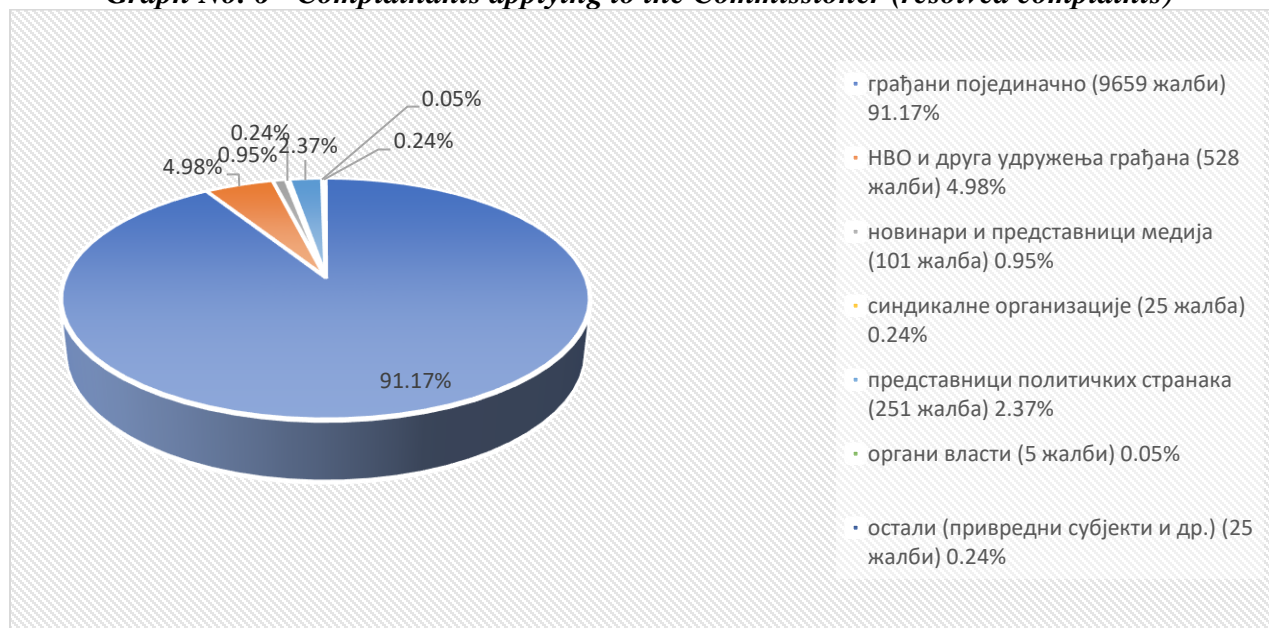
As in 2022, the majority of complainants, or information requesters, in 2023 were individual citizens and citizens' associations

Journalists and media outlets lodged 261 complaints with the Commissioner in 2023 (or 1.56% of the total number of complaints lodged in 2023). The majority of these complaints, namely 128, were lodged against the so-called "administrative silence". **In 2023, 101 complaints by**

journalists and media outlets were resolved (pending complaints carried forward from 2022 were also resolved). For the first time, it happened that the number of resolved journalistic complaints was significantly lower than the number of lodged complaints, which is a direct consequence of the fact that the significant capacities of the Commissioner were overwhelmed by solving the urgent movements of lawyers who abuse the law (Article 19, of the Law on Administrative Disputes), and in general by processing and by resolving cases that are the result of systemic abuse of rights. Information about this and the intangible consequences of systemic abuse of rights is detailed under [2.A.2.](#), [2.A.3.1.](#) and [2.A.3.2.](#)

Out of 101 resolved complaints of media representatives, 7 ended with an order to provide the information to the requester, on which the authorities did not act in 2 cases or in 28.6%. Although the number of unexecuted decisions of the Commissioner on journalistic complaints is not large (two unexecuted decisions), it has a special weight, because journalists, by the nature of their work, write about topics of great importance to the public and act in the public interest. When this fact is viewed together in the light of the fact that as many as 49.04% of complaints (128 out of a total of 261) lodged to the Commissioner in 2023 were lodged due to the "silence" of public authorities, it is clear that journalists have a very difficult time getting information, i.e. they find it difficult to exercise their right to access information of public importance. The situation is made even more difficult by the fact that the capacities of the Commissioner are occupied to a significant extent by systemic abuse of rights, which is another reason why the problem of abuse of the right to access information must be urgently resolved.

Graph No. 6 - Complainants applying to the Commissioner (resolved complaints)



Individual citizens (... complaints)

NGOs and other citizens' associations (... complaints)

Journalists and media outlets (... complaints)

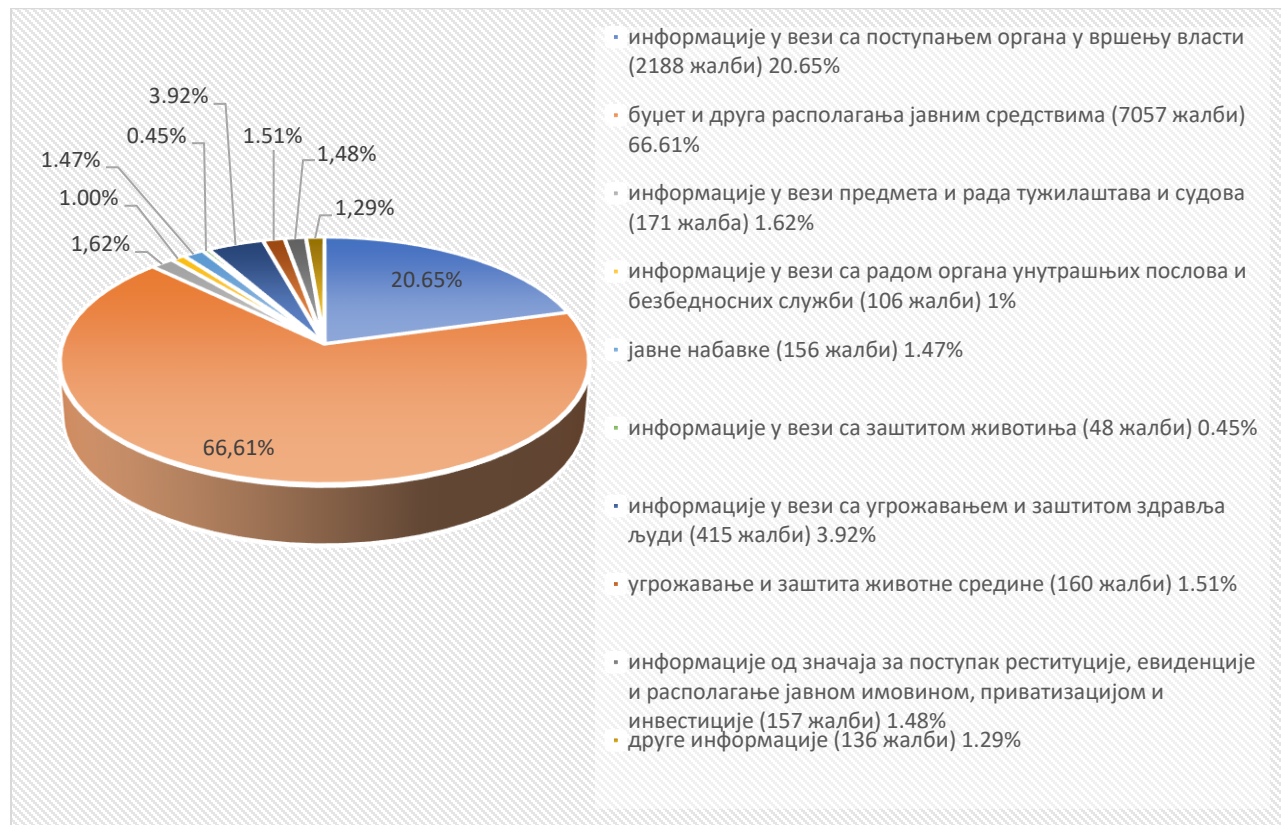
Trade unions (... complaints)

Representatives of political parties (... complaints)

Public authorities (... complaints)

Others (economic operators, etc.) (... complaints)

Graph No. 7 - Types of requested information in resolved complaints



Information on actions by public authorities in their exercising of their powers (... complaints)

Budget and other disposals of other public assets (... complaints)

Information on cases processed by and the activities of public prosecutors' offices and courts (... complaints)

Information on the activities of the law enforcement agencies and security services (... complaints)

Public procurement (... complaints)

Information on animal welfare (... complaints)

Information on health threats and public health protection (... complaints)

Environmental threats and protection (... complaints)

Information on restitution proceedings, public property records and disposal, privatization, and investments (... complaints)

Other types of information (... complaints)

In the structure of complaints resolved in 2023, the majority were lodged against national government and other authorities and organizations, namely 7,288 complaints or 68.77% out of the total number of resolved complaints, of which 473 complaints were resolved against the ministries and bodies subordinated to them, which is 6.5% of the complaints resolved against the national government authorities.

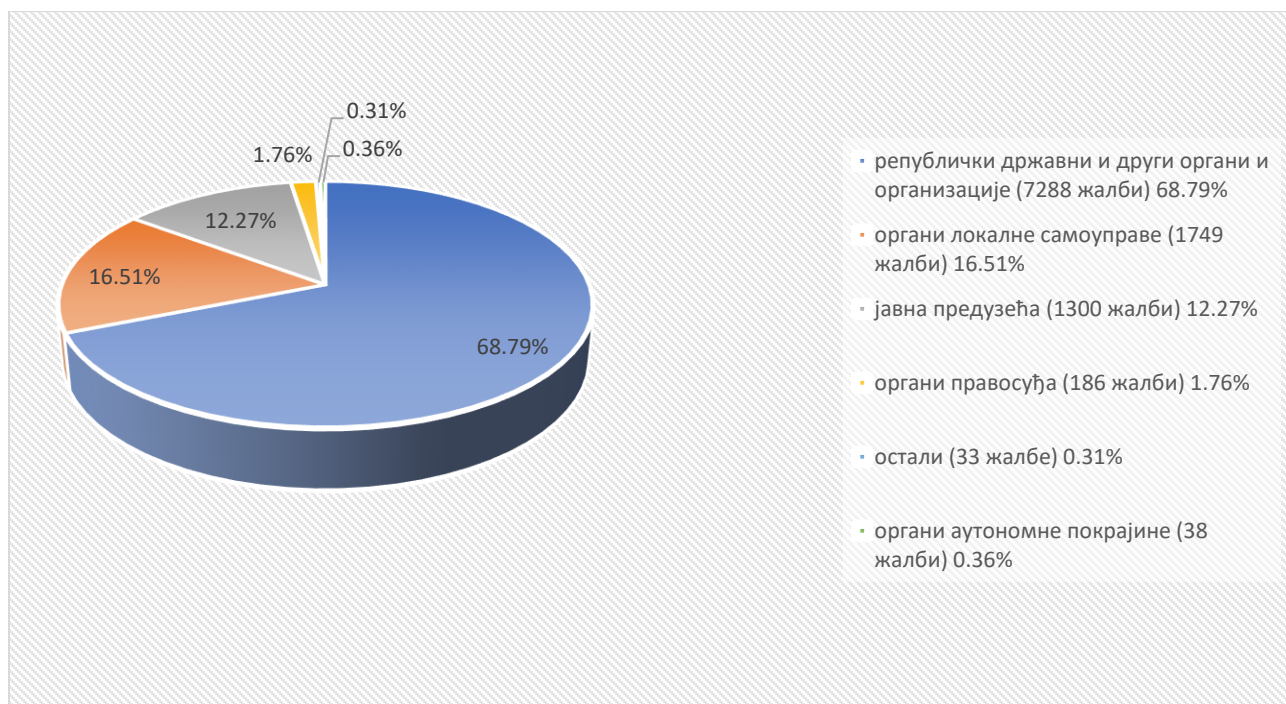
Also, in 2023, the Commissioner resolved 1,749 complaints against local self-government authorities or 16.51% of the total number of resolved complaints, while the Commissioner resolved 1,300 complaints against public companies or 12.27% of the total number of resolved complaints. Also, the Commissioner resolved 186 complaints against judicial authorities or 1.76% of the total number of resolved complaints in 2023.

On the other hand, in 2023, the largest number of annual reports of public authorities on acting in accordance with the Law on Free Access to Information of Public Importance was ever submitted to the Commissioner, namely 5,238. According to data from these reports, a total of 42,080 requests for free access to information of public importance were submitted. When this is compared with the 16,711 lodged complaints in 2023, the conclusion is that one complaint was lodged for every 2.51 requests for access to information, which is an unusually high figure, and which is definitely to a certain extent a consequence of huge abuses of the right to access information.

The ratio of the number of submitted requests and reported complaints varies depending on the category of authority.

For the sake of comparison, it can be seen from the submitted reports that 14,489 requests were submitted to local self-government bodies in 2023, or 34.43% of the total number of requests. As an illustration, in 2023, the Commissioner received 2,860 complaints about violations of the right to free access to information against local self-government bodies, which means that one complaint was lodged for every 5 requests. Also, according to the data from the submitted reports, 5,995 requests, or 14.25% of the total number of requests, were submitted to the judicial authorities, while 428 complaints against these authorities were lodged to the Commissioner, which indicates that one complaint was lodged for every 14 requests. In 2023, the Commissioner received 3,454 complaints against public companies, while according to the data from the report, 4,773 requests were recorded against these bodies, or 11.34% of the total number of requests, which indicates that in 2023, one complaint was lodged for every 1.3 requests sent to public companies in 2023. Regardless of existing abuses, the ratio of one complaint to 1.3 submitted requests to public companies indicates an unsatisfactory level of transparency in public companies.

Graph No. 8 - Number of resolved complaints by types of authorities



National government and other authorities and organizations (... complaints)

Local self-government authorities (... complaints)

Public companies (... complaints)

Judicial authorities (... complaints)

Other (... complaints)

Autonomous provinces authorities (... complaints)

Table No. 7 - Overview of requests filed and complaints lodged with the Commissioner in 2023 against ministries, with bodies subordinated to them

No.	Ministry	No. of requests	No. of complaints
1.	Ministry of Interior	1,763	409
2.	Ministry of Finance	488	113
3.	Ministry of Agriculture, Forestry, and Water Management	372	59
4.	Ministry of Justice	259	208
5.	Ministry of Construction, Transport, and Infrastructure	310	47
6.	Ministry of Education	293	14
7.	Ministry of Defense	119	44
8.	Ministry of Health	401	63

9.	Ministry of Economy	91	8
10.	Ministry of Public Administration and Local Self-Government ⁴⁹	/	16
11.	Ministry of Labor, Employment, Veterans and Social Affairs ⁵⁰	/	32
12.	Ministry of Internal and Foreign Trade	73	5
13.	Ministry of Culture	79	10
14.	Ministry of Sports	32	1
15.	Ministry of Mining and Energy	206	35
16.	Ministry of Foreign Affairs ⁵¹	/	9
17.	Ministry of Environmental Protection	346	97
18.	Ministry for European Integration	11	/
19.	Ministry for Human and Minority Rights and Social Dialogue	18	4
20.	Ministry of Family Welfare and Demography	31	/
21.	Ministry of Rural Welfare	9	1
22.	Ministry of Information and Telecommunications	36	13
23.	Ministry of Public Investments ⁵²	/	2
24.	Ministry of Science, Technological Development, and Innovation	24	3
25.	Ministry of Tourism and Youth	30	/
TOTAL		4,991	1,193

The following ministries failed to submit annual reports to the Commissioner: **Ministry of Public Administration and Local Self-Government, the Ministry of Labor, Employment, Veterans and Social Affairs, the Ministry of Foreign Affairs, and the Ministry of Public Investments.** At the same time, the report was submitted by the Administrative Inspectorate within the Ministry of Public Administration and Local Self-Government, to which 69 requests for free access to information were sent in 2023 and 9 complaints were lodged with the Commissioner against this authority. Also, the reports were submitted by the Labor Inspectorate within the Ministry of Labor, Employment, Veterans and Social Affairs, to which 100 requests for free access to information were sent in 2023 and 9 complaints were lodged with the Commissioner, as well as the Directorate for Cooperation with the Diaspora and Serbs in the region within the Ministry of Foreign Affairs, to which 7 requests for free access to information were sent in 2023 and one complaint was lodged with the Commissioner.

The following administrative authorities within ministries also failed to submit their reports: the Rapid Response Directorate (an administrative authority within the Ministry of Economy), the Energy Reserve Directorate and the Directorate for Financing and Encouraging Energy Efficiency (administrative authorities within the Ministry of Mining and Energy), the Seized Property Management Directorate (an administrative authority within the Ministry of Justice), Occupational Safety and Health Directorate (administrative authority within the Ministry of Labor, Employment, Veterans and Social Affairs), Occupational Safety and Health Institute (an administrative authority within the Ministry of the Interior), Institute of Forestry (administrative authority within the

⁴⁹ This Ministry failed to submit its annual report for 2023 to the Commissioner.

⁵⁰ This Ministry failed to submit its annual report for 2023 to the Commissioner.

⁵¹ This Ministry failed to submit its annual report for 2023 to the Commissioner.

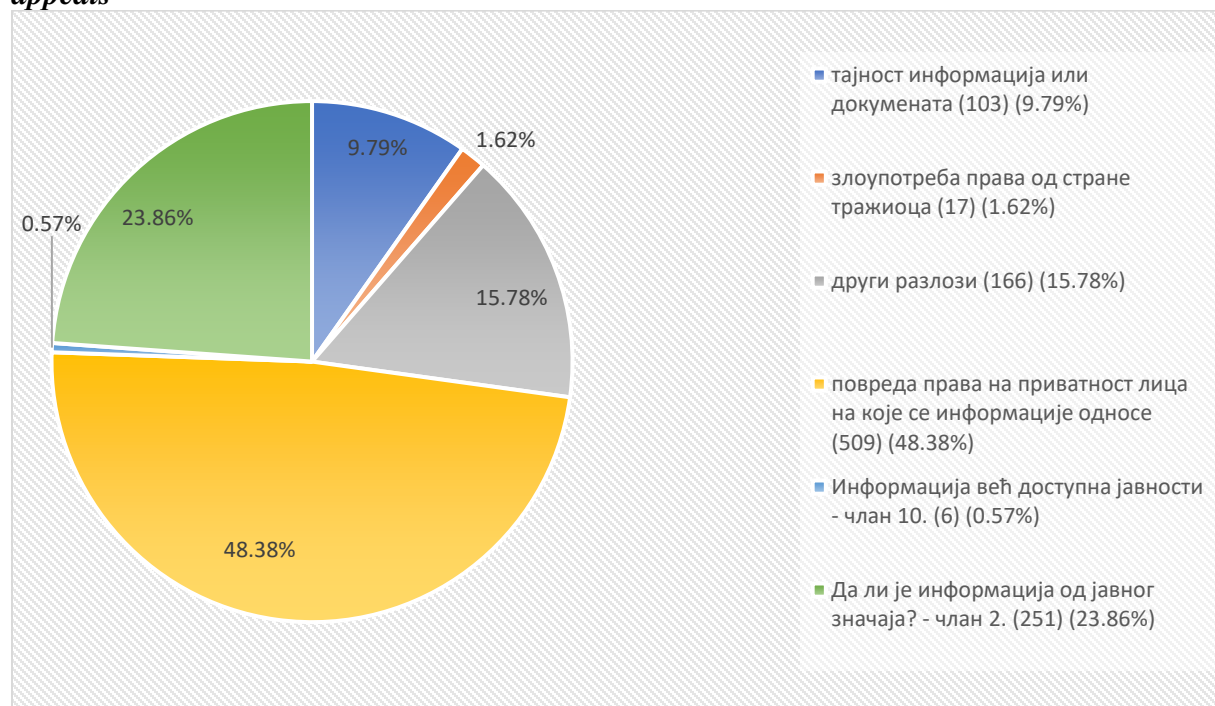
⁵² This Ministry failed to submit its annual report for 2023 to the Commissioner.

Ministry of Agriculture, Forestry, and Water Management) and Directorate for Inland Waterways "Plovput" (administrative authority within the Ministry of Construction, Transport and Infrastructure).

Data in the corresponding table show that in 2023, for every 4.2 requests submitted to ministries, the information requester lodged one complaint with the Commissioner against denial of information, which is similar to 2022, when this ratio was 4.3. Such ratio was better in previous years. As an example, in 2016, one complaint was lodged for every 9.5 requests, in 2017, there was one complaint lodged for every 7.7 requests, while in 2018 there was one complaint for every 5.35 requests.

As regards the structure of national authorities and organizations, the highest number of requests for access to information was submitted to the Ministry of Interior (1,763) and the Republic Geodetic Authority (777), as in case of complaints lodged in 2023, namely 409 complaints were lodged against the Ministry of Interior and 211 against the RGZ.

Graph No. 9 - Reasons for dismissing applications from information requesters in resolved appeals⁵³



Confidentiality of information or document
 Abuse of the right by the requesters
 Other reasons
 Violation of data subjects' right to privacy
 Information is already publically available - Article 10
 Is information of public importance? - Article 2

In 2023, in cases when public authorities rejected information requests as unfounded by their decisions (1,052 cases), they invoked abuse of the right by information requesters in 17 cases, or in 1.62% of complaints where decisions were passed rejecting the request. In 103 cases, or 9.79%, public authorities invoked confidentiality of information or documents (almost cutting in half the numbers from 2022), while the cases when they invoked violation of data subject's right to privacy almost doubled (509 cases, or 48.38%). Public authorities invoked Article 2, of the LFAIPI (is the information of public importance?) in 251 cases, or 23.86%, while they invoked Article 10 of the LFAIPI (information is already publicly available) in only 6 cases.

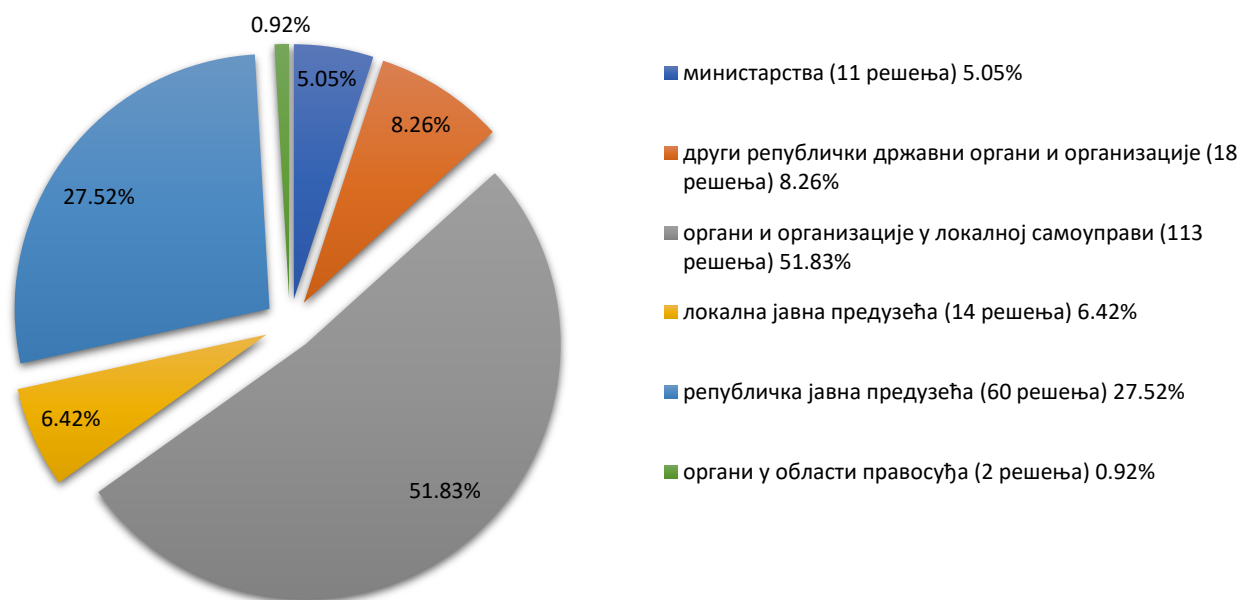
An analysis of the reasons for rejection of information seekers' requests reveals that abuse of the right to privacy of data subjects is the most frequent reason for rejection. This is a consequence of the fact that employees in public authorities are not aware of the fact that the scope of privacy of persons employed in public authorities is narrowed as compared to the scope of privacy of the so-called ordinary citizens, which results in very frequent unjustified appeals to

⁵³ Percentages as compared to the number of resolved complaints against the decision/conclusion (1,052 complaints against the decision/conclusion).

privacy and protection of personal data and unjustified refusal of requests for access to information. Information about the education of a person employed in a public authority and the criteria that are a requirement for working in a certain workplace, as well as information about employees' earnings, payments from the budget for overtime work, transportation, etc. must be available to the public, because these benefits are paid from the budget, but even then data that is not important for the performance of work and is not related to payments from the budget, such as national identification number, home address, current account number, parents' names, deductions on grounds of alimony, administrative prohibitions, etc.

In addition, both this year and the previous year, a significant number of rejections of requests from applicants with a statement of reasons invokes that the requested information is not information of public importance in the sense of Art. 2, of the Law, although it fulfills all the elements prescribed by law in order to be considered information of public importance.

