



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

REPORT

ON THE IMPLEMENTATION OF THE LAW ON FREE
ACCESS TO INFORMATION OF PUBLIC IMPORTANCE
AND THE LAW ON PERSONAL DATA PROTECTION
FOR THE YEAR 2019

Belgrade
March 2020

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1. INTRODUCTION

The 2019 Report of the Commissioner for Information of Public Importance and Personal Data Protection is the 15th annual report on the implementation of the Law on Free Access to Information of Public Importance, and the 11th such report on the implementation of the Law on Personal Data Protection submitted by the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter referred to as: the Commissioner) to the National Assembly of the Republic of Serbia.

The National Assembly of the Republic of Serbia made a decision on the election of Milan Marinović as the Commissioner for Information of Public Importance and Personal Data Protection on July 26, 2019, at its Fifteenth Extraordinary Session in the Eleventh Convocation.

In the 2018 Report, the Commissioner stated that it was "the year with the most challenges in the work of the Commissioner for fourteen years since the office was established, and at the same time the year of the most extensive work." This conclusion can be repeated for 2019, because the Commissioner continues to face the challenges in that the competent or controlled bodies do not act or do not act in a timely and complete manner according to the acts of the Commissioner adopted on the basis of the Law on Free Access to Information of Public Importance (Official Gazette of RS, Nos. 120/04, 54/07, 104/09 and 36/10, hereinafter: the Law on Free Access to Information), as well as according to the acts of the Commissioner adopted on the basis of the Law on Personal Data Protection Official Gazette of RS, Nos. 97/08, 104/09 - another law 68/2012-decision of the CC and 107/2012, hereinafter: the old LPDP), i.e. the Law on Personal Data Protection (Official Gazette of RS, No. 87/18, hereinafter: LPDP or the new LPDP). In relation to the scope of work, the conclusion referring to 2018 can also be repeated, because the data related to 2019 on the number of cases received by the Commissioner (13,989), as well as the number of completed proceedings per case (13,997) are almost identical to the 2018 data.

2019 was marked not only by the election of a new commissioner, but also by a change to an extremely inappropriate long practice of the National Assembly, which is that it did not consider the Commissioner's reports in the plenum. Namely, the Commissioner has submitted a total of 14 reports on the application of the laws within his competence to the National Assembly, in accordance with the law, and the National Assembly has considered only 3 reports in the plenum (for 2010, 2012 and 2013). By not acting in this way, the National Assembly was unable to perform a supervisory, i.e. executive function in relation to the Government of RS in the field of free access to information and protection of personal data, thus missing the opportunity to influence the removal of obstacles to exercising rights in these areas.

This practice changed last year because the National Assembly did consider the Commissioner's 2018 Report in the plenum at its session on July 15, 2019. On that occasion, the National Assembly adopted the Conclusions in which it stated that the Commissioner pointed out the situation in the field of free access to information of public importance and personal data protection in his report, assessing that there was limited progress in the areas of protection and affirmation of the right to free access to information of public importance and the right to protection of personal data.

In its Conclusions, the National Assembly has called on the Government of RS to take the necessary actions in the coming period to enable the effective application of the principles

prescribed by the LPDP, as well as to ensure the full practice of citizens' rights to personal data protection in accordance with the applicable regulations and international regulations standards. The National Assembly has supported the Government of RS to intensify activities on the preparation of amendments to the Law on Free Access to Information, in order to improve this area and to enable the respect for basic principles of free access to information of public importance.

Also, the National Assembly recommended to the Government of RS in its Conclusions, to ensure the execution of final, enforceable and binding decisions of the Commissioner and to apply measures within its competence, in accordance with the relevant legal provisions, initiating the procedure for determining responsibility for omissions in the work of state bodies, as well as the responsibilities of officials who did not perform their duties in accordance with the law.

In its Conclusions, the National Assembly also undertook to strive to ensure respect for the basic principles of free access to information of public importance and the right to protection of personal data in its legislative activity, especially when indicated by the Commissioner, in order to create a consistent legal system in the field of free access to information of public importance and protection of personal data.

Finally, the National Assembly called on the Government to submit a regular report to the National Assembly on the implementation of these conclusions.

The fact that after a four-year break, the Commissioner's 2018 Report was considered and that certain conclusions were adopted, presents a serious turn in a positive direction in the previous practice of the National Assembly, but unfortunately the conclusions in question have not been implemented yet. Only the adoption of bylaws deviate from this statement, because the Commissioner has passed and published eight bylaws that regulate the area of personal data protection, based on obligations and authorizations granted by the LPDP, and one bylaw was passed and published by the Government of RS.

In 2019, after conducting a security check and in accordance with the Law on Data Secrecy, Commissioner Milan Marinović received a certificate from the Office of the National Security Council for access to classified data marked with the highest degree of "state secret".

In 2019, the Commissioner marked 15 years of his work, on which occasion the "Jubilee monograph - 15 years of work of the Commissioner for Information of Public Importance and Personal Data Protection" was published. During the 15 years of the Commissioner's work, an Office has been developed that can fully ensure the implementation of the functions of this state body in professional terms.

The situation in the areas of work of the Commissioner in 2019 can be briefly described as follows:

The right to free access to information of public importance was widely exercised in Serbia in 2019, but it was still difficult to exercise on a large scale without the intervention of the Commissioner. The beneficiaries of this right are most often citizens, then citizens' associations, media representatives, government bodies, political parties and their members, lawyers, business entities, etc. Applicants had the most difficulty in obtaining information on the spending of budget funds, public procurement and other spending of public funds, records of public property and the like.

The number of cases in the field of free access to information (6,760) in 2019 is the largest since the beginning of the implementation of the Law on Free Access to Information. Out of this number of cases, there are 5,275 complaints, and the number of complaints related to the spending of budget funds and other spending of public funds has increased, as well as the number of complaints related to endangerment and protection of the environment.

Information is denied under the pretext that it is confidential, or that giving access to the information would violate someone's privacy, which, as a rule, is not accompanied by appropriate arguments and evidence. The Commissioner is not able to actually verify the facts regarding the increasingly frequent answers of the authorities that they do not have the requested information, because he was not entrusted with the function of supervising the application of the Law on Free Access to Information, as is the case with the application of LPDP.

Obtaining information from the authorities remains very difficult without filing a complaint with the Commissioner or filing a lawsuit at the Administrative Court where an appeal is not allowed, and this best illustrates the attitude of the authorities towards the exercise of the right to access information.

Most often, public authorities act upon the request and submit information only after the applicant submits a complaint to the Commissioner, and the Commissioner submits it to the body for an explanation. However, it is often the case that the authorities do not provide information to applicants even after the Commissioner's order, so the level of unexecuted decisions is still high. This is especially true in cases of complaints from journalists and media representatives, as the authorities did not act on the Commissioner's order to provide information to applicants in more than 50% of these cases, which is particularly worrying given the content of the information they have requested.

The fact is that the mechanisms of compulsory enforcement of the Commissioner's decision, i.e. the imposition of fines, are completely blocked, which also makes it difficult for the applicants to exercise their right to access information. Also, for years, the support of the Government of RS to ensure the execution of the Commissioner's decision by direct coercion, in accordance with the law, has been persistently lacking, which together represents the biggest obstacle in exercising the right.

The key obstacles that have burdened the exercise of the right to free access to information in 2019 are: the legal framework, the impossibility of administrative execution of the Commissioner's decision, inadequate accountability of government bodies and difficult implementation of the Commissioner's powers. These obstacles should be removed primarily by appropriate normative amendments, especially by appropriate amendments to the Law on Free Access to Information, as well as by the principled actions of the competent authorities aimed at exercising the right to free access to information, in accordance with the law.

In the field of personal data protection in Serbia, the most important thing is to point out the fact that the application of LPDP began on August 22, 2019. This date represents only the beginning of the formation of a broader legal framework in the field of personal data protection in Serbia, which has been inadequately regulated for at least ten years. This is seen through the inconsistency or incomplete harmonization of the national legal framework with the relevant international standards, inconsistency or incomplete harmonization of laws with the Constitution of RS, as well as laws and bylaws, and finally

the disorder or inadequate regulation of certain issues in numerous regulations, including the LPDPL.

In order to eliminate these and other unmentioned shortcomings, it is necessary for all competent entities to achieve a systematic approach to the field of personal data protection. This implies the adoption of a new or amendment to the existing Strategy for Personal Data Protection, as an official document, and in connection with that, the Action Plan for its implementation.

Both during the public debate and after the enactment of the LPDP, the Commissioner was faced with the prevailing opinion of the expert public that the LPDP did not meet the expectations to regulate the matter of personal data protection comprehensively and precisely. The Commissioner has repeatedly stated his position on the LPDP, especially pointing out that the LPDP contains certain appropriate and usable solutions, but that despite that, numerous provisions of this law are generalized because they are only taken from the relevant international documents. Therefore, the provisions in question in the LPDP are not concretized, which may lead to problems during their application. The competent international factors also pointed out these and other shortcomings of the LPDP.

Also, the Commissioner has repeatedly stated that certain issues that are not regulated by relevant international documents, can be regulated by national law, if there is a need for that. But, despite several proposals of the Commissioner to regulate in LPDP e.g. the area of video surveillance, it did not happen.

In order to regulate the national legal framework in the field of personal data protection, based on obligations and authorizations granted by the Law on Personal Data Protection, the Commissioner, has passed certain bylaws that regulate this area in more detail, as follows: complaint form; types of personal data processing activities for which an assessment of the impact on the protection of personal data must be performed and the opinion of the Commissioner must be sought; form of the notification on the violation of personal data and manner of notifying the Commissioner; the form and manner of keeping records of persons for the protection of personal data; instructions for completing and checklist forms; form of identification card of the person authorized to perform inspection supervision according to the Law on Personal Data Protection, and form and manner of keeping internal records on violations of the Law on Personal Data Protection and measures taken in performing inspection supervision.

The above and other normative obstacles in exercising the right to protection of personal data should be eliminated primarily by harmonizing the provisions of all other laws related to the processing of personal data with the Law on Personal Data by the end of 2020. Also, it is necessary for the competent authorities to act relentlessly in case of exercising the right to protection of personal data, in all respects in accordance with the law.

The activities of the Commissioner in the field of data protection in 2019 were extensive, which is conditioned by the number of received cases (6,078), of which 701 cases were completed by supervising data processing, 151 appeals and 7 complaints were resolved in appeals and complaints procedures, and 85 opinions on draft and proposed laws and other regulations and general acts were given.

2. SITUATION AND OBSTACLES IN EXERCISING THE RIGHT TO FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE AND THE RIGHT TO THE PROTECTION OF PERSONAL DATA

2.A. The right to free access to information of public importance

2.A.1. Legal framework

The exercise and protection of the constitutionally guaranteed right to free access to information of public importance in Serbia is regulated by the Law on Free Access to Information adopted in 2004. In the meantime, this law was amended three times, in 2007, by tightening the conditions for the election of the commissioner, then in 2009 by amending the procedural and penal provisions and in 2010, when the competence for compulsory execution of the Commissioner's decision was determined.

Since 2012, the Commissioner has been pointing out the need for further improvement of this law in the interest of the public's right to know and the strengthening of a democratic and open society, and the elimination of obvious obstacles in practice. The process of amending this law, which started then, was interrupted due to the parliamentary elections.

The last process of amending the Law on Free Access to Information was initiated by the competent ministry¹ in December 2017, but the procedure for determining the Proposal, i.e. adopting the Law on Amendments to this Law, has not been completed. The last scheduled deadline for its adoption was the fourth quarter of 2019².

The proposed amendments to the Law, which were the subject of a public debate in 2018 and 2019, consultations with the competent authorities, including the Commissioner, as well as the assessments of the European Commission, contain certain improvements, such as expanding the application of the Law to new entities in the public sector and improving the publication of information on a proactive basis.

However, according to the latest version of the Draft Law available on the Ministry's website from 2019, it is concluded that some of the Commissioner's proposals that would improve the situation in exercising the public's right to know were not adopted, or were partially adopted, therefore certain norms remain to leave space for different interpretations and problems in the application of the Law.

The Ministry did not accept the proposal of the Commissioner to entrust the supervision over the implementation of the Law on Free Access to Information to the Commissioner instead of the Administrative Inspection, although the same proposal was made by the European Commission in the opinion of SIGMA³. This also refers to the prescribing of authorizations for issuing misdemeanor orders for a certain set of

¹ Ministry of State Administration and Local Self-Government of the Republic of Serbia

² Draft revised Action Plan for Chapter 23, submitted for public hearing on February 2019. On the page of the Ministry of Justice in the part related to Chapter 23, there is no document of a valid Action Plan for Chapter 23, <https://www.mpravde.gov.rs/tekst/22159/prvi-nacrt-revidiranog-akcionog-plana-za-poglavlje-23.php>

³ Comments of SIGMA on the Draft Law on Amendments to the Law on Access to Information of Public Importance (October 8, 2019)

misdeemeanors under this law, including the so-called administrative silence. The Commissioner's proposal is based on the fact that the Administrative Inspection does not submit requests for initiating misdemeanor proceedings against responsible persons in government bodies, even in cases of the most serious violation of the rights of information seekers. Also, the institute of the misdemeanor order and the possibility for the Commissioner to impose a fine himself would be especially effective and would certainly lead to a reduction in the very pronounced phenomenon that the authorities ignore the requests of applicants without being punished for it. At the same time, the proposed solution would relieve the misdemeanor courts from acting upon the requests submitted by the citizens damaged due to failure to obtain the requested information from the authorities and it would as well as relieve the citizens themselves, which is the most important.

The proposals of the Commissioner regarding the regulation of the enforcement of his decisions were partially adopted by the Ministry. The proposal to compare the amount of fines in the administrative procedure prescribed by the Law on Access to Information with the one prescribed by the Law on General Administrative Procedure, in order to reduce the huge disproportion of these fines and to have a positive effect on the actions of bodies and exercising rights, was not accepted.

The initial text of the Draft Law contained provisions whose implementation would lead to less transparency of the public sector. One of such solutions referred to the complete exclusion from the application of the Law on Access to Information of state-owned enterprises with large financial and material equity, due to which the information at their disposal has always been of great interest to the public, as well as the exclusion of the National Bank of Serbia before the Commissioner, along with the existing six bodies whose exclusion, according to the assessments of the expert public, the civil sector and the opinion of the European Commission prepared by SIGMA, is otherwise problematic. According to SIGMA, the proposed solution regarding the state-owned enterprises "is not sustainable, it is contrary to the principles of openness and transparency, comparative law and it narrows the level of the right to access information", which is why, as stated in the comments⁴, it is necessary to consider giving up such solutions. In addition to the Commissioner, the representatives of a large number of civil sector organizations as well as the professional public, have warned the authorities about the harmfulness of the given solutions, which has contributed to the abandonment of these "harmful" proposals in the amendment of the Law.

The latest version of the Draft Law from 2019 contains a modified solution regarding the state-owned companies in the sense that they are not completely exempted from the application of the Law on Access to Information, as additional reasons for possible restriction of public rights regarding information about their work are prescribed. According to this version of the Draft Law, the Ministry has abandoned the original decision on the possibility of first instance bodies to conduct directly, not only through the competent prosecutor's office, an administrative dispute against the Commissioner's decisions, which could have resulted in delays in obtaining information and in the loss of their importance due to the passage of time.

The postponement of the adoption of amendments to the Law on Free Access to Information necessarily leads to the postponement of amendments to the bylaw on the

⁴ Comments of SIGMA on the Draft Law on Amendments to the Law on Access to Information of Public Importance (December 19, 2018)

preparation and publication of the Information Booklet⁵. This delays the implementation of the Commissioner's initiative to publish information on the work of state bodies in digital form, on a common electronic platform for which the Commissioner has already created the appropriate conditions, which should lead to a greater transparency and to easier monitoring of the implementation of this legal obligation.

When it comes to the legal solution on revenues from the collection of costs of exercising the right to free access to information of public importance and the bylaw, i.e. the Government Decree from 2006⁶, which regulates this issue, based on the suggestions of the authorities, the Commissioner has proposed to the authorities to review or amend the existing legal solution in the sense that revenues from collected costs of access to information should be received by bodies that actually had these costs, instead of them being budget revenues. At the same time, the amounts of costs have not changed since the adoption of the Regulation. The existing solution does not stimulate the authorities to charge these amounts⁷.

Having in mind the above, it is concluded that further delay in the adoption of the amendments to the Law on Free Access to Information is not in the interest of citizens and the exercise of their rights.

When it comes to other regulations that deal with access to information in some issues, in a way that is not consistent with the general regime of free access to information of public importance, in the Commissioner's opinion, it is important to point out that in 2019 the Constitutional Court rejected the Commissioner's initiatives to assess the constitutionality of the disputed provisions of such laws. These are the Law on Defense (Article 102, paragraph 1) and the Law on Protection of Competition (Article 45, paragraph 4)⁸.

Also, in connection with the reuse of information regulated by the Law on Electronic Administration from 2018, the protection of this right was opened as a disputable issue, i.e. which body would be competent for its protection. If the intention of the legislator was for it to be in the competence of the Commissioner (having in mind the provision that the provisions on the procedure of exercising the right to free access to information of public importance are applied to the procedure of exercising the right to reuse information), then it is the Commissioner's opinion that the competence of the body for protection of rights is explicitly prescribed by this or the Law on Free Access to Information.

When it comes to international documents, the Commissioner once again points out that the Minister of Justice of the Government of Serbia has signed the Council of Europe Convention on Access to Official Documents on June 18, 2009, but that the Government has not yet initiated the procedure for ratification of this Convention by the National Assembly. The significance of this Convention, when it enters into force, is that it would be the first general legally binding document of the Council of Europe in terms of access to official documents, regardless of the fact that the Law on Free Access to Information of the Republic

⁵ Instructions for the preparation and publication of the Information Booklet of a state body (Official Gazette of RS No. 68/10), issued by the Commissioner

⁶ Decree on the amount of compensation for necessary costs for issuing a copy of documents (Official Gazette of RS No. 8/2006)

⁷ According to the Report of the Treasury Administration of the Ministry of Finance, No. 401-00-2627-2/2020-001-007 dated 17 January 2020, the authorities have collected a total of RSD 65,938.60 in 2019

⁸ Conclusion of the Constitutional Court No. I Uz-78/2019 of 04/07/2019 and the Conclusion of the Constitutional Court No. I Uz-185/2018 of 13/06/2019

of Serbia in some segments provides a higher level than the Convention, and which the Convention itself allows.

2.A.2. On exercising the right of the public to know in 2019 and on the obstacles

The institute of the right to free access to information of public importance in Serbia is continuously exercised to a large extent. It is mostly exercised by individual citizens, followed by citizens' associations, journalists and media representatives, government bodies themselves, political parties and their members, lawyers, business entities and others. Applicants had the most difficulty in obtaining information regarding the spending of budget funds, public procurement and other spending of public funds, records of public property and the like, which is why the number of complaints in these cases in 2019 has increased almost by two, compared to the previous year, as well as the number of appeals regarding endangerment and protection of the environment.

The situation in exercising the right to free access to information of public importance in 2019 has not changed significantly compared to the previous year, and from the point of view of the Commissioner and in regard of a large number of appeals due to the so-called the administrative silence and the large number of well-founded appeals due to the violation of rights, cannot be assessed as satisfactory.

In short, the situation is such that obtaining information from the authorities is still greatly hindered without filing a complaint with the Commissioner or filing a lawsuit at the Administrative Court where an appeal is not allowed, which best illustrates the government's attitude towards human rights.

It is a common occurrence that in a very large number of cases, public authorities act upon the request and submit information only after the applicant has submitted a complaint to the Commissioner, and the Commissioner submits it to the authority for a statement. This necessarily leads to the suspension of the grievance procedure, but at the same time it causes unnecessary harassment of those seeking information and unnecessary spending of public resources in connection with the processing of grievances and the engagement of staff in the Office of the Commissioner. Giving information only after learning about the complaint actually shows that there were no essential reasons for not acting upon the submitted requests, and that such irresponsible and irrational attitude of the authorities towards citizens and public resources could and should have been avoided.

Information is withheld under the pretext that it is confidential, or that providing information would violate someone's privacy (even when it comes to office holders and officials, and the information relates to their work) or under the guise of abuse of rights by information seekers, and all that very often, without adequate argumentation and evidence. The Commissioner is not able to actually check the facts regarding the increasingly frequent responses of the authorities that they do not have the requested information, since the function of supervising the application of the Law on Free Access to Information was not entrusted to the Commissioner but to the Administrative Inspection.

Unfortunately, it is often the case that the authorities do not provide information to applicants even after the Commissioner's order, so the level of unexecuted decisions is still high, especially in cases of journalists' complaints. Although journalists use the Law on Free Access to Information as a basic tool in performing their work, they find it increasingly

difficult to obtain information on the work of government bodies, which is confirmed by the very high percentage of unexecuted Commissioner's decisions on their complaints to make the information available. More precisely, more than half of the Commissioner's decisions made in 2019 on the complaints of journalists were not executed by the authorities.

In 2019, there were situations when the authorities denied "confidential" information to the Commissioner himself when he requested it, so that he could make a decision on the appeal, and such behavior remains unpunished. In more than half of the documents (13) requested for inspection, the authorities refused to do so (7). More information on these cases is provided later in this report.

The described situation in the freedom of access to information is significantly contributed to by the fact that the legal mechanisms of forced execution of the Commissioner's decision, i.e. fines are completely blocked and making it difficult for applicants to obtain information. In addition, there is no support from the Government to ensure the execution of the Commissioner's decision by direct coercive measures, in accordance with the law. Together, this is the biggest obstacle to exercising the right, which will be discussed in more detail in the rest of the Report.

The responsibility for unfounded denial of information to the seekers, i.e. the public, is reduced exclusively to the initiative of information seekers as injured parties, as the competent authority submits almost no requests for initiating misdemeanor proceedings against responsible persons in government bodies. Thus, non-implementation of the legal obligation to a large extent, in terms of proactive disclosure of information and taking other measures to improve the publicity of work, remains unpunished.

Apart from the fact that from year to year there is a very large number of complaints on which the Commissioner conducts proceedings, the work of the Commissioner's Office has been burdened for many years due to an inadequate number of employees and large influx of cases due to the lack of action or inappropriate action of the authorities. The inability of the Commissioner to decide on the appeal within the legal deadline of 30 days opens the possibility of conducting the administrative-court proceedings before the Administrative Court, due to which the court awards court costs at the expense of the Commissioner. The frequency of lawsuits and the Commissioner's efforts to prevent the occurrence of court costs additionally burden the work of the Office and disrupts the order of resolving complaints. At the same time, it negatively affects the exercise of the rights of those citizens who do not resort to a lawsuit against the Commissioner in case of delay in making a decision on the appeal. Consequently, although not caused by the Commissioner's fault, it may affect the trust of citizens in this institution as a protector of the right to freedom of access to information, which is long-term, judging by the number of complaints and recognitions received by the Commissioner.