Graph No. 10 - Number of Commissioner's decisions taken in 2023 that have not been complied with (218 of 866 decisions taken ordering to enable access to information)⁵⁴



Ministries (... decisions)
 Other national government authorities and organizations (...decisions)
 Local self-government authorities and organizations (...decisions)
 Local public companies (...decisions)
 National public companies (...decisions)
 Judicial authorities (...decisions)

⁵⁴ An Overview of the Commissioner's decisions taken in 2023 that have not been complied with by 29 February 2024, constitutes and integral part of the Report.

Out of 866⁵⁵ decisions taken by the Commissioner pursuant to complaints lodged by information requesters, by which the Commissioner ordered public authorities to make information available, authorities failed to comply with them in 218 cases, or 25.17%, meaning that the percentage of compliance with the Commissioner's decisions was 74.83% on the average.

The percentage of compliance with of the Commissioner's decisions taken pursuant to complaints lodged by journalists and media outlets, by which the Commissioner ordered submission of requested information, is still unsatisfactory. Thus, out of 101 resolved complaints lodged by journalists and media outlets, 7 were completed by an order to submit information to information requesters. Public authorities failed to comply with ordered measures in journalists' complaints in 2 cases, or 28.6%, which is particularly worrisome having in mind the content of requested information and the fact that that journalists always report on topics of interest for the general public.

In addition, the percentage of decisions taken on complaints lodged by journalists and media outlets that have not been complied with (28.6%) was higher than the percentage of non-compliance in cases of other complainants (25.17%), which is unacceptable, since members of this profession request information to write and report on topics of general public interest. Although numerically speaking, the number of unexecuted decisions of the Commissioner regarding journalistic complaints is not large, it has a particular weight and is a reason for concern, because journalists, by the nature of their profession, act as representatives of the public *par excellence* and request information in the public interest.

Graph No. 11 - Type of requested information in the Commissioner's decisions taken in 2023 that are not complied with - 218 decisions not complied with



⁵⁵ In the total of 898 complaint, the Commissioner ordered the first-instance public authorities to provide information to requesters, 866 decisions were taken in those cases, while 32 cases were joined when deciding.

Budget (salaries, donations, sponsorships...)
Procedures by administrative authorities
Threats to people and protection of people
Other
Environmental threats and protection
Law enforcement and security
Judiciary
Investment
Cadaster
Public procurement

An analysis of the withheld information in the Commissioner's decisions that have not been complied with reveals that three most common categories of withheld information were: 1) information on the budget (57.8%); 2) information on procedures before administrative authorities (26.15%), and 3) information on threats to people and protection of people (5.05%). These figures are particularly worrisome, because the first two categories of information (budget and procedures before administrative authorities) constitute information of particular importance for transparency of the activities of public authorities, lawfulness of their work and the fight against corruption, and as such must always in principle be available to the public. In addition, an increased percentage of denied information regarding threats to people and protection of people is also quite worrisome, since information that was denied pertains to public health, and due to its significance, it has the status of privileged information in terms of shorter and urgent deadlines for processing requests for access and for deciding on complaints, because people make decisions about their health with reference to the content of such information and align their behavior with it. For the sake of illustration, information was withheld on the number of people suffering from whooping cough, measures taken to prevent the epidemic of whooping cough, obstetric violence, measures taken in case of medical error, etc.,.

Also, there is still a high percentage of denied information related to environmental threats and protection (1.83%), which is also worrisome, since this is also the so-called privileged information in terms of shorter and urgent deadlines for processing requests for access and for deciding on complaints, being of exceptional importance for people's health and their decisions on how they are going to behave with reference to the content of such information.

3.2.1.2. Administrative Enforcement of Commissioner's Decisions

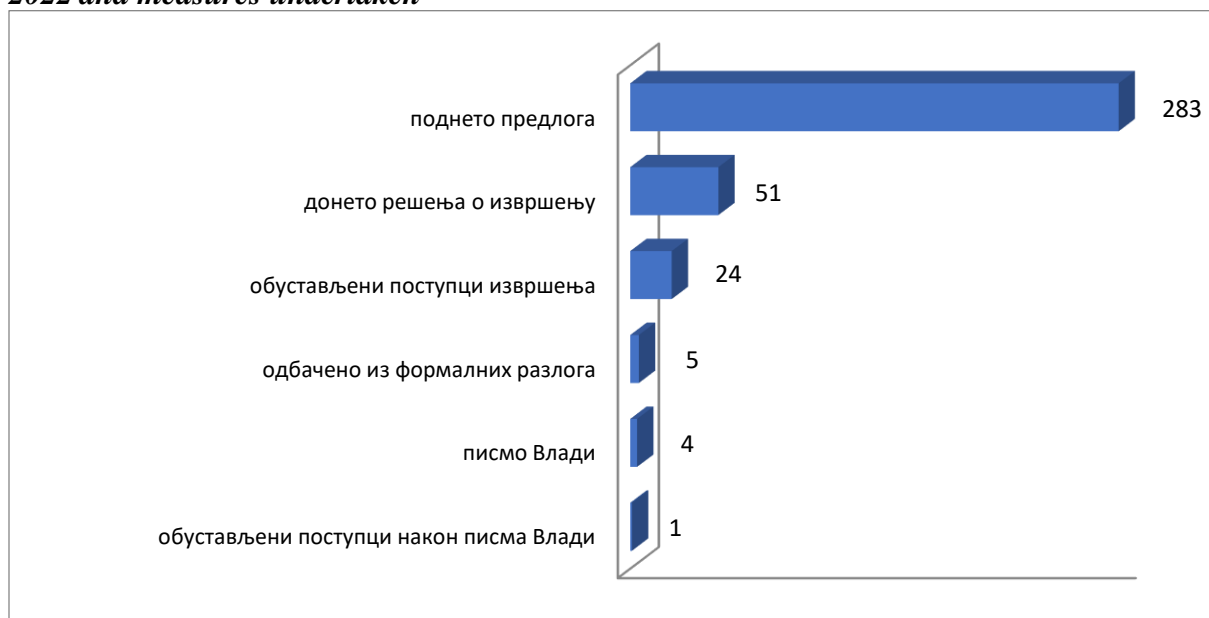
In 2023, the Commissioner initiated the procedures of administrative enforcement of his decisions pursuant to motions by parties/information requesters, however, as regards motions submitted under the law which was in force until 16 February 2022, the Commissioner could not implement them by imposing fines for reasons stated in the part of this Report on the state of play and obstacles to exercising the right. Based on reports by authorities and information received from parties, in only one case the Commissioner's decision was enforced after the Government was contacted. In this case, the party withdrew motion for enforcement, because the first-instance public authority complied with the Commissioner's decision in the meantime. However, the Government informed the Commissioner that *"The Government of the Republic of Serbia, the General Secretariat of the Government, in terms of providing assistance to the Commissioner in the*

procedure of administrative execution of the decision of that Commissioner, as prescribed in Article 28, para 4, of the Law on Free Access to Information of Public Importance, by applying measures within its competence, i.e. by ensuring the enforcement of the Commissioner's decision by direct coercion, has the same legal possibilities as the Commissioner himself⁵⁶.“

As regards motions for administrative enforcement of the Commissioner's decisions pursuant to the law in effect since 17 February 2022, as explained in the part of this Report on the state of play and obstacles to exercising the right, the mechanisms for administrative enforcement of the Commissioner's decisions were unblocked, but no decision imposing a fine was taken in 2023.

Overview of measures undertaken is presented in the graph below.

Graph No. 12 - Motions for administrative enforcement of the Commissioner's decisions filed in 2022 and measures undertaken



Motions submitted

Enforcement decisions taken

Terminated enforcement procedures

Dismissed on formal grounds

Communication with the Government

Procedures terminated upon communication with the Government

⁵⁶ Letter from the General Secretariat of the Government 08 No: 021-12723/2024 dated 30 January 2024.

3.2.1.3. Infringement Liability

In the amended LFAIPI, infringement responsibility for violating the provisions of the ZSPIJZ has been tightened. Infringement liability is foreseen not only for authorized persons and heads of bodies, but also for all employees of public authorities for failing to fulfill their obligations under this law.

3.2.1.3.1. Infringement Warrant

When the Commissioner finds that a complaint against failure to process a request (“administrative silence”) was founded, he will take an appropriate decision ordering a public authority to process the request within a specified deadline (Article 24, paragraph 6, of the Law). In such situations, the Commissioner does not decide on the merits of the request. When the Commissioner passes such decision, he issues infringement warrant under Article 47 of the Law (Article 24 paragraph 10 of the Law) in accordance with the law providing for the infringement proceedings, setting out that a fine in the amount of RSD 30,000 will be imposed for such infringement on the person authorized to process requests (or the manager in an authority if an authorized person is not appointed), if he/she fails to process the request in accordance with the deadlines referred to in Article 16 of the Law (“administrative silence”).

Since the beginning of the application of the Law on Free Access to Information (17 February 2022) through 31 December 2023, the Commissioner issued **511** infringement warrant in accordance with Art. 47, of the Law (Art. 24, Paragraph 10, of the Law).

In 2023, the Commissioner issued **385 infringement warrants** in accordance with Article 47, of the Law (Article 24, paragraph 10, of the Law), including 241 warrants to the person authorized to process requests for free access to information of public importance in public authorities and 144 warrants to managers in public authorities (where authorities have not appointed a person authorized to process requests for free access to information of public importance), because public authorities failed to process requests for access to information within the statutory deadline, so the Commissioner has taken decisions ordering these public authorities to process requests for access to information (Article 24, paragraphs 6 and 10, of the Law).

According to information available to the Commissioner, as regards infringement warrants issued in 2023, in 257 cases fines were paid pursuant to infringement warrants issued in 2023, of which 228 were paid within the deadline and 29 outside the deadline, while 94 warrants were not acted upon. As regards 34 warrants, the procedure is ongoing.

In 13 cases, infringement warrants were not issued because it was determined that there were no violations sanctioned by the LFAIPI, while in 10 cases it was established that the statute of limitations for infringement prosecution had expired.

Pursuant to issued infringement warrants, the Commissioner received 21 decisions of first-instance courts in 2023 (of which 12 judgments and 9 decisions), as well as four decisions of the Magistrate Court of Appeals (of which 1 judgment and 3 decisions). Out of 12 first-instance

judgments: there were 5 acquittals and 7 convictions (2 warnings, 4 fines of 30,000.00 dinars and 1 fine of 10,000.00 dinars). Of the 9 first-instance decisions in question, in 2 cases it was determined that the infringement warrants were final and enforceable, in 4 cases the petition for a court decision was rejected, while in 3 cases the motion for the execution of a fine was rejected. The judgment of the second-instance court confirmed the acquittal of the first-instance court, while in the relevant second-instance decisions, in 1 case, the defendant's appeal against the conviction was sustained, in 1 case, the defendant's appeal against the rejection of the petition for a judicial decision was sustained, and in 1 case, the decision rejected the petition for a judicial decision as irregular.

3.2.1.3.2. Petitions for Institution of Infringement Proceedings

The Commissioner has new powers. In addition to issuing infringement warrants, the Commissioner is authorized to file petitions for institution of infringement proceedings for infringements under the Law, when in the procedure pursuant to a complaint he finds that infringement occurred. The information requester cannot file a petition for institution of infringement proceedings against a public authority before completion of the procedure pursuant to a complaint before the Commissioner, or before completion of administrative proceedings if the complaint to the Commissioner is inadmissible. In such case, the information requester must first contact the Commissioner with a request for the Commissioner to file a petition for institution of infringement proceedings, or to the Administrative Inspectorate if the administrative proceedings were conducted. If the Commissioner, or the Administrative Inspectorate, fails to reply to the information requester to the petition for institution of proceedings within eight days, or replies that there are no grounds for filing petitions for institution of infringement proceedings, the information requester can then himself file a petition for institution of infringement proceedings. If the Commissioner, or the Administrative Inspectorate, files a petition for institution of infringement proceedings, on request of the information requester or on own initiative, they must inform the information requester on the possible withdrawal of that petition, within eight days of the date of withdrawal of the petition, so that the information requester could continue the procedure (Article 28b).

Since the beginning of the application of the Law on Free Access to Information (17 February 2022) through 31 December 2023, the Commissioner filed **53** petitions for institution of infringement proceedings.

In 2023, the Commissioner filed **45 petitions for institution of infringement proceedings**, including:

1. 2 petitions for institution of infringement proceedings against authorized persons in public authorities:
 - 1 against submission of incomplete or false information (Article 16);
 - 1 against preventing the exercising of the right to free access to information of public importance in any other way (Article 22, paragraph 1, point 6).
2. 43 petitions for institution of infringement proceedings against managers in public authorities, including:
 - 1 against failure to prepare and update information directories (Article 39);
 - 40 against failure to comply with and the Commissioner's decisions (Article 28 paragraph 1);

- 1 against submission of incomplete or false information (Article 16);
- 1 against preventing the exercising of the right to free access to information of public importance in any other way (Article 22, paragraph 1, point 6).

In one case, it was determined that there was no evidence to a file petition for institution of infringement proceedings; in 44 cases, the petitions were not submitted, because it was established that there were no violations sanctioned by the LFAIPI; in 2 cases, it was established that the statute of limitations for infringement prosecution had expired, while in 8 cases, the lack of powers of the Commissioner was established.

In 2023, the Commissioner received 5 judgments from first-instance courts and 1 judgment from a second-instance court pursuant to the filed petitions for institution of infringement proceedings. Of the five first-instance judgements, 4 were convictions (1 warning, 2 fines of 20,000.00 dinars, and 1 fine of 10,000.00 dinars), and 1 acquittal. That acquittal was confirmed by the judgment of the second-instance court.

According to the data of the magistrate courts in Serbia⁵⁷ which submitted the data to the Commissioner, **in 2023 these courts received a total of 341 filed petitions for institution of infringement proceedings due to violation of the right to access information (Art. 46-48), and concluded a total of 243 cases** by 55 convictions handed down, with 19 warnings and 36 fines (8 of 5,000.00, 1 of 6,000.00, 1 of 7,000.00, 9 of 10,000.00, 1 of 12,000.00, 1 of 15,000.00, 10 from 20,000.00 and 5 from 25,000.00 dinars), in 83 cases the proceedings were terminated, of which 50 were terminated due to statute of limitations, 65 acquittals, 11 requests were rejected, while 29 cases were concluded in another way.

According to the data of the Magistrate Court of Appeals in Belgrade⁵⁸, in 2023, that court received 1,094 cases of appeals against the decisions of magistrate courts in the matter of freedom of access to information (with 179 pending cases carried forward from the previous period, so that there were a total of 1,273 cases handled) **concluding 1,156 cases**. The court decided on appeals as follows: **497 decisions were confirmed**, namely: 223 acquittals, 205 convictions, 25 rejections of petitions, and 44 terminations of proceedings, of which 36 were terminations due to statute of limitations, 2 terminations for other reasons, 3 terminations due to withdrawal of the applicant, and 1 termination due to the fact that the petition was submitted by an unauthorized person, and 2 suspensions due to the prohibition of a retrial in the same legal matter; **175 decisions were overturned**: 22 convictions were reversed to acquittal, 4 convictions were mitigated, 6 were acquittals were reversed to convictions, 8 acquittals were reversed with regard to the legal basis, 4 acquittals reversed to termination, 6 convictions were overturned for other reasons, 9 acquittals were overturned for other reasons, 1 conviction reversed to termination, 44 acquittals reversed to termination due to statute of limitations, 65 convictions reversed to termination due to statute of limitations, 2 terminations reversed to terminations due to statute of limitations, 2 rejections reversed to terminations due to statute of limitations, 1 termination because the procedure was conducted without a request for termination for other reasons, and 1 termination due to statute of limitations reversed in respect legal qualification; **236 decisions were abolished** as regards appeals against the decisions of magistrate courts, namely: 9 rejections, 90 acquittals, 106 convictions, and

⁵⁷ The report was not submitted by the Magistrate Court Novi Sad, the Magistrate Court Mladenovac, and the Magistrate Court Vranje.

⁵⁸ Report of the Magistrate Court of Appeals in Belgrade sent electronically on 24 January 2024.

31 terminations - of which 19 terminations were due to statute of limitations, 11 termination for other reasons, and 1 termination due to the applicant's withdrawal; **3 appeals were dismissed**, namely: 1 acquittal and 2 convictions, and **245 appeals re decisions on costs**.

Analyzing the submitted data, it is concluded that the Magistrate Court of Appeals, same as in the last two years, and in more cases than in the preceding years, upheld the convictions of the magistrate courts.

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government, responsible for supervising the implementation of the Law on Free Access to Information, informed⁵⁹ the Commissioner that the **Administrative Inspectorate conducted 340 inspections** with regarding the implementation of regulations on free access to information of public importance, **following which it was proposed to execute 272 measures and 1 decision taken ordering the public authorities to prepare the information directories**. At the same time, **the Administrative Inspectorate acted according to the decisions of the Commissioner taken in the complaint procedure, as well as according to 55 petitions of the applicants** in connection with the application of regulations on free access to information of public importance.

In 2023, the Administrative Inspectorate did not file a single petition for institution of infringement proceedings due to violation of rights or non-compliance with prescribed obligations of public authorities regarding the implementation of the Law on Free Access to Information, from which it can be concluded that non-compliance with the aforementioned legal obligations remains without accountability.

3.2.2. Protection of Rights before Administrative Court and Other Courts

Judicial protection of the free access to information in administrative proceedings **before the Administrative Court** is available as a means of reviewing the legality of the Commissioner's decisions and the decisions of the seven authorities against which complaints cannot be lodged with the Commissioner and which are exempted from protection before the Commissioner (the National Assembly, the President of the Republic of Serbia, the Government of the Republic of Serbia, the Supreme Court, the Constitutional Court, the Prosecutor General, and the National Bank of Serbia).

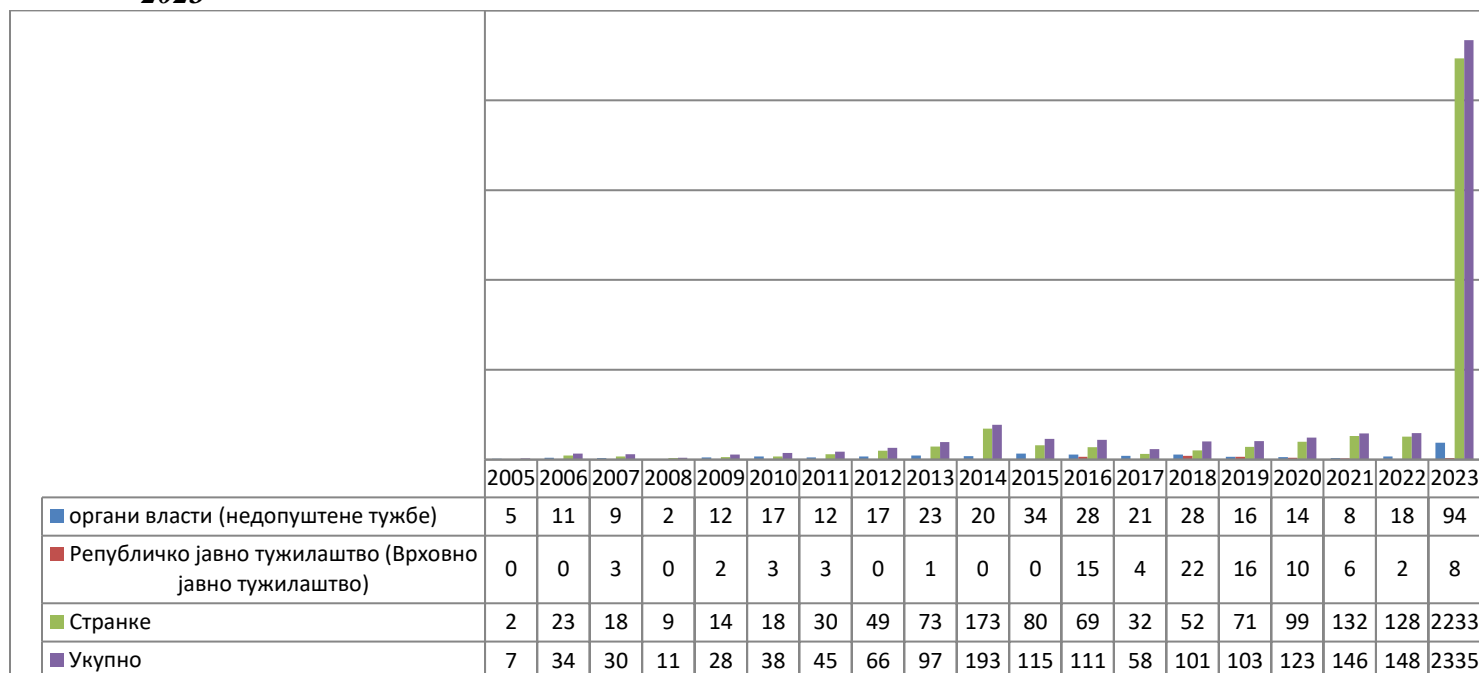
A party (complainant) dissatisfied with the Commissioner's decision has the right to file a complaint with the Administrative Court, as does the Prosecutor General, in cases where he believes the Commissioner's decision harms a public interest.

The party concerned and the competent Public Prosecutor may file a petition with **the Supreme Court to review a judicial decision, in cases where the Administrative Court ruled on a case with full jurisdiction**. According to the information available to the Commissioner, 15 petitions for a review of a decision of the Administrative Court⁶⁰ were filed with the Supreme Court in 2022, the Supreme Court rejecting 9 of these.

⁵⁹ Letter from the Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government No. 000490106 2023 14800 010 003 051 001 dated 23 January 2024.

⁶⁰ Of these, during the reporting period, 6 petitions to review the court decisions were submitted to the Commissioner for clarification.

Graph No. 13 - Overview of legal actions by complainants brought before the Supreme Court of Serbia and the Administrative Court against the Commissioner's decisions from 2005 through 2023



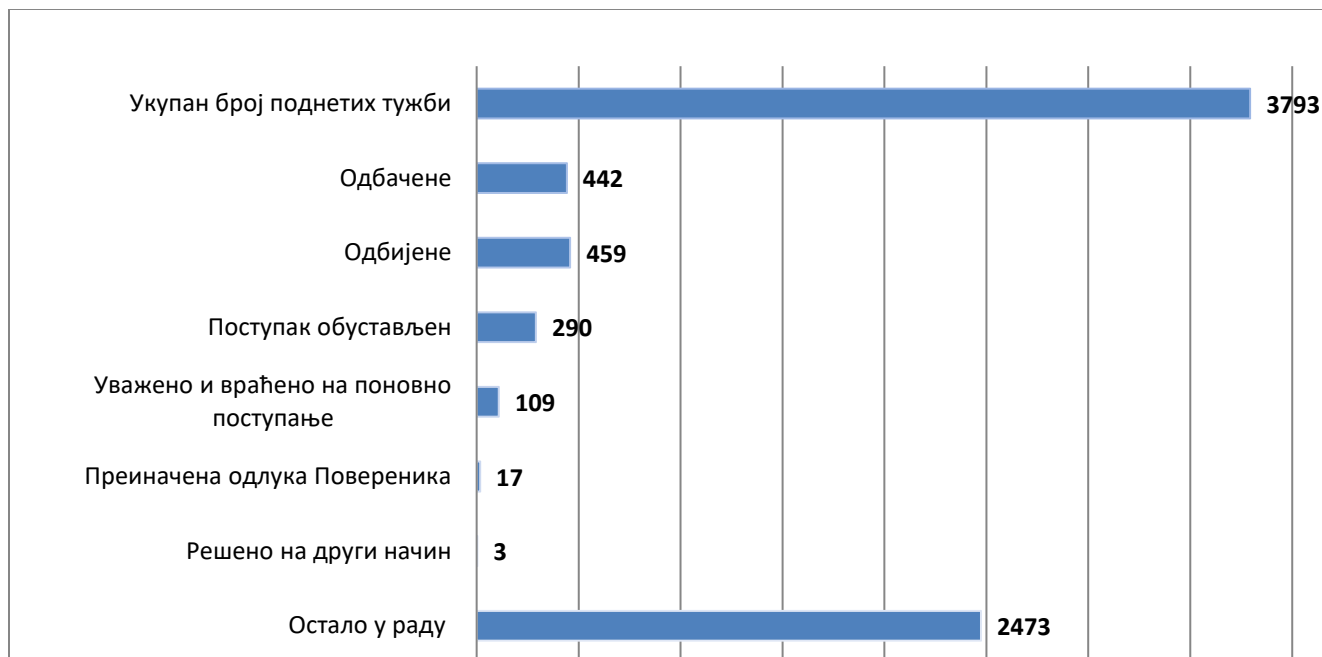
Public authorities (inadmissible legal actions)

Republic Public Prosecutor's Office (the Prosecutor General's Office)

Parties

Total

Graph No. 14 - Legal actions against the Commissioner in the field of freedom of information from 2005-2023



Total legal actions filed

Dismissed

Rejected

Procedures terminated

Upheld and returned for repeated procedure

Resolved otherwise

Pending

The graph presents an overview of decisions made pursuant to legal actions.

These data show that since the Commissioner started his activities, in court proceedings to review the legality of his decisions, in 1,320 resolved cases out of the total of 3,793 filed legal actions, **90.45% or 1,194 of the Commissioner's decisions were upheld by courts. The percentage of upheld Commissioner's decisions would be significantly higher if the Administrative Court had not suddenly changed its position, established on the 105th Full Judicial Panel held on 21 June 2022, on whether reimbursement of costs for representation of information requesters by lawyers in the procedure pursuant to legal actions before the Commissioner is founded, according to which position the public authorities are now obliged to reimburse the costs of representation by lawyers to the complainants in cases when the Commissioner determines that the appeal is founded. A significant number of Commissioner's decisions rejecting the complainants' request for reimbursement of the costs of the complaint proceedings were taken before the court's position changed, and the decision on the lawsuit against such a Commissioner's decision was taken only after the court's position changed,**

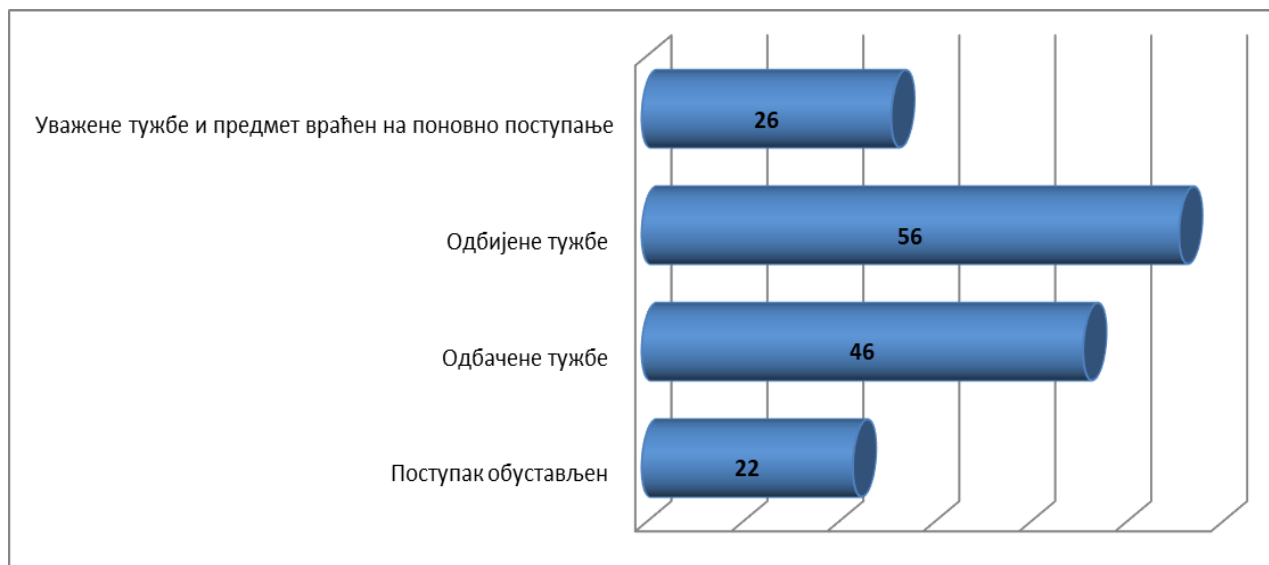
which resulted in an increase in the number of court decisions that annulled the decision of the Commissioner and the case was sent back to be redecided, which consequently led to a decrease in the percentage of upheld decisions of the Commissioner.

According to the information available to the Commissioner, in **2023**, the Administrative Court⁶¹ received **2,338 legal actions** against the Commissioner. Out of 2.338 legal actions filed, 474 were filed against the Commissioner's decisions, while 1,864 legal actions were filed because the Commissioner failed to decide on complaints within the statutory deadline.

Plaintiffs in cases against the Commissioner in 2023 include: parties or information requesters (2.236), the Republic Public Prosecutor and/or Prosecutor General (8) and first-instance authorities⁶² (94).

In 2023, the Administrative Court ruled on the total of 150 legal actions (65 of legal actions that were ruled on are from 2023, while 85 are carried forward from the previous period). Legal actions were ruled on as follows: 56 legal actions were rejected, 46 were dismissed, 22 procedures were terminated, and 26 legal actions were upheld, i.e. the Commissioner's decision was overturned and the case was returned for repeated procedure. As regards upheld legal actions, those are mainly cases overturning the Commissioner's decisions by which he rejected requests for compensation of costs of representation pursuant to a complaint before the Commissioner or rejected complaints rejecting requests for reimbursement of these costs. This is a consequence of a sudden change of the position of the Administrative Court at the 105th Full Judicial Panel, which was already discussed in detail above.

Graph No. 15 - Overview of decisions of the Administrative Court passed in 2023 pursuant to legal actions against the Commissioner's decisions



⁶¹ Communication by the Administrative Court Su III-19 5/23 dated 15 January 2024.

⁶² 37 legal actions filed by first-instance authorities were rejected as inadmissible, because the first-instance authority is not actively legitimized for filing a lawsuit, while 57 legal actions are pending.

Legal actions upheld and case returned for repeated procedure

Rejected legal actions

Dismissed legal actions

Terminated procedures

The data show that from 2005 through 2023 the total of 390 legal actions were filed against seven⁶³ highest national authorities exempted from the protection before the Commissioner, of which 319 were ruled on, including 146 rejected legal actions, 88 dismissed, 74 upheld, and 11 terminated procedures.

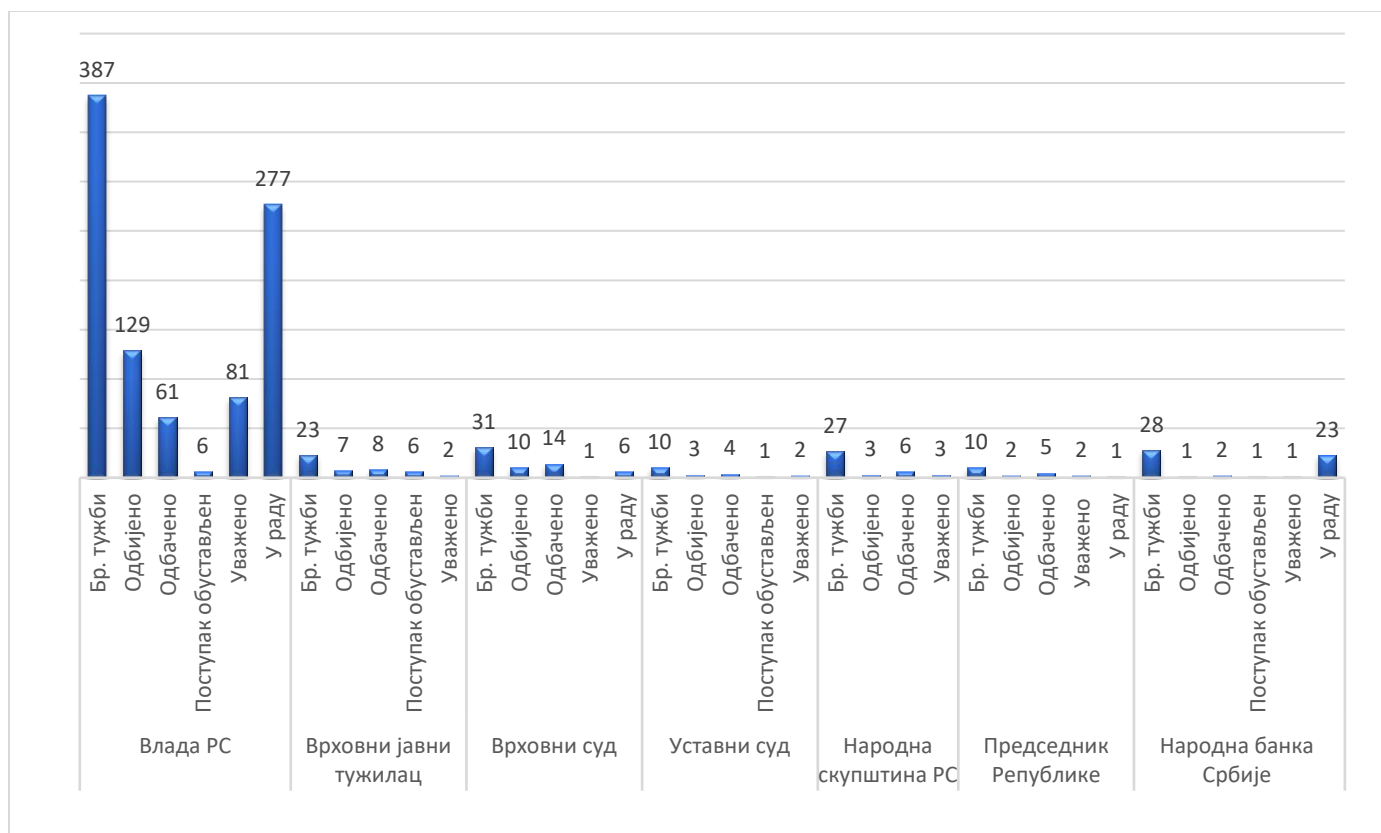
The majority of legal actions were filed against the Government of the Republic of Serbia, namely 292 legal actions, of which 248 were ruled on, including 127 rejected, 67 upheld and 50 dismissed legal actions, while 4 procedures were terminated.

In 2023, the Administrative Court received 108 legal actions against the highest national authorities, of which only 4 were ruled on, namely 3 were upheld and 1 was rejected. Among these legal actions, 80 were filed against the Government of the Republic of Serbia (of these 69 against the “administrative silence”), 15 against the National Assembly of the Republic of Serbia (of these 14 against “administrative silence”), and 13 against the National Bank of Serbia (all against the “administrative silence”).

In 2023, the Administrative Court ruled on 43 legal actions filed against the highest state authorities (4 were filed in 2023, while the remaining 39 were carried forward from the previous period) by upholding 20 legal actions (17 against the Government of the Republic of Serbia and 3 against the National Assembly of the RS), rejecting 9 legal actions (2 against the Government of the Republic of Serbia, 5 against the Supreme Court, 1 against the National Bank of Serbia, and 1 against the National Assembly of the RS.), while 1 legal action was terminated (1 against the National Bank of Serbia.).

Graph No. 16 - Overview and outcome of legal actions brought before the Supreme Court and the Administrative Court against decisions or failure to act of seven highest state authorities against which complaints with the Commissioner are not admissible, in 2005 – 2023

⁶³ In the Amendments to the Law on Free Access to Information of Public Importance ("Official Gazette" 105/21) the National Bank of Serbia was classified as public authorities against which complaints to the Commissioner are not allowed (Art. 22, paragraph 3).



No. of legal actions Rejected Dismissed Procedure terminated Upheld Pending	No. of legal actions Rejected Dismissed Procedure terminated Upheld	No. of legal actions Rejected Dismissed Upheld Pending	No. of legal actions Rejected Dismissed Procedure terminated Upheld	No. of legal actions Rejected Dismissed Upheld	No. of legal actions Rejected Dismissed Upheld Pending	No. of legal actions Rejected Dismissed Procedure terminated Upheld Pending
Government of the Republic of Serbia	Prosecutor General	Supreme Court	Constitutional Court	National Assembly	President of Serbia	National Bank of Serbia

According to the information available to the Commissioner, in 2023 the Constitutional Court⁶⁴ received 55 constitutional appeals against the Commissioner's decisions. Since the Constitutional Court of Serbia registers appeals according to the disputed instrument, as opposed to the applicable law, it is impossible to determine the number of constitutional appeals in the field of free access to information and in the field personal data protection.

In 2023, the Constitutional Court passed 11 judgements and 11 decisions pursuant to constitutional appeals in the field of freedom of information.

⁶⁴ Communication of the Constitutional Court Su No. 67/1 dated 30 January 2024.

As regards the Constitutional Court's decisions, in 10 cases the Constitutional Court rejected constitutional appeals in connection with the Commissioner's decision in the field of free access to information, while in one case a constitutional appeal was accepted (due to violation of the right to a trial within a reasonable time). All the aforementioned constitutional appeals were filed by the Humanitarian Law Fund, against violation of the right to a trial within reasonable time and failure to comply with the Commissioner's decisions.

Regarding the decisions of the Constitutional Court, all constitutional appeals were rejected.

3.2.3. Public Authorities' Compliance with Their Legal Obligations, Supervision, and Accountability

The amendments to the Law on Free Access to Information of Public Importance overhauled the manner in which information directories on the activities of public authorities are compiled, published and updated. They also increased the number of authorities required to produce such information directories. The most significant change concerns the manner in which these directories are produced: they are now created on a platform kept and maintained by the Commissioner, namely the Single Information System of Information Directories (SIS). At the time of writing of this Report, 7,020⁶⁵ information directories by public authorities are available in the SIS, while the total number of public authorities registered in the system is 7,376. In addition, the Commissioner has prepared the Instructions on the Preparation and Publishing of Information Directories on the Activities of Public Authorities in accordance with the Law ("Official Gazette of the Republic of Serbia" No. 10/22).

In accordance with Article 39 of the Law on Free Access to Information of Public Importance, public authorities referred to in Article 3, points 1) through 7), are subject to the obligation to prepare information directories, while public authorities referred to in points 8) through 10), are not subject to this duty. 5,349 public authorities published their information directories within the statutory deadline by 17 November 2022, mainly local self-government authorities and local communities.

Also, the number of public authorities required to submit annual reports to the Commissioner has increased significantly. This obligation now applies to all public authorities referred to in Article 3, of the LFAPI – 12,257 of them registered in the Catalog of Authorities at the time of writing this report. The number of reports submitted for 2023 is 5,238, while 6,355 public authorities were registered to access the Portal used for the submission of annual reports. More than half of the public authorities required under the Law to submit their reports to the Commissioner failed to do so.

According to the information provided in the reports submitted by public authorities in 2023 (5,238 reports), 4,675 public authorities published an Information Directory in the Single Information System and thus complied with their legal duty. Also, it would appear that compliance with the statutory duty to provide training to employees on proper application of the Law on Free Access to Information has improved from previous years, given that the number of public authorities

⁶⁵ Number of published information directories in the Single Information System on 12 February 2024.

that submitted their reports is much higher than in the past years (with 3,325 public authorities reporting they have complied with this duty).

Although the Commissioner facilitated this procedure by developing the special Portal for electronic submission of reports, and the deadline for submission of reports was extended until 31 January under amendments to the Law, a high number of public authorities still fail to comply with this legal duty. The reason for failure to comply with this legal duty is the lack of liability for its disregard over the years. An analysis of data showed that many national authorities failed to submit their reports for 2023. In particular, we noted that the National Assembly and 4 ministries did not submit the annual report.

The number of reports submitted by authorities falling within the category of education institutions (schools, preschool facilities) is similar to last year, at **1,666**, while the number of reports submitted by local self-government authorities has slightly increased (**630** authorities). A mild increase has also been observed in the number of reports submitted by national-level authorities and organizations (agencies, directorates, institutes, funds, chambers, etc.) – **383** authorities. Hunters' associations have mostly complied with this statutory duty, with **161** of them submitting reports, their number having almost doubled as compared to 2022. It should be especially highlighted that as many as **1.078** local communities have also complied.

Table No. 8. - Figures in annual reports of public authorities on actions taken to implement LFAIPI in 2023⁶⁶

Public authority	No. of public authorities	Report submitted number and %	Information directory published in the Single Information System - number and %	Training implemented - number and %	Maintenance of data storage media - number and %
Authorities referred to in Article 22, of the Law (the National Assembly, the President, the Supreme Court, the Constitutional Court, Government, the Prosecutor General, and the National Bank of Serbia)	7	6 (85.7%)	6 (85.7%)	4 (57.1%)	6 (85.7%)
Ministries (without bodies subordinated to them)	25	21 (84%)	21 (84%)	17 (68%)	21 (84%)
National authorities and organizations (agencies, directorates, institutes, funds, chambers...)	584	383 (65.6%)	249 (42.6%)	268 (45.9%)	351 (60.1%)
Courts	158	139 (87.9%)	139 (87.9%)	112 (70.8%)	139 (87.9%)
Prosecutors' Offices	89	67 (75.2%)	67 (75.2%)	52 (58.4%)	67 (75.3%)
Other public authorities (authorities of the Autonomous Province of Vojvodina, educational institutions, local self-government authorities, public	11,394	4,622 (40.6%)	4,193 (36.8%)	2,872 (25.2%)	4,540 (39.8%)

⁶⁶ Percentages in the table are presented in relation to the number public authorities required to submit annual reports to the Commissioner.

enterprises, health care, cultural and information institutions etc.)					
Total	12,257 ⁶⁷	5,238 (42.7%)	4,675 (38.2%)	3,325 (27.1%)	5,124 (41.8%)

The report of the Administrative Inspectorate⁶⁸ states that “The Administrative Inspectorate conducted 340 inspections related to the application of regulations on free access to information of public importance. In the records of inspection, the supervised authorities proposed the execution of 272 measures, a deadline was set for the removal of established illegalities, irregularities and deficiencies in their work, and one decision was taken ordering the public authority to prepare an information directory on its activities in the manner prescribed by the Law on Free Access to Information of Public Importance and the Instructions on the Preparation and accordance with the Law.

The Administrative Inspectorate processed the decisions taken by the Commissioner for Information of Public Importance and Personal Data Protection in procedures pursuant to complaints filed by information requesters which had been forwarded to this authority.

Also, 55 applications from the applicants were processed in connection with the application of regulations on free access to information of public importance.”

It is interesting, though, that the Ministry of Public Administration and Local Self-Government, to which the Administrative Inspection is subordinate, did not submit an annual report for neither 2023 nor 2022.

3.2.4. Commissioner’s Activities Re Publishing of Information Directories

The aim of publishing of information directories, together with the duty to regularly update the data (at least once monthly), is to make available to citizens, the media, public authorities, and other users the main information on the activities of authorities, human resources and other capacities of authorities, their organization, competences, work assets, public funds management, salaries, state aid, subsidies, donations, international and other projects and their implementation, public procurements, the types of services authorities provide and the procedures for exercising the rights, legal remedies in case of negative outcomes of procedures before the authorities, types of information held by authorities etc.

The Law amending the Law on Free Access to Information of Public Importance (“Official Gazette of the Republic of Serbia” No. 105 dated 8 November 2021) entered into force on 16 November 2021, and took effect on 17 February 2022. Under this Law, information directories are

⁶⁷ The number of public authorities subject to the duty to submit their report at the time of writing of this Report, because this number is variable, and the Catalogue of public authorities is only for reference.

⁶⁸ Communication of the Administrative Directorate number 000490106 2023 14800 010 003 051 001 dated 23 January 2024.

created in an electronic and machine-readable format, and published through the Single Information System of Information Directories, kept and maintained by the Commissioner, in accordance with the Instructions on the Preparation and Publishing of Information Directories on the Activities of Public Authorities brought by the Commissioner. In that regard, the Commissioner undertook activities necessary for timely passing of these Instructions and introduction of the said information system. Publishing of information directories on the joint digital platform should result in improved transparency, comparability and improved data usefulness, as well as facilitated monitoring of compliance with this legal duty. The scope of public authorities subject to the obligation to prepare information directories was significantly expanded, while public authorities were given a deadline of one year since the Law entered into force to prepare their information directories in the information system,

In 2023, the Commissioner found the following main shortcomings of information directories of public authorities while he was controlling them:

- Data in the information directories are **not updated regularly, in accordance with the Instructions and therefore do not comply with the reliability requirement;**
- Most frequently, **an overview of data on provided services is missing;**
- **Data on revenues and expenses, where** data on the budget are either missing or are incomplete;
- **Data on conducted public procurements;**
- Data on paid **salaries, wages and other emoluments** are presented in only few cases;
- **Descriptions on acting within their spheres of competences, powers and duties** are missing;
- **Services provided by authorities to interested parties** are also missing, as well as **the procedure of provision of services.**

In accordance with the foregoing, the Commissioner sent a circular email to the e-mail addresses of over 6,000 public authorities, which have registered, i.e. published information directories on their activities in the Single Information System of Information Directories, the content of which was supposed to serve as a reminder to the authorities that they have an obligation to regularly update information directories, and for those who have not yet created a directory, but have registered in the Single Information System of Information Directories, to create a information directory on their activities as soon as possible and update it regularly. The effect of this action is that on a daily basis, the number of authorities that update information directories has increased, and at the same time, a number of authorities have subsequently fulfilled their legal obligation and prepared their information directories. Thus, on 12 February 2024, the number of those who published information directory in the Single Information System of Information Directories, was 7,020.

At the same time, authorized persons of the Commissioner provide assistance to public authorities on a daily basis in order to facilitate the fulfillment of this legal obligation. In this sense, a video instruction was also created that describes the registration process in the SIS in a simple way, as well as the filling and publication of information directory. This instruction can be found on the front page of the website of the Commissioner, www.poverenik.rs.

To mark the International Right to Know Day, celebrated every year on 28 September, the Commission for awards for the advancing of the right to free access to information in 2023, which the Commissioner is chairing, presented the following awards:

1. The main award, for a special contribution to the affirmation of the right to access to information (statuette) was awarded to the Standing Conference of Towns and Municipalities (SCTM);
2. Contribution to the affirmation of the public's right to know in the category of national-level authorities: to the National Academy of Public Administration;
3. Contribution to the affirmation of the public's right to know in the category of judicial authorities: the Higher Public Prosecutor's Office in Smederevo;
4. Contribution to the affirmation of the public's right to know in the category of local public authorities: authorities of the City of Leskovac;
5. Contribution to the affirmation of the public's right to know in the category of provincial authorities: to the Assembly of the AP Vojvodina;
6. Contribution to the affirmation of the public's right to know in the category of other authorities: PUC "Vodovod i kanalizacija" (Water Supply and Sewerage) Subotica;
7. A special award for the contribution to education in the field of the right to access information of public importance was awarded to the Faculty of Law of the University of Kragujevac; Special award for fulfilling the legal obligations in the field of free access to information in difficult conditions – to Elementary School O.Š. "Šarski odred" (Šara Detachment), Štrpce, Brezovica (The very fact that, in extremely difficult working conditions, they fulfilled their obligations to publish information directory about their work and submit the report to the Commissioner, educational institutions from the area of Kosovo and Metochia deserve public praise and recognition, especially bearing in mind that many other authorities from the territory of central Serbia and the AP Vojvodina have not yet done so).

3.3. COMMISSIONER'S ACTIVITIES IN CONNECTION WITH PERSONAL DATA PROTECTION

3.3.1. Commissioner's Supervisory Activity

In the course of 2023, the Commissioner **concluded 731 supervision procedures** in total. Out of the total number of concluded supervisions, 549 were scheduled and 182 were unscheduled supervisions.

Supervisions (731) were concluded as follows: 689 cases were concluded by determining that the previous supervision had been acted upon, 24 cases were concluded with an official note or a response to the applicant because after the inspection it was established that there were no violations of the LPDP, while 18 case the files were forwarded to the Sector for Prosecution of Infringements.

In cases where the Commissioner found violations of the LPDP (66), he:

- Filed 10 petitions for institution of infringement proceedings against violation of the LPDP,
- Issued 5 infringement warrants,
- Issued 51 corrective measures, including warnings to data controllers.

The Commissioner **initiated 771 supervisions** in the course of 2023, of which 566 were scheduled and 205 were unscheduled supervisions.

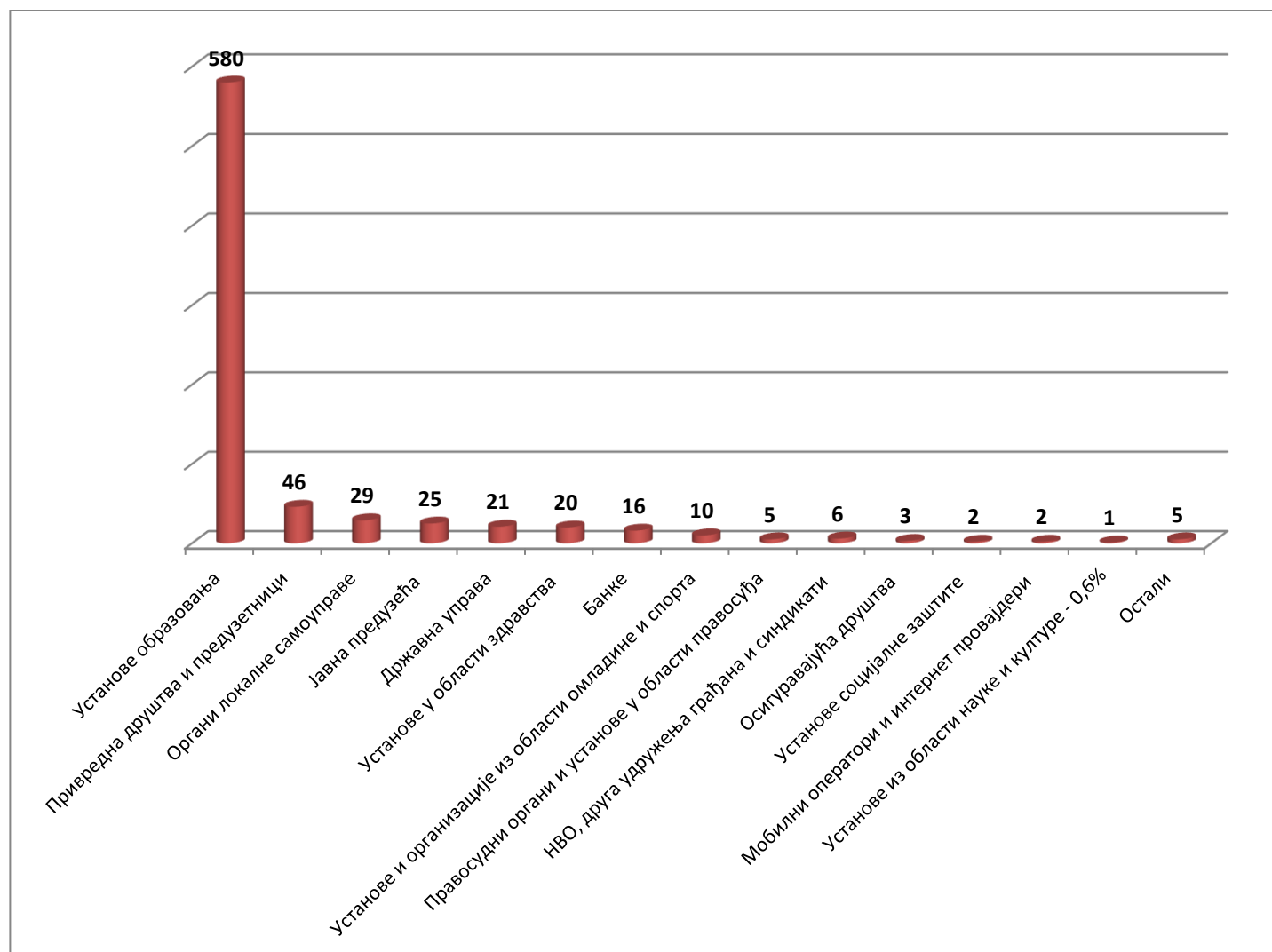
Out of 205 unscheduled supervisions, 138 were initiated pursuant to petitions, 29 pursuant to notifications to the Commissioner of violations of the data and 38 on other grounds.