Despite all obstacles, the effects of the Commissioner's action on obtaining information on the work of public authorities are still at a high level in terms of the ratio of the number of cases in which applicants have exercised their right in relation to the complaints filed.

The degree of decisions of the Commissioner confirmed in court proceedings since the beginning of his work is also high, i.e. over 94% and that is the best confirmation of the quality of work of this state body.

2.A.3. Basic obstacles in exercising the right to access information

The obstacles that burdened the exercise of the right to free access to information in 2019 are almost identical to those in 2018. The difference is that, after several years of not considering the report of the Commissioner at the sessions of the National Assembly, that is, in the plenum, the National Assembly has considered the Report of the Commissioner for 2018 and has adopted appropriate conclusions on that occasion⁹. However, the adopted conclusions have not yet been implemented, including those calling on the Government to intensify activities on the preparation of amendments to the Law on Free Access to Information, to ensure the implementation of the Commissioner's decision and to implement measures to establish the liability for the omissions in the work of state bodies as well as responsible officials who did not fulfill their legal obligations.

The essence of obstacles to exercising the right to access information is reflected in the following:

2.A.3.1. Impossibility of administrative enforcement of the Commissioner's decision

The problem of administrative enforcement of the Commissioner's decision dating from previous years was present in 2019 as well. The cause of the enforcement problem is the different interpretation of the relevant enforcement norms by the competent authorities involved in this process, and in their refusal of competence and cooperation in providing the data necessary for the enforcement. In fact, this problem is expressed in connection with the application of the new Law on General Administrative Procedure (June 1, 2017) which prescribes very high penalties that the Commissioner should impose in the procedure of administrative execution as penalties to the authorities as executors, in order to force them to execute the decision and submit the information.

The genesis of this problem is detailed in the Commissioner's Annual Report for 2017, so it will not be repeated in this report. The Ministry of Public Administration and Local Self-Government has concluded that the issue of the execution of the Commissioner's decision should be resolved through amendments to the Law on Access to Information in a "precise and applicable" manner.

Since the Law on Amendments to the Law on Free Access to Information of Public Importance has not yet been adopted, i.e. it is still in the Draft phase, the problem of the execution of the Commissioner's decisions is still present. The Commissioner's review of the solution to this problem, as envisaged in the text of the Draft Law, is contained in the title "Legal Framework" of this report, in the field of freedom of access to information.

The other prescribed mechanism that should lead to the execution of the Commissioner's decision, which obliges the authorities to provide the complainants with the required information, and which is within the competence of the Government of Serbia, also did not function in 2019. It is a legal obligation of the Government to ensure the execution of

⁹ The procedure of execution of the decision by direct coercion is regulated by Article 200 of the Law on General Administrative Procedure (Official Gazette of RS No. 18/16). "The law does not explain in detail what is meant by direct coercion; different forms of physical coercion come into consideration, depending on the obligation of the executor. The body responsible for the enforcement also uses the assistance of law enforcement in these cases (Article 193, paragraph 3 of the LAP)"- Commentary on the Law on General Administrative Procedure - Zoran R. Tomić (2017)

his decisions¹⁰, at the request of the Commissioner, by direct coercion¹¹. Out of a total of 294 requests¹² for enforcement, as many as the Commissioner has submitted to the Government since 2010, it has not done so in a single case. In 2019 alone, the Commissioner has asked the Government to ensure enforcement in 52 cases. Thus, the relevant legal provision on the role of the Government in ensuring the execution of the Commissioner's decision has no practical effect from the very beginning, i.e. since 2010, when that issue was regulated by amendments to the Law on Free Access to Information.

The Report of the General Secretariat of the Government¹³ on activities and measures taken by the Government in connection with the legal obligation to ensure the execution of the Commissioner's decision states that "the Government of RS, the General Secretariat of the Government, it is prescribed by Article 28, paragraph 4 of the Law on Free Access to Information of Public Importance, by applying measures within its competence, i.e. by ensuring the execution of the Commissioner's decision by direct coercion, with the same possibilities as the Commissioner himself."

Therefore, the justification of the stated legal solution, which refers to the execution of the Commissioner's decisions, is questionable. In fact, the question arises whether the lack of support from the Government is a consequence of the fact that the acts on the work of its professional services do not regulate this issue in detail, as to how and who in the Government services would implement this obligation in accordance with the law governing the general administrative procedure and with the provisions on the administrative enforcement by direct coercion, or whether it is a consequence of the absence of the political will to implement this measure.

For example, some of the cases in which the Commissioner has asked the Government in 2019 to ensure the execution of his decisions relate to: information from the agreement between the City of Belgrade and the Republic of Serbia which regulates the costs of planning the construction land at the location covered by the Belgrade Waterfront project; information on the funds paid by the Ministry of Economy to Air Serbia in 2018 and on the funds they plan to pay, as well as on the total budget funds paid to this company; information regarding the exercise of rights under the Law on Financial Support to Families with Children, etc. The stated decisions of the Commissioner, even after addressing the Government, were not executed.

2.A.3.2. Inadequate responsibility

The responsibility of the authorities for violating the right to free access to information, from the most drastic forms, i.e. complete ignoring of citizens' requests and non-compliance with the executive and binding decisions of the Commissioner to non-fulfillment of other legal obligations of government bodies, and in 2019 it was symbolic and it was initiated almost exclusively by requests for misdemeanor proceedings by information seekers as the injured party.

The situation regarding the responsibility for violating the right to access information is best illustrated by the fact that in 2019 the competent body – the Administrative Inspection has submitted to misdemeanor courts only one request to initiate the misdemeanor

¹⁰ Conclusion of the National Assembly of the RS No. 33 of July 15, 2019 - Official Gazette of RS No. 51/19

¹¹ Art.28, par. 4 of the Law on Free Access to Information of Public Importance

¹² The data refers to the situation on 31/12/2019

¹³ 08 no. 021-145/2020 from 17/01/2020

proceedings¹⁴ compared to over four thousand well-founded complaints resolved by the Commissioner in the same year that there was a violation of the law, i.e. a violation of the law by the authorities. Also, the degree of fulfillment of other legal obligations related to publishing the Information Booklet, submitting reports to the Commissioner, conducting staff training is at a level lower than 30%, and over 3.8 thousand public authorities are subject to these obligations, which means that the vast majority of public authorities ignores this obligation, with impunity.

The Commissioner has been pointing out for years that the absence of responsibility for the violation of this right, and not only the misdemeanor responsibility, undoubtedly encourages those responsible in the administrative bodies to continue to behave in this way, in the belief that they will not bear any consequences. In addition, the years-long absence of full responsibility for the violation of rights is the main cause of a very large number of complaints to the Commissioner. The Commissioner's objective inability to resolve all complaints within the legal deadline causes dissatisfaction among citizens and is often the reason for filing lawsuits and causing costs and unnecessary budget expenditures, which have already been discussed in this report.

In such a state of affairs, the citizens whose rights were violated, in their capacity as injured parties, have also submitted requests for initiating misdemeanor proceedings to the misdemeanor courts in 2019 in a much larger number than in the previous year. According to the data of the misdemeanor courts, a total of 4,903 requests were submitted in 2019, and in cases in which a conviction was passed, the largest number of imposed sentences is in the minimum amount of 5,000 dinars. In the continuation of the report, in the part on statistical data, the stated data and the outcome of the proceedings before the misdemeanor courts are presented.

These data support the validity of the Commissioner's proposal to entrust the function of supervising the implementation of the Law on Free Access to Information to this body.

2.A.3.3. Difficult implementation of the Commissioner's authority

In 2019, in the procedure of resolving complaints due to violation of the right to access information the Commissioner has applied the authorization from Article 26 of the Law on Free Access to Information of Public Importance in 13 cases and requested from the authorities, for insight purposes, documents with information that are the subject of the request of the appellant, to determine whether the information contained in the documents can be made available at the appellant's request or not.

Six public authorities acted at the request of the Commissioner and submitted the requested documents, namely: the Customs Administration, the Securities Commission, the Second Basic Public Prosecutor's Office in Belgrade, the Ministry of Defense, PE "Parking Service" Belgrade and the City Administration of Niš.

In seven cases, the public authorities did not submit the requested documents, namely: the Ministry of Internal Affairs - MUP (in three cases it did not submit any, and in one it

¹⁴ Letter of the Administrative Inspectorate number 021-02-28/2019-01 dated 17/01/2020

submitted only a part of the document¹⁵), the Commercial Court of Appeals in Belgrade, the Higher Public Prosecutor's Office in Belgrade and the Military Security Agency.

The following is an overview of individual cases:

The information that the Ministry of the Interior completely denied or partially submitted to the Commissioner¹⁶, refers to the acts on job systematization in three cases¹⁷. In one of the mentioned cases, which refer to the acts on systematization, the Ministry of the Interior did not respond to the request of the Commissioner, in the other it submitted a response without the attached act.

The Commercial Court of Appeals in Belgrade¹⁸ refused to submit to the Commissioner the decision of that court 12 Pž 2802/18 dated 29 August 2018 which refers to the revocation of the first instance ruling in connection with the certification of the annex to a certain contract. The Court did so after the Commissioner decided on the appeal and ordered the Court to provide the information to the applicant and after the Commissioner submitted the case files to the Administrative Inspectorate for the purpose of taking supervisory measures.

The Military Security Agency (VBA) of the Ministry of Defense¹⁹ did not submit the document VBA confidential, no. 44-123 dated 7 October 2014, which was the subject of a journalist's request. The explanation of the Agency is that these are secret data which, according to its interpretation of the regulations on special measures of physical and technical protection of secret data, can be taken out of the premises, which, as it states, means "do not have to necessarily".

2.A.4. Typical cases of circumvention of the right to access information in 2019

2.A.4.1. Failure to provide information related to the financing of the media and their assets

An illustrative example of violations of the right to free access to information of public importance are cases of "silence" of public authorities or their unfounded invocation of abuse of rights or confidentiality of data in situations when journalists seek information related to media financing and their property. Information related to the financing of the media by public authorities must be transparent, not only because it is a matter of spending public money, but also because in this way the editorial policy of the media can be indirectly influenced, and consequently the freedom of the media may be affected.

¹⁵ An excerpt with the first three articles of the Rulebook, the final article 323 and an excerpt showing the name of the jobs and the number of planned employees for each position, but not the text of the job description, job positions, etc., for Bajina Bašta

¹⁶ Cases no. 071-01-272/2019-03, no. 071-01-5010/2019-03, no. 071-01-5422/2019-03 and 071-01-2614/2019-03

¹⁷ Rulebook on amendments to the Rulebook on Internal Organization and Systematization of Jobs in the Ministry of Internal Affairs Int. 01 no. 7777/18-5 dated 30/07/2018 and the Rulebook on amendments to the Rulebook on Internal Organization and Systematization of Jobs in the Ministry of Internal Affairs Int. 01 no. 4959/19-3 from 27/09/2019 and the Rulebook on Internal Organization and Systematization of Jobs for Bajina Bašta, 01 no.4685/18-13 from 13/06/2018

¹⁸ Cases no. 071-01-23361/2018-03

¹⁹ Cases no. 071-01-2721/2019-03

The City Administration of the City of Leskovac refused to submit copies of nineteen approved project proposals to the seeker by the decision of the City Administration of the City of Leskovac, Department of Social Activities and Local Development, from the competition for co-financing projects of public interest in the city of Leskovac in 2017, invoking unfoundedly the copyright protection of the project applicants. The information was submitted to the seeker only after the Commissioner ordered²⁰ that this information be made available, since these are projects financed with public money.

The same city administration was "silent" at the request of the seeker to be provided with information on the evaluation of the previous cycle of media projects financed in 2016; criteria, i.e. the procedure prescribed for the appointment of members of the Commission for the selection of projects of public interest in the field of public information co-financed by the budget of the city of Leskovac; the manner in which the media content produced within the project is made publicly available; statements of the members of the Competition Commission that they are not in a conflict of interest and that they do not perform a public function; the minutes of the Competition Commission made on the occasion of deciding on the selection of projects of public interest in the field of public information for 2017, with a score list of all projects that have entered the evaluation process; appeals filed in connection with the media competition in 2017, as well as decisions on them; as well as contracts for the implementation of media projects. In this case, the stated information was delivered to the seeker only after the intervention of the Commissioner, i.e. the order to make the stated information available to the public²¹.

The City Administration of the City of Vršac in Vršac has completely ignored the request of the investigative journalist asking for information regarding the Competition for co-financing media content projects in the field of public information in the city of Vršac in 2018, i.e. the documents containing them, as well as the project proposal, financial and narrative reports (with media content). At the request of the journalist, the requested information was accessed only after the decision²² of the Commissioner was made, which ordered that the requested information be made available.

A particularly illustrative case of illegal actions related to the fulfillment of obligations prescribed by the Law on Free Access to Information of Public Importance is the case of the Regulatory Body for Electronic Media (REM), which the Commissioner, after complete silence and ignoring the investigative journalist's request, ordered²³ to request information on the receivables of REM on the basis of non-payment of fees and other obligations for broadcasting TV programs for the period from 01/01/2018 to 19/11/2018 (name of the licensee broadcaster, identification number, coverage area, amount of debt); whether REM provided receivables (bill of exchange, bank guarantee, guarantee, etc.); whether it took the available measures of forced collection and lawsuits; as well as information on written-off receivables of REM based on non-payment of fees and other obligations for broadcasting TV programs for the same period (name of the broadcaster, registration number, date of decision on write-off of receivables, amount and currency of the written off claim, date of the decision on the write-off and the reasons for write-off). Instead of acting on the binding, final and enforceable decision of the Commissioner, REM has informed the seeker that her request was rejected as unfounded, pursuant to Article 13 of the

²⁰ Decision of the Commissioner no. 071-01-3598/2017-03 from 20/03/2019

²¹ Decision of the Commissioner no. 071-01-309/2018-03 from 10/07/2019

²² No. 071-01-4851/2019-03 dated 30/10/2019

²³ No. 071-01-2484/2019-03 from 14/05/2019

Law on Free Access to Information of Public Importance, due to abuse of rights. The Commissioner has submitted the files of this case to the Administrative Inspection for further jurisdiction on July 19, 2019. The appellant did not file a motion for coercive enforcement of this decision.

2.A.4.2. Failure to provide information on privatization procedures

The Commissioner has already reported that public authorities withhold information on privatization procedures, although this is information related to the change of ownership of capital and property of legal entities operating with social and public capital and as such should be available to the public.

The Ministry of Economy of the Republic of Serbia refused to provide the applicant with information regarding the privatization procedure of the Joint Stock Company "Luka Novi Sad" (reports on the inventory and assessment of the fair market value of all assets, documents that make up sales documentation, etc.), referring to Art. 9, items 2 and 4 of the Law on Free Access to Information of Public Importance, i.e. emphasizing that the privatization procedure has not been completed and that it would jeopardize the course of that procedure and the fulfillment of the country's justified economic interests. The Commissioner annulled the decisions of the Ministry of Economy and ordered²⁴ the Ministry to provide the requested information to the appellant, emphasizing that the principle of transparency of the privatization procedure is one of the basic legal principles in conducting the privatization procedure, and that transparency in all phases of the procedure contributes to the prevention of irregularities and possible corruption speaks in favor of the publication of the requested data, except when in a specific situation there are particularly justified reasons not to disclose such data at a certain stage of the procedure and that there was sufficient evidence of the public authorities, which was not the case here. The decision of the Commissioner was executed.

The Ministry of Economy of the Republic of Serbia completely ignored the request of an investigative journalist to provide her with information regarding sales contracts after the privatization of the following media publishers: Radio Šid-contract signed on 28/09/2015, Radio Raška-contract signed on 28/09/2015, PE "Studio B" Belgrade-contract signed on 06/10/2015, PE "Apollo" Novi Sad-contract signed on 25/09/2015, Radio Television Indija-contract signed on 25/09/2015, TV Blace-contract signed on 09/11/2015, Radio Valjevo-contract signed on 27/11/2015 and PE Novi put-contract signed on 03/11/2015, i.e. reports on regular and extraordinary inspections of fulfillment of obligations under the said sale contracts and documents on termination of the contracts, if the contract was terminated after the inspection. The decision of the Commissioner²⁵, ordering the Ministry to submit the requested information to the journalist, was not executed even after the Commissioner submitted the case files to the Administrative Inspection.

2.A.4.3. Failure to provide information on spending public money

The Commissioner is always of the consistent view that information on the spending of public money and of public funds must always be available to the public. In accordance with that, the Commissioner ordered the Commission for State Aid Control in Belgrade to submit information to the information seeker- Anti-Corruption Council of the Government of

²⁴ Decision of the Commissioner no. 071-01-2649/2018-03 from 29/11/2019

²⁵ No. 071-01-2481/2019-03 from 13/05/2019

the Republic of Serbia in Belgrade, i.e. copies of documents containing them from which it is possible to find out which entities, when and in what amount was granted state aid in the form of customs and tax relief in the period from 2014-2017. Instead of acting on the Commissioner's decision²⁶, the Commission submitted a request to repeat the procedure regarding the Commissioner's final decision, emphasizing that it is not a public authority in the sense of Article 3 of the Law on Free Access to Information of Public Importance, although it has never disputed²⁷ its status.

2.A.4.4. Information related to environmental protection

Information related to endangering, i.e. protecting the health of the population and the environment belongs to the category of so-called "privileged" information of public importance in relation to which the public interest to know always exists and it cannot be proven to be otherwise. When public authorities recognize that such information is involved, but also when it comes to information that is indirectly important for the health and environmental issues, they should react quickly and make that information available, even without any intervention of the Commissioner. Unfortunately, they often do not do so, even after the final, binding and enforceable decisions of the Commissioner, made on appeals for denial of such information.

One of such cases that attracts the most public attention is the case of the Sava river embankment. Illegal construction in that area with the accumulation of waste (from the end of block 45 in New Belgrade to the Ostružnica bridge) is undoubtedly due to the impact on the environment and the plant and animal species that live there. In 2019, the Commissioner has issued four decisions²⁸ ordering the provision of information regarding the Sava river embankment, of which only one decision was made by the Municipal Administration of the Municipality of New Belgrade, regarding the demolition of illegal houses at this location. According to the order from the decision of the Commissioner, they did not act, i.e. the following entities did not submit information to the information seekers: 1) Public utility company "Belgrade Waterworks and Sewerage", information on water supply wells, i.e. documents from which it can be found out whether individuals use electricity and water from the water supply wells; whether the Company has performed flood protection works on the embankment, in order for natural persons to be connected to the water supply on the specified stretch and if such works were performed, how many natural persons/consumers were connected to the water supply system; as well as the standard contract that natural persons received for the use of electricity from water facilities- water supply wells and for connection to the water supply network; 2) City Administration of the City of Belgrade - information regarding the requests for legalization of facilities built on the Sava river embankment (from the end of block 45 in New Belgrade to Ostružnica bridge), i.e. documents from which it can be established whether the Secretariat for Legalization has decided on the submitted requests, before they passed into the competence of the municipality of New Belgrade and if there are decisions made according to the stated requirements and 3) Directorate for Construction Land and Construction of Belgrade PE in Belgrade - information on the harmonization of the bicycle paths route on the Sava river embankment from the turnpike in Dr. Ivan Ribar Street (Blocks 45 and 71) towards the Galovica canal, i.e. towards the Ostružnica bridge, with the Belgrade General Urban Plan (GUP), i.e. the documents in which they are contained, from

²⁶ No. 071-01-1737/2018-03 from 05/07/2019

²⁷ Since 2014, 12 complaints have been filed with the Commissioner against the State Aid Control Commission

²⁸ Nos. 071-01-4514/17 dated 07/02/2019, 071-01-1027/2018-03 from 06/05/2019, 071-01-4351/2019-03 from 25/12/2019. and no. 071-01-3963/2017-03 from 30/01/2019

which it can be established whether the Directorate is obliged to harmonize the situation on the Sava river embankment with the traffic solutions from the GUP.

Significant public attention, also from the aspect of environmental protection, was aroused by the case of the construction of the gondola "Kalemegdan - Ušće". In this regard, the "Regulatory Institute for Renewable Energy and the Environment" has filed several complaints with the Commissioner. The fact that all complaints were filed due to the administrative silence raises concerns. The Commissioner has issued three decisions²⁹ ordering that the requested information be made available to the public. The City Administration of the City of Belgrade has submitted the information on the permits on the basis of which the felling of trees near the building of the BC "Ušće" began (and was carried out) on March 12, 2019, five months after the decision of the Commissioner. Previously, the Commissioner has submitted the case file to the Administrative Inspection. Immediately after the decision of the Commissioner, the Administration of the City Municipality of New Belgrade has submitted the requested information related to the permits on the basis of which the felling of trees near the building of BC "Ušće" began (and was carried out) on March 12, 2019, although it had previously "kept silent" to the request of the information seeker and the request of the Commissioner to declare itself on the appeal. The City Administration of the City of Belgrade did not execute the decision of the Commissioner ordering it to submit the information contained in the Inspection Supervision Report no. 350-01-01273/2018/18 from 11/01/2018 used on which the Sector for Inspection Supervision of the Ministry of Construction, Transport and Infrastructure has performed inspection supervision and concluded that the Detailed Regulation Plan for the Kalemegdan-Ušće gondola, adopted by the Belgrade City Assembly, was made and adopted in accordance with the Law on Planning and Construction, and in accordance with the General Urban Plan of Belgrade.

2.A.4.5. Denying and complicating access to information related to the control of the legality of the work of public authorities

The public often uses the instruments provided by the Law on Free Access to Information of Public Importance for the purpose of controlling the legality of the work of public authorities, i.e. in order to check whether the public authorities perform their competencies and authorities in accordance with the law. In addition, the instruments provided by this law are an important tool to obtain information related to topics of focus.

One of the cases that particularly disturbed the public and aroused its interest is the case of the participation of public official Zoran Babić in a traffic accident at the toll ramp Doljevac in which one person lost their life. The Commissioner has ordered³⁰ the Ministry of the Interior to provide the journalist with the requested information regarding the said traffic accident, which involved three vehicles, including an official Škoda Superb vehicle owned by the PE Corridors of Serbia, in which Zoran Babić was an official, i.e. a copy of the official report made on January 31, 2019 in connection with the intervention of the traffic police on the spot, with the proviso that before delivery it will protect and make inaccessible personal data: names and surnames of natural persons, except for officials and Zoran Babić, address and other personal data. The first instance body informed the Commissioner that it had executed his decision. On the other hand, "Južne vesti" reported that copies of documents

²⁹ Nos. 071-01-2773/2019-03 from 15/05/2019, 071-01-3403/2019-03 from 05/07/2019, and 071-01-3989/2019-03 dated 30/12/2019

³⁰ Decision of the Commissioner no. 071-01-2956/2019-03 from 30/05/2019

(official report) were delivered to them, but that the name of Zoran Babić was still inaccessible in them³¹.