In terms of the reasons for supervision, the share of personal data safety increased (73%) as in the previous year, while the share of personal data and personal documents was reduced several times compared with the previous years. In 2023, the safety of personal data was at significant risk again, particularly because of introduction of new information systems, through which numerous delicate citizens' data are processed.

As regards the controllers subject to the Commissioner's supervision in 2023, a significant number of supervision procedures were conducted in elementary schools and high schools.

Thus, the controllers subject to the Commissioner's supervision in 771 procedures mainly included: educational institutions - 580 (75.2%), private companies and entrepreneurs – 46 (6%), local self-government authorities 29 (3.8%), public enterprises - 25 (3.2%), state administration – 21 (2.7%), health care institutions – 20 (2.6%), banks – 16 (2.1%), youth and sports institutions – 10 (1.3%), judicial authorities and institutions - 5 (0.7%), civil society organizations and other citizens' associations and trade unions - 6 (0.8%), insurance companies – 3 (0.4%), mobile operators and internet providers - 2 (0.25%), social welfare institutions – 2 (0.25%), scientific and cultural institutions - 1 (0.1%), and other 5 - (0.6%).

Graph No. 17 - Structure of data controllers subject to supervision procedure in 2023



Educational institutions
 Private companies and entrepreneurs
 Local self-government authorities
 Public enterprises
 State administration
 Health care institutions
 Banks
 Youth and sports institutions
 Judicial authorities and institutions
 NGOs and other citizens' associations and unions
 Insurance companies
 Social welfare institutions
 Mobile operators and internet providers
 Scientific and cultural institutions
 Other

The most frequent reasons for initiation of supervision included: personal data safety (73%), personal data (first name, last name, address) (3.9%), video surveillance (3.5%), national identification number (2.8%), education (1.9%), banking operations (1.7%), Internet and electronic communication (1.5%), health care (1.7%), processing of special data types (1.2%), official registers containing personal data (1.7%), data processing in the field of labor and employment (1%), fields like personal documents (photocopying, retention etc.), processing of data on underage persons, consumer protection, data processing in contractual relations between natural persons and legal entities , property and personal insurance, housing relations, public transport, audio surveillance, data processing in the enforcement procedure, personal data abuse, utility activities, data processing on social networks, telecommunications, mail, broadcasting, family and social welfare, public information, defense, security, internal affairs, data processing in court proceedings, notary public professional activities, data processing carried out by inspectorates, pension and disability insurance are represented in a negligible percentage (less than 1%).

The Commissioner ordered **51 corrective measures**, more precisely, in all cases he issued warnings data controllers (in 47 cases, data controllers complied with measures ordered by the Commissioner, while in 1 case the controller partially complied with the ordered measure, in 1 case the controller did not comply with the ordered measure, while in 2 cases the controllers have not yet informed the Commissioner on their action).

In cases where the Commissioner issued warnings (51), he found the following (irregularities) violations of the provisions of the LPDP:

- Data are not processed lawfully, fairly and transparently in relation to the data subject – Article 5, paragraph 1, point 1 (28);
- Data are not collected for specific, explicit, justified and lawful purposes and are further processed in the manner contrary to those purposes – Article 5, paragraph 1, point 2 (3);
- Data are not adequate, relevant and limited to what is necessary for the purpose of processing – Articles 5 paragraph 1 point 3 (20);
- Data are not processed in the manner which ensures appropriate personal data protection, including the protection against unauthorized or unlawful processing, as well as against unintentional loss, destruction or damage by applying appropriate technical, organizational and human resource measures – Article 5, paragraph 1, point 6 (10);
- The data controller processes personal data without the data subject's consent, or is unable to demonstrate that the data subject gave his/her consent for data processing – Articles 15 and 16. (3);
- Information in accordance with Article 23 were not provided to the data subject whose data are collected (1);
- Information that is provided when personal data is not collected from the data subject - Article 24. (1);
- The data controller fails to undertake relevant technical, organizational and human resource measures when determining the manner of processing and during the processing – Article 42 (19);
- The controller has entrusted the processing of personal data to the processor contrary to Article 45 (1)

- The data controller or the processor fails to keep statutory records of processing – Article 47 (1);
- The data controller or the processor failed to implement appropriate technical, organizational and human resource measures to achieve the appropriate safety level for the risk concerned – Article 50 (5);
- The controller or processor did not designate a Data Protection Officer contrary to Article 56, para 2 (1);
- The data controller or the processor failed to publish contact data of personal data protection officers and failed to submit them to the Commissioner, contrary to Article 56, paragraph 11 (1).

3.3.1.1. Checklists

In 2023, the Commissioner **sent checklists** to the addresses of **769** data controllers data, and he **performed risk assessment in 664 cases**, where 660 data controllers submitted to the Commissioner completed checklists based on which the Commissioner assessed the personal data processing risk level, while 4 controllers submitted completed checklists to the Commissioner on their own initiative, based on which the Commissioner also assessed the personal data processing risk level. 43 data controllers failed to submit completed control lists even after of the Commissioner's intervention, while other procedures are pending.

The structure of data controllers to whom checklists were sent in 2023 is as follows:

- Social welfare institutions (156);
- Economic operators (148);
- Health care institutions (144);
- Higher education institutions (136);
- National-level and local public enterprises (119);
- Ministries and other national-level authorities (38);
- Local self-government authorities (25);
- Political parties (2);
- NGOs and other citizens' associations (1).

The structure of data controllers and the assessment of the risk level in 2023 is as follows:

- Elementary and high school education institutions (629). Based on the checklists submitted the level of risk in these data controllers is high in 2 cases, medium in 12, low in 362, and insignificant in 212, while 41 data controllers failed to submit completed checklists to the Commissioner;

- National-level and local public enterprises (37). Based on the checklists submitted the level of risk in these data controllers is in 2 cases medium, in 21 cases low, and in 14 cases insignificant;

- Ministries and other national-level authorities (20). Based on the checklists submitted the level of risk in these data controllers is in 16 cases low and in 4 cases insignificant;

- Social welfare institutions (14). Based on the checklists submitted the level of risk in these data controllers is in 8 cases low and in 6 cases insignificant;

- Health care institutions (1). Based on the checklist submitted the level of risk is assessed as low.

- Economic operators (3). Based on the checklists submitted the level of risk in these data controllers is in 1 case medium and in 2 cases insignificant;

- Political parties (2) – these failed to submit completed checklists to the Commissioner;

- NGOs and other citizens' associations (1). Based on the checklist submitted the level of risk is assessed as low.

Based on all the data received, the Commissioner brought the [The Inspection Plan for 2024](#).

From the effective date of the new LPDP through the end of the reporting period, the Commissioner sent checklists to the addresses of **5,356 data controllers**, of which risk assessment was performed in 4,344 cases, where 4,295 data controllers submitted to the Commissioner completed checklists based on which the Commissioner assessed the personal data processing risk level, while 49 data controllers submitted completed checklists to the Commissioner on their own initiative, based on which the Commissioner also assessed the personal data processing risk level. The total of 369 data controllers failed to submit the completed checklists to the Commissioner

3.3.1.2. Notifications to Commissioner of Data Breaches

Since the Law took effect on 31 December 2023, the Commissioner received **161** notifications from data controllers on personal data breaches which may result in risk for rights and freedoms of natural persons (in the period of significantly increased threats for the safety of computer networks by the so-called “crypto lockers” and other types of ransomware), while the total number of these notifications was **55** in 2023, including:

- 18 economic operators;
- 9 banks;
- 6 health care institutions;
- 5 national-level public authorities;
- 4 public enterprises;
- 4 high schools;
- 2 mobile operators and internet providers;
- 2 pre-school institutions;
- 1 lawyer;
- 1 judicial authorities;
- 1 higher education institution;
- 1 insurance company, and
- 1 local self-government authority.

The foregoing indicates that numerous controllers are still not aware of this legal duty, or more probably, they refrain from submitting notifications to the Commissioner to avoid being exposed to possible inspection and/or risk for their reputation which might affect their business and trust of clients or users of their products and/or services. This is the result of the fact that, according to the available reports, massive attacks on the ICT infrastructure of numerous data controllers occur daily in the so-called cyberspace, and the fact that 2023 will be remembered at the global level by numerous attacks by various types of ransomware that caused huge financial damage worldwide, as well as in the Republic of Serbia.

Based on the received notifications, in order to ensure possible further action in the form of inspection, case files are submitted to the Commissioner’s authorized officers for further procedure.

3.3.1.3. Information on Personal Data Protection Officers

In the course of 2023, **1,401 controllers** submitted records on **personal data protection officers** (of which 1,393 records were processed).

Since the effective date of the LPDP, a total of **5.779 data controllers** submitted information on their personal data protection officers, of which 3,851 are public authorities, although slightly over 12,000 are subject to this legal duty.

Table No. 9. - Structure of data controllers that submitted information on personal data protection officers

Companies, banks and insurance companies	1,410
Public authorities at the national, provincial and local level	425
Educational institutions	1,775
Health care institutions	541
Scientific and cultural institutions	264
Institutions in the field of agriculture	5
Social welfare institutions	207
Judicial authorities and institutions	452
Public enterprises	371
Civil society organizations and other citizens' associations, political parties and trade unions	231
Internet providers and mobile operators	22
Sport organizations and youth and sport institutions	60
The media	9
Agricultural institutions	3

Having in mind the assumed number of entities subject to the duty to appoint personal data protection officers, publish their contact data and submit them to the Commissioner, the aforementioned number of data controllers or processors who complied with this duty by 31 December 2023 undoubtedly show the justifiability of the Commissioner's efforts to raise awareness of entities subject to LPDP by sending checklists to addresses of data controllers and through specialized trainings, and to regulate strategically the issue of personal data protection in the Republic of Serbia. This yielded the results, since in 2023, compared to 2022, the number of controllers that submitted records on data protection officers, increased by over 130%.

With the aim of facilitating compliance with this duty, as the least demanding of the duties under the new LPDP, the Commissioner provided on his official website at www.poverenik.rs/sr/zaštita-podataka/lice-za-zaštitu-podataka-o-ličnosti.html a user-friendly and simple instructions on the simplest manner to comply with this duty. In spite of that, not only that no significant uptrend was observed in increasing the number of submitted notifications on contact data of personal data protection officers, but numerous irregularities were also identified in a number of cases in compliance with this statutory duty, such as: submission of data not for one, but for several personal data protection officers; submission of private data of personal data protection officers (private contact phone numbers, private email addresses, private addresses), submission of

data which are not required under the law (national identification number etc.); submission of private contact email addresses created on Google email service by public authorities etc.

3.3.1.4. Appointment of Representatives of Foreign Companies

In 2023, the Commissioner received written decisions on the appointment of representatives in accordance with the LPDP from the following companies:

Table No. 10. - Representatives of controllers/processors headquartered outside the Republic of Serbia

PAR Group (PAR Technology Corporation, ParTech Inc, Punchh Inc, AccSys LLC, PAR Payment Services LLC), The United States of America	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together with the company PAR Technology Corporation, ParTech Inc, Punchh Inc, AccSys LLC, PAR Payment Services LLC, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
CORVUS PAY d.o.o., Croatia	The representative of this company for the Republic of Serbia is the lawyer Nataša Pepić, with headquarters in Viline vode bb, Belgrade. In accordance with the law, this representative, together with the company CORVUS PAY, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
HD-WIN Arena sport d.o.o., Croatia	The representative of this company for the Republic of Serbia is lawyer Tijana Žunić Marić, with headquarters 7/6a Pozorišni trg (Theater Square), Novi Sad. In accordance with the law, this representative, together with the company HD-WIN Arena sport , or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Lanaco d.o.o., Bosnia and Herzegovina	The representative of this company for the Republic of Serbia is the company Itineris information technology doo, with headquarters in 3 Sezanova St., Belgrade. In accordance with the law, this representative, together with the company Lanaco, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Genmab A/S, Denmark	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together

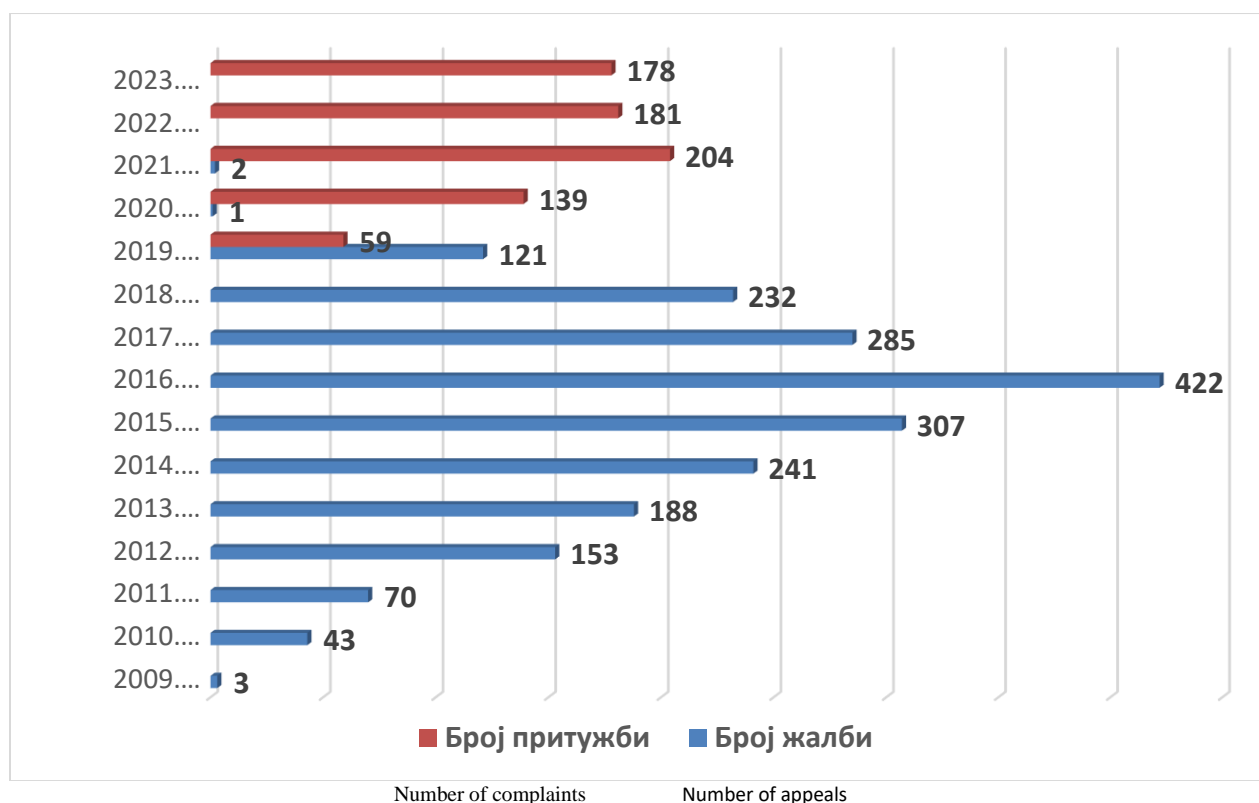
	with the company Genmab A/S, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
BBR Bank Moscow , Russian Federation	The representative of this company for the Republic of Serbia is the lawyer Nenad Cvijetićanin, with headquarters in 127 Jurija Gagarina St., Belgrade. In accordance with the law, this representative, together with the company BBR Bank Moscow, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Janssen R&D LLC , The United States of America	The representative of this company for the Republic of Serbia is the Law office Petrikić & Partners, with headquarters in 73 Krunska St., Belgrade. In accordance with the law, this representative, together with the company Janssen R&D LLC , or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Geneora Pharma (Shijiazhuang) Co., Ltd , People's Republic of China	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together with the company Geneora Pharma (Shijiazhuang) Co., Ltd, or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Gray Consulting, Inc. dba Clincierge , The United States of America	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together with the company Gray Consulting, Inc. dba Clincierge , or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Sarepta Therapeutics, Cambridge , The United States of America	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together with the company Sarepta Therapeutics, Cambridge , or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Arcus Biosciences Inc , The United States of America	The representative of this company for the Republic of Serbia is the Law Office Karanović & Partners, with headquarters in 23 Resavska St., Belgrade. In accordance with the law, this representative, together with the company Arcus Biosciences Inc , or instead of it, can be contacted by the Commissioner or another person regarding all

	questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.
Mitsubishi Corporation, Tokyo, Japan	The representative of this company for the Republic of Serbia is Miloš Joksimović, with headquarters in 5b Milentija Popovića St., Belgrade. In accordance with the law, this representative, together with the company Mitsubishi Corporation , or instead of it, can be contacted by the Commissioner or another person regarding all questions related to the processing of personal data, in order to ensure compliance with the provisions of this law.

3.3.2. Commissioner's Processing of Complaints

In the course of 2023, the Commissioner received **178 complaints**. In 2023, the Commissioner handled 219 complaints, of which 41 were carried forward from the previous period.

Graph No. 18 - Complaints/appeals lodged with the Commissioner by years

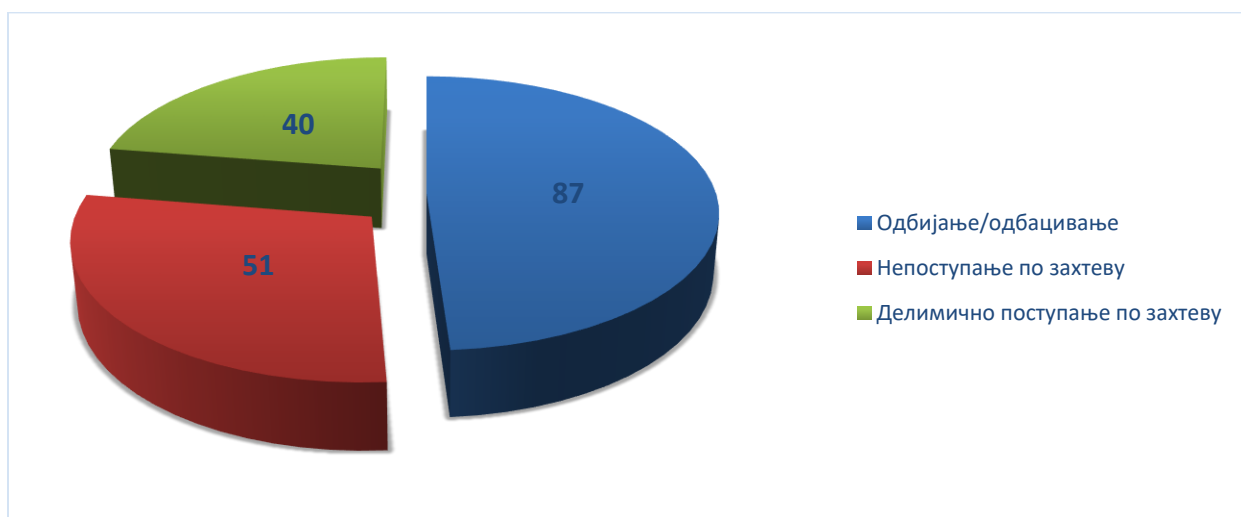


Complaints lodged with the Commissioner relate to data processed by the Ministry of the Interior, courts and prosecutor's offices, national-level and local self-government authorities, economic operators, banks, public companies, social services centers, mobile operators, healthcare institutions etc.

3.3.2.1. Causes for Lodging Complaints with the Commissioner

The most frequent causes for lodging complaints with the Commissioner were rejection or dismissal of requests by data controllers (87), failure by data controllers to process the requests (51), partial processing of requests by data controllers (40).

Graph No. 19. - Causes for lodging complaints in 2023



Rejection/dismissal

Failure to process requests

Partial processing of requests

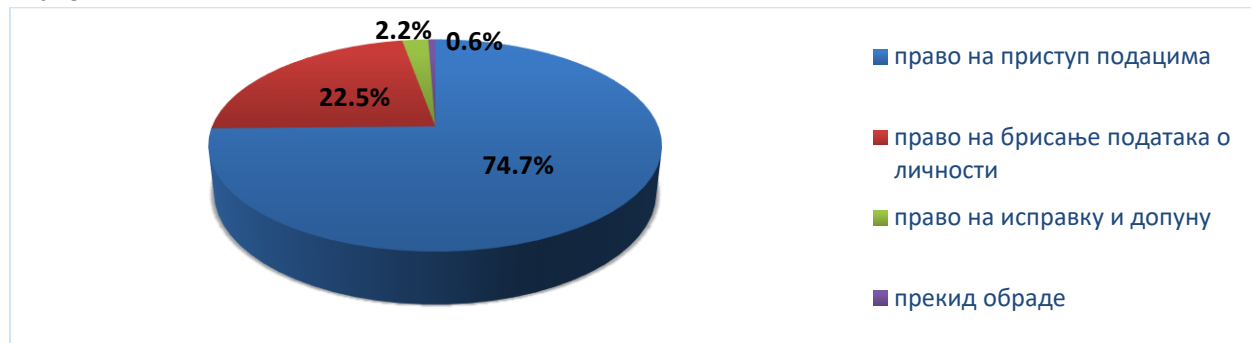
The most frequent cause for lodging complaints with the Commissioner was partial processing of requests by data controllers (87). Compared with 2022, when 34.3% of complaints were lodged on these grounds, this year the percentage was 48.9%.

In 2023, to the Commissioner received 51 complaints against data controllers' failure to process requests within the statutory deadline of 30 days. Compared with 2022, when the share of complaints lodged on these grounds was 23.2%, this year the percentage was 28.7% of the total number of complaints lodged with the Commissioner, which is still a high percentage of ignoring the requesters of information by the controllers processing the data.

3.3.2.2. Violated Rights Which Resulted in Lodging Complaints with the Commissioner

The requests which resulted in the lodging of complaints with the Commissioner due to inadequate actions of data controllers included the exercise of: the right of access to data (74.7%), the right to deletion of personal data (22.5%), the right to correction and supplement (2.2%), and termination of data processing (0.6%).

Graph No. 20 – Requests which resulted in the lodging of complaints with the Commissioner in 2023



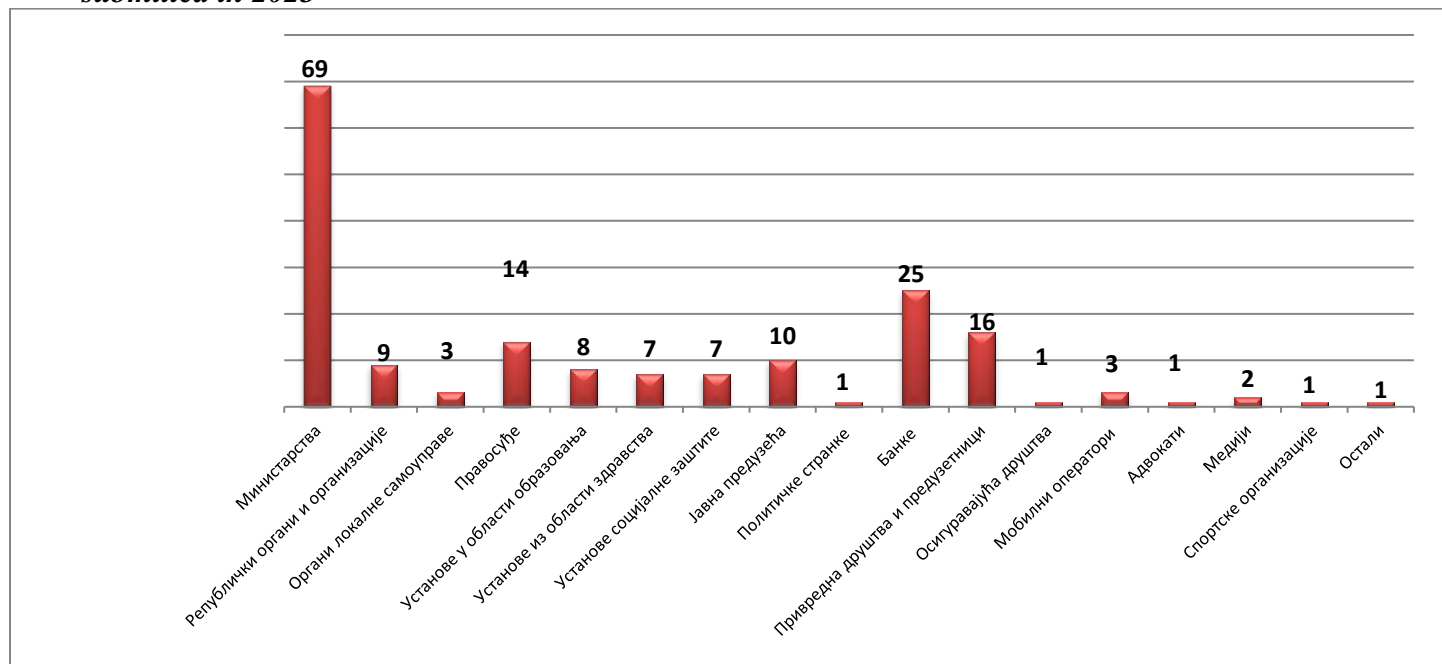
Right of access to data
Right to deletion of personal data
Right to correction and supplement
Termination of processing

3.3.2.3. Structure of Data Controllers against Which Complaints Were Lodged with the Commissioner

As regards the structure of data controllers against which complaints were lodged with the Commissioner, the majority of complaints, as many as **128**, were lodged against non-compliance of public authorities at all levels, i.e. authorities and organizations vested with public powers. The highest number of these (69) was submitted against non-compliance of the ministries, of which 43 against the Ministry of the Interior, the Ministry of Finance 24, the Ministry of Health 1, and the Ministry of Justice 1 complaint.

A large number of complaints were lodged against the Ministry of Interior. Citizens were mainly interested in deletion of data on registered criminal reports, which are kept by this Ministry permanently, regardless of how much time has passed and the outcome of the procedure, which is, according to the Commissioner's position expressed in some of his decisions, contrary to the LPDP and international standards.

Graph No. 21 - Structure of data controllers against whose (non)compliance the complaints were submitted in 2023

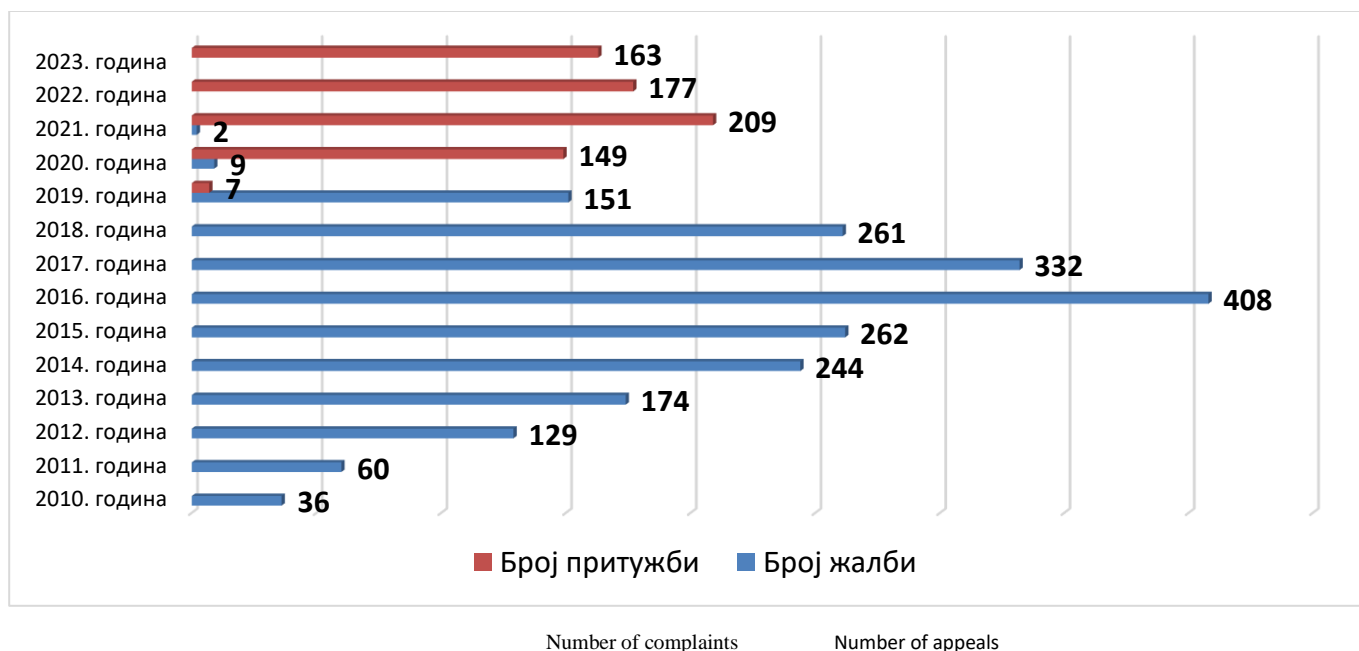


Ministries
National-level authorities and organizations
Local self-government authorities
Judiciary
Educational institutions
Health care institutions
Social welfare institutions
Public companies
Political parties
Banks
Private companies and entrepreneurs
Insurance companies
Mobile operators and internet providers
Lawyers
Sports organizations
Media
Other

3.3.2.4. Complaints Resolved by the Commissioner

Out of **219 complaints** which the Commissioner processed in 2023, **163 were resolved** (122 from 2023 and 41 carried forward from the previous year), while 56 complaints were card forward to 2024.

Graph No. 22 - Complaints Resolved by the Commissioner by year

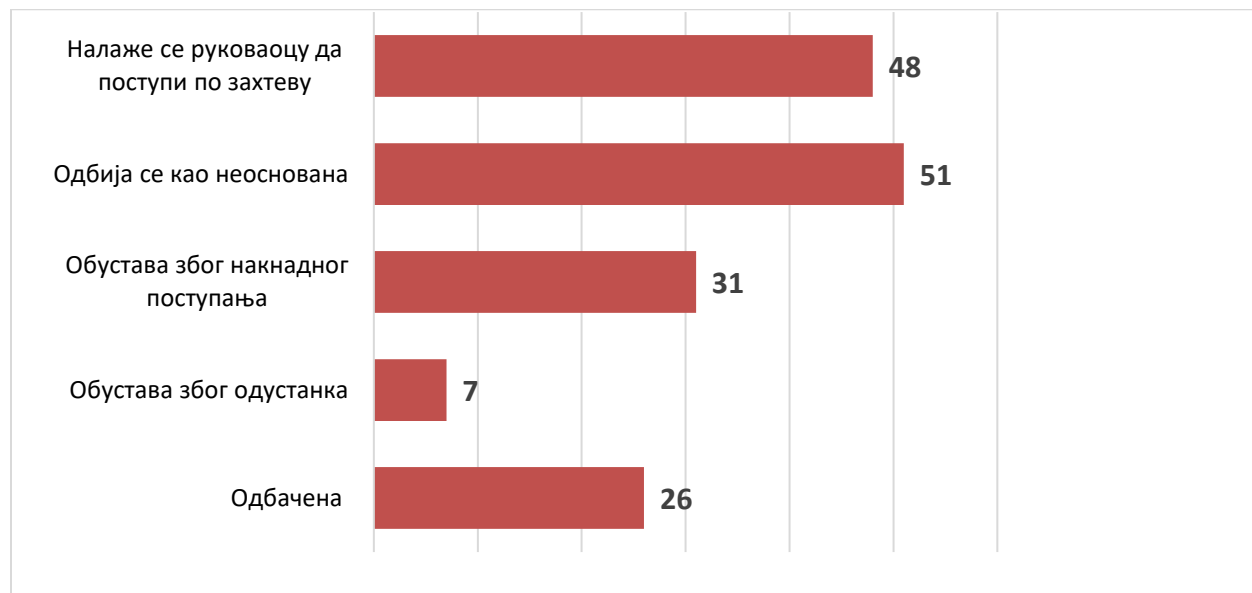


In the decisions passed pursuant to complaints lodged (163), the Commissioner found that complaints were founded in 48 cases, or 29.4%, and in all cases, decisions were passed ordering controllers to comply with requests. The Commissioner terminated the procedure by his decisions in 38 cases, or 23.31%, because controllers complied with requests before the Commissioner passed decisions pursuant to complaints (31), or complainants withdrew their complaints (7). The Commissioner dismissed 26 complaints, or 16%, for formal reasons, while he rejected 51 complaints, or 31.3%, by deciding it was unfounded.

An analysis of complaints the Commissioner found unfounded shows *inter alia* that citizens are still not fully aware of the content of their rights under the LPDP, because in their request they ask for data on other persons, issuing of certificates, data on deceased persons etc. They often recognize the institution of the Commissioner as an authority for the protection of rights in general, instead of the rights regarding personal data processing and the right to access information of public importance.

Also, according to the LPDP, the Commissioner is not competent for supervision of data processing by courts in the exercise of their judicial powers, which is a novelty compared to the previous Law, so people still file requests to courts for access to data processed in case files, due to which complaints are rejected because of lack of competence.

Graph No. 23 - Commissioner's decisions passed pursuant to complaints in 2023



Data controller ordered to process the request

Rejected as unfounded

Terminated due to subsequent processing

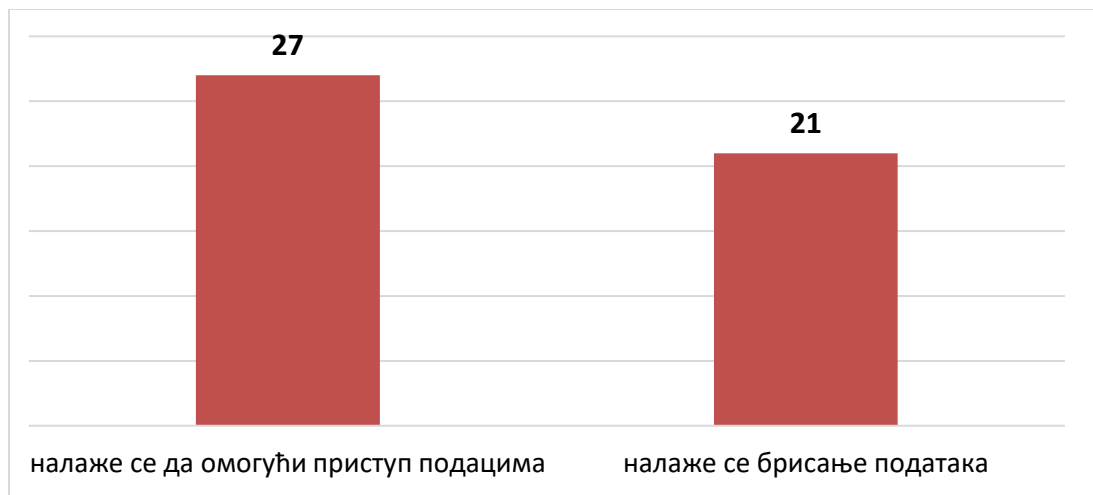
Terminated due to withdrawal

Rejected

During the reporting period, the Commissioner issued a total of 48 binding and final decisions ordering data controllers to process the requests or to provide access to data to requesters and ordering data controllers to inform him about compliance with these decisions. 44 data controllers, or 91.7%, fully complied with the Commissioner's decisions, and notified the Commissioner accordingly, while 1 data controller, or 2.1%, failed to comply with the Commissioner's order, while the other decisions of the Commissioner are currently being processed.

As regards decisions (48) the Commissioner passed in 2023 pursuant to complaints lodged, in 27 cases, or 56.3%, the Commissioner **ordered to provide access to data**, while in 21 cases, or 43.7%, **ordered deletion of data**.

Graph No. 24 – Measures imposed in the Commissioner's decisions in 2023



Ordered to provide access to data

Ordered deletion of data

3.3.3. Transfer of Data to Other Countries or International Organizations and Binding corporate rules

In accordance with the LPDP, the Commissioner approves **binding corporate rules** and **provisions of contracts or agreements** when data are transferred based on such mechanisms out of the Republic of Serbia to another country, a part of its territory, or in one or more sectors of certain business activities in that country or to an international organization listed by the Government of the Republic of Serbia among countries without appropriate protection level.

In 2023, the Commissioner processed 1 **request for approval of binding corporate rules**, which was approved.

In 2023, the Commissioner also processed 1 **request for transborder transfer of data**, namely to the United States of America, which was sustained and the transfer of data was approved.

3.3.4. Protection of Rights before the Administrative Court and Other Courts

According to the information available to the Commissioner, in 2023, the Administrative Court received **72 legal actions against the Commissioner**, Complaints were filed against decisions taken pursuant to complaints, as well as by applicants who were dissatisfied with the Commissioner's handling of complaints within the framework of inspection.

The Ministry of Interior filed 16 lawsuits, due to the Commissioner's order to delete data from the records kept at the Ministry of Interior, as requested by the applicant/complaint.

In 2023, the Administrative Court **resolved 12 lawsuits** (1 from 2023 and 11 from the previous period), by rejecting the lawsuit as unfounded in all cases.

According to the information available to the Commissioner, the Constitutional Court⁶⁹ received 30 constitutional appeals against the Commissioner's decisions in 2023. Given that the Constitutional Court of Serbia registers constitutional appeals according to the challenged act, and not according to the applicable law, it is not possible to determine the number of constitutional appeals in the field of free access to information, and which are in the field of personal data protection.

In the course of 2023, the Constitutional Court issued 12 decisions on constitutional appeals in the field of personal data protection.

All constitutional appeals were rejected by the decisions in question. Eleven constitutional appeals were filed against or in connection with, the Commissioner's decisions taken based on lodged complaints, and 1 constitutional appeal was filed against the decision of the Supreme Court of Cassation, which dismissed the request for review of the decision of the Administrative Court, rejecting the applicant's lawsuit.

3.3.5. Infringement Liability

3.3.5.1. Petitions for Institution of Infringement Proceedings

In 2023, the Commissioner filed 10 petitions for institution of infringement proceedings for violations of provisions of the LPDP, 4 against data controllers who process personal data contrary to the principles under **Article 5, paragraph 1**, of the LPDP, **1** due to the fact that the controller processes personal data without the consent of the data subject, and is not able to present evidence that the data subject in question has given consent for the processing of their data (**Art. 15, paragraph 1**), and **5** since the controller has not designated a personal data protection officer in the cases referred to in **Article 56, para 2**.

Petitions for institution of infringement proceedings were submitted against the responsible person (3), legal person (6), and entrepreneur (1).

In the preceding period, from 2010 through the end of the reporting period, the Commissioner filed **228 petitions for institution of infringement proceedings**, including:

- 216 against violations of the previous LPDP, including:

- Failure to compile or update records (50);
- Data processing without consent contrary to the requirements referred to in Article 12 (38);
- Data processing contrary to the requirements referred to in Article 13 (13);
- Personal data collecting from another person contrary to Article 14 (1);
- The data subject or other persons were not informed of the requirements referred to in Article 15, paragraph 1, before data collection (3);
- Processing of particularly sensitive data contrary to Articles 16-18 (18);
- Failure to provide the requested information, or access, or a copy of the data being processed– Article 26 paragraphs 1 and 2 and Article 27 (1);
- Failure to delete data from data collections in accordance with Article 36 (1);

⁶⁹ Communication of the Constitutional Court Su No. 67/1 dated 30 January 2024.

- Failure to comply with the Commissioner's ruling passed pursuant to the appeal – Article 41, paragraph 1 (4);
- Acting contrary to the duty to undertake measures referred to in Article 47 paragraph 2 (25);
- Failure to inform the Commissioner of the intention to establish a data collection within the statutory deadline – Article 49 paragraph 1 (20);
- Failure to submit to the Commissioner records or changes in a data collection within the statutory deadline – Article 51 paragraph 1 (62);
- Transborder transfer of data out of the Republic of Serbia contrary to Article 53 (2);
- Failure to ensure the Commissioner's authorized officer to perform unobstructed supervision and failure to provide him/her access to necessary documentation and make such documentation available to him/her – Article 55 (46);
- Failure to comply with the Commissioner's orders – Article 56 paragraph 2 (11)
- Infringements referred to in Article 57 paragraph 1 item 14 in connection with paragraph 3 (11);
- Violation from Article 57, paragraph 1, item 14 in connection with paragraph 3 (13), and

- 24 against violations of the provisions of the new LPDP, including:

- Personal data processing contrary to the processing principles referred to in Article 5 paragraph 1 (14);
- Personal data processing for other purposes contrary to Articles 6 and 7 (1);
- Controller processes personal data without the consent of the data subject, and is not able to present evidence that the data subject in question has given consent for the processing of their data - Art. 15, para 1 (1);
- Failure to undertake appropriate technical, organizational and human resource measures in accordance with Article 42 when determining the manner of processing and during processing (4);
- Failure to regulate relations between joint data controllers in the manner specified in Article 43 paragraphs 2 through 4 (1);
- controller has not designated a personal data protection officer in the cases referred to in Article 56, para 2 (5).

3.3.5.2. Infringement Warrant

In 2023, the Commissioner issued 5 infringement warrants due to breaches of the LPDP, namely 3 because the controller does not keep the prescribed records on processing (Art. 47) or does not record processing (Art. 48), and 2 because the controller did not publish the data of the personal data protection officer and did not submit them to the Commissioner (Art. 56, paragraph 1).

Infringement warrants were issued against the responsible persons (3), and legal persons (2).

3.3.6. Actions of Prosecutor's Offices on Criminal Reports Filed by the Commissioner and Magistrate Courts Re Petitions for Institution of Infringement Proceedings Filed by the Commissioner

In the preceding period, from 2010 through the end of the reporting period, the Commissioner filed the total of **49 criminal reports** against criminal offences referred to in Articles 143 (unauthorized wiretapping and recording), 144 (unauthorized photographing), 145 (unauthorized publication and presentation of another's document, portrait, and recordings), 146 (unauthorized collection of personal data), 299 (computer sabotage), 302 (unauthorized access to computer, computer network or electronic data processing), 329 (impersonation), 355 (forging a document), and 359 (abuse of office) of the Criminal Code.

According to the data available to the Commissioner, based on criminal reports filed by the Commissioner so far, only 2 indictments were brought. One final and enforceable judgment of conviction was passed pursuant to indictments (the person was sentenced to 6 months probation) and 1 exonerating judgment. 23 criminal reports were rejected in 15 cases by delaying criminal prosecution according to the principle of opportunity, in 3 cases the prosecutor's office found that the reported offence does not constitute a criminal offence prosecuted *ex officio*, while 5 investigations were terminated because the statute of limitations had expired.

The Commissioner believes that the criminal reports he filed with the Prosecutors' Offices, build strong enough cases for further prosecution, to ensure the detection and appropriate punishment of the perpetrators of those criminal offences.

Regarding the infringement petitions he submitted, the Commissioner received 5 decisions of magistrate courts in the first instance **in the course of 2023**. The first-instance courts decided as follows: 3 convictions with reprimands, 1 termination due to statute of limitations, while 1 claim was dismissed due to statute of limitations.

3.4. COMMISSIONER'S ACTIVITIES AIMED AT AFFIRMATION OF RIGHTS OF ACCESS TO INFORMATION OF PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION

During 2023, the Commissioner organized and held a number of trainings in the field of personal data protection. In addition to trainings organized and held by the Commissioner, whether independently or jointly with other institutions, trainings in the field of freedom of information and personal data protection are implemented continually by the National Academy of Public Administration for civil servants. Apart from other lecturers, representatives of the Commissioner also hold lectures on these trainings.

In addition to these trainings, as a form of continual education, in 2022/2023 the Commissioner organized a short study program in the field of personal data protection and free access to information with the Faculty of Security Studies of the University in Belgrade and the Faculty of Law of the University in Kragujevac.

The project "Strengthening the Rule of Law in Serbia" is a multi-donor project financed jointly by the European Union, German Federal Ministry of Economic Cooperation and Development (BMZ) and the Austrian Development Cooperation (ADC), and implemented by German Agency for International Cooperation (GIZ), the Austrian Development Agency (ADA), the Central Project Management Agency (CPMA), and the OSCE Mission to Serbia. The project is implemented from 1 January 2022 through 30 September 2025. The general objective of the project is support to compliance with the duties arising from Chapter 23 – Judiciary and Fundamental Rights in accordance with EU *acquis*.

Following the adoption of the operative plan of activities of all beneficiaries of the Project, including the Commissioner for Information of Public Importance and Personal Data Protection, a preparatory meeting between representatives of the Commissioner and the GIZ was held on 25 November 2022, where the methodology was determined for implementation of activities **3.9.1.1.** – Training in Implementation of the Law on Personal Data Protection and **3.9.1.6** - Monitoring the Implementation of the New Law on Personal Data Protection (Revised AP23), namely, implementation of 15 round tables and 15 panel discussions in various cities/towns in the Republic of Serbia was defined for the period from 2022-2025.

The project "Protection of Freedom of Expression and Media in Serbia (PRO-FREX-S)" is implemented within the Horizontal Program of Support to the Western Balkans and Turkey, the third phase of which began in January 2023 and will last for 48 months. The program defines the activities that should be supported in the context of the accession process of the Republic of Serbia to the European Union. The program is financed by the European Union and implemented by the Council of Europe. Through the implementation of the Project's activities - strengthening the capacity of the Commissioner for Information of Public Importance and Protection of Personal Data in order to apply relevant European standards in the areas of freedom of access to information and personal data protection, the following was carried out: a) two-day training of employees on the latest case law of the European Court of Human Rights in connection with access to information of public importance in the context of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; b) the Guide to the Jurisprudence of the European Court

of Human Rights regarding data protection was translated to Serbian with the aim of providing a comprehensive understanding of the relationship between data protection and freedom of expression, especially in the light of modern technological progress. The Guide is published on the website of the Commissioner for Information of Public Importance and Protection of Personal Data.

The Project "EU for the Rule of Law in Serbia" is funded by the Delegation of the EC in Serbia, and implemented by the UNOPS in order to support the achievement of AP standards for Chapters 23 and 24. Within the Project, a new information system of the Commissioner for Information of Public Importance and Protection of Personal Data will be established and provide seven licenses for TRADOS Studio Professional translation software. Activities are ongoing

The project "Implementation of the Aarhus Convention and Access to Information of Public Importance" within which, with the support of the OSCE Mission to Serbia, the Acting Assistant Secretary General produced the publication "Exercising the right to access to environmental information", and the Expert Service of the Commissioner for Information of Public Importance and Personal Data Protection held **four seminars (Belgrade, Novi Pazar, Kragujevac and Subotica)** in order to promote amendments to the Law on Free Access to Information of Public Importance.

The GIF (Greater Internet Freedom) Serbia is a USAID project within which a guide was created, titled "Personal Data Protection in Business". The representative of the Commissioner for Information of Public Importance and Personal Data Protection participated in the panel "Digital Rights and Digital Supervision" within the Serbian Internet Governance Forum (IGF Serbia), which was held on 16 May 2023.

The Project "Freedom and Development of the Media" within the framework of which the OSCE Mission in Serbia supported the holding of round tables "Access to Information of Public Importance and Personal Data Protection". The round tables were conducted by the Commissioner for Information of Public Importance and Personal Data Protection in cooperation with the OSCE Mission in the Republic of Serbia and the Standing Conference of Towns and Municipalities - National Association of Local Authorities in Serbia (SCTM). The aim of the round tables was to acquaint the representatives of the local media of the district with the rights and obligations of compliance with the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection during reporting. In 2023, two round tables were held (Novi Sad and Niš) and a "Short Guide to Free Access to Information of Public Importance and Personal Data Protection" was issued.