The Commissioner ordered³² the Ministry of Foreign Affairs of the Republic of Serbia to submit the requested information to the investigative journalist regarding the fact whether T.S., V.D., C.P., S.B. and T.G. (persons whose names are mentioned in connection with the arms trade scandals) were issued diplomatic passports. The Commissioner found that the first-instance body unreasonably invoked the protection of the privacy of these persons, because the requested information refers to persons who have been issued diplomatic passports issued to citizens of the Republic of Serbia pursuant to Article 10 of the Law on Travel Documents, who, in accordance with international law, have the status of a diplomatic agent, consular official, officials of international organizations, diplomatic couriers, as well as the highest state officials, and there is no obstacle to making the requested information available to the public, as it fulfilled the requirement of Article 14, item 2 of the Law on Free Access to Information of Public Importance, for the exception to the right to privacy. The stated decision was not executed.

By the decision of the Commissioner³³, the Ministry of Trade, Tourism and Telecommunications was instructed to inform the journalist whether it has the requested information, i.e. a document/decision from which it can be learned that "requests for the export of arms carry the level of confidentiality", specifically those that are related to the permit the Ministry has potentially granted to HK Krušik for the export of 32,000 120 mm mines to Armenia. The Ministry has acted upon the order from the decision of the Commissioner.

2.B. The right to protection of personal data

2.B.1. Legal framework

The legal framework in the field of personal data protection has been significantly regulated in the last few years from the aspect of international law. However, the regulation of the legal framework from the aspect of domestic law has only just begun in the last two years. LPDP was adopted at the end of 2018, and it began to be applied on August 22, 2019, which is just the beginning of shaping the legal framework in the field of personal data protection in Serbia. Namely, for years there has been inconsistency or incomplete harmonization of the national legal framework with appropriate international standards, and the EU law, mutual incompatibility or incomplete harmonization of numerous sectoral laws with the Constitution of RS, as well as laws and bylaws, and finally lack of regulation or inadequate regulation of certain issues in numerous regulations and the LPDP itself.

The protection of personal data requires a systematic approach of all competent entities, which implies the formulation of a modern Strategy for the protection of personal

³¹ <https://www.juznevesti.com/Drushtvo/Policijske-beleske-iz-Doljevca-Babic-se-ne-pominje-put-bio-klizav-brzina-velika.sr.html>

³² Decision of the Commissioner no. 071-01-3645/2019-03 from 05/12/2019

³³ Decision 071-01-4785/2019-03 from 06/12/2019

data, as an official document, and connected to that, the Action Plan for its implementation. This is not about the application of only one regulation that is within the competence of only one or of particular bodies, but it is about the application of all regulations related to the processing of personal data in almost all spheres of life, which is why the content of this document is a strategic issue under the jurisdiction of the RS Government.

Also, it is necessary for LPDP to regulate the matter of personal data protection comprehensively and in accordance with the relevant international standards, but after the adoption of LPDP, the prevailing opinion of the expert community is that LPDP did not meet these expectations. Finally, it is necessary to harmonize the provisions of all other laws related to the processing of personal data with the LPDP, and a comprehensive analysis of the number and content of amendments to these laws has not yet been made. The period of nine months from the entry into force of the LPDP until the beginning of the application of this law, was precisely the period in which, among other things, it was necessary for the Government of RS to define these issues. Finally, it is necessary to properly regulate a number of bylaws through organizational and technical issues.

2.B.1.1. International legal framework

The activities of the European Union and the Council of Europe have significantly intensified in the last few years in the field of personal data protection.

The key document in this area in the European Union is the General Regulation³⁴ 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (hereinafter: GDPR). The GDPR is one of the few documents of the European Union, in the field of human rights, which is directly applicable in the member states of the European Union.

In addition to the GDPR, an important part of the international legal framework is Directive 2016/680 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the prevention, detection, investigation or prosecution of criminal offenses, or the execution of criminal sanctions and on the free movement of such information, as well as the repeal of Council Framework Decision 2008/977 (hereinafter referred to as the "Law Enforcement Directive"). Whereas the GDPR does not apply to the processing of personal data which are not subject to the direct competence of the European Union, such as the competence of authorities to prevent or detect criminal offenses, to investigate, prosecute criminal offenses or to execute criminal sanctions, including the protection of public security, these issues are regulated by the Law Enforcement Directive.

The member states of the European Union were obliged to harmonize their regulations with the Law Enforcement Directive until the beginning of the implementation of both of these documents (May 25, 2018), but some of them have not done so yet, and many controllers and data processors have not harmonized their business.

³⁴ <https://www.poverenik.rs/sr/pravni-okvir-zp/medjunarodni-dokumenti/2502-uredba-2016679.html>

The key document in this area in the Council of Europe is the Convention³⁵ for the Protection of Individuals with regard to Automatic Processing of Personal Data, from 1981. The aim of this document is to improve the protection of personal data and to harmonize the legal systems of a wide range of countries, as it is open for access to non-members of the Council of Europe. This convention was modernized and improved by the Protocol³⁶ on Amendments to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (better known as Convention 108+), which the Republic of Serbia has signed on November 22, 2019, at the initiative of the Commissioner. (During the work on this report, the National Assembly, at the first session of the first regular session in 2020, held on March 02, 2020, passed the Law on Ratification of the Protocol on Amendments to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, thus Serbia has joined the still very small number of states that have ratified this protocol.)

In the field of personal data protection, the EU law includes other regulations, as well as judgments of the Court of Justice of the European Union and decisions of the European Committee for Personal Data Protection, which unites independent bodies for personal data protection of all EU member states. A strong impetus to further improve the appropriate protection of personal data is provided by the European Supervisor for Personal Data Protection, but also by special departments and senior officials for personal data protection in Europol and Eurojust.

As a member state of the Council of Europe, the Republic of Serbia participates in the creation of European human rights law, and human rights standards expressed, among other things, in the judgments of the European Court of Human Rights, are a part of the national legal order as generally accepted rules of international law.

The readiness of the Republic of Serbia for European integration, especially after September 1, 2013, when the Stabilization and Association Agreement³⁷ between the European Communities and their Member States, on the one hand, and the Republic of Serbia, on the other, imposes an obligation on the Republic of Serbia to harmonize its legislation related to the protection of personal data with the EU legislation and other European and international regulations on privacy (Article 81 of the Agreement). Viewed from the aspect of international law, the harmonization of national legislation in the field of personal data protection with the law of the European Union is an international legal obligation of the Republic of Serbia regulated not only by the Stabilization and Association Agreement, but also the status of a candidate country for EU membership implies that the foreign and the internal policy of the candidate country is in line with the policy of the European Union and its *acquis*.

In 2019, in accordance with his competencies and the position of an independent state body, the Commissioner has expressed readiness and provided assistance and support to the

³⁵ Law on Ratification of the Convention - Official Gazette of the FRY - International Agreements, no. 1/92, Official Gazette of Serbia and Montenegro - International Agreements, no. 11/2005 – another law and Official Gazette of RS - International Agreements, no. 98/2008 -another law and 12/2010)

³⁶ www.poverenik.rs/sr/међународни-документи/6/3226-протокол-о-изменама-и-допунама-конвенције-о-заштити-лица-у-односу-на-аутоматску-обработку-личних-података-2018.html

³⁷ Law on Ratification of the Stabilization 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 RS - International Agreements, No. 83/2008)

competent bodies in the process of stabilization and accession of Serbia to the European Union on several occasions, primarily in terms of preparing numerous reports.

2.B.1.2. National legal framework

The key regulation in this area in Serbia is the LPDP, the implementation of which began on August 22, 2019. The Commissioner has already stated his position on LPDP several times so far, especially during the public debate on the Draft of this Law (several opinions), in his 2018 Annual Report, as well as in numerous individual letters to the competent authorities. In these situations, the Commissioner has pointed out that the fact that the LPDP contains certain usable solutions, but that numerous shortcomings still leave room for different understanding, and thus difficult implementation of this law. The Commissioner has therefore pointed out that numerous provisions of this law were simply taken from the GDPR, but not from its introductory part, i.e. the Recital, and that they were partially taken from the Law Enforcement Directive. Due to the inappropriate manner of transposing the Law Enforcement Directive, two parallel regimes have been established in the LPDP in terms of data processing, one of which is general, and the other, which refers to "competent authorities", is special.

Furthermore, several issues in the LPDP are not regulated at all or adequately, some provisions are of a general nature, i.e. insufficiently explicit, many articles contain an inappropriate number of views, there are an extremely large number of cases of exemptions from the application of the LPDP. The stated shortcomings were also pointed out by the European Commission in its Study³⁸ on the assessment of the compliance of the Law on Personal Data Protection of the Republic of Serbia with the EU regulations of 28 May 2019.

On this occasion, the Commissioner does not want to point out in detail the individual inappropriate solutions in the LPDP, but wishes to state that such solutions lead, or may lead, to problems in their implementation. Thus e.g. numerous provisions of the LPDP do not apply to processing carried out by the "competent authorities" for specific purposes, but these bodies are not precisely defined, nor are those specific purposes precisely defined, which may lead to ambiguities in the procedure, primarily in identifying the mentioned competent authorities. Therefore, the Commissioner has initiated for the Ministry of Justice to start a procedure and request an authentic interpretation of Article 4, item 24 of the LPDP from the National Assembly, but he did not receive an answer until the work on this report was completed.

The Commissioner has repeatedly stated that certain issues that are not regulated by the General Regulation can be regulated by the national law, if there is a need for that. In that sense, despite several proposals of the Commissioner to regulate the area of video surveillance in LPDP, that did not happen, although we are surrounded by a huge number of cameras throughout Serbia, especially in larger cities. Therefore, the Commissioner is not able to resolve numerous cases related to the (ab)use of video surveillance on the basis of specific legal norms that should precisely regulate this issue (e.g. the use of video surveillance in official premises, in residential buildings, public surfaces, handling and storage of recorded material, etc.), yet he is forced to resolve them by referring to the general principles of data processing in LPDP.

³⁸ <https://www.poverenik.rs/images/stories/dokumentacija-nova/Publikacije/engEKStudija.pdf>

The Commissioner points out that the LPDP does not adequately elaborate the procedural provisions on the Commissioner's handling of complaints. Furthermore, the LPDP contains a provision according to which the data subject has the right to file a complaint to the Commissioner, as well as that this does not affect the right of that person to initiate other administrative or judicial protection proceedings. Considering that the bodies before which the procedure can be conducted (Commissioner, Administrative Court, and High Court) do not have the obligation to inform each other, or to check whether another body is conducting any procedure, this obviously did not take into account the principle of "*ne bis in idem*" (not twice for the same). This means that in any procedure in which several mechanisms for the protection of the rights of persons are initiated, legal certainty is called into question. The Commissioner is not aware that during the reporting period a person, before or after submitting a complaint to the Commissioner, has initiated other administrative or judicial protection proceedings, so only time before us will answer the question of how will the competent authorities in this situation overcome the problem of possible mutually different decisions on the same legal matter.

Also, LPDP stipulates that an administrative dispute may be initiated against the decision of the Commissioner, not only by the person to whom the data relates, but also by the controller, processor, or other natural or legal person to whom the decision of the Commissioner refers. During the reporting period, no lawsuit was filed in the administrative dispute against the Commissioner's decisions on complaints, so even in this situation, the time before us will provide an answer to the question of how the Commissioner has acted in a particular case. During the work on this report, the first lawsuit was filed against the decision of the Commissioner on the complaint, and the Administrative Court has not ruled on it yet.

In accordance with the need to complete the national legal framework, and based on the obligations and powers granted by the LPDP, the Commissioner has adopted certain bylaws that further regulate the area of personal data protection, and they are:

1. Rulebook on the form and manner of keeping records of persons for personal data protection (Official Gazette of RS No. 40/2019);
2. Rulebook on the form and manner of keeping internal records on violations of the Law on Personal Data Protection and measures taken in the performance of inspection supervision (Official Gazette of RS No. 40/2019);
3. Rulebook on the form of notification on personal data violation and the manner of notifying the Commissioner for Information of Public Importance and Personal Data Protection on personal data violation (Official Gazette of RS No. 40/2019);
4. Rulebook on the complaint form (Official Gazette of RS No. 40/2019);
5. Decision on the list of types of personal data processing activities for which an assessment of the impact on personal data protection shall be carried out and the opinion of the Commissioner for Information of Public Importance and Personal Data Protection shall be sought (Official Gazette of RS No. 45/2019) and
6. Rulebook on the form of identification card of the authorized person for performing inspection supervision according to the Law on Personal Data Protection (Official Gazette of RS No. 61/2019).

During the work on this report, the Commissioner has passed another bylaw - Decision on determining standard contractual clauses (Official Gazette of RS, No. 5/2020).

In addition to bylaws issued by the Commissioner, one bylaw was adopted and published by the Government of RS - Decision on the List of States, Parts of Their Territories or One or More Sectors of Certain Activities in Those States and International Organizations Considered to Provide an Appropriate Level of Data Protection on persons (Official Gazette of RS No. 55/2019).

2.B.2. Illustrative cases of violating the right to personal data protection identified in the supervision procedure in the implementation and execution of the law on personal data protection

1. Processing of personal data of the beneficiaries of the humanitarian aid of the Red Cross of Serbia - Red Cross Medveda

The Commissioner has conducted an ex officio procedure of supervision over the application of the Law on Human Rights by the Serbian Red Cross - Red Cross Medveda, as a personal data controller, on the occasion of processing personal data of the beneficiaries of humanitarian aid, contained in the records it keeps. Based on the established facts, on 04/10/2019, the Commissioner has submitted a request to initiate the misdemeanor proceedings to the Misdemeanor Court in Leskovac - Department of the Court in Medveda, against the Red Cross of Serbia - Red Cross Medveda, as a defendant legal entity, and AA, as a defendant responsible person in the defendant legal entity, because the defendant legal person, as the controller, did not process the personal data contained in the records of the service users he keeps in a manner that provides adequate protection of personal data, including protection against unauthorized or illegal processing, as well as against accidental loss, destruction or damage by applying appropriate technical, organizational and personnel measures, which he was obliged to do, in accordance with the provisions of Article 5, paragraph 1 of the LPDP. Due to that, an unauthorized person has accessed the personal data contained in the subject records (name and family name, UPIDN and signatures), and made a recording (video) of the same data on his mobile phone, which he then posted on the social network Instagram, thus the defendant legal entity has committed a misdemeanor under Article 95, paragraph 1, item 1 of the LPDP, and the defendant responsible person in the defendant legal entity has committed a misdemeanor under Article 95, paragraph 5 in connection with paragraph 1, item 1 of the same regulation.

Based on that, the Misdemeanor Court in Leskovac - Department of the Court in Medveda passed a judgment on November 6, 2019, declaring the Serbian Red Cross - Red Cross Medveda responsible for the misdemeanor referred to in Article 95, paragraph 1, item 1 of the LPDP, and the responsible person in the legal entity for the misdemeanor referred to in Article 95, paragraph 5 in conjunction with paragraph 1, item 1 LPDP.

2. Processing of personal data of employees, volunteers and beneficiaries of humanitarian aid "Serbian Red Cross"

The Commissioner has conducted an ex officio procedure of supervision over the application of the LPDP by the Serbian Red Cross, regarding the processing of personal data of employees, volunteers and beneficiaries of humanitarian aid in the form of collecting and publishing their photos, as well as their forwarding to the Ministry of Labor, Employment,

Veteran and Social Policy, the Ministry of Finance, the Ministry of Health and the Cabinet of the President of the Republic.

Based on the established facts, on 18/12/2019 the Commissioner issued a warning to the Controller for irregularities in data processing, because by collecting and publishing photos of its employees, volunteers and humanitarian aid beneficiaries on its official website and its "Facebook" page, as well as their forwarding to the Ministry of Labor, Employment, Veteran and Social Policy, The Ministry of Finance, the Ministry of Health, as well as the Cabinet of the President of the Republic of Serbia, it has violated the provisions of Article 5, paragraph 1, item 1-3. LPDP, in such a way that it: did not process them legally, fairly and transparently in relation to the data subject; has not collected for purposes that are specifically determined, explicit, justified and lawful and they cannot be further processed in a manner that is inconsistent with those purposes; and did not limit it to what is necessary in relation to the purpose of processing.

On 31/12/2019, the Controller has informed the Commissioner that he had eliminated the irregularities by forwarding the order electronically to his municipal organizations, ordering them to adhere to the guidelines and instructions for the proper application of the LPDP that were submitted to them with the order. On 17/01/2020, the Controller has submitted an additional written statement in which, among other things, he stated that in the future he would publish photos of beneficiaries of humanitarian aid in such a way that the faces of the beneficiaries could not be seen, i.e. that the photos of the beneficiaries would be anonymized, so that these persons could not be identified or determinable.

3. Processing of the unique personal identification number of citizens by the National Employment Service

Based on Article 78, paragraph 1, item 8 of the LPDP and in accordance with the provisions of the Law on Inspection Supervision (Official Gazette of RS, Nos. 36/15, 44/18 - another law and 95/18) relating to the handling of petitions, the Commissioner has conducted an ex officio procedure of extraordinary inspection supervision over the application of LPDP by the National Employment Service, as a personal data controller, on the occasion of processing the unique personal identification number in the Notice on the offer to conclude an annex to the agreement on regulating mutual rights, obligations and responsibilities and the Annex to the agreement on regulating mutual rights, obligations and responsibilities, by publishing it on the bulletin board of the National Employment Service.

Based on the established facts, the Commissioner issued a warning to the Controller because by processing the unique personal identification number of the employee, contained in the Notice on the offer to conclude an Annex to the Agreement on regulating mutual rights, obligations and responsibilities and the Annex to the Agreement on regulating mutual rights, obligations and responsibilities by publishing it on the bulletin board of the Controller, he violated the provisions of Article 42 paragraphs 1, 2 and 3 of LPDP.

Upon the Commissioner's warning, the Controller submitted a statement to the Commissioner, stating that he acted upon the warning and took measures to eliminate the stated irregularities in the processing of personal data. Also, the Controller informed the Commissioner about the measures and activities that he will take in the future so that the established violations of the LPDP would not be repeated.

4. Video of violence in the tram published on the social network "Facebook"

After a submitted petition which referred to the processing of personal data contained in the video-recording published on the internet pages of a large number of media and portals,

which shows violence in the tram of JKP Gradsko saobraćajno preduzeće "Beograd", The Commissioner has conducted an ex officio supervision procedure. The video shows a man, who is a passenger in a tram, harassing and physically attacking a passenger sitting in the same tram. The recording was made by a video surveillance system installed in public transport vehicles. The Commissioner initiated the procedure of supervision over the implementation and execution of LPDP by the Public Utility Company Gradsko saobraćajno preduzeće "Beograd", and then by the Ministry of Internal Affairs.

Based on the established facts, on 25/02/2019, the Commissioner filed criminal charges with the Higher Public Prosecutor's Office, Special Department for High-Tech Crime, against an unidentified official employed by PUC Gradsko saobraćajno preduzeće "Beograd" or the Ministry of the Interior, due to the existence of grounds for suspicion that on October 25, 2018, it published or enabled another person to publish on the social network Facebook a video recorded by a video surveillance system installed in a means of public transport - a tram, which shows a minor female person suffering violence of a male person. In this way, the identity of the victim of violence, the perpetrator and other persons in the tram was made identifiable, as personal data that is collected, processed and used pursuant to the law, and for which purpose these data were not intended, thus committing the crime of unauthorized collection of personal data from Article 146, paragraph 3 in connection with paragraph 1 of the Criminal Code (Official Gazette of RS, Nos. 85/2005, 88/2005 - amended, 107/2005 - amended, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016).

5. Establishing of a collection of personal data called "Benefit Cards" by the Ministry of the Interior

The Commissioner has conducted an ex officio procedure of supervision over the implementation and execution of LPDP by the Ministry of Interior (hereinafter: MIA), after the procedure of preliminary verification of processing operations on the occasion of establishing a collection of personal data called "Benefit Cards" by MIA.

Considering the fact that in the procedure of preliminary verification of processing operations on the occasion of establishing the collection of personal data "Benefit Card", the Ministry of the Interior left out/denied information on data processing of users of that card via Android application, and that on 10/05/2019 (after the completion of the preliminary inspection procedure) by inspecting the website of the Ministry of the Interior, it was determined that the Ministry of the Interior has handed over to employees "the first" 20 "Benefit Cards" on the previous day, 09/05/2019 (before the end of the procedure of preliminary verification of processing operations on the occasion of the establishment of this database), and that over 22,000 employees have applied for the card, and that employees who would use the "Benefit Card" via the Android application called "Benefit Card" (hereinafter: the Application), would receive all the necessary information and notifications about discounts/benefits, an insight into "Google play" was performed. On that occasion, the Commissioner determined that the application was downloaded by more than 1,000 people at that time, and that this application has access to data in users' mobile phones (camera-photographs/video, internet connection/network access, etc.).

Having in mind the established factual situation in the supervision procedure, the Commissioner determined the existence of unauthorized processing and acting contrary to the provisions of LPDP and has warned the Ministry of Interior of irregularities in the processing personal data of employees/users of the "Benefit Card" in terms of Article 8, item 1 of the LPDP, because without a valid legal basis, i.e. legal authorization or valid consent of persons, through the application "Benefit Card", it collects and further processes personal data of those persons.

After that, the Ministry of the Interior submitted a written statement on the Commissioner's Warning, stating that the Ministry of the Interior, in order to act upon the Commissioner's act, has changed the Notification on processing the data of MIA employees, changed the model of card applications and the consent model, and that a notice was published on the website of this ministry on the possibility of revoking the previously given consent if persons believe that their rights related to the processing of personal data have been violated, as well as that this notice will be delivered to all users of the Android application "Benefit Card". Also, the written statement claims that the Ministry of the Interior, in accordance with the obligations of the data controller prescribed in the LPDP, has established and keeps records of data processing activities for the purpose of issuing and recording the beneficiaries of the "Benefit Card".

6. Publication of personal data (name, family name and UPIDN) on the website of the Ministry of Economy

Pursuant to Article 54, paragraph 2, in conjunction with paragraph 1 of the LPDP, the Commissioner has initiated an ex officio procedure of supervision over the implementation and execution of the same law by the Ministry of Economy, based on the information submitted in the petition indicating that documents of the Privatization Agency with personal data (name, family name and UPIDN) of as many as 89,510 citizens are publicly available on the web page of this ministry.

In the supervision procedure, a statement was requested from the Ministry of Economy for the reasons why it did this, given that the purpose of public disclosure of these documents has already been achieved in the period 2008-2011, by publishing them in the Official Gazette of the Republic of Serbia.

Considering the established factual situation in the supervision procedure, and especially having in mind that the Ministry of Economy did not declare in its statement the legal basis and purpose of public disclosure of personal data, and after inspecting the regulations governing the exercise of citizens' rights to remuneration for the sale of shares or stakes registered in the Privatization Register of the Republic of Serbia, on 08/02/2019, the Commissioner warned this ministry of irregularities in data processing, because it published on its website the documents of the Privatization Agency with the specified personal data, although the purpose of the public disclosure has already been achieved, as to how it had acted contrary to Article 8, paragraph 1, item 1 and 3 of the LPDP.