Trainings and Lectures:

- On 23.January 2023, within the framework of the multi-donor project "Support to the Strengthening of the Rule of Law in the Republic of Serbia", whose objective is to contribute to fulfilling the obligations arising from the AP for Chapter 23 - Judiciary and Fundamental Rights in accordance with the EU *acquis*, training was held for employees of public authorities and representatives of the civil society;

- On 20 and 21 February 2023, a two-day training was held for employees of the Personal Data Protection Supervision Sector in the premises of the Office of the Commissioner, which was organized as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia";
- On 10 February 2023 the representatives of the Commissioner held training on the Law on Free Access to Information of Public Importance for employees of the Urban Planning Institute of Belgrade;
- On 10 February 2023 the representatives of the Commissioner held a training in Novi Sad for employees of provincial authorities, on the topic of personal data protection;
- On 22 February 2023 the representatives of the Commissioner held a training in Novi Sad for employees of provincial authorities, on the topic of Law on Personal Data Protection for the representatives of the Community of Institutes of Serbia;
- On 28 February 2023 the representatives of the Commissioner held a training on the position and powers of the Commissioner for participants of a short study program in the field of personal data protection.
- On 2 March 2023, within the framework of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia" in Kragujevac, the training for the controllers on the implementation of the Law on Personal Data Protection was held, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);
- On 16 March 2023, a training was held on the LPDP for the representatives of the Appellate Public Prosecutor's Office in Novi Sad and representatives of Public Prosecutor's Offices from Novi Sad, Sremska Mitrovica, Loznica, Šabac, Ruma, Stara Pazova, Kikinda, and Zrenjanin.
- On 17 March 2023, in the Office of the Commissioner, training was held on the powers of the Commissioner and the importance of the rights he protects for students of the Faculty of Media and Communication;
- On 20 March 2023, the realization of a two-week student professional practice began in the Office of the Commissioner for students of law faculties;
- On 22 March 2023, a webinar was held on the application of the LPDP for economic operators that deal with clinical trials of drugs;
- On 8 April 2023, the Commissioner and Deputy Commissioner delivered a lecture to elementary school students from Bor, as part of the "Digital Expedition", which was launched the year before last at the initiative of the Prime Minister of Serbia. Caravan trainings are intended for the widest population, from young people and their parents to the oldest fellow citizens and civil servants, and are therefore held at three locations in each city: on the main city square, in pensioners' associations and clubs, and in local self-government units. As part of the "Digital Expedition" caravan, the representatives of the Commissioner held a lecture on the topic of personal data protection for elementary school students on 7 - 8 April 2023 in Bor, and 20 – 21 April 2023 in Priboj.
- On 20 – 21 April 2023, the representatives of the Commissioner delivered lectures to children of elementary school age in Priboj, as part of the "Digital Caravan".
- On 20 April 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", the objective of which is to contribute to the fulfillment of the obligations arising from the AP for Chapter 23 - Judiciary and Fundamental Rights in

accordance with the EU *acquis*, a training was held for personal data protection officers in Kruševac for the implementation of the Law on Personal Data Protection, organized by the Commissioner for Information of Public Importance and the Personal Data Protection and the German Agency for International Cooperation (GIZ);

- On 5 April 2023, a webinar was held on the application of the Law on Free Access to Information of Public Importance for the representatives of public authorities;
- On 5, 12, and 19 April 2023, lectures were held for students of the short study program of the Faculty of Security;
- On 7 April 2023, Acting Assistant Secretary General of the Commissioner's Complaints and Enforcement Sector in the field of access to information held an online training in the field of access to information organized by the National Academy of Public Administration for representatives of the public authorities;
- On 11 April 2023, Acting Assistant Secretary General of the Commissioner's Complaints and Enforcement Sector in the field of access to information held a training in this field organized by the National Academy of Public Administration for several dozen representatives of public authorities, in the premises of the city municipality of Zvezdara;
- On 20 April 2023, a training on the implementation of the LPDP was held for the representatives of public authorities in Kruševac in cooperation with YUCOM, through the GIZ project;
- On 24 April 2023, a training was held on the implementation of the LPDP for the representatives of the Municipal Administration of Indija and employees of public companies;
- On 11 May 2023, a training session on the LPDP was held for the employees of the Pension and Disability Fund (PIO);
- On 11 May 2023, a training session on the LPDP was held for the employees of the Games of Chance Administration of the Ministry of Finance;
- On 16 May 2023, the Commissioner and the Deputy Commissioner delivered a lecture on the topic of personal data protection to students of the Faculty of Organizational Sciences of the University of Belgrade;
- From 19 to 20 May 2023, training on the LPDP was held for lawyers and economists in healthcare;
- On 23 May 2023, a training session was held on the LPDP for employees of PE "Belgrade Fortress";
- On 24 May 2023, within the framework of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a training on the implementation of the LPDP was held for personal data protection officers in Vranje;
- On 25 May 2023, within the framework of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia" a panel discussion on the application of the Law on Personal Data Protection was held in Pirot, organized by the Commissioner for Information of Public Importance and Personal Data Protection and the German Agency for International Cooperation (GIZ);
- From 26 to 28 May 2023, a representative of the Commissioner's professional service participated in the training for the implementation of the Action Plan for Chapter 23 "Support to the Ministry of Justice";

- On 27 May 2023, a training on the LPDP was held in the co-organization of the Faculty of Law and the Corporate Compliance Association;
- On 2 and 3 June 2023, the Commissioner and the Deputy Commissioner together with the representatives of the Commissioner's Office participated in the Digital Expedition in Valjevo. A lecture was delivered to students of senior grades of elementary schools about what comprises personal data, why it should be kept, especially in the digital world, and what is the role of the Commissioner in the field of personal data protection;
- On 6 June 2023, trainings on free access to information of public importance and personal data protection were held for members of the Medical Chamber;
- On 9 and 10 June 2023, the representatives of the Commissioner participated as lecturers on the LPDP for children as part of the Digital Expedition in Sombor;
- On 14 June 2023, a training session on the LPDP was held for employees of the Belgrade High School Student Center;
- On 21 and 22 June 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a training was held for personal data protection officers in Novi Pazar for the implementation of the Law on Personal Data Protection, organized by the Commissioner for Information of Public Importance and the Personal Data Protection and the German Agency for International Cooperation (GIZ);
- On 6 July 2023, the representative of the Commissioner held a training on the implementation of the Law on Personal Data Protection for healthcare employees in cooperation with the Serbian Chamber of Healthcare Institutions;
- On 30 and 31 August 2023, lecturers from the Department for Domestic Cooperation, International Relations and Projects and the Department for Education and Certification held trainings in the field of the LPDP as part of the project "Digital Expedition" for children of elementary school age in Prijepolje;
- On 29 and 30 September 2023, lecturers from the Sector for Domestic Cooperation, International Relations and Projects, the Sector for Education and Certification and the Sector for Supervision of Personal Data Protection, held trainings in the field of the LPDP as part of the project "Digital Expedition" for children of elementary school age in Obrenovac;
- On 2 October 2023, training on personal data protection was held in the Office of the National Security Council and Classified Information Protection;
- On 4 October 2023, a training course on personal data protection was held at the Military Officers' Club in Niš for employees in the public sector;
- On 5 October 2023, training on personal data protection was held in the City Assembly of Leskovac for employees in the public sector;
- On 6 October 2023, training on the personal data protection was held for students at the Elementary School "King Peter I" in Belgrade;
- On 6 and 7 October 2023 in Barajevo, and on 13 and 14 October 2023 in Grocka, the representatives of the Commissioner held four trainings for young children as part of the "Digital Caravan";
- On 17 October 2023, the representatives of the Commissioner held an online webinar on the protection of personal data for interested persons from the private and public sectors;
- On 20 October 2023, within the framework of the project "Implementation of the Aarhus Convention and Access to Information of Public Importance", the Commissioner for

Information of Public Importance and Personal Data Protection with the support of the OSCE Mission in Serbia, organized a workshop in Novi Pazar titled "The Importance of Access to Environmental Information for the Environmental Improvement and Protection";

- On 3 November 2023, within the framework of the project "Implementation of the Aarhus Convention and Access to Information of Public Importance", the Commissioner for Information of Public Importance and Personal Data Protection with the support of the OSCE Mission in Serbia, organized a workshop in Novi Pazar titled "The Importance of Access to Environmental Information for Environmental Improvement and Protection";
- On 6 November 2023, in Niš, training was held for authorized persons for handling requests for free access to information of public importance on the topic - Free Access to Information of Public Importance - Legislation and Practice. This training was held with the support of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia" (EU FOR THE FIGHT AGAINST CORRUPTION AND FOR FUNDAMENTAL RIGHTS) funded by the EU and the German Federal Ministry of Economic Cooperation and Development (BMZ) and the Austrian Development Cooperation (ADC), while the Austrian Development Agency (ADA) is responsible for the implementation of the project activity;
- On 9 November 2023, online training was held on free access to information of public importance;
- On 23 November 2023, within the framework of the project "Implementation of the Aarhus Convention and Access to Information of Public Importance", the Commissioner for Information of Public Importance and Personal Data Protection with the support of the OSCE Mission in Serbia, organized a workshop in Subotica titled "The Importance of Access to Environmental Information for Environmental Improvement and Protection";
- On 27 November 2023, the Deputy Commissioner and the Head of the Department for Normative Affairs in the Field of Economy and Finance, Labor and Public Services in the Sector for Harmonization of Regulations and Normative Affairs delivered the first lecture to the participants of the new cycle of the Short Study Program "Legal Data Protection and Access to Information", which is implemented at the Faculty of Law of the University of Kragujevac and through which the participants are trained to perform the roles of personal data protection officers and authorized persons for processing the requests for access to information of public importance;
- On 27-28 November 2023, training was held on the application of the Law on Free Access to Information of Public Importance for employees of local self-government bodies in Vrnjačka Banja;
- On 4 December 2023, a round table "Access to Information of Public Importance and Personal Data Protection" was organized in Kragujevac;
- On 6 December 2023, training on the Law on Free Access to Information of Public Importance was organized by the Chamber of Healthcare Institutions;
- On 8 December 2023, training was held on the application of the LFAIPI at the NAPA;
- On 13 December 2023, training was held on the application of the Law on Free Access to Information of Public Importance for employees in schools, preschools, and cultural institutions in the city of Čačak;
- On 14 December 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", the objective of which is to contribute to the fulfillment of

the obligations arising from the AP for Chapter 23 - Judiciary and Fundamental Rights in accordance with the EU *acquis*, a panel discussion on the application of the Law on Personal Data Protection was held in Niš, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);

- On 15 December 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", the objective of which is to contribute to the fulfillment of the obligations arising from the AP for Chapter 23 - Judiciary and Fundamental Rights in accordance with the EU *acquis*, a panel discussion on the application of the Law on Personal Data Protection was held in Kraljevo, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);

4. COMMISSIONER'S COOPERATION

4.1. COOPERATION WITH PUBLIC AUTHORITIES, CIVIL SOCIETY ORGANISATIONS AND BUSINESS ASSOCIATIONS

4.1.1. Conferences

- On 25 January 2023, the representative of the Commissioner attended the conference "Tackling State Capture in Southeast Europe: Delivering on the European Rule of Law Promise", organized by the Center for the Study of Democracy (CSD) and the European Policy Center (CEP);
- On 28 February 2023, the representative of the Commissioner attended the Conference "Walking the (Barb)wire: Balkans Between the War and Peace" organized by the Belgrade Center for Security Policy;
- On 30 January 2023, and the Commissioner's Office marked the Data Protection Day in the Chamber of Commerce and Industry of Serbia. Following the opening address of the Commissioner, numerous guests were addressed by the head of the EU Delegation in Serbia, the head of the OSCE Mission in Serbia, the deputy head of the Council of Europe Office in Belgrade, and the director of the USAID Mission in Serbia. Then the Deputy Commissioner presented the state of data protection in the Republic of Serbia and presented the latest Publication No. 8 entitled "Personal Data Protection: Views, Opinions, and Practice of the Commissioner". The event concluded with the presentation of a brochure for children entitled "Personal data is our treasure, how can we protect it?", which was published with the help of the "New Literacy" program, jointly implemented by the United States Agency for International Development (USAID) and the organization Propulsion.
- On 4 April 2023, the Commissioner delivered the opening speech at the international conference DATA PROTECTION (In Gaming) dedicated to personal data protection of in the domain of the gaming industry, which was held at the Faculty of Organizational Sciences in Belgrade and where the representatives of the Commissioner's Office participated in panels dedicated to the protection of children's personal data and their activities in the virtual environment, as well as the protection of employees' personal data;
- From 17 through 21 April 2023, the Commissioner and Deputy Commissioner participated in the "Privacy Symposium" in Venice. On the first day of the Symposium, the Commissioner participated as a speaker at the panel "Strengthening Cooperation between the Personal Data Protection Authorities";
- From 9 to 12 May 2023, the Commissioner and the Deputy Commissioner participated in the European Conference of Data Protection Authorities in charge of personal data protection, entitled "2023 Spring Conference", which was held in Budapest.
- On 6 June 2023, the Serbian Chamber of Commerce hosted the International Conference on Biometric Data and Video Surveillance of Public Spaces, which enabled scientists, activists and practitioners in Serbia to learn about practices in EU member states related to this field.

The conference was organized by the Commissioner and GIZ within the Project "Support for Strengthening the Rule of Law in the Republic of Serbia";

- On 4 July 2023, in the Mona Plaza Hotel in Belgrade, the Commissioner participated in the conference public presentation of the research "Citizens' Perception on Personal Data Protection" conducted by the agency Kantar Srbija/ *TMG Insights* during April and May of this year. Both public opinion surveys (the first from 2020, the second from 2023), as well as the public campaign "Keep it personal" (2022) were conducted in cooperation with the OSCE Mission in Serbia and the Commissioner for Information of Public Importance and Personal Data Protection within the multi-year project of the Mission "Consolidating the process of democratization in the security sector in Serbia", funded by the Government of Sweden;
- On 28 September 2023, the International Day of the Public's Right to Know was marked. On that occasion, awards were presented to authorities for the promotion of the right to free access to information for 2023, namely: the National Academy for Public Administration, the Higher Public Prosecutor's Office in Smederevo, the authorities of the City of Leskovac, Assembly of the AP Vojvodina, the PUC "Water and Sewerage" Subotica, the Faculty of Law University in Kragujevac, Elementary School from Kosovo "Šara Detachment", Sevice - Štrpce. The award for special contribution to the affirmation of the right to access to information of public importance was presented to the Standing Conference of Towns and Municipalities (SCTM);
- On 29 and 30 September 2023, the representative of the Commissioner participated in the work of the 9th International Forum entitled "Security for the Future", which was organized by [RABEK](#) and [S4 GLOSEC GLOBALNA BEZBEDNOST](#), which was held in Hotel "M" in Belgrade;
- From 18 to 22 September 2023, the Commissioner and Deputy Commissioner participated in the conference event "Data Protection in the Western Balkans and the Eastern Partnership Region", held in Brussels, Belgium, organized by the SIGMA Program, the German Agency for International Cooperation (GIZ), the Regional Cooperation Council (RCC) and Regional School of Public Administration (ReSPA);
- On 12 and 13 October 2023, the Commissioner, Deputy Commissioner and Head of the Sector for Complaints and Enforcement in the Field of Access to Information were in Dubrovnik at the 4th regular annual meeting of members of the "Initiative 2020", which gathers authorities and bodies responsible for access to information of public importance from the territory of the former Yugoslavia;
- On 18 October 2023, the representative of the Commissioner attended the press conference organized by the Renewables and Environmental Regulatory Institute (RERI), on the occasion of the Draft Law on Environmental Impact Assessment;
- On 24 October 2023, the representative of the Commissioner participated in the media conference organized by the Roma Center for Women and Children "Daje". The reason for the gathering was the presentation of the results of several years of research and public advocacy on the project "Women's Rights of Roma Women in Serbia", which is implemented with the support of the Kvinna till Kvinna Foundation;

- On 3 November 2023, the representatives of the Commissioner participated in the annual conference of the Corporate Compliance Association "Change of Perspective". During the panel, the Code of Responsible Business was presented;
- On 16 November 2023, the representative of the Commissioner participated in the Seventh Regional Conference of Institutions for Equality in Southeast Europe, organized by the Commissioner for the Protection of Equality, on the occasion of the International Day of Tolerance;
- On 17 November 2023, the representatives of the Commissioner participated in a regional conference dedicated to the topic of openness and transparency of the executive power in the Western Balkans region, which was organized by the non-governmental organization "Center for Democratic Transition" (CDT) from Montenegro in Podgorica;
- On 22 November 2023, as part of the multi-sector project "Support for Strengthening the Rule of Law in the Republic of Serbia", the Conference "Analysis of sectoral regulations and development of a plan for their alignment with the new Law on Personal Data Protection" was held, organized by the Commissioner for Information of Public Importance and the Personal Data Protection and the German Agency for International Cooperation (GIZ);
- On 30 November 2023, the representatives of the Commissioner participated in the conference "Digitalizing Healthcare - Inspired by Denmark's E-Health Journey" organized by the Government of Serbia and the Embassy of Denmark;
- On 5 and 6 December 2023, the Commissioner, Deputy Commissioner and Head of the Department for Normative Affairs in the Field of Economy and Finance, Labor and Public Services participated in the Regional Round Table on Business Compliance with the European Union's General Data Protection Regulation (GDPR) in the Western Balkans. The round table was held in Skopje, within the framework of the projects "Regional Cooperation for European Integration" (RCEI) and "Digital Instruments for Economic Management in the Western Balkans", which are implemented by the German Agency for International Cooperation (GIZ);
- On 6 December 2023, the Commissioner's representative attended the annual conference of the American Chamber of Commerce in Serbia, which AmCham Serbia traditionally organizes "The Eleventh Passing Time: Growth Plan";
- On 7 December 2023, the representative of the Commissioner attended the conference "Key challenges in ensuring gender equality in Serbia: tackling gender-based violence against women and recognition of unpaid work";
- On 12 December 2023, the representative of the Commissioner participated in the conference "Open Doors of the Judiciary - The Story of People" organized by the non-governmental organization Lawyers' Committee for Human Rights (YUCOM) in cooperation with the Supreme Court and the U.S. Agency for International Development (USAID).

4.1.2. Meetings

- On 11 January 2023, a representative of the Commissioner attended the session of the Commission for the collection of facts on the status of newborn infants who are suspected of having disappeared from the maternity hospitals in Serbia;
- On 6 February 2023, the Commissioner and Deputy Commissioner, together with colleagues from the Sector for Harmonization of Regulations and Normative Affairs and the Sector for Supervision, attended the meeting of the Working Group for the Development of the Personal Data Protection Strategy for the period 2023-2030, held at the Serbia Palace. At the meeting, in a constructive discussion with a representative of the Cabinet of the Prime Minister, the Ministry of Justice, the Ministry of Interior, the General Public Prosecution, the Administrative Court, the magistrate courts, the Republic Secretariat for Public Policy and other relevant state bodies and representatives of civil society organizations, the specific goals of the strategy were finalized, as well as concrete measures and activities for the implementation of the Action Plan as an integral part of the Strategy;
- On 23 February 2023, the representative of the Commissioner's professional service participated in the meeting of the Coordinating Body for the Implementation of the AP for Chapter 23: Judiciary and Fundamental Rights, where, among other things, an overview of the activities due in the Q1 and Q2 of 2023 was discussed;
- On 13 March 2023, the Commissioner met with the Minister of Public Administration and Local Self-Government. They discussed the application of the amended Law on Free Access to Information of Public Importance and ways to solve the problems observed in the application of that law;
- On 14 March 2023, the Commissioner, Deputy Commissioner, Head of the Department for International Relations, Domestic Cooperation and Projects, and Acting Chief of Staff of the Commissioner met with the Council of Europe Commissioner for Human Rights and her associates. The meeting discussed the status of human rights under the Commissioner's mandate and the possibilities for improving their exercising and their protection in the Republic of Serbia;
- On 24 March 2023, the Commissioner received the permanent representative of the UNDP (United Nations Development Program) in Serbia for an official visit. At the meeting, the Commissioner introduced the high-ranking guest to the Commissioner's history, organization, working methods and powers, and then discussed the Commissioner's previous cooperation with UNDP and the possibilities for continuing and expanding this cooperation with the aim of more efficient work of the Commissioner's Office and improving the protection of the rights that the Commissioner protects;
- On 27 March 2023, Acting Assistant General Secretary with her colleagues, as part of the GIF Serbia project (Greater Internet Freedom), held a meeting with experts from the Faculty of Organizational Sciences on the topic Methodology for creating the content of the manual: Protection of personal data in business;
- From 29 to 30 March 2023, in the meetings of the Subcommittee for Justice, Freedom and Security, the Commissioner and representatives of the institution participated. The Commissioner's discussion was within the scope of point 3.4. Personal data protection;
- On 31 March 2023, the Commissioner, Deputy Commissioner, Acting Assistant Secretary General of the Sector for International Relations, Domestic Cooperation and Projects and Acting Chief of Staff of the Commissioner met with the United Nations Special Rapporteur

for the promotion and protection of the right to freedom of opinion and expression and her associates. At the meeting, the Commissioner informed the special rapporteur about the history, scope of work and powers of the institution of the Commissioner for Information of Public Importance and Personal Data Protection, about the status of the right to free access to information and the right to personal data protection as prerequisites for realizing freedom of opinion and expression, as well as about current issues and space for improvement of both human rights that the Commissioner protects;

- On 13 April 2023, the Commissioner held an online meeting with a representative of the World Economic Forum. At the meeting, which was organized with the support of the Center for the Fourth Industrial Revolution, positions and opinions were exchanged on current issues in the field of personal data protection and the international initiative of the World Economic Forum to establish the Community of the Government Chief Data Officers Community) was supported;
- On 4 April 2023, within the framework of the OSCE project "Consolidation of the process of democratization in the security sector in the Republic of Serbia", Acting Assistant Secretary General with associates held a meeting with representatives of the OSCE Mission in the RS on the topic of creating a questionnaire for the second survey of the public's knowledge of personal data protection, which will be conducted at the end of the project;
- On 4 April 2023, within the framework of the sixth monitoring cycle of the European Commission against Racism and Intolerance (ECRI), at the meeting that ECRI experts held with independent state bodies in the Republic of Serbia on behalf of the Commissioner for Information of Public Importance and Personal Data Protection, Acting Assistant Secretary General participated, who answered the questions of the ECRI experts related to possible findings of the Office of the Commissioner about possible cases of discrimination in the Republic of Serbia (asylum seekers, Roma);
- As part of the OSCE project "Media Freedom and Development", Acting Assistant Secretary General with associates held a meeting with representatives of the OSCE Mission in the RS on the occasion of setting out the activities of the Commissioner's institution in 2023;
- On 21 April 2023, an operational meeting was held within the GIF Serbia project (Greater Internet Freedom). At the meeting, the content of the manual "Personal Data Protection in Business" was agreed and the upcoming tasks of the Commissioner's institution were defined;
- On 21 April 2023, within the framework of the project "Protection of freedom of expression and media in Serbia PRO-FREX-S" which is jointly funded by the EU and the CoE program "Horizontal Facility III", Acting Assistant Secretary General with an associate held a meeting with representatives of the Council of Europe where the proposed draft of the concept of activities related to the institution of the Commissioner was discussed;
- On 26 April 2023, Acting Assistant Secretary General participated in the meeting of the Coordinating Body for the Implementation of AP 23: Judiciary and Fundamental Rights. The topic of the meeting was the Alert Mechanism and the reporting process for the Q1 2023;
- On 31 May 2023, the Commissioner, Deputy Commissioner, Head of the Sector for Harmonization of Regulations and Normative Affairs and Acting Chief of Staff of the

Commissioner held a meeting with representatives of Amazon Web Services (AWS), public policy manager Ms. Marina Stavrakantonaki, security manager in the EU Public Sector Department, and cloud computing security architect. At the meeting, the Commissioner introduced AWS representatives to the history of this institution, emphasized the importance of the right to personal data protection in the field of information technology and artificial intelligence, and expressed readiness for cooperation in the field of education and raising awareness of the importance of personal data protection in the public sector with AWS as one of the largest companies that provide cloud computing services to large and small businesses and numerous government bodies around the world;

- On 31 May 2023, the meeting "Open data - discovery of opportunities" was held, organized by UNDP; the representative of the Commissioner, participating in the aforementioned meeting, presented the work of the Single Information System of Information Directories, as well as the opportunities that this platform provides to public authorities, as well as other interested parties. Also, the possibility of connecting this platform with the Open Data Portal on the Commissioner's website was mentioned;
- On 22 May 2023, the first meeting was held of the Steering Committee of the project "Protection of Freedom of Expression and Media in Serbia (PRO-FREX-S) implemented within " Horizontal program of support for the Western Balkans and Turkey";
- On 29 June 2023, the representative of the Commissioner participated in the meeting of the Council for Monitoring the Implementation of UN Human Rights Recommendations;
- On 26 June 2023, the representative of the Commissioner participated in the Second Coordination Meeting in connection with the implementation of activities within the OSCE project "Consolidating the process of democratization in the security sector of the Republic of Serbia";
- On 11 July 2023, the Commissioner participated via video link in the 9th meeting of the Stabilization and Association Committee, which was held in Brussels;
- On 19 July 2023, the Commissioner and Deputy Commissioner held a meeting with representatives of *Propulsion* in the Commissioner's premises, where, among other things, the improvement of the Commissioner's official website was discussed;
- On 27 July 2023, the Commissioner and Acting Chief of Staff of the Commissioner held a meeting with representatives of the Commission for gathering facts about the status of newborn infants who are suspected to have disappeared from the maternity hospitals in the Republic of Serbia;
- On 7 July 2023, within the framework of the GIF Serbia project (Greater Internet Freedom), representatives of the Commissioner held a meeting with the director of the Project, where they discussed the upcoming presentation of the Guide for the private sector (business) on compliance with the Law on Personal Data Protection;
- On 19 July 2023, the Commissioner and his associates held a meeting with representatives of *Propulsion*, where the outlook and operation of the Commissioner's new website was presented;
- On 20 July 2023, in order to evaluate the project cooperation between the OSCE Mission in Serbia and the Commissioner on the project "Consolidating the process of democratization in the security sector in Serbia", representatives of the Commissioner held a meeting with an independent evaluator hired by SeCons;

- On 26 July 2023, an online meeting was held with a representative of the Personal Data Protection Agency of the Republic of Croatia on the experiences of organizing trainings;
- On 6 July 2023, the representatives of the Commissioner participated in a meeting organized by the Ministry of European Integration in order to prepare for the 9th meeting of the Stabilization and Association Committee;
- On 1 August 2023, the Commissioner and the Deputy Commissioner received the executive director of Elektromreže Srbije. Various aspects of the implementation of the Law on Free Access to Information of Public Importance were discussed at the meeting;
- On 14 August 2023, the Commissioner and Deputy Commissioner held a meeting with the Head of the Traffic Police Administration on the legal aspects of the intended introduction of cameras for police officers' uniforms;
- On 15 August 2023, the Commissioner, Deputy Commissioner and Head of the Department for Complaints and Enforcement in the field of access to information held a meeting with the Minister of Health and her associates, where the problems of abuse of the right to access to information of public importance, which many health institutions are facing, were discussed;
- On 18 August 2023, the Commissioner and the Deputy Commissioner held a meeting with a senior adviser at the Cabinet of the Prime Minister of the Republic of Serbia and the director of the Center for the Fourth Industrial Revolution. The participants in the meeting discussed the legal aspects of the implementation of a single electronic medical record;
- On 24 August 2023, the Commissioner, Deputy Commissioner, Head of the Sector for Complaints and Enforcement in the Field of Access to Information and Head of the Sector for Harmonization of Regulations and Normative Affairs discussed in the Ministry of Justice with the Minister of Justice and her associates about the adoption of the Personal Data Protection Strategy for 2023 to 2030, with amendments to the Law on the Personal Data Protection and ways to prevent increasingly numerous abuses of the right to access information of public importance;
- On 24 August 2023, the Commissioner and the Deputy Commissioner held a meeting with the Minister of Family Welfare and Demography and her associates, where current problems of abuse of the right to free access to information of public importance were discussed;
- On 28 August 2023, the Commissioner, Deputy Commissioner, Head of the Sector for Complaints and Enforcement in the Field of Access to Information and the Sector for Harmonization of Regulations and Normative Affairs held a meeting with the Minister of Public Administration and Local Self-Government and his associates. At the meeting, the current situation in the field of free access to information of public importance was discussed, with special reference to the increasingly frequent abuses of this right and the need for amendments to the Law on Free Access to Information of Public Importance;
- On 31 August 2023, the Commissioner held a meeting with representatives of the Ministry of Labor, Employment, Veterans and Social Affairs, the Office for Kosovo and Metochia and representatives of social services centers from Kosovo and Metochia. The current issue of abuse of the right to free access to information of public importance was discussed at the meeting;
- On 4 August 2023, Acting Assistant Secretary General participated in the meeting of the Coordinating Body for the Implementation of the Revised Action Plan for Chapter 23:

Justice and Fundamental Rights. The topic of the meeting was the proposal of a new reporting methodology, which will be finalized by the end of the year. Recommendations were also given to the members of the Coordinating Body on further activities related to the delay in reporting;

- On 15 September 2023, in the premises of the Office of the Commissioner, a session of the Commission for awarding recognition for the promotion of the right to free access to information for 2023 was held. In addition to the Commissioner as the Commission Chair, the meeting was attended by the following members of the Commission: Program Director of "Transparency Serbia", representative of the Association of Journalists of Serbia and Associate Professor of the Faculty of Political Sciences of the University of Belgrade. The commission was formed with the task of selecting the public authorities that in the period from September 2022 through September 2023, stood out the most in affirming the right to free access to information of public importance. The winners chosen by the Commission were presented with awards at the ceremony marking the Public's Right to Know Day, held on 28 September 2023;
- On 20 September 2023, Acting Assistant Secretary General participated in the First Meeting of the Board of Directors of the beneficiaries of the joint program of the European Union and the Council of Europe "Horizontal Support for the Western Balkans and Turkey (Phase III). At the meeting, the key achievements of the program so far and plans for the future, were discussed with the beneficiary institutions of the program.
- On 25 September 2023, Deputy Member of the EU Project Steering Committee for Chapter 23 "Support for Strengthening the Rule of Law in the Republic of Serbia" participated in the fourth meeting where progress in the implementation of project activities was presented, as well as challenges in implementation and strategic decisions;
- On 12 October 2023, the representative of the Commissioner, participated in the meeting of the Special inter-ministerial working group for the development and monitoring of the implementation of the fifth Action Plan for the implementation of the initiative Partnership for Open Administration in the Republic of Serbia. The meeting was aimed at discussing and deciding on the inclusion of proposed obligations in the new Action Plan;
- On 19 October 2023, the representatives of the Commissioner, participated in the meeting of the Special Working Group for the development of the Strategy for the Promotion and Protection of Human Rights in the Republic of Serbia for 2024-2030. At the meeting, the basic principles for the development of the Strategy were presented and the dynamics and way of working were agreed upon;
- On 27 October 2023, the representatives of the Commissioner, participated in the second meeting of the Special Working Group for the development of the Strategy for the Promotion and Protection of Human Rights in the Republic of Serbia for 2024-2030. At the meeting, the starting points for the development of the Strategy were discussed;
- On 2 October 2023, the Commissioner and his associates held an online meeting with representatives of SIGMA, the Ministry of Justice and the Ministry of Public Administration and Local Self-Government on the topic of abuse of the right to free access to information of public importance. At the meeting, it was concluded that, considering the seriousness of the problem and finding a solution, a high-level round table will be organized in November;

- On 10 November 2023, the representatives of the Commissioner participated in a consultative meeting with representatives of the public administration bodies of the Republic of Serbia regarding the analysis of the implementation of the Law on Electronic Administration organized by the Ministry of Public Administration and Local Self-Government with the support of SIGMA - a joint initiative of the OECD and the European Union;
- On 21 November 2023, a representative of the Commissioner participated in the regional meeting of the Press Council and other self-regulatory bodies from South-Eastern Europe, which was organized with the support of the OSCE Mission in Serbia;
- On 21 November 2023, the representatives of the Commissioner, participated in the meeting of the Special Working Group for the development of the Strategy for the Promotion and Protection of Human Rights in the Republic of Serbia for 2024-2030. At the meeting, the comments and suggestions of the competent state bodies and civil society organizations on the Starting Points for the development of the Strategy were considered;
- On 21 November 2023, the representative of the Commissioner gave a presentation at the regional meeting of the Press Council and other self-regulatory bodies from South-Eastern Europe;
- On 18 December 2023, the Commissioner met with representatives of the SHARE foundation, with whom he discussed current topics in the field of personal data protection;
- On 26 December 2023, Acting Assistant Secretary General participated in the meeting of the Coordinating Body for the Implementation of the Revised Action Plan for Chapter 23: Justice and Fundamental Rights;
- On 26 December 2023, the representative of the Commissioner participated in the work of the meeting of the group of experts for the development of the Strategy for the Implementation of the Aarhus Convention with the Action Plan, with the support of the Organization for European Security and Co-operation (OSCE), and organized by the Ministry of Environmental Protection;
- On 28 December 2023, the representatives of the Commissioner, appointed lecturers participated in a meeting on the topic of pilot training within the project "Training services for data protection officers and raising awareness of civil servants in relation to the GDPR, LPDP, and the Law on Information Security of the Republic of Serbia" which is part of a wider program of the World Bank EDGE (Enabling Digital Governance Project);
- On 12 December 2023, the representative of the Commissioner attended the meeting of the Special Working Group for the preparation of the Action Plan Proposal for the implementation of the Strategy for the creation of a stimulating environment for the development of civil society in the Republic of Serbia for the period from 2024-2026;
- On 14 December 2023, the representative of the Commissioner participated in the online Coordination meeting of representatives of competent state authorities and civil society organizations with the aim of preventing hate crimes in the Republic of Serbia.

4.1.3. Events

- On 25 January 2023, the Commissioner attended the gala dinner organized on the occasion of the exclusive partnership of Adrija Media Group and Euractiv Network for Serbia.
- On 23 January 2023, the Commissioner, Deputy Commissioner and representatives of the Commissioner's Office participated in a panel discussion: "Monitoring the implementation of the new Law on Personal Data Protection in Niš". The panel was attended by representatives of personal data controllers, civil society organizations and the media. The goal of the panel discussion is to draw conclusions about the better application of the Law on Personal Data Protection as well as its possible amendments through the exchange of experiences, opinions and ideas. This project is implemented with the support of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", financed by the EU and the German Federal Ministry for Economic Cooperation and Development (BMZ). The German Agency for International Cooperation (GIZ) is tasked with the implementation of project activities related to personal data protection;
- On 27 January 2023, the Commissioner attended the St. Sava Academy called "Treasury of Serbia", which is traditionally organized by the Ministry of Education;
- On 23 January 2023, a representative of the Commissioner attended a panel discussion on the topic: "Monitoring the implementation of the new Law on Personal Data Protection", which was held in Niš;
- On 23 January 2023, a representative of the Commissioner took part in the "Privacy Week" panel, on the topic: "Drivers and infrastructure of data leaks to the media",
- On 24 January 2023, the representative of the Commissioner participated in the work of the Round Table on the topic: "Assessment of the impact on the protection of personal data in legislative processes, harmonization of sectoral regulations with legal standards in the field of personal data protection, control over the implementation of the legislative framework in the field of personal data protection" organized by the Privacy Initiative;
- On 15 February 2023, on Sretenje Feast, the Commissioner attended the central ceremony on the occasion of the Serbian Statehood Day in Orašac;
- On 21 February 2023, a representative of the Commissioner attended the forum "Where are the limits of privacy in media reporting" organized by the Press Council, the forum was held at the Media Center;
- On 24 February 2023, at the session of the Second Extraordinary Session of the National Assembly in the Thirteenth Convocation, the Report on the work of the Commissioner for Information of Public Importance and Protection of Personal Data for the year 2021 with the Proposed Conclusion of the Committee for Justice, Public Administration and Local Self-Government dated 26 December 2022 was considered;
- On 27 February 2023, at the session of the Second Extraordinary Session of the National Assembly in the Thirteenth Convocation, the National Assembly adopted a Conclusion regarding the consideration of the Report on the work of the Commissioner for Information of Public Importance and Protection of Personal Data for the year 2021, in which, among other things, it stated that the Commissioner in his the report, pointed out to the situation in the field of free access to information of public importance and the field of personal data protection, which he assessed as improved after the adoption and entry into force of the Law on Amendments to the Law on Free Access to Information of Public Importance, which enables easier, faster and more effective exercising of this right and expands the range of

public authorities that are subject to obligations from the law, and expands the powers of the Commissioner;

- The Commissioner, Deputy Commissioner, Acting Chief of Staff of the Commissioner, and acting Assistant Secretary General, participated in the first round table as part of the public debate on the proposal for the Personal Data Protection Strategy in Novi Sad;
- On 21 March 2023, the Commissioner for Information of Public Importance and Protection of Personal Data, fulfilling his legal obligation, submitted to the National Assembly of the Republic of Serbia a Report on the Implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection in 2022;
- On 22 March 2023, a panel discussion was held in Subotica on the topic of monitoring the implementation of the new Law on Personal Data Protection, which was attended by personal data protection controllers, interested representatives of civil society organizations and the media. The Commissioner and Deputy Commissioner as well as representatives of the Commissioner's Office participated in the panel discussion. The aim of the panel discussion was to consider the application of the new Law on Personal Data Protection; and looking at the possibilities for its better application. The organization of the panel discussion is supported by the project "Strengthening the Rule of Law in the Republic of Serbia" (EU FOR TACKLING CORRUPTION AND FOR FUNDAMENTAL RIGHTS) jointly financed by the EU and the German Federal Ministry for Economic Cooperation and Development (BMZ). The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) is tasked with the implementation of project activities related to personal data protection;
- On 24 March 2023, the Commissioner attended the central event marking the Remembrance Day of the Victims of NATO Bombing in 1999, which was held in Sombor;
- On 25 March 2023, the Commissioner, Deputy Commissioner and Acting Assistant General Secretary attended the ceremony of awarding the certificate of the short study program "Legal data protection and access to information" at the Faculty of Law in Kragujevac. It is the second generation of students who received the title of manager from both rights under the jurisdiction of the Commissioner for Information of Public Importance and Personal Data Protection. On this occasion, the Agreement on Cooperation between the Commissioner and the Faculty of Law of the University of Kragujevac was signed;
- On 28 March 2023, the representative of the Commissioner's office participated in the session of the Council for Monitoring the Implementation of the UN Human Rights Recommendations. The participants were informed at the session that in May 2023, the Republic of Serbia will present to the UN Human Rights Council a report within the IV cycle of the Universal Periodic Review (UPR from 2018 through 2022). At the session, the proposal of the Council's Rules of Procedure and the Council's Activity Plan for 2023 were adopted;
- On 31 March 2023, in the Serbian Chamber of Commerce, the final round table was held as part of the public debate on the proposal for the Personal Data Protection Strategy for the period from 2023 to 2030. The Commissioner, Deputy Commissioner, Acting Chief of Staff of the Commissioner and Acting Assistant Secretary General took part in the round table. The representatives of the Cabinet of the Prime Minister, representatives of the Ministry of Justice, representatives of civil society, representatives of the legal counsels, the Magistrate

Court, the Belgrade Center for Security Policy, Paragraf Lex, Kec Group, Telekom Srbija, Deloitte and others took part in the public debate;

- On 31 March 2023, the representative of the Commissioner attended the presentation of the annual report "Human Rights in Serbia 2022" organized by the Belgrade Center for Human Rights, held at the Media Center;
- On 4 April 2023, the representatives of the Commissioner took part in the event DATA PROTECTION (IN GAMING) organized by the Faculty of Organizational Sciences in Belgrade;
- On 26 April 2023, the Commissioner attended the promotion of the monograph "History of the Police in Serbia" in the premises of the Criminalistics and Police University in Belgrade;
- On 27 April 2023, the Commissioner attended a formal reception to mark the King's Day, at the invitation of the Ambassador of the Kingdom of the Netherlands to the Republic of Serbia;
- On 3 May 2023, the representative of the Commissioner participated in the session of the Council for Monitoring the Implementation of the Strategy for Prevention and Protection against Discrimination for the period from 2022 to 2030, held in the Palace of Serbia;
- From 24 to 26 May 2023, the representatives of the Commissioner participated in the work of the 18th Annual Compliance Function in Banks Conference, held in Zlatibor. At this Conference, the representatives of the Office of the Commissioner for Information of Public Importance and Personal Data Protection, Sector for Supervision of Personal Data Protection, presented: information on planned regulatory activities, new acts in preparation, supervisory expectations, observed irregularities during controls performed in 2022 and in the first half of 2023, relevant objections related to the banks operations, as well as trends in the area of personal data protection control;
- On 25 May 2023, in Pirot, a panel discussion was held on the topic of monitoring the implementation of the new Law on Personal Data Protection, which was attended by Data Controllers, stakeholders from civil society organizations, and the media. The Commissioner, Deputy Commissioner, and the representatives of the Commissioner's Office participated in the panel discussion;
- On 25 May 2023, the representative of the Commissioner attended the event to mark the International Missing Children's Day, organized by ASTRA and held at the Institute for Criminological and Sociological Research;
- On 26 May 2023, training was held on the implementation of the Data Secrecy Law. The training was held by lecturers from the Office of the National Security Council and Classified Information Protection for employees of the Commissioner's Office;
- On 8 June 2023, the representatives of the Commissioner took part in the Focus Group "Personal Data Protection and Information Security" organized by the Office for Information Technologies and eGovernment;
- On 20 June 2023, the Commissioner attended the opening ceremony of the "EU Week of Opportunities", which took place from 21 to 26 June 2023, in Belgrade, Novi Sad and Niš;
- On 22 June 2023, the Commissioner and Deputy Commissioner participated in a panel discussion, which took place in Novi Pazar. The panel was attended by representatives of personal data controllers, civil society organizations and the media. The goal of the panel discussion is to draw conclusions about the better application of the Law on Personal Data

Protection as well as its possible amendments through the exchange of experiences, opinions and ideas. This project is implemented with the support of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", financed by the EU and the German Federal Ministry for Economic Cooperation and Development (BMZ). The German Agency for International Cooperation (GIZ) is tasked with the implementation of project activities related to personal data protection;

- On 27 and 28 June 2023, within the framework of the project "Protection of Freedom of Expression and Media in Serbia ((PRO-FREX-S))", which is implemented as part of the "Horizontal Program of Support for the Western Balkans and Turkey", an expert workshop in the field of free access to information of public importance was held in Vrdnik. The topics of the workshop were the application of Article 10, of the ECHR, in the context of free access to information of public importance and the Tromsø Convention;
- On 29 June 2023, the Commissioner attended the traditional and formal celebration of the Independence Day of the United States of America;
- On 30 June 2023, the Commissioner and Head of the OSCE Mission in Serbia, opened a workshop dealing with the importance of access to environmental information for the improvement and protection of the environment, organized by the Commissioner for Information of Public Importance and Personal Data Protection with the support of the OSCE Mission in Serbia within the framework of the project "Implementation of the Aarhus Convention and Access to Information of Public Importance""
- On 30 June 2023. A panel discussion was held in Belgrade - FROM SWEDEN TO SPAIN, New Trio, New Ideas. It is about taking over the mandate of the country holding the presidency of the EU;
- On 4 July 2023, as part of the OSCE project "Consolidating the process of democratization in the security sector in Serbia", the Commissioner and the OSCE Mission in Serbia organized the event "Presentation of the results of the public opinion survey on the protection of personal data";
- On 14 July 2023, the Commissioner attended the traditional and formal celebration of the French Republic Day;
- On 31 July 2023, the Commissioner, Deputy Commissioner and staff of the Professional Services of the Commissioner ceremoniously opened the Office of the Commissioner in Niš. This is the second office of the Commissioner for Information of Public Importance and Protection of Personal Data that has been opened outside the Commissioner's seat, after the Office in Novi Sad, which was opened in December last year, and there are plans to open another office in Kragujevac, in order to enable the citizens from these parts of the Republic of Serbia and facilitate their exercising their rights established by the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection;
- On 29 July 2023, the MPALSG was provided with data for the presentation of the institution of the Commissioner at the Fair of Student Internship in Public Administration;
- On 26 August 2023, the Commissioner and Deputy Commissioner attended the ceremonial opening of the 53rd Film Meetings in Niš;
- On 31 August 2023, the Commissioner attended the farewell reception organized at the seat of the Council of Europe mission in Belgrade in honor of the outgoing head of the mission, Mr. Tobias Flesenkemper;

- On 12 September 2023, the Commissioner attended the closing of the GIF Serbia project. The goal of that project was to strengthen state institutions, the civil sector and the economy in the area of protection and promotion of digital rights. As part of project cooperation, the Commissioner was involved in the development of the handbook "Protection of Personal Data in Business" which was presented at this event;
- On 20 October 2023, a representative of the Commissioner attended the reception on the occasion of the first monograph on the National Assembly "Mirror of the Will of the Serbian People";
- On 4 October 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a panel discussion on the application of the Law on Personal Data Protection was held in Niš, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);
- On 5 October 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a panel discussion on the application of the Law on Personal Data Protection was held in Leskovac, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);
- On 17 October 2023, the representatives of the Commissioner, within the project "Improving the protection of human rights in Serbia" which is realized through the joint program of the European Union and the Council of Europe "Horizontal support program for the Western Balkans and Turkey", participated in the round table "Enforcement of judgments of the European Court of Human Rights v. Serbia" focused on the case Dragan Petrović v. Serbia;
- On 27 October 2023, Acting Assistant Secretary General, together with her colleague, participated in the review of the compliance of the UN Convention against Corruption (second cycle) and answered the experts' questions regarding the application of Article 10, of the Convention.
- On 1 November 2023, the Commissioner and the Head of the Department for Complaints and Enforcement in the Field of Access to Information s attended the ceremonial reception of the ninth generation of the Legal Clinic for Environmental Law of the Faculty of Law of the University of Belgrade;
- On 8 November 2023, in the organization of the Commissioner for Information of Public Importance and Personal Data Protection and SIGMA, a round table was held on challenges and potential solutions for the proper functioning of the system of access to public information in Serbia, with the participation of the representatives of SIGMA, the Government, Ministries of Health, Education, European Integration, Justice and Public Administration and Local Self-Government, representatives of the judiciary and representatives of the bar associations of Serbia and Vojvodina;
- On 15 November 2023, the presentation of the Commissioner's office took place at the Third Online Fair of Student Internship in Public Administration;
- On 16 November 2023, Deputy Commissioner and Acting Chief of Staff attended the celebration of the 60th anniversary of the Constitutional Court in the House of the National Assembly of the Republic of Serbia;

- On 23 November 2023, the Commissioner and Director of the Agency for Personal Data Protection in Bosnia and Herzegovina (AZLP) signed the Cooperation Agreement between these two independent public authorities responsible for the legal protection of personal data;
- On 29 November 2023, the Commissioner attended the 51st Assembly of the Standing Conference of Towns and Municipalities, held in the Sava Center in Belgrade;
- On 14 November 2023, the representative of the Commissioner attended the "Public reading of the European Commission's Serbia Report 2023", organized by the Center for Contemporary Politics and the Center for Democracy Foundation;
- On 15 November 2023, the representative of the Commissioner participated in the presentation of the publication "White Book 2021" organized by the Council of Foreign Investors;
- From 22 to 23 November 2023, the representative of the Commissioner participated in a two-day seminar in Arandjelovac for persons in charge of gender equality in public administration bodies, organized by the Ministry of Human and Minority Rights and Social Dialogue and UN Women;
- On 8 November 2023, the Commissioner for Information of Public Importance and Personal Data Protection and SIGMA- a joint initiative of the OECD and the European Union, organized a round table on challenges and potential - Support for the improvement of governance and management;
- On 20 November 2023, a representative of the Commissioner participated in a meeting at the Institute of Social Sciences "Social Sciences and Public Policy - knowledge transfer from science to "good governance";
- On 30 November 2023, within the project "Media Freedom and Development", the Commissioner for Information of Public Importance and Personal Data Protection, with the support of the OSCE Mission in Serbia, organized a round table "Access to Information of Public Importance and Protection of Personal Data" in Novi Sad;
- On 4 December 2023, within the framework of the project "Media Freedom and Development", the Commissioner for Information of Public Importance and Personal Data Protection, with the support of the OSCE Mission in Serbia, organized a round table "Access to Information of Public Importance and Protection of Personal Data" in Kragujevac;
- On 14 December 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a panel discussion on the application of the Law on Personal Data Protection was held in Niš, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);
- On 15 December 2023, as part of the multi-donor project "Support for Strengthening the Rule of Law in the Republic of Serbia", a panel discussion on the application of the Law on Personal Data Protection was held in Kraljevo, organized by the Commissioner for Information of Public Importance and Personal Data Protection and German Agency for International Cooperation (GIZ);
- On 21 December 2023, the 125th anniversary of the State Archives of Serbia were formally celebrated. On this occasion and on the occasion of the Day of Archives in Serbia, the annual awards "Golden Archive" from the Aleksandar Arnautović Foundation and "Annual Award

Đurđa I. Jelenić", as well as Gold and Silver plaques to deserving institutions and individuals. The ceremony was attended by Acting Chief of Staff;

- On 8 December 2023, the representative of the Commissioner participated in the dialogue "Human rights culture and memory culture: Hilda Dajč - symbol and inspiration" organized by the Ministry of Human and Minority Rights and Social Dialogue within the Program "75 days for 75 years of the Universal Declaration of Human Rights";
- On 8 December 2023, the representative of the Commissioner participated in the Ceremonial Academy on the occasion of the day of the Institute for International Politics and Economy;
- On 21 December 2023, the representative of the Commissioner participated in the ceremony of the Union of the Blind of Serbia on the occasion of the end of the business year;
- On 22 December 2023, the representatives of the Commissioner participated in the Annual Event on the Asylum and Migration Program organized by the non-governmental organization Belgrade Center for Human Rights.

4.2. INTERNATIONAL AND REGIONAL COOPERATION

In 2023, the Commissioner continued successful cooperation with international organizations and forums (the Council of Europe, primarily the Convention 108 Consultative Committee, the International Conference of Information Commissioners (ICIC) the Global Privacy Assembly (GPA), the European Data Protection Board (EDPB), European Data Protection Supervisor (EDPS), Eurojust, the International Working Groups on Personal Data Protection, known as the “Berlin Group”, UNESCO, as well as representatives of international organizations in Serbia (OSCE, German Agency for International Cooperation - GIZ, the Austrian Development Agency – ADA, the Delegation of the European Union to the Republic of Serbia, Council of Europe Office in Belgrade, USAID Global, and USAID Serbia).

The Commissioner primarily cooperated with competent institutions in the region and in the territory of former Yugoslavia, in the field of personal data protection and in the field of free access to information of public importance, such as Initiative 2017 and Initiative 2020⁷⁰.

Representatives of the Commissioner took part in the following international and regional meetings dedicated to free access to information and personal data protection, including:

- On 17 January 2023, the European Data Protection Board (EDPB) held its 74th plenary meeting online. At the meeting, the EDPB adopted the Report of the working group on the findings of its first coordinated action aimed at the use of cloud computing services in the public sector/2022 and the Report of the activity of the working group on the design of banners for accepting/rejecting cookies (for a coordinated response to the complaints filed by the non-governmental organization NOYB - None of your business to the competent authorities for data protection);
- On 16 January 2023, the Council of Europe received an attachment for the 17th edition of the Data Protection Day, which is celebrated on each 28 January - information on the Commissioner's activities on the Data Protection Day;
- On 23 January 2023, a meeting was held with the coordinators from the Council of Europe on the preparation of the implementation of the project Protection of Freedom of Expression and Freedom of the Media (PRO-FREX-S). In the meeting, the agenda of activities presented by the Council of Europe project coordinators was agreed preliminarily, which is aimed at increasing the capacity of the Commissioner's institution, both the professional capacity of employees in the field of personal data protection and access to information of public importance, and the support for legislative reform in the field of the Law on Personal Data Protection;
- On 25 January 2023, on the occasion of the implementation of the project - European Union for the Rule of Law - support to technical capacities for the implementation of Action Plans for Chapters 23 and 24 (EU for RoL), a meeting was held with representatives of the United Nations Office for Project Services (UNOPS), which implements the project. In the meeting, the proposal of the needs of the Commissioner for Information of Public Importance and

⁷⁰ The Regional Conference of Initiative 2017 gathers independent authorities in countries in the region engaged in personal data protection, while the Regional Conference of Initiative 2020 gathers independent authorities in countries in the region engaged in protection of the fight to free access to information.