The Commissioner was informed by a letter from the Ministry of Economy dated 20/02/2019, that the documents, which were on the website of the Ministry of Economy, are no longer publicly available, which was confirmed by direct insight into the content of the website of the Ministry of Economy by the authorized person of the Commissioner.

7. Issuance of personal data to unauthorized persons by the Republic Pension and Disability Insurance Fund

The Commissioner has conducted an ex officio procedure of supervision over the application of the LPDPR by the Republic Pension and Disability Insurance Fund, as a personal data controller, because this controller, namely the Novi Sad Branch, issued a printout of data on the insured persons, which contains data from registry records of insured persons to unauthorized persons.

Based on the established facts, on 12/07/2019, the Commissioner warned the Controller of irregularities in data processing, because contrary to Article 8, paragraph 1, item 1 of the LPDP, without a legal basis, i.e. legal authority or valid consent of the person whose

data it processes, it made available data on the identity of the insured person AA by issuing to unauthorized persons a Statement of data on the insured persons, with the following personal data: unique personal identification number of citizens, name, family name, personal number of the insured person and other data from the personal records of the insured.

The Data Controller informed the Commissioner that he acted in accordance with the Warning and that he took measures to eliminate the above irregularities in the processing of personal data by analyzing the possibility of further restricting access to insurance data for those employees who do not directly process the insurance data, as the number of employees who could potentially use the same data without authorization would be reduced, and the employee who issued the said printout would be issued a warning with the announcement of dismissal.

8. Failure to take appropriate technical, personnel and organizational measures for the protection of data from the video surveillance system of the Preševu Health Center

The Commissioner has conducted an ex officio procedure of supervision over the application of LPDP by the Preševu Health Center, because a screen print of the video surveillance system of the Controller was published on the social network Facebook, on an account identical to the account of the legal representative of the Controller. The screen print showed a woman AA in the premises of the Emergency Medical Service of the Controller, whereby the Controller has acted contrary to the provisions of Article 47, paragraph 2 of the LPDP. The Commissioner determined that this controller did not take appropriate technical, personnel and organizational measures for the protection of data from the video surveillance system, in accordance with established standards and procedures, necessary to protect the data from loss, destruction, unauthorized access, change, publication and any other abuse.

Based on the facts thus established, the Commissioner sent a Warning to the Controller and filed a Request for initiating misdemeanor proceedings at the Misdemeanor Court in Preševu.

9. Failure to take appropriate technical, personnel and organizational measures for the protection of personal data contained in the medical documentation of patients by CC Vojvodina

The Commissioner has conducted an ex officio procedure of supervision over the application of LPDP by CC Vojvodina, based in Novi Sad, because in the premises of the Controller, namely the Department of Endocrinology and Department of Gastroenterology, on the temperature-therapeutic-dietary list displayed on the bed of one patient, the information HIV was entered in capital red letters, which resulted in the unauthorized processing of data on the health condition of that patient from Article 8, item 5 of the Law on Public Health. The Commissioner found that this controller did not take appropriate technical, personnel and organizational measures to protect personal data contained in the patient's medical records, in accordance with the established standards and procedures, which are necessary to protect data from loss, destruction, unauthorized access, changes, publication and any other abuse, in the sense of Article 47 of the LPDP.

Based on the facts thus established, the Commissioner sent a Warning to the Controller and submitted a Request for initiating misdemeanor proceedings in the Misdemeanor Court in Novi Sad.

10. Failure of the controller SERBIA BROADBAND - SRPSKE KABLOVSKE MREŽE "d.o.o. Belgrade to notify person on submitting the data of that person to the data processor

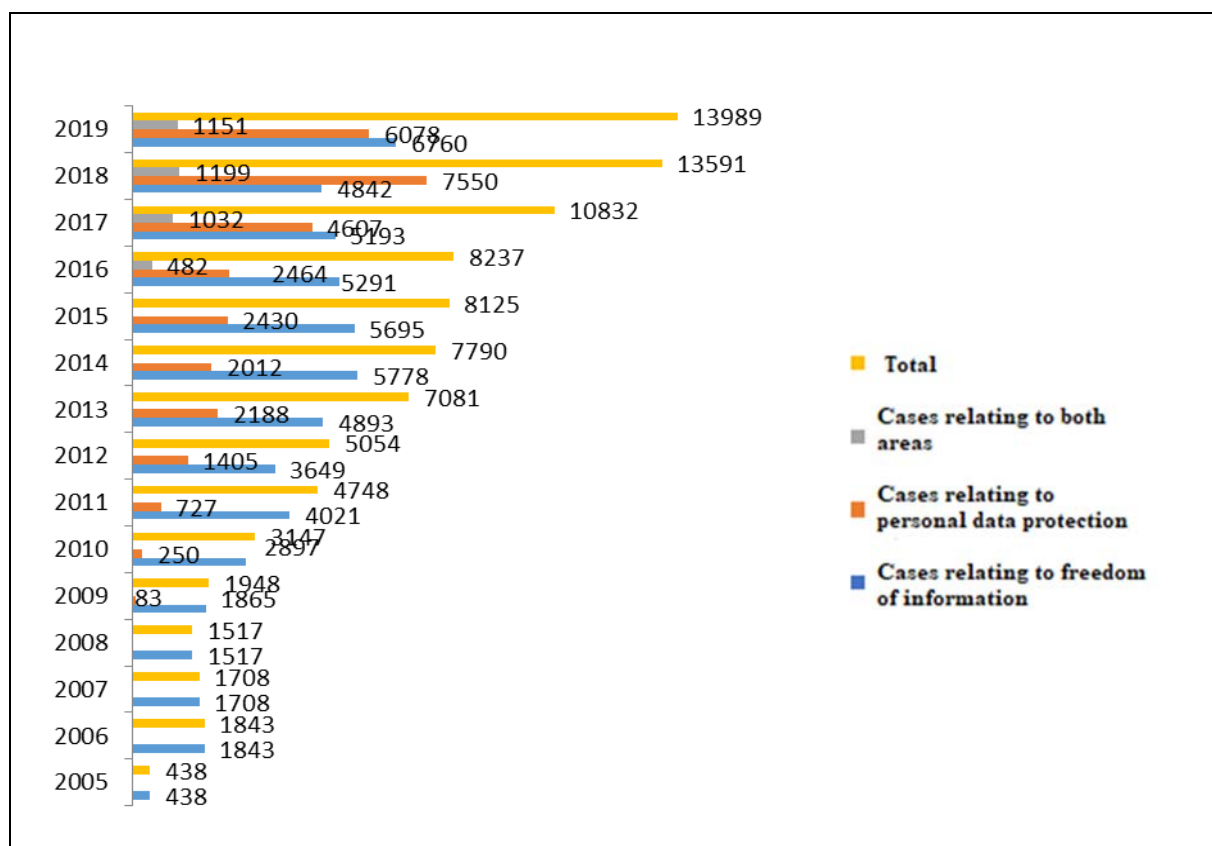
The Commissioner has conducted an ex officio procedure of supervision over the application of LPDP by the Controller of "SERBIA BROADBAND - SRPSKE KABLOVSKE MREŽE" d.o.o. Belgrade. In the supervision procedure, it was determined that before submitting the personal data of its user of services to the data processor to the company "ODM COLLECTIONS" d.o.o. Belgrade (Processor), it did not inform that person about the intention to process his personal data, in terms of Article 23, paragraph 1, item 5 of the LPDP, whereby the Controller violated that provision of the LPDP, as well as the principle of transparency of personal data processing from Article 5 paragraph 1 item 1 of the LPDP. Furthermore, in the supervision procedure, it was determined that the Contract for out-of-court collection of claims service, which was concluded between the Controller and the Processor, does not contain the provisions from Article 45, paragraph 4, items 1, 3, 4, 5, 6 and 8 of the LPDP, and that the Agreement on personal data processing concluded between the Controller and the Processor does not refer to the processing of personal data for the purpose of collection of claims, whereby the Controller violated the stated provisions of the LPDP.

Based on the thus established factual situation, the Commissioner sent a reprimand to the Controller, which he acted upon.

3. ACTIVITIES OF THE COMMISSIONER

3.1. Overview of the total activities

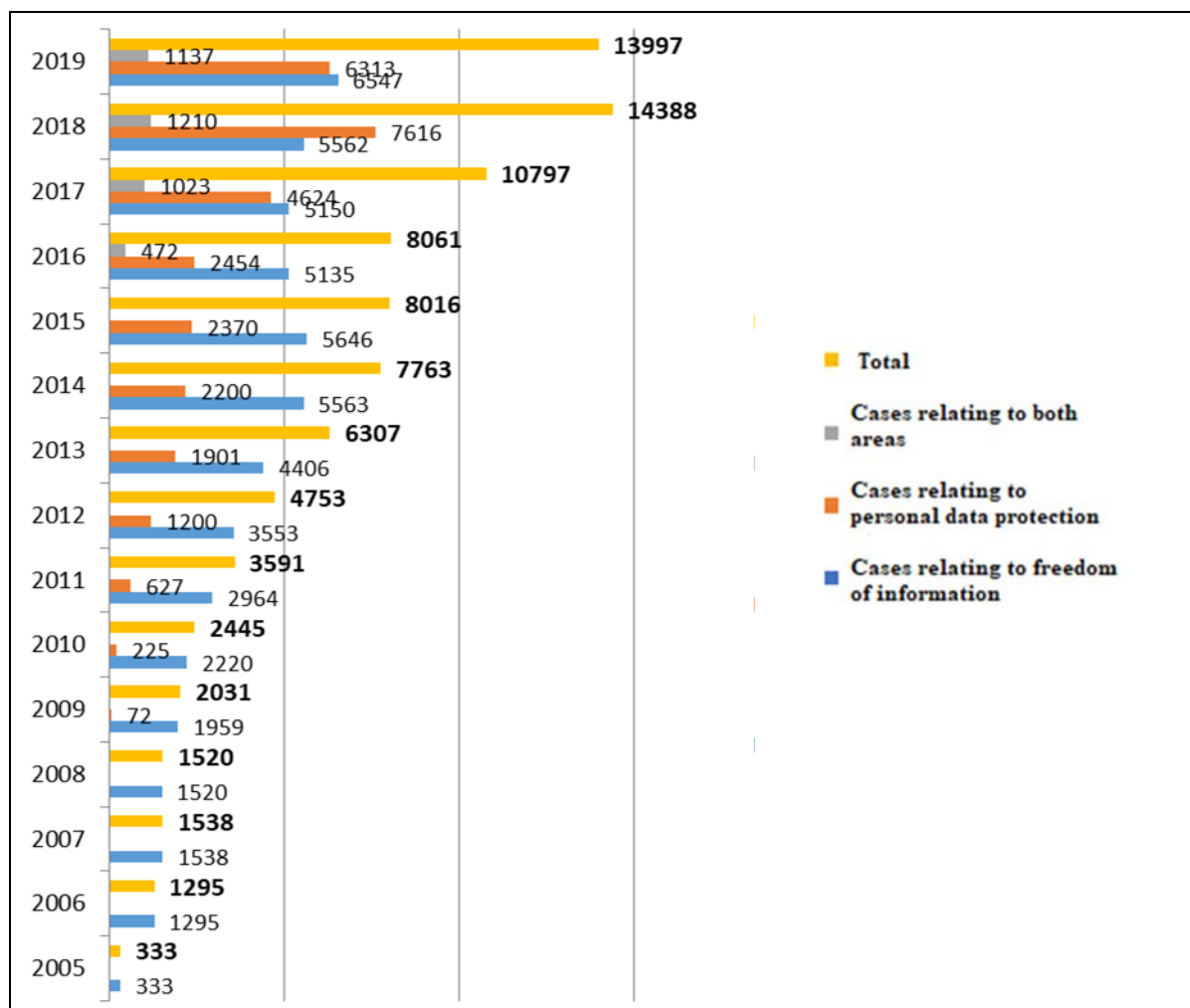
The Commissioner received a total of 13,989 cases in 2019, of which 6,760 relate to the freedom of access to information, 6,078 to the protection of personal data, and 1,151 relate simultaneously to both areas of the Commissioner's activities. The number of received cases in 2019 represents a slight increase compared to 2018.

Graph 1 – Number of received cases, by years

In 2019, the Commissioner had a total of 17,303 cases in progress. In addition to the 13,989 cases received, 3,314 unresolved cases were transferred from the previous period.

During 2019, the Commissioner completed the procedure in 13,997 cases, of which 6,547 in the field of access to information, 6,313 in the field of personal data protection and 1,137 cases related to both areas. The number of completed cases in 2019 represents a slight decrease compared to 2018.

3,306 cases for which the procedure was not completed were transferred to 2020 (3,090 - freedom of access, 181 - protection of personal data and 35 - both areas of activity of the Commissioner).

Graph 2 – Number of resolved cases, by years

The greatest part of the Commissioner's activities in 2019 was related to:

- resolving cases on complaints due to the violation of the right to free access to information and the right to protection of personal data. A total of 5,346 complaints or complaints were resolved (5,188 complaints - freedom of access to information, as well as 151 complaints and 7 petitions - protection of personal data).
- supervision over the implementation and execution of LPDP. 474 supervision procedures were initiated, of which 58 (6 regular and 52 extraordinary inspections) under the new LPDP, and 416 under the old LPDP. The Commissioner has completed a total of 701 supervision procedures, of which 21 inspections were initiated under the new LPDP, and the remaining 680 - under the old LPDP.
- opinions on drafts and proposals of laws and other regulations (85).
- opinions by which the Commissioner provides assistance to natural and legal persons and authorities, i.e. data controllers in exercising their rights or in the correct application of the Law on Free Access to Information and the LPDP, by clarifying unclear issues and procedures. The Commissioner gave 989 of these opinions, of

which 840 on the application of the LPDP, 139 on the application of the Law on Free Access to Information, 34 instructions for acting upon the LPDP, as well as 10 other opinions.

- providing assistance to citizens regarding their requests for free access to information or for the protection of personal data provided to the Commissioner by bodies that do not have the requested information (525 cases).
- providing assistance to the authorities and taking measures in connection with the application of regulations on the improvement of the transparency of work, on the occasion of the preparation and publication of the Information Booklet (334 cases).
- activities related to the process of Serbia's accession to the European Union - 26 reports and addendums to reports (23).
- public statements when the Commissioner addressed the public (61).
- activities related to the recording of data collections kept by the Commissioner according to the old LPDP (220 controllers submitted 693 personal data collections as of August 21, 2019, the day of termination of the application of this Law).
- records on the person for the protection of personal data, which 2,112 controllers, of which 1,390 authorities, submitted to the Commissioner.
- checklists, which the Commissioner sent to the addresses of 1,053 controllers, of which in 981 cases a risk assessment was carried out.
- responses to requests for free access to information of public importance related to the work of the Commissioner and to requests for insight into the processing of personal data (154 cases).
- activities related to the implementation of the procedure of coercive execution of the Commissioner's decision (110 cases were completed and 197 acts were adopted).
- responses to the Administrative Court to the lawsuit in an administrative dispute (107 cases) to the decisions of the Commissioner and failure to resolve appeals within the legal deadline, the so-called administrative silence.
- responses to citizens' petitions which mainly refer to issues that are not within the competence of the Commissioner (420 cases).
- copying and submitting to the Administrative Inspection the list of cases on the need to perform supervision in cases when the authorities did not act according to the decisions of the Commissioner (353 cases).
- 28,003 invitations were received from citizens, journalists and other media representatives, as well as employees of government bodies, to consult on the issues related to the exercise of rights within the competence of the Commissioner.
- publishing two publications, namely: Publication no. 4 "Protection of Personal Data - Stands and Opinions of the Commissioner" and Publication no. 8. "Free Access to Information, Stands and Opinions of the Commissioner". Also, the "Jubilee monograph - 15 years of work of the Commissioner for Information of Public Importance and Protection of Personal Data" was also published as part of Commissioner's publishing activity.

3.2. Activities of the Commissioner regarding the protection and promotion of the right to access information

In 2019, in the area of freedom of access to information, the Commissioner dealt with 9,637 cases related to the protection and improving rights. Of that, 2,877 cases were transferred from 2018, and 6,760 cases were received in 2019. In 2019, the Commissioner resolved 6,547 cases. 3,090 cases remained in progress, the procedure was not completed and they were transferred to 2020.

The most common part of the Commissioner's activities in this area is resolving complaints of citizens, journalists and other information seekers who have requested information of public importance, due to the failure of the authorities to comply with requests for access to information or failure to obtain information.

Other activities of the Commissioner in the field of freedom of access to information were related to: assisting citizens in exercising this right through written opinions and clarifications for action, as well as assisting the authorities in applying the law, especially through opinions and conducting trainings; to monitor the implementation of the legal obligation of the bodies regarding the proactive publication of information or the Information Booklet and to take measures in this regard; giving opinions regarding the adoption of regulations and other legal initiatives; measures related to the administrative execution of the decision; preparation of publications and other ways of publishing views from the practice of the Commissioner; participation in conferences and other professional gatherings; to communicate in the context of the requests of information seekers submitted or forwarded to the Commissioner etc. The Commissioner also acted on requests for access to information by which citizens and media representatives requested information of public importance generated in the work of the Commissioner. He also responded to petitions on the acting of other bodies and on issues that are largely not within the competence of the Commissioner.

3.2.1. Statistics on Activities and Measures

Table 1 – Types and volume of the Commissioner's activities and measures in 2019

No.	Types of activities and measures	Number
1.	Cases received	6,760
2.	Pending cases carried forward from the previous year	2,877
3.	Total cases handled	9,637
4.	Cases resolved	6,547
5.	Complaints received	5,275
6.	Complaints resolved	5,188
7.	Opinions on implementation of LFAIPI	139
8.	Opinions on draft laws and bills and other regulations	85
9.	Responses to complaints to the Administrative Court	97
10.	Responses to requests for information about the Commissioner's work ³⁹	154
11.	Responses to the requests for information on the process of the proceedings on complaints	75
12.	Acting on requests for access to information relating to the work/held by	151

³⁹ This is the total number of requests, regardless of the area of activity of the Commissioner

	other public authorities – the Commissioner informed the requesters about the procedure	
13.	Motions for administrative enforcement of the Commissioner's decisions	110
14.	Decisions/conclusions on allowing the enforcement of the decisions made	81
15.	Decisions/conclusions on penalties issued in the process of enforcement of decisions ⁴⁰	-
16.	Total amount of fines imposed in the process of enforcement of decisions, expressed in RSD ⁴¹	-
17.	Requests sent by the Commissioner to the Government for assistance/enforcement of his decisions	52
18.	Cases in which the Commissioner requested the Administrative Inspectorate to carry out a supervision and initiate misdemeanour proceedings	353
19.	Conclusions on termination of the enforcement of decisions	64
20.	Written communication with public authorities in connection with the implementation of LFAIPI (advisory and instructional communications to authorities with the aim of increasing the transparency of their work and other communication)	705
21	Replies to petitions against the work of public authorities unrelated to the Commissioner's scope of work	73

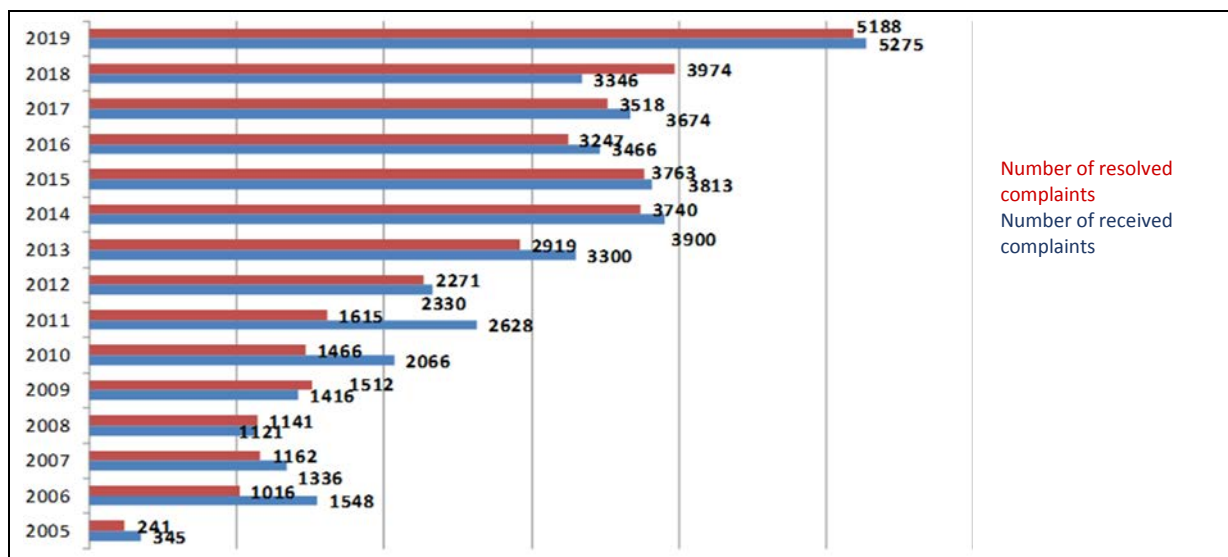
3.2.2. Protection of the right to free access to information by the Commissioner

3.2.2.1. Resolving complaints

The number of complaints formally filed with the Commissioner due to the violation of the right to access information of public importance is growing from year to year, as shown in the Graph below. **In 2019, the most complaints were received since the application of the Law on Free Access to Information started**, and that number amounts to **5,275, which is 1,929 complaints or 57.6% more than in 2018**. In addition, **2,877** complaints for which the procedure was not completed were transferred from 2018.

⁴⁰ There were no conditions for adoption due to the lack of elements for their determination

⁴¹ There were no conditions for sentencing due to the lack of elements for their determination

Graph 3 – Number of received and resolved complaints, 2005-2019

In 2019, the Commissioner resolved 5,188 complaints, which is 1,214 complaints or 30.55% more than in 2018. The largest number of complaints, 4,604 or 88.74%, were filed due to complete ignoring of the request of the information seeker or a negative answer, without making a decision with the reasons for rejecting the request and an instruction on legal remedy, as required by law⁴². Such treatment was more present by almost 6% (5.98) compared to 2018. Only 584 complaints, or 11.26% of the total number of resolved complaints, were filed against the decision of the authorities rejecting the information seeker's request as unfounded, with an explanation.

The complaints were **founded** in a great number, namely 4,321 complaints or **83.29%** of the total number of resolved complaints (5,188).