Personal Data Protection was discussed (means for work and services), which would be supported by the European Union through project mechanisms;

- On 14 and 15 February 2023. The European Data Protection Board (EDPB) held its 75th plenary meeting. The focus of the meeting was on the discussion and adoption of the following documents: Guidelines 05/2021 on the mutual interaction between the application of Article 3, and provisions on international transfers of personal data in accordance with Chapter V of the GDPR, Guidelines 07/2022 on certification as a tool for personal data transfers, Guidelines for misleading design patterns in social media platform interfaces: practical recommendations, Procedure for the adoption of the EDPB opinion regarding national certification criteria and European data protection seals and the EDPB External Activities Program during 2023-2024.
- On 10 February 2023, the Contribution for the first draft of the Statistical Framework for Measuring Corruption prepared by the United Nations Office on Drugs and Crime (UNODC) was submitted to the Republic Institute of Statistics, which coordinates the entire process;
- On 13 February 2023, within the framework of the GIZ project Serbia, Acting Assistant Secretary General of the Commissioner with her associates, held an online meeting with the director of the GIZ, when the timeline of the implementation of the activities that will be financed through the project was determined;
- On 20 and 21 February 2023, within the framework of the multi-sector project "Support for strengthening the rule of law in the Republic of Serbia", a two-day training was held for employees of the professional service of the Commissioner on the importance of improving the methods and methodology of data processing inspections;
- On 24 February 2023, the Third Meeting of the Steering Committee of the EU Project for Chapter 23 "Support to Strengthening the Rule of Law in the Republic of Serbia" was held, in which the Commissioner's advisor and two representatives of the Commissioner's professional service participated.
- On 7, 8, and 9 March 2023, the Commissioner, Deputy Commissioner, Head of the Sector for Harmonization of Regulations and Normative Affairs, and Acting Chief of Staff of the Commissioner went on a study visit to the institutions of the European Union in Brussels, Belgium. During the study visit, they held meetings with the European Supervisor for Personal Data Protection, representatives of the European Commission's Directorate General for Justice and Consumers (DG JUST) and representatives of the European Parliament. In a constructive dialogue, the Commissioner exchanged views and experiences with European Union officials regarding the processing of biometric personal data, video surveillance and artificial intelligence;
- On 17 March 2023, a member and a deputy member of the Management Board of the Project "Protection of Freedom of Expression and Media in Serbia PRO-FREX-S" were appointed;
- On 22 March 2023, within the framework of the multi-sector project "Support to the strengthening of the rule of law in the Republic of Serbia", a panel discussion on the application of the Law on Personal Data Protection was held in Subotica, organized by the Commissioner for Information of Public Importance and the Personal Data Protection and the German Agency for International cooperation (GIZ);

- On 27 and 28 March 2023, the Hybrid third meeting of the Committee of Experts for the Integrity of Information on the Internet of the Council of Europe (Msi-inf) was held, and Acting Assistant Secretary General watched it online. At the meeting, a draft instruction was prepared on suppressing the spread of misinformation and intentional disinformation on the Internet through fact-checking and solutions for the design of the platform in a manner consistent with human rights;
- On 28 March 2023, representatives of the Commissioner attended the 77th plenary meeting of the European Data Protection Board (EDPB). The focus of the meeting was on the discussion and adoption of the following documents: Guidelines on the rights of data subjects - Right of access; Targeted update of the Guidelines for the identification of the lead supervisory authority of controllers and processors and targeted update of the Guidelines on data breach notification;
- On 30 March 2023, responses to the Cyber Security Survey, prepared by the General Privacy Assembly (GPA) for the purpose of gathering information on the powers, responsibilities and activities of the GPA members regarding cyber security, were submitted to the provided address;
- On 13 April 2023, responses to the questionnaire "GPA Census 2023" were delivered to the Global Privacy Assembly (GPA) electronically;
- On 19 April 2023, responses to the "2023 Survey on Public Access to Information (SDG Indicator 16.10.2)" questionnaire were submitted to UNESCO in electronic form;
- On 26 April 2023, the European Data Protection Board (EDPB) held its 79th plenary meeting. The focus of the session was on the election of the chair and deputy chair of the EDPB. At the meeting, the Guidelines on the consistency mechanism and updated lists of subgroups of experts were also adopted;
- On 27 April 2023, the Commissioner submitted to the Ministry of European Integration his opinion on draft Report of the Peer Review Mission of independent and regulatory authorities in Serbia the Office of Technical Assistance and Information Exchange (TAIEX) of the European Commission, which was carried out in the RS in November 2022;
- On 28 April 2023, as part of the World Bank project "Training services for data protection officers and raising the awareness of civil servants in accordance with the General Data Protection Regulation (GDPR), the Law on Personal Data Protection and Data Security of the Republic of Serbia, and the Law on Information Security of the Republic of Serbia" the responses in electronic form to the Questionnaire for the assessment of the application of measures in the field of personal data protection and information security and the preparation of training for data protection officers in public authorities and civil servants in the field of information security were submitted to the Office for Information Technologies and eGovernment;
- On 16 May 2023, within the framework of the GIF Serbia project (Greater Internet Freedom), a national IGF event <https://igf.rs/> was held, in which a representative of the Commissioner participated in the panel "Digital Rights and Digital Supervision"
- On 24 and 25 May 2023, the European Data Protection Board (EDPB) held its 80th plenary meeting. At the meeting, Data Protection Commissioner of Finland was elected Chairman of the EDPB, while Data Protection Commissioner of Cyprus was elected Deputy Chairman of the EDPB;

- From 12 to 16 June 2023, the Commissioner and Deputy Commissioner with representatives of the Commissioner's Office went on a study visit to Germany as part of the project "Strengthening the Rule of Law in the Republic of Serbia". During the study visit, they visited the Federal Police at Dusseldorf Airport, the German Data Protection Association, the Federal Commissioner for Data Protection and Freedom of Information, the Association for Data Protection and Security, the Federal Police of the Main Railway Station in Cologne, the Provincial Commissioner for Data Protection and Freedom of Information of North Rhine-Westphalia, the Ministry of Interior of North Rhine-Westphalia, and the Police Directorate in Cologne, as well as the Provincial Parliament of North Rhine-Westphalia/Committee of the Interior;
- From 14 to 16 June 2023, at the 44th plenary meeting of the Convention 108 Consultative Committee, which was held in Strasbourg, the deputy member of the Committee participated. The topics of the plenary meeting were: processing of personal data in the regulations governing the prevention of money laundering and financing of terrorism; draft model contractual clauses pertaining to cross-border data transfer; cooperation with other bodies of the Council of Europe; review of ECHR judicial practice in the field of personal data protection; interpretation of Article 11, of the modernized Convention 108, and biometric processing of personal data in voting;
- On 20 June 2023, the European Data Protection Board (EDPB) held its 81st plenary meeting and adopted a proposal for a standard form that should facilitate the submission of complaints and the handling of national data protection supervisory authorities when processing the complaints in cross-border cases, and the Guidelines on requests for approval of binding corporate rules of controllers;
- On 18 July 2023, the European Data Protection Board (EDPB) held its 82nd plenary meeting in a hybrid format. The session adopted the Information on the transfer of data in accordance with the General Data Protection Regulation - GDPR to the United States of America after the decision on the appropriate level of protection was made on 10 July 2023 and Report on the first revision of the Decision on Adequate Level of Data Protection in Japan;
- On 2 August 2023, the European Data Protection Board (EDPB) held its 83rd plenary meeting. At the meeting, the EDPB reached a binding decision on the settlement of the dispute arising from the draft decision of the Irish data protection supervisory authority with regard to the case pertaining to the processing of data through the TikTok application;
- On 20 September 2023, the European Data Protection Board (EDPB) held its 84th plenary meeting. At the EDPB session, in the segment "Meeting with data protection authorities from the region of the Western Balkans and the Eastern Partnership", the Commissioner presented the institution of the Commissioner, the powers and challenges faced in the protection of personal data;
- From 17 to 20 October 2023, the OSCE Mission to Serbia organized a study visit to the Kingdom of Sweden on the topic of personal data protection, with the participation of the Commissioner, Deputy Commissioner and representatives of the Professional Service of the Commissioner for Information of Public Importance and Personal Data Protection, as well as five representatives of the Ministry of Interior of the Republic of Serbia. Meetings were organized with representatives of the Swedish Authority for Privacy Protection (IMY), the

Swedish Police, the Swedish Parliament, the Administrative Court in Stockholm, as well as representatives of the Embassy of the Republic of Serbia in Sweden;

- From 15 to 17 November 2023, deputy member of the Consultative Body of the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) participated in the 45th plenary meeting of the Committee, which was held in Strasbourg.

4.3. COOPERATION WITH THE MEDIA AND OVERVIEW OF COMMISSIONER'S ACTIVITIES IN THE MEDIA

During the course of 2023, as in previous years, the Commissioner cooperated intensively with the media and journalists' associations

The Commissioner gave statements to journalists of the Tanjug, Beta and Fonet agencies, daily newspapers "Politika", "Danas", "Večernje novosti", and other numerous media, such as: RTS, CINS, KRIK, BIRN, Južne vesti, TV Insider, TV Tanjug, TV N1, TV Nova S, TV Prva, TV K1, TV Kurir, TV Pink, RTV Vojvodina, TV Kopernikus, TV Studio B, TV Belle Amie, TV Happy, TV *Euronews*, TV Vesti, TV Una, Telegraf, Radio Belgrade 1 and 2, Radio Vojvodina, Radio Novi Sad, Radio 021, Pištaljka, BBC in Serbian, Budžetski ponedeljak (Budget Monday), Portal Odgovor (Answer), as well as other portals. The Commissioner appeared on the following TV channels with national TV licenses: RTS, TV Pink, TV Prva, TV Happy.

Numerous media covered the marking of the Data Protection Day on 28 January 2023 and the International Right to Know Day on 28 September 2023. The Commissioner's cooperation with journalists' associations is reaffirmed by traditional participation of representatives of the Association of Journalists of Serbia (UNS) and the Independent Association of Journalists of Serbia (NUNS) in the Commission presenting the awards for the improvement of the right to free access to information, which are presented on 28 September.

In the course of the year, the Commissioner published 108 public announcements on his official website, thus contributing to open and transparent work. He also ensures the public can access the information regarding the Commissioner's work faster and easier through the Single Information System of Information Directories, the Open Data Portal, and the Commissioner's official Twitter and YouTube accounts.

5. COMMISSIONER'S OFFICE AND ASSETS

5.1. NUMBER OF EMPLOYEES IN COMMISSIONER'S OFFICE

Pursuant to Article 57, of the Rulebook on Internal Organization and Job Positions Classification in the Office of the Commissioner for Information of Public Importance and Personal Data Protection, number: 110-00-1/2022-04 dated 18 February 2022 (hereinafter referred to as the "Rulebook"), the passing of which was notified to the Nation Assembly by the document number 021-01-10/2022-10 dated 21 February 2022, there are 110 job positions in the Commissioner's Office with a total of 156 employees, of which: 12 appointed civil servants, 138 civil servants on employee posts, 3 general service employees, and 3 advisors of the Commissioner. Of that number, appointees account for: one civil servant in the first group of appointed posts, ten civil servants in the second group of appointed posts, and one civil servant in the third group of appointed posts. The following posts were allocated for tasks of civil servants on employee posts within the sphere of competences, including 50 posts with the title senior advisor and with the total of 84 employees, 14 posts with the title independent advisor and with the total of 15 employees, 17 posts with the title advisor and with the total of 19 employees, 6 posts with the title junior advisor and with the total of 6 employees, 8 posts with the title clerk and with the total of 14 employees. 2 posts for general service employees-type four with the total of 3 employees were allocated for supporting and technical tasks in the Commissioner's Office.

Under the Proposal of the Human Resources Plan for 2023 No. 11-04-6/2022-04/1 dated 26 January 2023, the Commissioner found that powers of the Commissioner require 3 elected officials, 9 appointed civil servants and 3 advisors of the Commissioner, a total of 124 employees, including: 121 employees on employee posts and 3 general service employees, and submitted the Proposal to the Ministry of Finance for approval.

The Ministry of Finance approved the Commissioner's Human Resources Plan for 2023 by the document number 119-05-00046/2023-03 dated 8 February 2023, under which sets out the Commissioner's Office should employ by the end of the year in 2023, in addition to 3 elected officials (the Commissioner and 2 Deputy Commissioners), 9 appointed civil servants, and 3 Commissioner's Advisors, the total of 124 employees, including: 121 employees on employee posts and 3 general services.

Pursuant to Article 27k, paragraph 9a, in connection with paragraph 1, of the Law on Budget System ("Official Gazette of the Republic of Serbia" Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 - corrigendum, 108/13, 142/14, 68/15 - new Law, 103/15, 99/16, 113/17, 95/18, 31/19, 72/19 149/20, and 118/21- new Law), the Commissioner contacted the Committee on Administrative, Budgetary, Mandate and Immunity Affairs by the communication number 110-00-1/2023-04 dated 6 March 2023 to require approval for the hiring for an unlimited period of 26 employees - new recruits in the Commissioner's Office on posts with the following titles: eight employees – senior advisors; four employees – independent advisors; ten employees - advisors; four employees – junior advisors.

The Committee on Administrative, Budgetary, Mandate, and Immunity Affairs of the National Assembly, by its Decision 21 No. 112-429/23-1 dated 21 July 2023, approved to the Commissioner to hire 26 new employees as per titles requested by the Commissioner.

During the course of 2023, 11 (eleven) persons were employed for an unlimited period, including 2 (two) persons reassigned from other authorities and 9 (nine) persons who were employed in November and December 2023, after the vacancies were announced in a public competition in August 2023 (on 16 August 2023, the first public competition was announced after obtaining the consent of the competent National Assembly Committee to hire 20 employees). On 6 December 2023, a second vacancy announcement seeking five more employees was published.

Six (6) employees left the Commissioner's Office, including 1 (one) civil servant based on reassignment to another public authority, two (2) after their employment was terminated by mutual consent, three (3) due to retirement.

During the year, several persons were hired on fixed-term contracts to perform temporary duty (TDY) at the Commissioner's Office in various periods and on various bases (temporary duty on fixed-term contracts in peak periods to handle increased workload or to replace absent civil servants; temporary duty on short-term contracts and student work contract through student associations). As of 31 December 2023, the Commissioner's Office had 110 persons employed on permanent contracts for an unlimited period, 10 persons hired on fixed-term term contracts (of whom 6 in peak periods to handle increased workload, 4 as replacements for absent civil servants). In addition, two (2) persons were hired based on temporary duty short-term contracts.

5.2. DEVELOPMENT OF COMMISSIONER'S OFFICE

Throughout 2023, the Commissioner organized numerous activities aimed at improving the work of his Office and knowledge and skills of employees.

On 23 September 2023 the recertification was successfully carried out according to the requirements of the standard SRPS ISO/IEC 27001:2013 and SRPS ISO/IEC 27701:2019.

Having in mind the requirements imposed on public authorities by new legislation regarding electronic business and the public administration digitalization, the Commissioner continued his activities on the strengthening of the infrastructure of his computer network in 2023.

A large contribution to affirmation of the right to free access to information of public importance and the right to personal data protection was achieved by creating new and maintaining and upgrading the existing software.

The internet portal "Single Information System of Information Directories" at <https://informator.poverenik.rs/> was launched in 2022 and it was upgraded in 2023. This single software platform enables public authorities to prepare their information directories in electronic and machine-readable form, and thus not only comply with their legal duty, but also ensure each Internet user to read at one place information directories of all public authorities, from the highest state authorities, via provincial and local self-government authorities, public enterprises, institutions, companies founded by other public authorities or where majority members are other public authorities, to local communities. This information system now has the multilingual option for the

creation of information directories in the languages of national minorities, and the option of generating the information directories in pdf format.

In the course of 2023, the Commissioner continued supporting the Open Data Portal at <https://data.poverenik.rs>, through which he makes numerous data created in his work available to the general public via Internet, in a machine-readable format and in the form of visualizations.

The Commissioner also continued maintaining the Portal for submission of annual reports of public authorities to facilitate submission of these reports which were submitted in hard copy before the purchase of this software.

During 2023, licenses were renewed for the use of software aimed at adjusting the use of the Commissioner's official website, namely, aimed at making it available for blind and visually impaired persons.

5.3. ALLOCATED FUNDS AND INCURRED EXPENSES FOR THE WORK OF THE COMMISSIONER'S OFFICE

The activities of the Commissioner and his Office are funded from the budget of the Republic of Serbia in accordance with the law.

The Budget Law of the Republic of Serbia for 2023⁷¹ **granted** to the Commissioner the **funds for finance source 01 – budget revenues in the amount of RSD 333,323,000.00.**

Table No. 11 Approved budget to the Commissioner for 2023

Heading	Program	Function	Program activity/Project	Source of financing	DESCRIPTION	Total funds
11					Commissioner for information of public importance and protection of personal data	333,323,000
				01	Sources of funding for the heading 11	
					Revenues from the budget	333,323,000
	1001				Promotion and protection of human and minority rights and freedoms	333,323,000
		160			General public services not classified elsewhere	333,323,000
			0011		Availability of information of public importance and personal data protection	333,323,000
				411	Salaries, allowances, compensations for employees (wages)	242,396,000

⁷¹ The Budget Law of the Republic of Serbia for 2023 ("Official Gazette of the RS", Nos. 138/2022 and 75/2023).

412	Social contributions payable by the employer	36,678,000
413	Compensations in kind	400,000
414	Social benefits for employees	1,600,000
415	Compensation for employees	3,250,000
416	Rewards to employees and other special expenses	1,230,000
421	Fixed costs	7,400,000
422	Travel expenses	3,500,000
423	Contractual services	23,186,000
425	Current repairs and maintenance	2,590,000
426	Material	4,000,000
482	Taxes, statutory charges and fines	1,270,000
512	Machines and equipment	4,023,000
515	Intangible assets	1,800,000

The Budget Law of the Republic of Serbia for 2023 (“Official Gazette of the Republic of Serbia” No. 138/2022, 75/2023) granted to the Commissioner the funds for finance source 01 – budget revenues in the amount of RSD 333,323,000.00. The Commissioner had no income from other sources of financing in 2023.

In 2023, RSD 329, 098,903.61, or 98.73% of the approved budget funds, was spent for the activities of the Commissioner’s Office, subject to the principles of responsible fiscal management, cost-effectiveness, functionality and effectiveness

Table No. 12 - Implementation of the Commissioner's budget for 2023

<i>Function</i>	<i>Source of financing</i>	<i>Program</i>	<i>Project</i>	<i>Economic classification</i>	<i>Account description</i>	<i>Budget Law of the RS (“Official Gazette of the RS” No. 138/2022, 75/2023)</i>	<i>Realization</i>	<i>% Realization</i>
160	01	10 01	0011	411	Salaries and fringe benefits	242,396,000.00	240,050,687.35	99.03
				412	Social contributions payable by employer	36,678,000.00	36,367,680.00	99.15
				413	Compensations in kind	400,000.00	397,500.00	99.38
				414	Social benefits to employees	1,600,000.00	1,333,337.09	83.33
				415	Compensation for employees	3,250,000.00	2,864,430.27	88.14

				416	Rewards and bonuses	1,230,000.00	1,168,806.26	95.02
				421	Fixed costs	7,400,000.00	7,399,135.77	99.99
				422	Travel expenses	3,500,000.00	3,499,375.60	99.98
				423	Contractual services	23,186,000.00	23,177,530.93	99.96
				425	Repairs and maintenance	2,590,000.00	2,274,400.75	87.81
				426	Material	4,000,000.00	3,996,297.83	99.91
				482	Taxes, statutory charges, and fines	1,270,000.00	803,350.00	63.26
				512	Machines and equipment	4,023,000.00	3,996,062.87	99.33
				515	Intangible assets	1,800,000.00	1,770,308.89	98.35
TOTAL 01:						333,323,000.00	329,098,903.61	98.73
TOTAL FOR FUNCTION 160:						333,323,000.00	329,098,903.61	98.73

Apart from staff salaries, contributions and fringe benefits, the largest share of the Commissioner's expenses in 2023 for the source of financing 01 – budget revenues was attributable to computer services (computer and software maintenance services), expert services, administrative services (temporary duty–TDY contracts and translation services), communication services (mail, phone and Internet), transport material, administrative equipment (computer and electronic equipment), and the renewal of licenses necessary for the activities of the Commissioner's Office.

To ensure optimum conditions for the work on implementation of both laws within the Commissioner's sphere of competence, in 2022 the Commissioner's Office purchased administrative equipment, mainly computer equipment and printers, electronic equipment and landline phones necessary for the work of the Commissioner's Office, as well as intangible assets, mainly renewal of licenses to improve security of the Commissioner's computer network in accordance with ISO/IEC 27001 standard, renewal of licenses for software to adjust the Commissioner's website for blind and visually impaired persons and procurement of other software to improve the work of the Commissioner's Office.

Table No. 13 – Purchased equipment and intangible assets

Econ. Classif.	Account	Account description	Source of financing	Realized
512	512211	Furniture	01	82,520.27
	512212	Built-in equipment	01	109,165.00
	512221	Computer equipment	01	3,335,340.00
	512222	Printers	01	391,800.00
	512232	Phones	01	77,237.60
	512241	Electronic equipment	01	285,648.00

Total 512:		Machinery and equipment	01	3,996,062.87
515	515192	Licenses	01	1,770,308.89
Total 515:		Intangible assets	01	1,770,308.89

6. COMMISSIONER'S PROPOSALS

With the aim of improving the current status in the field of free access to information of public importance and personal data protection in Serbia, based on and in compliance with statements in this Report, the Commissioner hereby proposes the following to the National Assembly of the Republic of Serbia and to the Government of the Republic of Serbia.

6.1. COMMISSIONER'S PROPOSALS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

1. The competent Committees of the National Assembly should review the Commissioner's Report for 2023 and, on the basis of the recommendations contained herein, adopt draft conclusions with recommendations and measures aimed at improving the state of play, which would then be forwarded to the National Assembly for the review;

2. The National Assembly should enact amendments to the Law on Personal Data Protection to ensure its efficient application and improved personal data protection;

3. The National Assembly should ensure continual supervision of compliance with its conclusions by making use of the available mechanisms to control the work of the Government, with particular focus on accountability for omissions in the work of public authorities;

4. To urgently adopt amendments to the Law on Free Access to Information of Public Importance, which would prevent abuses of the right to access information of public importance;

5. The competent committees and technical services of the National Assembly, when enacting laws, should give due consideration to the Commissioner's opinions and positions in terms of possible effects of such laws on the exercising of the right to free access to information of public importance and the right to personal data protection;

6. The National Assembly should adopt the laws the provisions of which, that relate to personal data processing, were brought in compliance with the Law on Personal Data Protection by the end of 2024;

7. The National Assembly should provide timely and full support for the Commissioner's independence in the exercising his powers;

8. The National Assembly should adopt the Law on Ratification of the Council of Europe Convention on Access to Official Documents that the Republic of Serbia signed in 2009, and which entered into force on 1 December 2020.

6.2. COMMISSIONER'S PROPOSALS TO THE GOVERNMENT OF THE REPUBLIC OF SERBIA

1. The Government should pass an Action Plan for the implementation of the Personal Data Protection Strategy, in cooperation with the Commissioner and in accordance with the Commissioner's suggestions
2. The Government should prepare a proposal of amendments to the Law on Personal Data Protection;
3. To urgently adopt Bill on Amendments to the Law on Free Access to Information of Public Importance, which would prevent abuses of the right to access information of public importance;
4. The Government should timely adopt bills amending the laws the provisions of which, that relate to personal data processing, were brought in compliance with the Law on Personal Data Protection, so the National Assembly could enact these laws by the end of 2024;
5. The Government, when adopting bills and other regulations, should give due consideration to the Commissioner's opinions and positions in terms of possible effects of such laws on the exercising of the right to free access to information of public importance and the right to personal data protection;
6. The Government should, in accordance with its own duties under the Law on Free Access to Information of Public Importance, establish an appropriate mechanism to enforce final, enforceable, and binding Commissioner's decisions, especially the decisions taken before 17 February 2022;
7. The Government should ensure appropriate conditions and funds for unobstructed work of the Commissioner as an autonomous state authority, independent in the exercising of his powers, particularly in terms of: expansion of the Commissioner's sphere of competences set under the new Law on Personal Data Protection and the amendments to the Law on Free Access to Information of Public Importance; carrying out the supervision; conducting the second-instance procedure, as well as the increasing workload that result in costs of court proceedings payable from the budget if not completed timely;
8. The Government should undertake measures to establish the liability of competent entities, in particular the officials, who failed to comply with the law;
9. The Government should, in cooperation with the Commissioner, ensure that competent ministries, as well as other public authorities, improve their knowledge in the fields of the right to free access to information of public importance and the right to personal data protection, to raise the level of exercising of these rights in the Republic of Serbia;
10. The Government should prepare the Bill on Ratification of the Council of Europe Convention on Access to Official Documents, which entered into force on 1 December 2020.

COMMISSIONER

Milan Marinović

Done in Belgrade, on 22 March 2024

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