In 2019, as in the previous years, the trend continued that in a large number of well-founded complaints, the Commissioner's appeal procedure ends with the **suspension of the procedure, in 1,786 cases (41.33%)** after the authorities acted at the request of the information seeker in the meantime, after learning of the complaint and the statement requested by the Commissioner, and before making a decision on the complaint, while in 1,058 cases the parties formally withdrew their complaint. This still confirms the bad attitude and lack of responsibility of the authorities towards the citizens, disrespect of the law and the irrational or unnecessary engagement of employees and spending of public money, since there was no real reason for the initial denial of information before the complaint was filed.

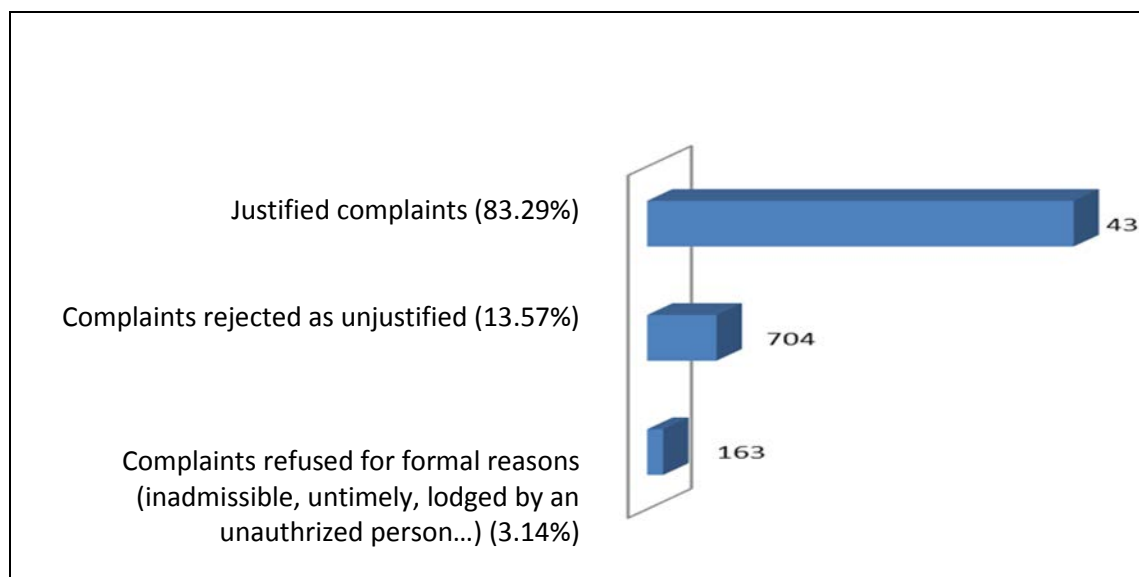
According to the data of those bodies that submitted the report to the Commissioner, it is determined that in 2019, a total of 25,416 requests for exercising the right to free access to information of public importance were submitted to those bodies⁴³.

⁴² Of 5,188 resolved appeals, 2,306 or 44.44% were filed due to complete ignoring of the request, 2,298 appeals or 44.3% due to the negative response of the body and only 584 appeals or 11.26% due to the decision of the body refusing/rejecting the request

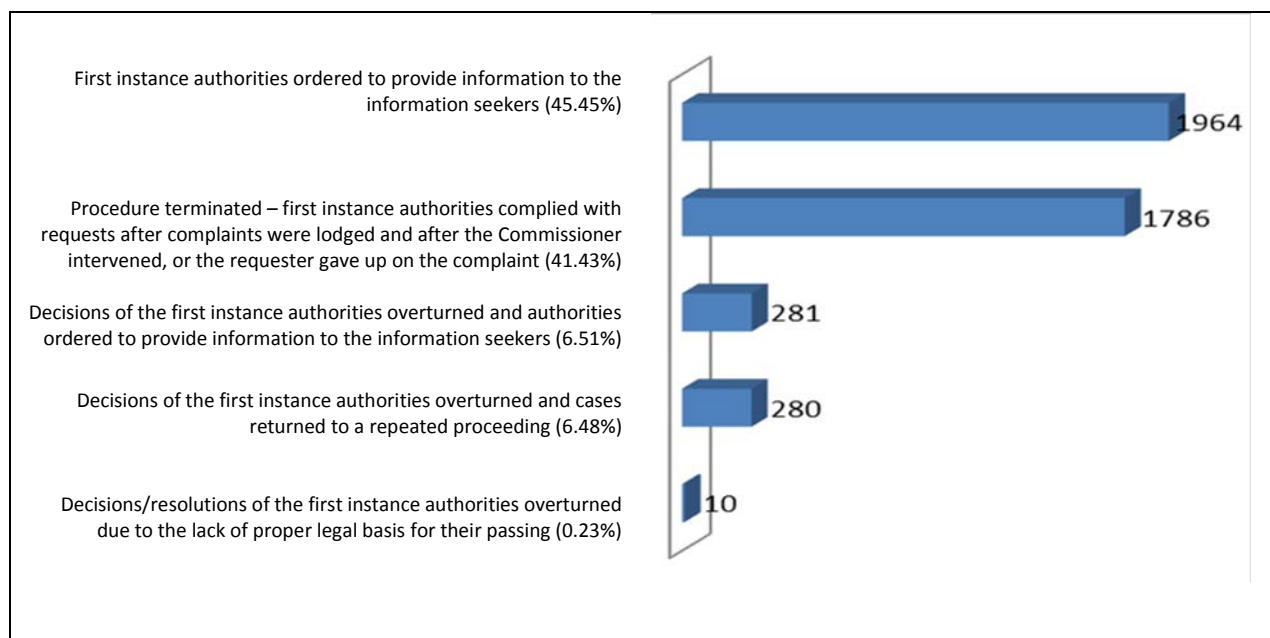
⁴³ The 2019 Annual Report to the Commissioner was submitted by slightly less than a third of the bodies to which this legal obligation refers, i.e. 1,238 of them out of a total of 3,813 bodies obliged to submit a report,

Data on what information was the subject of the request in the proceedings in which the complaints of information seekers were filed in 2019, the identity of the information seekers, against which bodies the complaints were filed, what reasons did the authorities give when making decisions to reject the request of the information seeker, on the decisions made by the Commissioner deciding on the appeals, how the bodies acted upon the decisions of the Commissioner, is shown in the graphs below.

Graph 4 Decisions passed by the Commissioner pursuant to complaints filed in 2019



Graph 5 The Commissioner's decisions pursuant to justified complaints



with the number of administration bodies obliged to act upon requests for access to information being much higher (11,083)

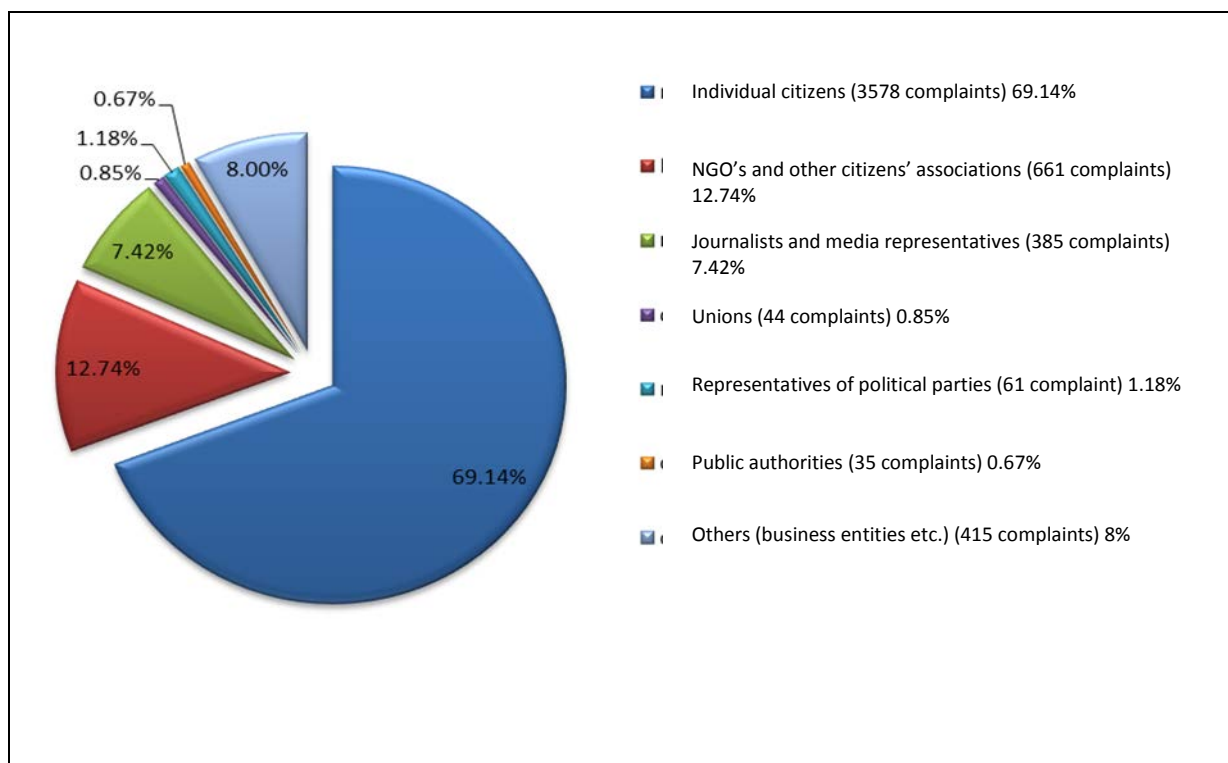
In 2019, regarding the complaints in a much larger number of cases (805) compared to 2018, the Commissioner ordered the authorities to submit the information to the information seeker.

Complainants, i.e. information seekers in 2019, in the largest number, as in 2018, were individual citizens and citizens' associations, and the number of their complaints is by 927 complaints or 34.85% higher than in the previous year. The number of complaints of lawyers and business entities has doubled, and the number of complaints of representatives of political parties has increased by 56.4%.

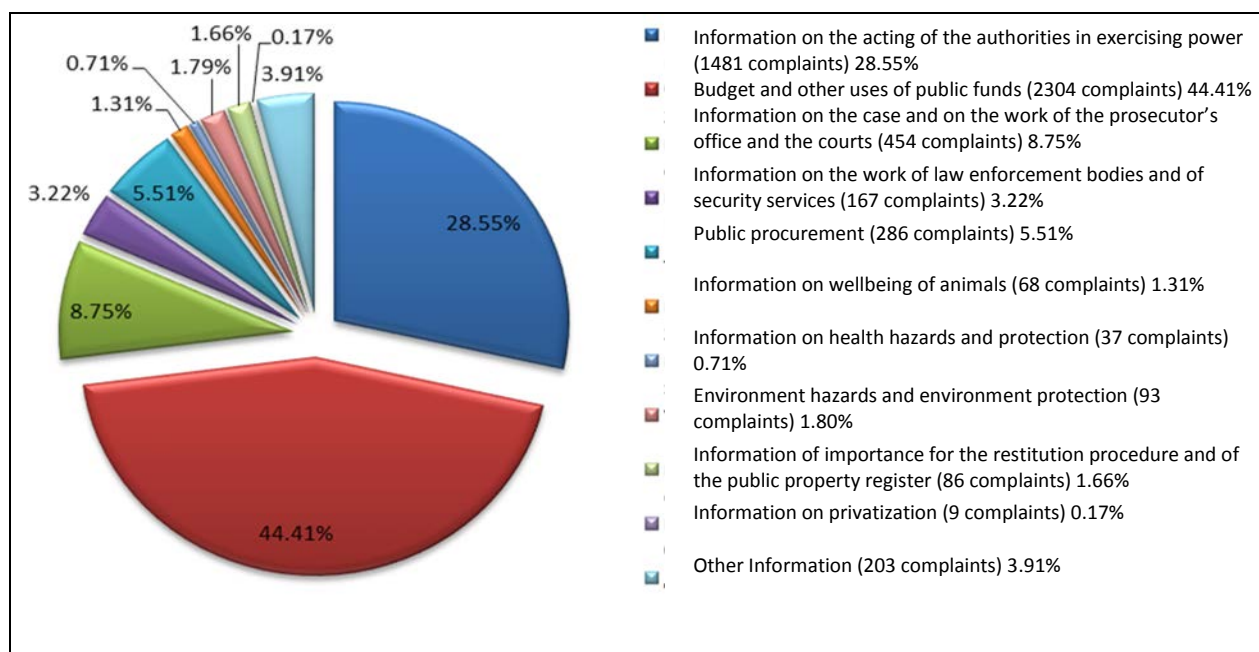
Journalists and media representatives filed 509 complaints with the Commissioner in 2019, which is by 156 complaints or 44.19% more than in 2018. The largest number of these complaints, 341 to be precise, were filed due to the so-called administrative silence.

A large percentage of orders in the Commissioner's decisions issued on complaints of journalists and media representatives to make information available remain unfulfilled. Of the 385 resolved complaints of journalists and media representatives, 109 ended with an order to provide information to the information seeker, which the authorities did not act upon in 57 cases or 52.29%, which is of particular concern, given the content of information that was the subject of their requests.

Graph 6 Complaints lodged with the Commissioner



The largest increase in the number of complaints in 2019 relates to the lack of information regarding the spending of budget funds and other spending of public funds, records of public property, restitution and the like by 1,545 complaints, which is almost twice (183.24%) more than in 2018. The number of complaints related to endangering and protecting the environment has also more than doubled.

Graph 7 Types of requested information that was the subject of complaints

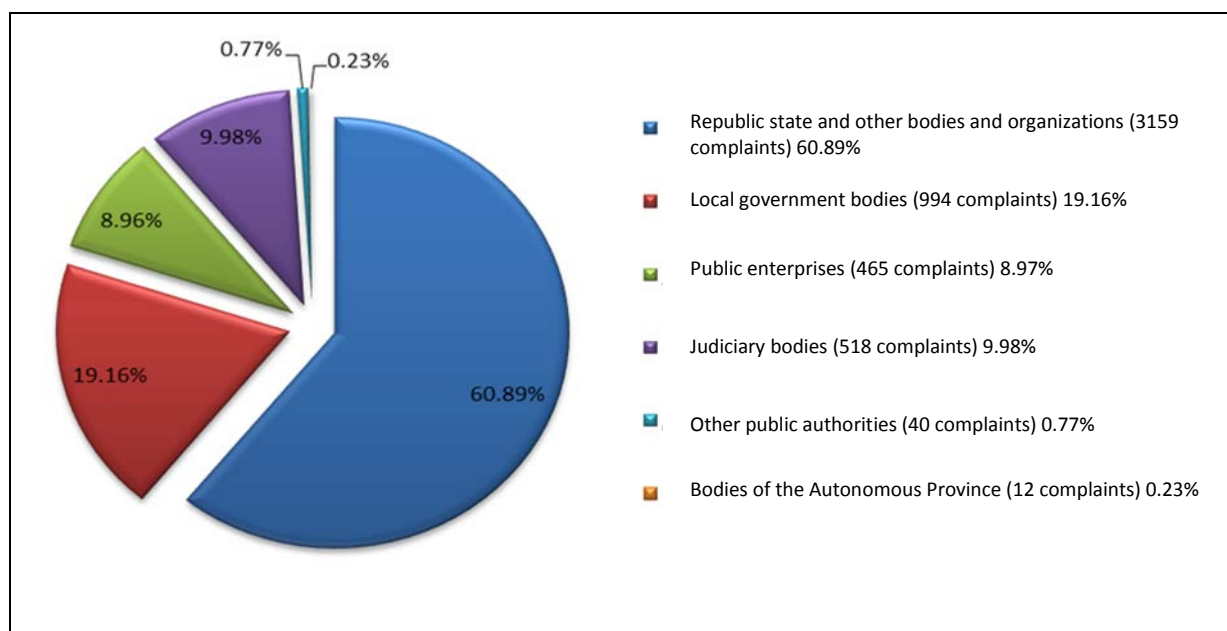
In the structure of complaints resolved in 2019, the largest number, more precisely 3,159 complaints or 60.89% are complaints against republican state and other bodies and organizations, of which 766 complaints (24.25%) were against ministries and their bodies. The number of complaints against republic bodies and organizations in 2019 increased by 71.13%.

An increase in the number of complaints was also recorded against public enterprises - by 4.73%, and a decrease in the number of complaints was recorded with the judiciary, local self-government bodies and provincial bodies. Of all the bodies, the least complaints were filed against the provincial authorities.

It is illustrative that about five thousand requests⁴⁴ were submitted to the judicial authorities in 2019, and that 519 complaints were filed against these bodies due to the violation of rights, i.e. one complaint for every tenth request, which indicates a significantly better treatment in relation to the general trend of acting on the requests of information seekers⁴⁵.

⁴⁴ Data of the bodies that submitted the report

⁴⁵ In 2019, a total of 25,416 requests were submitted to the authorities, and the number of filed complaints is 5,275

Graph 8 Number of complaints by types of authorities**Table 2. Overview of requests and complaints filed in 2018 against the ministries with bodies subordinate to them**

No.	Ministries	No. of requests	No. of complaints
1.	Ministry of Interior	1,275	365
2.	Ministry of Finance ⁴⁶	488	111
3.	Ministry of Agriculture, Forestry, and Water Management ⁴⁷	220	46
4.	Ministry of Justice ⁴⁸	289	55
5.	Ministry of Construction, Transport, and Infrastructure	178	20
6.	Ministry of Education, Science, and Technological Development	197	7
7.	Ministry of Defense ⁴⁹	129	41
8.	Ministry of Health	91	17
9.	Ministry of Economy ⁵⁰	94	10
10.	Ministry of Public Administration and Local Self-Government	130	16
11.	Ministry of Labour, Employment, Veteran and Social Policy ⁵¹	240	33

⁴⁶ The Free Zones Administration and the Administration for the Prevention of Money Laundering did not submit a report

⁴⁷ The Environmental Protection Agency did not submit a report

⁴⁸ The Directorate for the Administration of Seized Assets and the Department for Execution of Criminal Sanctions did not submit a report

⁴⁹ The University of Defense did not submit a report

⁵⁰ The Directorate of Measures and Precious Metals did not submit a report

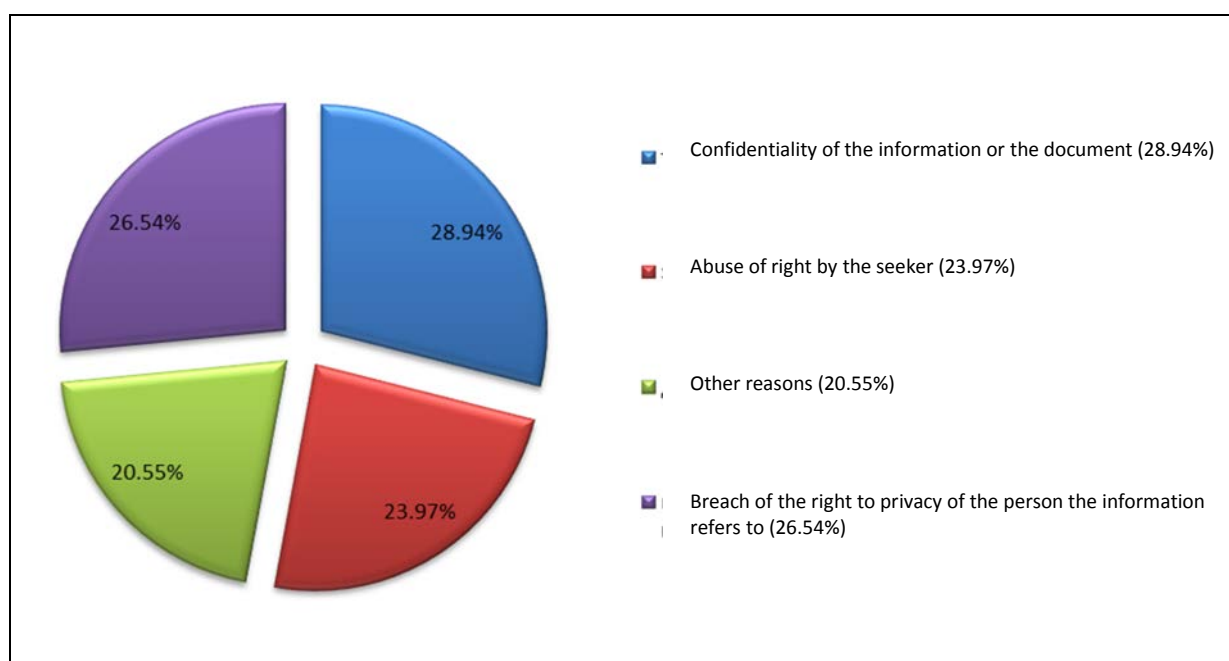
⁵¹ The Occupational Safety and Health Directorate did not submit a report

12.	Ministry of Trade, Tourism and Telecommunications	80	3
13.	Ministry of Culture and Information	47	2
14.	Ministry of Youth and Sport	39	6
15.	Ministry of Mining and Energy	52	11
16.	Ministry of Foreign Affairs ⁵²	21	8
17.	Ministry of Environmental Protection	176	13
18.	Ministry of European Integration	10	2
TOTAL		3,756	766 ⁵³

The data from the above table show that in 2019, for every 4.9 requests submitted to the ministries, the information seeker filed a complaint to the Commissioner due to lack of information. That ratio has been improving in recent years. For example, in 2016, one complaint was filed for every 9.5 requests, in 2017, one complaint was filed for every 7.7 requests, and in 2018, a complaint was filed for every 5.35 requests.

In the structure of republic bodies and organizations, the largest number of requests for access to information was submitted to the Ministry of Interior (1,275) and the Republic Geodetic Authority (1,735), as well as the number of complaints filed, 365 against this ministry and 126 against RGA.

Graph 9 Reasons for rejecting the requests filed by applicants

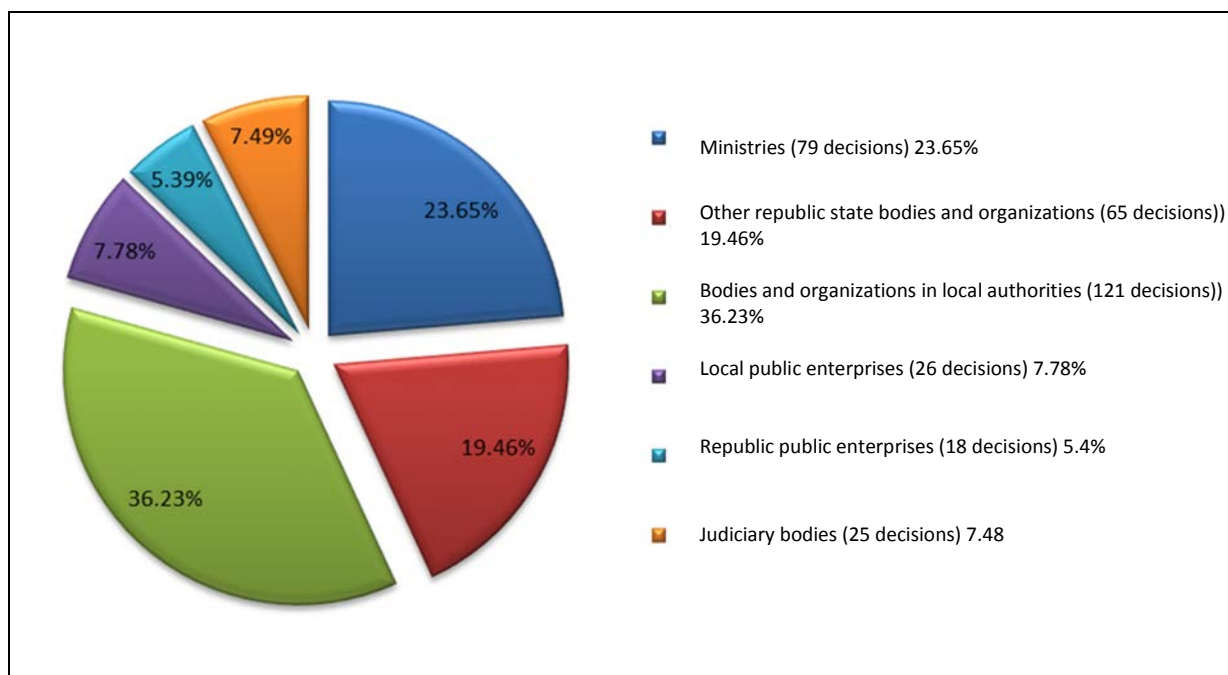


In 2019, in cases in which the decision rejected the requests of the information seekers as unfounded, the authorities more often invoked the violation of privacy and the right to protection of personal data than in 2018 (by 3.62%).

⁵² The Office for Cooperation with the Diaspora and Serbs in the Region did not submit a report

⁵³ The total number of complaints does not include three complaints filed against ministers without portfolios, which are formally not allowed

Graph 10 Number of Commissioner's unexecuted decisions passed in 2019 (334 of 2,155 passed decisions ordering to provide the access to information)⁵⁴



Of the 2,155 decisions made by the Commissioner on the complaints of information seekers, ordering the authorities to make information available to them, the authorities did not act in 334 cases, or 15.5%, which means that the degree of execution of the Commissioner's decisions averages to 84.5%.

This data shows that the level of acting according to the decisions of the Commissioner has increased on average in 2019 compared to the previous year by 14.2%, but it should be taken with a grain of salt. This is due to the fact that almost half of the Commissioner's decisions to make information available (1,149) referred to primary schools that received the same requests from the same information seekers and obviously due to previous experience and consequences in case of non-compliance with the requests, schools have acted on the decision, except in 26 instances. Without this unusual case with schools, the degree of execution of the Commissioner's decisions made in 2019 is much lower and amounts to 69.38%, approximately the same as in 2018.

The degree of execution of the Commissioner's decisions made on the complaints of journalists and media representatives, whereby the authorities were ordered to submit the requested information, is much lower than the average in relation to all information seekers. Thus, of the 385 resolved complaints of journalists and media representatives, 109 ended with an order to provide information to the information seeker, and the authorities did not act upon it in 57 cases, or 52.29%, which is of particular concern given the content of information that was the subject of their claims.

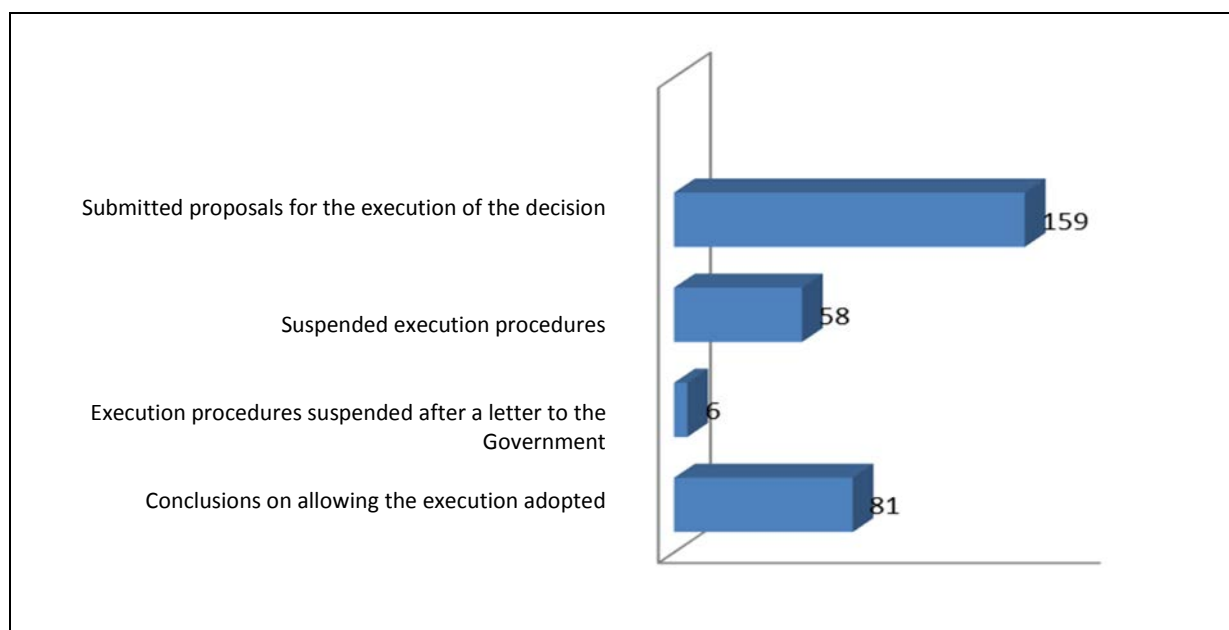
⁵⁴ An integral part of the Report is a Review of unexecuted decisions of the Commissioner adopted in 2019 as of 01/02/ 2020

3.2.2.2. Coerced execution of the Commissioner's decision

At the suggestion of the parties seeking information, in 2019, the Commissioner has initiated the enforcement proceedings for his decisions, but he could not enforce them by imposing fines for the reasons explained in the part of this report that deals with the situation and obstacles to exercising the rights. The proceedings ended with the submission of a request to the Government to ensure the execution of the decision, by direct coercion, as prescribed in Article 28, paragraph 4 of the Law on Free Access to Information. The Commissioner has submitted 52 requests to the Government for ensuring the execution in 2019, and he did not receive any feedback on that occasion. Based on the reports of the bodies and the information received from the parties, it is recorded that only in six cases, after addressing the Government, i.e. the Administrative Inspection, the Commissioner's decision was executed.

An overview of the measures taken is shown in the graphs below.

Graph 11 - Proposals for enforcement of the Commissioner's decision submitted in 2019 and measures taken



3.2.3. Protection of rights before the Administrative and other courts

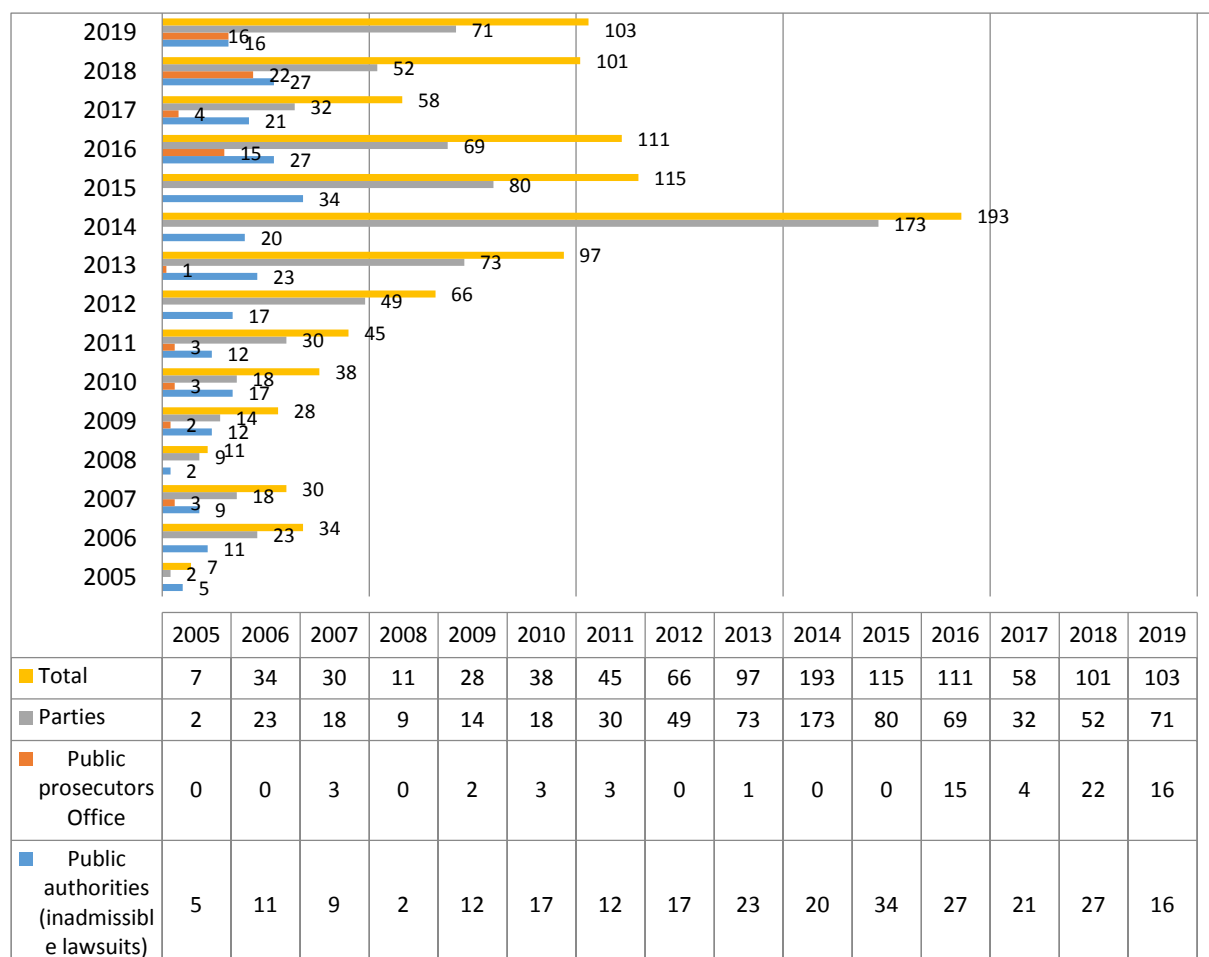
The judicial protection of the right to freedom of access to information **before the Administrative Court** in administrative disputes is ensured with regard to the legality of decisions of the Commissioner and the decisions of six bodies against which no appeal is allowed to the Commissioner and which are exempt from protection before the Commissioner (National Assembly, President of Serbia, The Supreme Court of Cassation of Serbia, the Constitutional Court and the Republic Public Prosecutors Office).

The right to file a lawsuit with the Administrative Court belongs to the party who is dissatisfied with the decision and the Republic Public Prosecutors Office, when the public interest is violated by the decision.

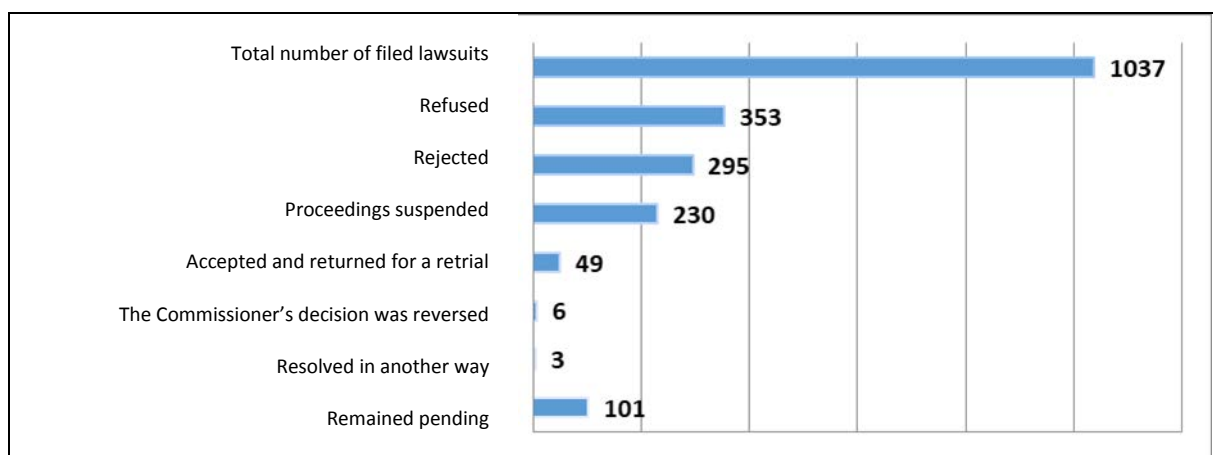
Against the final decision of the Administrative Court, the party and the competent public prosecutor may submit to the **Supreme Court of Cassation a request for a review of the court decision**. In 2019, 20 requests for review of the decisions of the Administrative Court were submitted to the Supreme Court of Cassation, of which 10 were resolved by rejecting 4 requests and refusing 6 requests.

In 2019, four constitutional appeals were submitted to the **Constitutional Court** against the decisions of the Commissioner, according to which the Court has not yet made a decision.

Graph 12 - Overview of lawsuits filed by information seekers to the Supreme or Administrative Court against the decisions of the Commissioner, in the period from 2005-2019

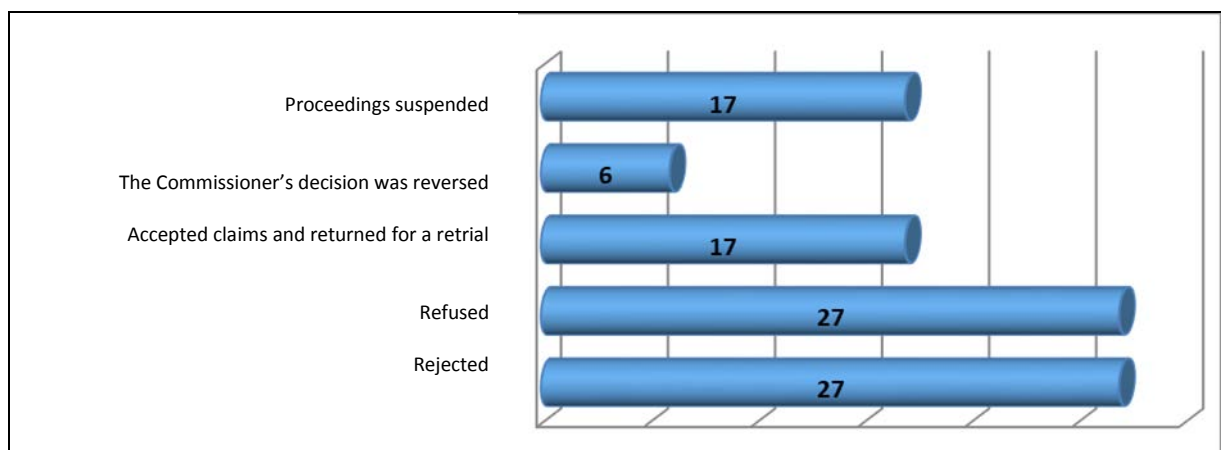


Graph 13 - Decisions of the Supreme or Administrative Court made on lawsuits against the decisions of the Commissioner, in the period 2005-2019



The above data show that since the beginning of the Commissioner's work, in court proceedings reviewing the legality of his decisions, in 936 resolved cases out of a total of 1,037 filed lawsuits, **94.13% or 881 decisions of the Commissioner have been confirmed by the court.**

Graph 14 - Overview of decisions of the Administrative Court made in 2019 on lawsuits against the decisions of the Commissioner



In 2019, 103 lawsuits were filed with the Administrative Court against the Commissioner. Of that number, 81 lawsuits were filed against the Commissioner's decision, and 22 lawsuits were filed by the parties on the grounds that the Commissioner did not make a decision on their appeal within the legal deadline.

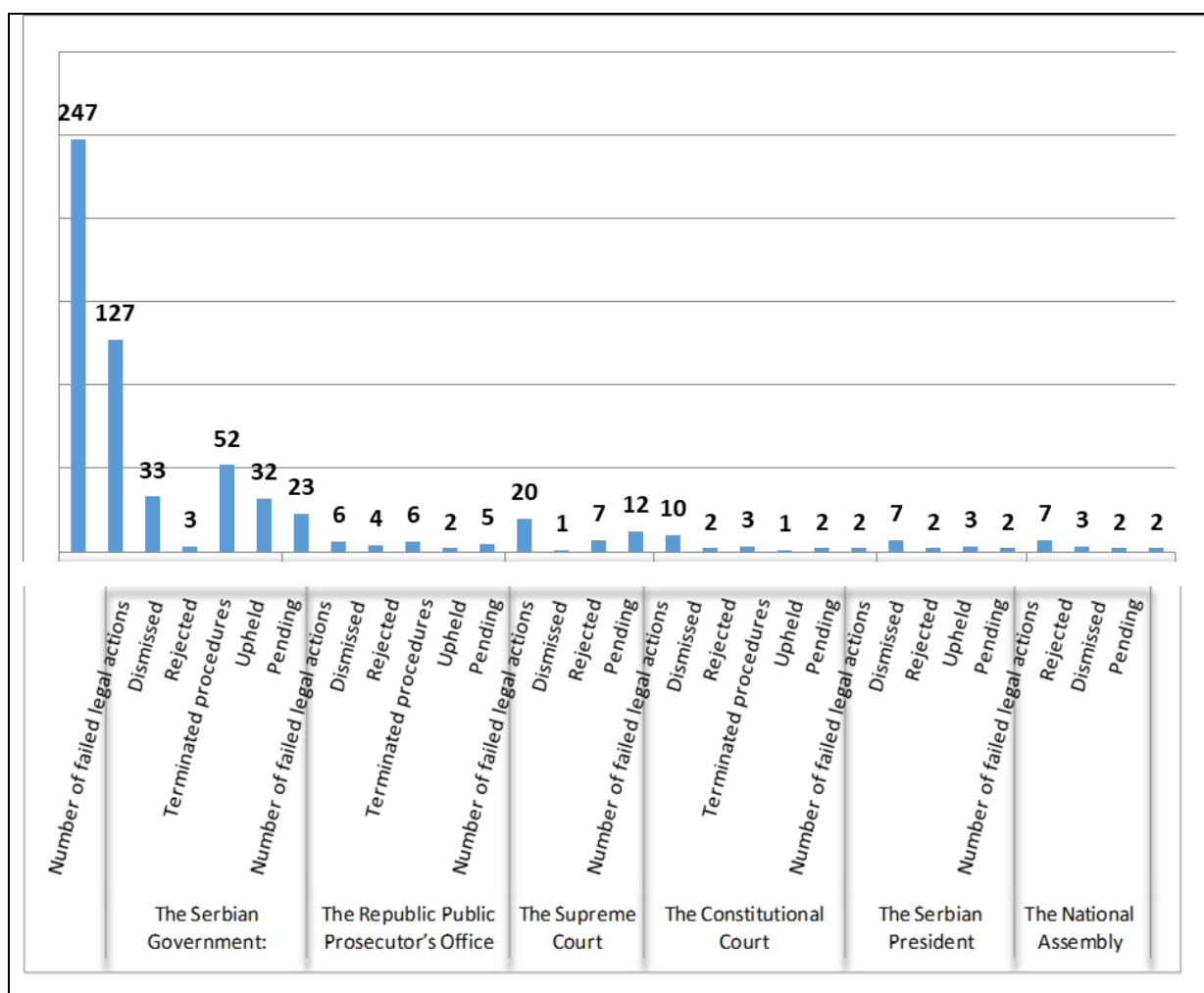
The plaintiffs against the Commissioner in 2019 were: the parties, i.e. information seekers (71), the Republic Public Prosecutor's Office (16) and the first instance bodies (16).

The graph shows an overview of the decisions of the Administrative Court in 2019 in lawsuits filed in that and in previous years. As in 2018, the reversed decisions of the Commissioner, which were annulled and returned for reconsideration, are mostly decisions against which the Republic Public Prosecutor's Office filed lawsuits and they relate to cases

in which the appellant is the Humanitarian Law Center (HLC) against the Ministry of Defense, which mostly requested information on the professional engagement of certain members of the Ministry of Defense in the Yugoslav Army during the conflict in Kosovo in 1999, as well as on their status today, i.e. movement in service in the Serbian Army (if they are still an active). More details on the arguments of the decisions of the Commissioner, i.e. the Administrative Court, are presented in the Annual Report of the Commissioner for 2018.

In these cases, the Commissioner has submitted requests to the Supreme Court of Cassation for a review of the decisions of the Administrative Court, and depending on the outcome of these proceedings, he will act in the pending cases.

Graph 15 - Review and outcome of lawsuits filed with the Supreme Court of Cassation, or the Administrative Court against decisions or for failure to act of the six highest state bodies against which no appeal is allowed to the Commissioner, for the period 2005-2019



The data show that in the period 2005-2019 a total of 314 lawsuits were filed with the Commissioner against the six highest state bodies against whose decisions no appeal was allowed, of which 261 lawsuits were resolved, so that 140 were rejected, 58 were upheld, 53 were rejected and 10 lawsuits were suspended.

The largest number of lawsuits was filed against the Government of the Republic of Serbia, 247, of which 215 lawsuits were resolved by refusing 127 lawsuits, 52 lawsuits were accepted, 33 were rejected and 3 proceedings were suspended.

In 2019, 22 lawsuits were filed with the Administrative Court against these authorities, of which only one was resolved. Lawsuits were filed against: 18 against the Government of the Republic of Serbia, of which 17 due to the so-called administrative silence, 3 against the Supreme Court of Cassation and 1 against the National Assembly.

In 2019, the Administrative Court resolved 21 lawsuits (one filed in 2019 and 20 from an earlier period⁵⁵) as follows:

- upheld 6 lawsuits filed against the Government;
- refused 6 lawsuits, 5 of which were filed against the Government, and one against the National Assembly;
- rejected 9 lawsuits, 8 of which were filed against the Government, and one against the President of the Republic.

3.2.4. Execution of legal obligations of government bodies, supervision and responsibility

The level of implementation of the legal obligation regarding the employee training regarding the application of the Law on Access to Information of those authorities that have a legal obligation to submit an annual report to the Commissioner has slightly improved in 2019 compared to the previous year, while the level of implementation of publishing the Information Booklet has slightly dropped. The activities carried out by the Commissioner during the year in that area have contributed to the higher level of implementation of the training of civil servants. The submission of reports by the authorities has slightly improved, although the Commissioner has facilitated this procedure by creating a special portal for submitting reports in electronic form, so the reasons for non-fulfillment of this legal obligation should be sought in the absence of responsibility for ignoring it for many years. The analysis of data only for administrative bodies and special organizations shows that in these bodies the observance of the stated legal obligations is at a higher level than the general situation at the level of all bodies that are subject to these legal obligations.

⁵⁵ Report of the Administrative Court Su III-20 21/19

Table 3. Data from the reports of government bodies in a broader sense (bodies referred to in Article 3, paragraph 1, item 1) of the Law on Free Access to Information, on the implementation of legal obligations

Data on the implementation of public authorities' obligations (cross-section 01/02/2020)

Public authority	Number of public authorities	Report submitted Number and %	Information booklet published number and %	Information booklet prepared but not published number and %	Training carried out Number and %	Maintenance of information medium. number and %
Authorities referred to in Article 22 of the Law (the National Assembly, the President, the Supreme Court of Cassation, the Constitutional Court, the Government, and the Republic Public Prosecutor)	6	4 ⁵⁶ (66.66%)	3 (50%)	1 ⁵⁷ (16.66%)	3 (50%)	4 (66.66%)
Ministries (without bodies subordinate to them)	18	18 (100%)	18 (100%)	/	16 (88.88%)	17 (94.44%)
Other public authorities and organisations (agencies, directorates, institutes, funds, chambers...)	306	179 (58.5%)	104 (33.4%)	48 (15.7%)	147 (48%)	170 (55.5%)
Courts	158	116 (73.41%)	98 (62%)	17 (11%)	99 (62.6%)	111 (70.2%)
Prosecutors' Offices	89	50 (56.2%)	41 (46%)	8 (9%)	42 (47.2%)	45 (50.6%)
Authorities and organisations of the Autonomous Province of Vojvodina	42	25 (59.5%)	22 (52.4%)	2 (4.8%)	21 (50%)	24 (57.1%)
Local self-governments (cities/towns and municipalities and their organisations)	1,045	412 (39.4%)	389 (37.2%)	18 (1.7%)	315 (30.1%)	403 (38.6%)
Public companies (Republic and Provincial level) required to submit reports	32	18 (56.25%)	15 (46.9%)	1 (3.1%)	15 (46.9%)	17 (53.1%)
Other public authorities (educational institutions)	2,117	416 (19.6%)	170 (8%)	144 (6.8%)	331 (15.6%)	399 (18.8%)
Total	3,813	1238 (32.47%)	860 (22.5%)	239 (6.3%)	989 (25.9%)	1,190 (31.2%)

⁵⁶ The 2019 report was not submitted to the Commissioner by the National Assembly of the Republic of Serbia and by the President of the Republic of Serbia

⁵⁷ Data from the Report of the Republic Public Prosecutor's Office, although RPPO has published the Information Booklet on its website, but the data are not updated

Table 4. Data from the report of the public administration authorities on the implementation of obligations

Public authority	Number of public authorities	Report submitted Number and %	Information booklet published number and %	Information booklet prepared but not published number and %	Training carried out Number and %	Maintenance of information medium. number and %
Ministries (without bodies subordinate to them)	18	18 (100%)	18 (100%)		16 (88.88%)	17 (94.44%)
Other public authorities and organisations (agencies, directorates, institutes, funds)	306	179 (58.5 %)	104 (33.4 %)	48 (15.7 %)	147 (48 %)	170 (55.5 %)
Total	324	197 60.80 %	122 37.65%	48 14.81 %	163 50.31 %	187 57.72%

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government is responsible for supervising the implementation of the Law on Free Access to Information, has informed⁵⁸ the Commissioner that administrative inspectors have carried out 227 inspections on the application of regulations on free access to information of public importance and that “the supervised bodies were proposed 72 measures to eliminate the established illegalities, irregularities and shortcomings in their work”. Also, the Report of the Administrative Inspectorate states that the Administrative Inspection “acted on 499 decisions made by the Commissioner in the procedure upon the complaint of the information seeker”, which were submitted to that body. The outcome and effects of the listed measures are not presented in the Report of the Administrative Inspectorate.

The Report of the Administrative Inspectorate states that in 2019, that body submitted a request for initiating misdemeanor proceedings due to violation of rights or non-fulfillment of prescribed obligations of the authorities regarding the application of the Law on Free Access to Information, which leads to the conclusion that non-compliance with these legal obligations remains without responsibility.

According to the data of the misdemeanor courts in Serbia, which have submitted data to the Commissioner, **these courts had a total of 4,906 requests for initiating misdemeanor proceedings for violation of the right to access information⁵⁹ in 2019**, with **4,903 requests** submitted by information seekers as **injured parties** and there are three requests submitted by the Administrative Inspection in 2018 and 2019.

⁵⁸ Report of the Administrative Inspectorate no. 021-02-28/2019-01 from 17/01/2020

⁵⁹ Requests from the previous period that have not been resolved are also included

Table 5. Overview of the request for initiating misdemeanor proceedings for misdemeanors from the Law on Access to Information and the outcome before the first instance courts for misdemeanors from 2019

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Belgrade	Injured party	Article 46	1943	31 ⁶¹	15	21	85	78	50	437
		Article 47								
		Article 48	8	1			1			3
	Administrative Inspectorate	Article 46			1					
		Article 47								
Požega	Injured party	Article 46	53	1 ⁶²						16 ⁶³
Prokuplje	Injured party	Article 46	2							
Užice	Injured party	Article 46	44							
Požarevac	Injured party	Article 46	75	21 ⁶⁴	6		1			

⁶⁰ Fines: 27 of 10,000, 3 of 20,000 and 1 of 25,000 dinars

⁶¹ Fines: 27 of 10,000, 3 of 20,000 and 1 of 25,000 dinars

⁶² 5,000 dinars

⁶³ 15 cases joined during the resolution and 1 - incompetence

⁶⁴ 5,000 dinars

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Gornji Milanovac	Injured party	Article 46	16		2					10 ⁶⁵
Jagodina	Injured party	Article 46	124	1 ⁶⁶		1				64 ⁶⁷
Zaječar	Injured party	Article 46	8		1					7 ⁶⁸
Sombor	Injured party	Article 46	112	2 ⁶⁹						
Niš	Administrative Inspectorate	Article 46	1							
	Injured party	Article 46	165	2 ⁷⁰				2		
Kragujevac	Injured party	Article 46	178	7 ⁷¹						79 ⁷²

⁶⁵ Local incompetence τ

⁶⁶ 5,000 dinars

⁶⁷ Local incompetence - transfer to the Misdemeanor Court in Belgrade

⁶⁸ Merged during the proceedings

⁶⁹ 5,000 dinars

⁷⁰ 10,000 and 7,000 dinars

⁷¹ 6 of 5,000 and 1 of 7,000 finars

⁷² Merged during the proceedings и 11 месна ненадлежност- уступљено Прекршајном суду у Београду

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Preševo	Injured party	Article 46	14	14 ⁷³						
Bečej	Injured party	Article 46	30							
Pančevo	Injured party	Article 46	96	3 ⁷⁴		1				
Negotin	Injured party	Article 46	41	2 ⁷⁵				1		3 ⁷⁶
Trstenik	Injured party	Article 46	27							22
Šabac	Administrative Inspectorate	Article 46	1							
	Injured party	Article 46	42	3 ⁷⁷		1	1			
Vršac	Administrative Inspectorate	Article 46	1							
	Injured party	Article 46	46		2					

⁷³ 13 of 5,000 and 1 of 10,000 dinars

⁷⁴ 5,000 dinars

⁷⁵ 60,000 and 75,000 dinars

⁷⁶ Merging of the proceedings

⁷⁷ 5,000 dinars

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Kraljevo	Injured party	Article 46	95		1			8		63 ⁷⁸
Subotica	Injured party	Article 46	70 ⁷⁹					1		
Paraćin	Injured party	Article 46	2							
Arandjelovac	Injured party	Article 46								
Kikinda	Injured party	Article 46	54 ⁸⁰							
Zrenjanin	Injured party	Article 46	72		1			2		36 ⁸¹
Senta	Injured party	Article 46	32							
Novi Pazar	Injured party	Article 46	51	17 ⁸²				2		

⁷⁸ Local incompetence⁷⁹ 36 proceedings initiated⁸⁰ 1 proceeding initiated⁸¹ Merging of the proceedings⁸² 1 of 12,000, 1 of 10,000, 2 of 7,000, 2 of 6,000, 11 of 5,000 dinars

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Obrenovac	Injured party	Article 46	28 ⁸³							3 ⁸⁴
Sjenica	Injured party	Article 46	2	2 ⁸⁵						
Kruševac	Injured party	Article 46	29	18 ⁸⁶	1	1		1		1 ⁸⁷
Pirot	Injured party	Article 46	55	21 ⁸⁸	6	1				4 ⁸⁹
Vranje	Injured party	Article 46	609 ⁹⁰	4 ⁹¹	2	7	369	115	32	
Lazarevac	Injured party	Article 46	2							
Smederevo	Injured party	Article 46	83	4 ⁹²	1	1				13

⁸³ Of the submitted requests, 23 misdemeanor proceedings were initiated

⁸⁴ Local incompetence

⁸⁵ 5,000 dinars

⁸⁶ 2 of 5,000 and 16 of 10,000 dinars

⁸⁷ Incompetence

⁸⁸ 20 of 5,000 and 1 of 10,000 dinars

⁸⁹ Merged

⁹⁰ 240 misdemeanor proceedings were initiated

⁹¹ 5,000 dinars

⁹² 3 of 5,000 and 1 of 65,000 dinars

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
Valjevo	Injured party	Article 46	118			4	4	11		11 ⁹³
Prijepolje	Injured party	Article 46	28	2 ⁹⁴						17
Ruma	Injured party	Article 46	100		2			1		
Leskovac	Injured party	Article 46	91		2					7 ⁹⁵
Čačak	Injured party	Article 46	148	1 ⁹⁶		1				105 ⁹⁷
Sremska Mitrovica	Injured party	Article 46	121	2 ⁹⁸						
Novi Sad	Injured party	Article 46	89 ⁹⁹			1	1			2 ¹⁰⁰
Total	Injured party	Article 46	4895	158	42	40	461	222		900

⁹³ Local incompetence⁹⁴ 1 of 10,000 and 1 of 6,000 dinars⁹⁵ Merged during the proceedings⁹⁶ 75,000 dinars⁹⁷ Merged during the proceedings⁹⁸ 2 of 5,000 dinars⁹⁹ 22 proceedings initiated¹⁰⁰ Local incompetence

Misdemeanor court	Information seeker	Legal qualification	No. of submitted requests	Conviction ⁶⁰	Warning	Suspension	Refusal	Acquittal	Suspension statute of limitations	Resolved in another way
		Article 47								
		Article 48	8	1			1			3
	Administrative Inspectorate	Article 46	3		1 ¹⁰¹					
		Article 47								

¹⁰¹ Transferred from the previous period, and resolved in 2019

The misdemeanor courts that did not have the requests for initiating misdemeanor proceedings submitted either by the Administrative Inspectorate or by the information seekers are: Arandelovac, Loznica, Mladenovac and Raška.

The data from the table show that the misdemeanor courts have imposed fines in the total amount of RSD 936,000 for misdemeanors from the Law on Free Access to Information, as follows: 94 of 5,000, 3 of 6,000, 4 of 7,000, 48 of 10,000, 1 of 12,000, 3 of 20,000, 1 of 25,000, 1 of 60,000, 1 of 65,000, and 2 of 75,000, which means that the largest number of imposed fines is in the amount of the legal minimum, i.e. closer to the lower limit of fines from the Law on Free Access to Information, prescribed in the range of RSD 5,000 to 50,000.

Table 6. Overview of the data of the Misdemeanor Court of Appeals on resolving appeals in 2019

Information seeker	Legal qualification	No. of appeals filed	Conviction ¹⁰²	Warning	Suspension	Refusal	Acquittal	Suspension due to statute of limitations	Decision revoked and returned for retrial	Resolved in another way
Appellant	Article 46-48	590	73		4	146	115	36	171	5

¹⁰² The Court's report does not contain information on the type and amount of fines, i.e. whether it is a warning or a fine, and what the amounts of the fines are

According to the data of the Misdemeanor Court of Appeals, in 2019, that court has decided in 550 cases on appeals against the decisions of misdemeanor courts in the matter of freedom of access to information, and 40 cases are pending. The Court has ruled on the appeals as follows: 327 decisions were upheld, as follows: 112 acquittals, 72 first instance convictions, 4 on the suspension of the proceedings and 139 on the dismissal of the request; **45 decisions were reversed:** a total of 36 decisions were suspended due to the statute of limitations (18 acquittals, 5 convictions, 7 suspensions, 6 on rejection of the request) and 9 decisions were reversed in another way (3 from convicting to acquitting, 1 from acquitting to convicting and 5 regarding legal qualification of the act, due to the death of the party or the withdrawal of the information seeker); **171 decisions** on appeals against decisions of misdemeanor courts **were revoked** (77 dismissals, 58 acquittals, 20 convictions and 16 suspensions) and **7 appeals** against first instance decisions were **rejected**.

The above data show that the Misdemeanor Court of Appeals largely (47.45%) upheld the acquittals of misdemeanor courts and the decisions rejecting requests, and that the number of convictions is 13.27% of the total number of resolved cases on appeals for violation of the right to access information.

3.2.5. Activities of the Commissioner in connection with the publication of the Information Booklet

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government is responsible for supervising the implementation of the Law on Free Access to Information, has informed the Commissioner that administrative inspectors have carried out 227 inspections on the application of regulations on free access to information of public importance and that "the supervised bodies were proposed 72 measures to eliminate the established illegalities, irregularities and shortcomings in their work". Also, the Report of the Administrative Inspectorate states that the Administrative Inspection "acted on 499 decisions made by the Commissioner in the procedure upon the complaint of the information seeker", which were submitted to that body. The outcome and effects of the listed measures are not presented in the Report of the Administrative Inspectorate.

The Report of the Administrative Inspectorate states that in 2019, that body submitted a request for initiating misdemeanor proceedings due to violation of rights or non-fulfillment of prescribed obligations of the authorities regarding the application of the Law on Free Access to Information, which leads to the conclusion that non-compliance with these legal obligations remains without responsibility.

According to the data of the misdemeanor courts in Serbia, which have submitted data to the Commissioner, these courts had a total of 4,906 requests for initiating misdemeanor proceedings for violation of the right to access information in 2019, with 4,903 requests submitted by information seekers as injured parties and there are three requests submitted by the Administrative Inspection in 2018 and 2019.

In accordance with the provisions of the Law on Free Access to Information and the Instruction for the preparation and publication of the Information Booklet on the work of state bodies (Official Gazette of RS, No. 68/10), the obligation to proactively publish information implies the development and publication on the official website of the Information Booklet on the work of state bodies. Publishing the Information Booklet, with the obligation to regularly update the data (at least once a month) aims to make available to

the citizens, media, authorities and other users, the most important information about the work of the body, about the staff and other capacities of the body, its organization, competencies, means of work, spending of public funds, salaries, state aid, subsidies, donations, on international and other projects and their implementation, public procurement, types of services provided by the body and procedures for exercising rights, of public funds in case of negative outcome of the proceedings before the authorities about the types of information available to the authority and others.

In the process of monitoring the compliance with the legal obligation to publish the Information Booklet, the Commissioner has reviewed the Information Booklet of the courts of general jurisdiction in 2019, namely: basic, higher and appellate courts, in accordance with the work plan.

It was determined that all courts have their own web site they actively use, as well as that the reviewed Information Booklets mostly contain all mandatory parts, have a good structure and are largely in line with the Instructions for drafting and publishing the Information Booklets of state bodies.

Checking the situation in 2019, it was determined that of a total of 95 courts of general jurisdiction in Serbia¹⁰³, to which the Commissioner has pointed out certain shortcomings and ordered them to be eliminated, 26 courts have acted upon the order and have updated and supplemented the data, i.e. eliminated deficiencies. **Only one court, the High Court in Belgrade, has written the Information Booklet in accordance with the law, without the intervention of the Commissioner.** This Information Booklet was regularly updated and in a timely manner, it contains all the obligatory parts provided for in item 19 of the Instruction, it is comprehensive and reviewed, and there was no basis for the Commissioner to take measures.

Despite significant progress in quantitative terms, the quality of the published Information Booklets unfortunately still deviates from the prescribed standards, the Information Booklets on the work of the bodies in most cases have not been updated or certain data are missing.

The shortcomings of the Information Booklets of the courts of general jurisdiction are, to the greatest extent, reflected in the following:

- the data in the Information Booklet **are not updated regularly, in accordance with the Instructions, so they do not meet the condition of reliability;**
- the **overview of data on provided services is most often lacking;**
- **data on revenues and expenditures**, in which data on the budget are either lacking, or incomplete;
- **data on conducted public procurements;**
- data on **paid salaries, wages and other incomes** are presented in a very small number of cases;
- **descriptions of activities within the competencies, authorities and obligations** are missing;

¹⁰³ In the total number of 96 courts of general jurisdiction in Serbia (66 basic, 25 higher, 4 appellate and the Supreme Court of Cassation), the Supreme Court of Cassation, which belongs to the category of six highest authorities from Article 22, para. 2. of the Law, in relation to which the Commissioner does not have the authority to take measures under Art. 25 of the Act.

- also the **services provided by the body to interested persons, as well as the procedure for providing services.**

From the point of view of achieving the purpose of the Law and publishing the Information Booklets, the biggest mistake is still the one of publishing incorrect information regarding the exercise of the right to access information. The majority of the courts have stated that the Information seeker has no right to appeal against the conclusion rejecting the information seeker's referral as irregular, which is not in accordance with the Law¹⁰⁴.

After sufficient time had elapsed to remedy the deficiencies, **the Commissioner has conducted a new analysis of the court Information Booklets and found that all the courts to which the warning had been issued had in the meantime acted upon it and have completely remedied the deficiencies pointed out to them.** These are: the Court of Appeals in Belgrade, the Court of Appeals in Novi Sad, the Court of Appeals in Nis, the High Court in Pančevo, the High Court in Pirot, the High Court in Negotin, the High Court in Smederevo, the High Court in Šabac, the High Court in Sremska Mitrovica, High Court in Kruševac, High Court in Jagodina, High Court in Valjevo, High Court in Sombor, High Court in Požarevac, Basic Court in Sombor, Basic Court in Požarevac, Basic Court in Užice, Basic Court in Lebane, First Basic Court in Belgrade, Second Basic Court in Belgrade, Third Basic Court in Belgrade, Basic Court in Zaječar, Basic Court in Veliko Gradište and Basic court in Despotovac.

Having in mind all the above, the conclusion is that the scope of compliance with the obligation to publish the Information Booklets in accordance with the Law and with the Instructions is generally at a satisfactory level, with a noticeable improvement in the timeliness of certain mandatory parts, after the measures taken by the Commissioner.

Having in mind that maintaining the quality of the Information Booklet and a proactive disclosure of information requires continuous monitoring and taking measures, which is almost impossible, given the capacity of the Commissioner and the number of bodies subject to this legal obligation, it is very important to adopt amendments to the Law on Free access to information, in accordance with the initiative of the Commissioner, and then with the Instructions of the Commissioner. These changes would establish the publication of the Information Booklets of state bodies in digital form, on a common electronic platform, which should lead to a greater degree of transparency, comparability and greater usefulness of data, as well as easier monitoring of the implementation of this legal obligation.

The recognition for the best Information Booklet on the work of a state body in 2019 by the Commissioner, i.e. the jury for awarding recognition for the contribution to freedom of access to information, on the occasion of the International Day of Public Knowledge, was awarded to the Ministry of Public Administration and Local Self-

¹⁰⁴ According to Art. 22. paragraph 1, item 1) of the Law on Free Access to Information of Public Importance, the information seeker may file a complaint to the Commissioner if the authority refuses or rejects the information seeker's request, and according to item 40, par. 3. sub-item 9 of the Instruction, the obligation of the state body is to enter in the part of the Information Booklet, "Information on submitting a request for access to information" that the information seeker has the right to appeal, i.e. the right to initiate an administrative dispute, to the conclusion rejecting the request.

Government. In this ministry, there is noticeable continuity in the quality of fulfilling the obligation to publish and update the Information Booklet.

3.3. Activities of the Commissioner regarding the protection of personal data

3.3.1. Acting of the Commissioner in performing supervision

In 2019, the Commissioner has completed a total of 701 inspections, of which 434 were initiated in 2019, and 267 were initiated in the previous period. The number of supervision procedures initiated in 2019 is about 50% less than in 2018. The reason for this is that on the day the new LPDP came into force (November 21, 2018), the Central Registry of Data Collections ceased to be kept, which has directly caused the Commissioner to initiate and complete a significantly smaller number of supervision procedures over controllers during 2019, regarding their the obligation to enter personal data collections in the Central Registry under the old LPDP. (In contrast, the provisions of the old LPDP, which regulate the obligations of controllers regarding the announcement of the establishing new personal data collections, remained in force until the new LPDP became applicable, until August 22, 2019).

The Commissioner has completed 701 inspections, of which 21 inspections were initiated under the new LPDP, and the remaining 680 under the old LPDP. All supervision procedures were completed as follows: 487 cases were completed by determining that the controllers had acted according to the previously conducted supervision (of which 12 cases were initiated under the new LPDP); 141 the case ended with a notification under Art. 50 of the old LPDP because it was determined that there were no irregularities, 47 cases were terminated by an official note because it was determined that there were no violations of LPDP, i.e. there were no elements for conducting inspection procedures (of which 8 cases were initiated under the new LPDP); 23 cases were completed by submitting a request for initiating misdemeanor proceedings (of which 1 case was initiated under the new LPDP) and 3 cases were completed by submitting criminal charges.

In cases where it found that the provisions of the LPDP (792) had been violated, the Commissioner has:

- issued 264 warnings,
- passed 5 decisions,
- submitted 23 requests for initiating misdemeanor proceedings due to violation of the LPDP (of which 1 request was submitted in the supervision initiated under the new LPDP),
- filed 2 criminal charges,
- passed 6 corrective measures in which he issued warnings to controllers (supervision initiated under the new LPDP).

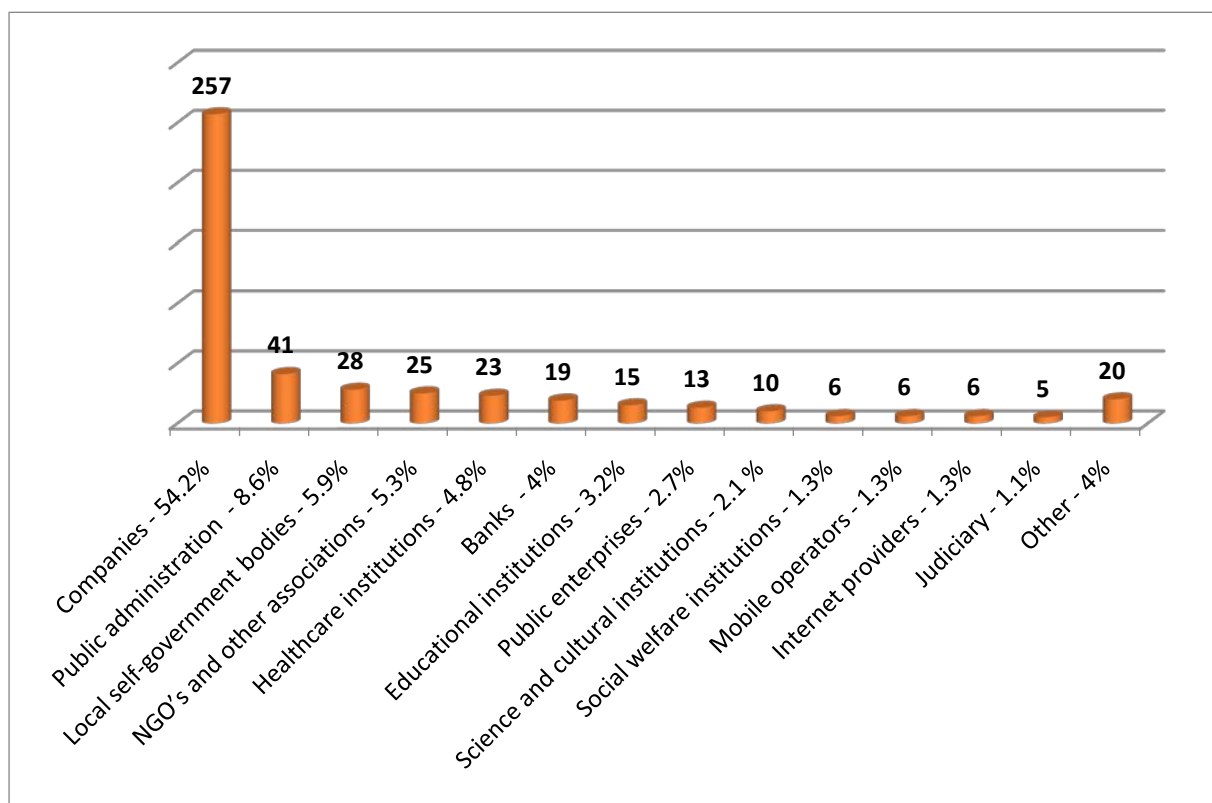
In 2019, the Commissioner initiated 474 supervision procedures. Of that number, 58 procedures were initiated under the new LPDP, of which 6 regular and 52 extraordinary supervision. The 52 extraordinary supervisions in question were initiated in 43 cases upon petition, 2 upon the warning of the competent authority, 2 at the request of the supervised entity and 5 on another basis.

The supervisions initiated under the old LPDP (416) were initiated in 282 cases on the occasion of the controller notifying of the intention to process data, in 89 cases upon a report and in 45 cases on their own initiative.

The structure of the controllers over whom the Commissioner initiated the supervision procedure during 2019 is very similar to the one from 2018. Namely, companies are still the controllers over which the Commissioner has initiated more supervision procedures than over all other controllers combined.

The controllers over whom the Commissioner initiated the supervision procedure in 2019 (474) are: companies (private companies and entrepreneurs) - 257 (54.2%), state administration - 41 (8.6%), local self-government bodies 28 (5.9%), NGOs and other citizens' associations - 25 (5.3%), healthcare institutions - 23 (4.8%), banks 19 (4%), educational institutions - 15 (3.2%), public enterprises - 13 (2.7%), institutions in the field of science and culture - 10 (2.1%), social protection institutions - 6 (1.3%), mobile controllers - 6 (1.3%), internet providers - 6 (1.3%), institutions in the field of justice - 5 (1.1%), and other 20 (4.2%).

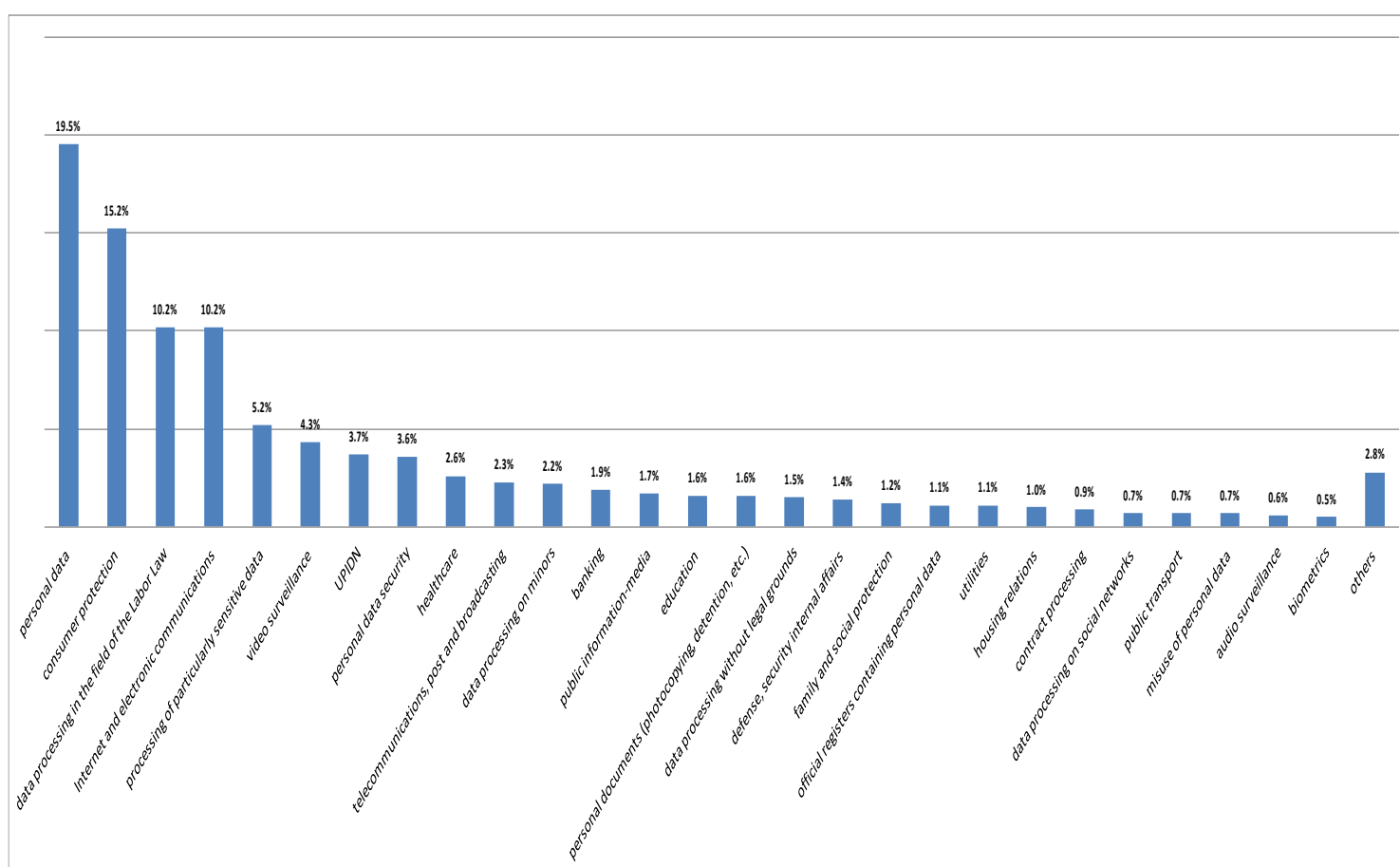
Graph 16 - Controllers over whom the Commissioner has initiated the supervision procedure in 2019



The most common reason for initiating the supervision procedure in 2019 was the use of personal data (name, family name, address) contrary to the law, unlike in 2018, when the most common reason was the processing of data in the field of the Labor Law. The reasons for initiating the supervision procedure in 2019 were: personal data (name,

family name, address) (19.1%), consumer protection (14.8%), data processing in the field of the Labor Law (10%), Internet and electronic communications (10%), processing of particularly sensitive data (5.1%), video surveillance (4.2%), UPIDN (3.6%), personal data security (3.5%), healthcare (2, 5%), telecommunications, post and broadcasting (2.3%), data processing on minors (2.2%), banking (1.8%), public information-media (1.7%), education (1, 6%), personal documents (photocopying, detention, etc.) (1.6%), defense, security internal affairs (1.3%), family and social protection (1.2%), official registers containing personal data (1.1%), utilities (1.1%), housing relations (1 %), contract processing (0.8%), data processing on social networks (0.7%), public transport (0.7%), misuse of personal data (0.7%), audio surveillance (0.6%) , biometrics (0.5%) and others (2.7%).

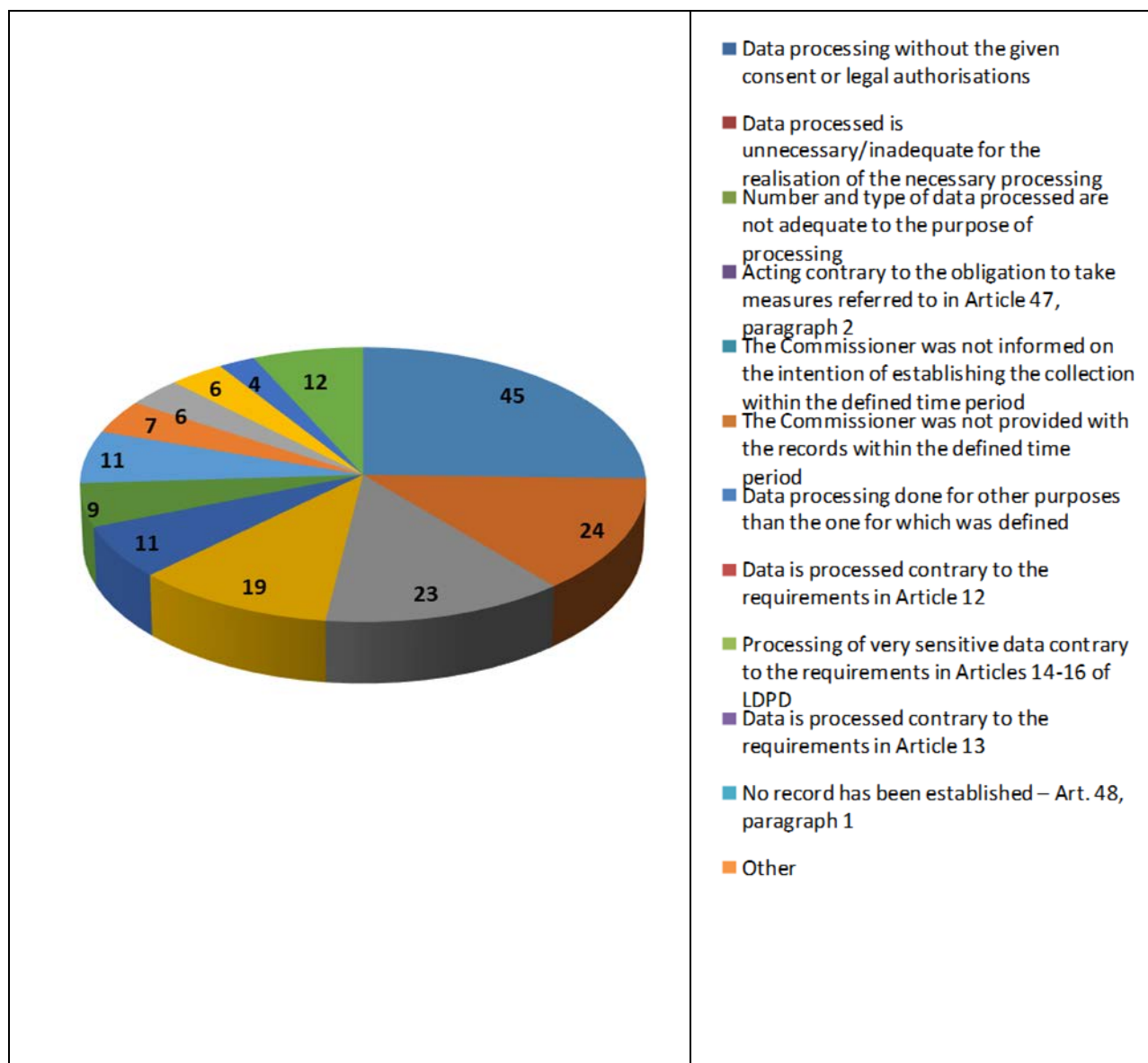
Graph 17 - The most common reasons for initiating the supervision procedure in 2019



After the supervision procedure, the Commissioner has issued a warning in 264 cases after establishing the violations of the law, of which 177 warnings under Art. 50 of the old LPDP (preliminary inspection of processing operations) and 87 warnings under Art. 56 of the old LPDP (authority of the Commissioner to take certain measures after he found violations of the law in the supervision).

On this occasion we would like to particularly stress the 87 warnings issued under Art. 56 of the old LPDP, in which 177 irregularities were identified, which means that in certain cases the Commissioner has established one or more violations of the law.

Graph 18 - The most common irregularities identified by irregularities under Art. 56, par. 1 o the old LPDP



During the reporting period, of 177 warnings issued under Article 50 of the old LPDP, 159 of them were acted upon, 3 warnings were partially acted, i.e. the percentage of actions was 91.5%, 14 warnings were not acted upon, and the acting is ongoing upon one warning. Of 87 warnings issued under Article 56 of the old LPDP, 79 warnings were acted upon, 3 warnings were partially acted upon, i.e. the percentage of actions was 94.3%, 3 warnings were not acted upon, and the acting is ongoing upon the remaining 2 warnings.

During the reporting period, the Commissioner issued 5 decisions, as follows: 1 decision on the deletion of collected data and temporary ban on processing, 2 decisions on elimination of irregularities within a certain deadline, 1 decision on temporary ban on processing and 1 decision on temporary ban on processing and elimination of irregularities within a certain deadline. With these decisions, the Commissioner has ordered 7 measures, as follows: in one case he ordered the deletion of data collected without a legal basis, in 3 cases

he ordered a temporary ban on processing contrary to the provisions of the LPDP and in 3 cases he ordered the irregularities to be eliminated within a certain deadline.

By the end of the reporting period, the Commissioner was informed that the controllers have acted in full on 4 decisions of the Commissioner, while one decision was not acted upon.

Based on Art. 77-79 of the new LPDP, the Commissioner performs inspection supervision over the application of this law, in accordance with this law and the corresponding application of the law which regulates inspection supervision. In accordance with Art. 14. of the Law on Inspection Supervision (Official Gazette of RS, no. 36/15, 44/18 - another law and 95/18), the Commissioner drafted and published checklists on his website, as follows:

- checklist for controllers who are public authorities (Article 4, item 25 of the Law on Personal Data Protection: “public authority” is a state body, a body of territorial autonomy and local self-government units, a public enterprise, institution and other public service, organization and another legal or natural person exercising public authority);
- a checklist for non-government controllers.

In this way, the Commissioner acts preventively, educationally and informatively, thus helping the supervised bodies to exactly know their obligations in advance and what they need to do to comply with regulations and prevent damage, as well as what the authorized person from the Commissioner's office will check during the supervision procedure.

These checklists present a complex and extensive legal obligations through a range of comprehensible questions that need to be answered accurately and thoroughly. In order to fill in the checklists, it is necessary for the controllers to answer the questions asked and mark the total sum of points. The checklist completed in this way is a report on self-checking the fulfillment of the requirements from the checklist and self-assessment of risk, which the Commissioner later uses for the purpose of risk assessment, as well as the development and subsequent implementation of the inspection plan.

From the beginning of the implementation of the new LPDP until the end of the reporting period, the Commissioner sent checklists to the addresses of 1,053 controllers. In 981 cases, the Commissioner has assessed the risk of processing personal data, with 975 controllers submitting to the Commissioner a completed checklist sent to them by the Commissioner, and 6 controllers did so on their own initiative, downloading the checklist form from the Commissioner's website. Based on the received completed checklists, the Commissioner performed an assessment of the level of risk of personal data processing. The remaining 72 controllers did not submit a completed checklist to the Commissioner.

3.3.2. Acting of the Commissioner on complaints/petitions

The new LPDP introduces the institute of complaint. The data subject has the right to file a complaint to the Commissioner if he/she considers that the processing of his/her personal data has been performed contrary to the provisions of the LPDP. The provisions of the law governing inspection supervision in the part related to the handling of petitions shall apply accordingly in the complaint procedure. A person may

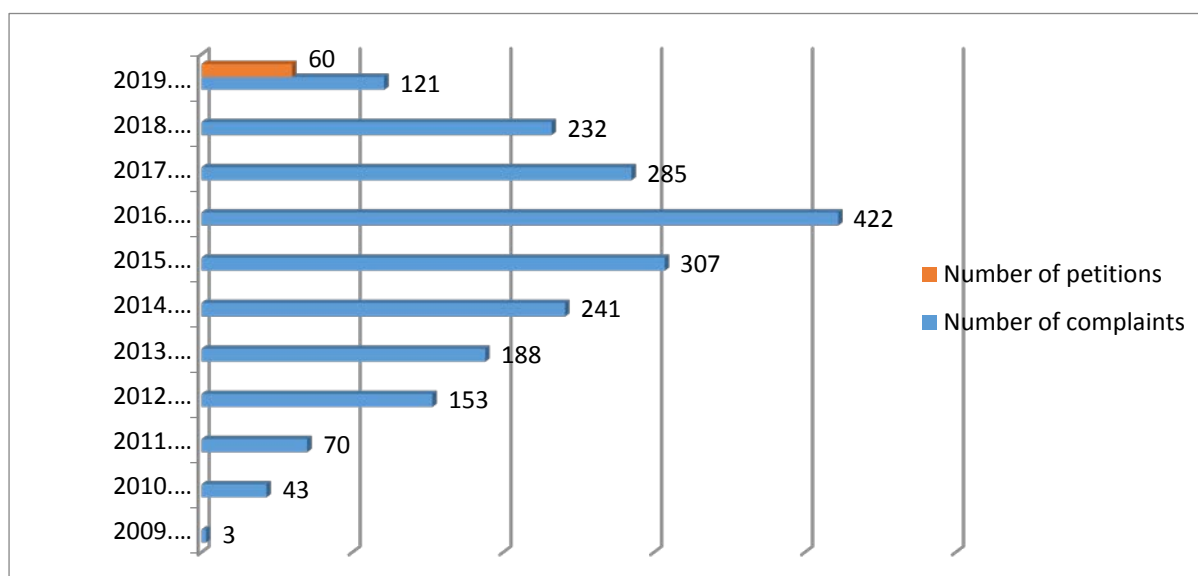
exercise the right to lodge a complaint with the Commissioner at the same time as the right to initiate other administrative or judicial protection proceedings.

In 2019, 121 complaints were filed with the Commissioner in accordance with the old LPDP, and 60 complaints were submitted in accordance with the new LPDP.

In 2019, the Commissioner handled 60 complaints and 159 complaints, of which 121 complaints were received in 2019, and the remaining 38 were transferred from 2018.

Complaints

Graph 19 - Complaints to the Commissioner filed by year



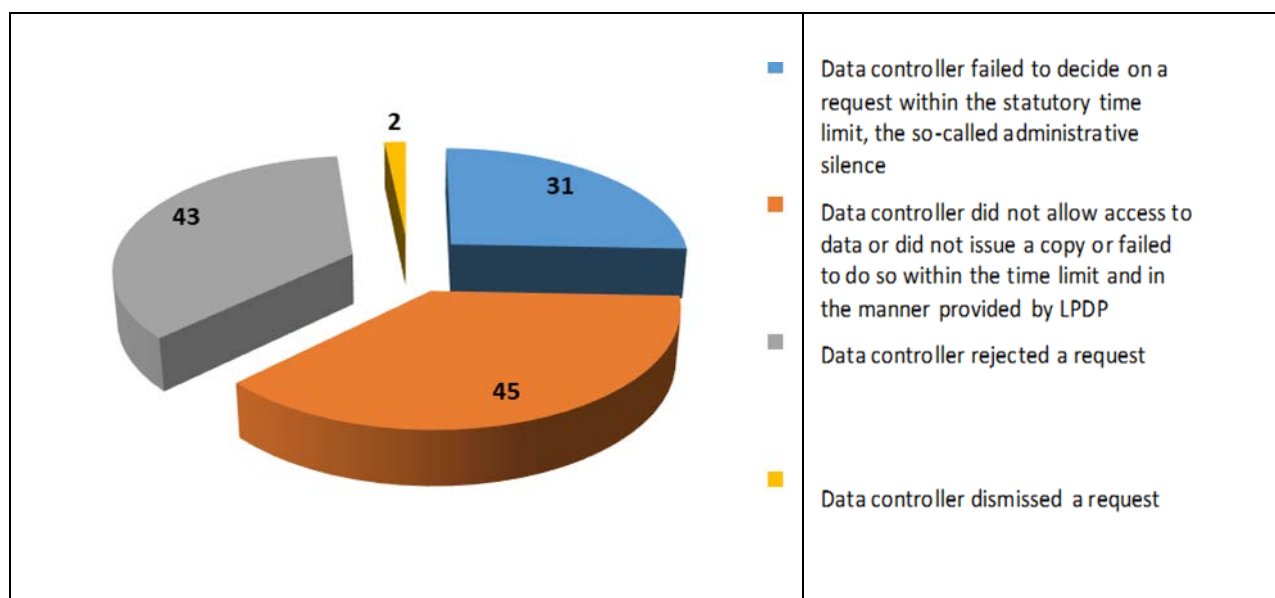
The most common reason for filing a complaint to the Commissioner is that the controllers did not disclose the data or did not issue a copy of the data, or did not do so within the prescribed period and in the manner prescribed by the LPDP (45 complaints, or 37.2%). Compared to 2018, when for this reason 49.6% of the total number of complaints were filed with the Commissioner, 37.2% were filed for this reason in 2019, which is a continuation of the negative trend of (non) acting of controllers in accordance with obligations prescribed by the LPDP upon the submitted requests of the person whose data are processed.

The next most common reason for filing a complaint with the Commissioner is the rejection of the request by the controller (43 complaints, or 35.5%). Compared to 2018, when 14.7% stated this reason, 35.5% stated this reason in 2019. Such rise is caused by the increased number of requests of individuals submitted to the Ministry of the Interior for deleting data on filed criminal charges, which this ministry processes in the operational-criminal collection.

In 2019, 31 complaints were filed with the Commissioner due to the fact that the controllers did not act upon the request of the submitters within the prescribed deadline, the so-called administrative silence. Compared to 2018, when for this reason 35.8% of the total number of complaints were filed with the Commissioner, 25.6% complaints were filed for

this reason in 2019. Looking at the percentage, in 2019 we have a decrease in the number of complaints filed due to the administrative silence, i.e. non-compliance with the submitted requests for exercising rights related to the processing of personal data. However, even after ten years of application of the LPDP, this percentage of complaints filed with the Commissioner for this reason is unacceptably high.

Graph 20 - Reasons for filing a complaint to the Commissioner in 2019



Complaints filed with the Commissioner relate to data from: police records, official registers containing personal data, personnel records, records kept by educational institutions, areas of pension, disability and health insurance, court records, case files of social work centers, registry books, medical records, bank records, etc.

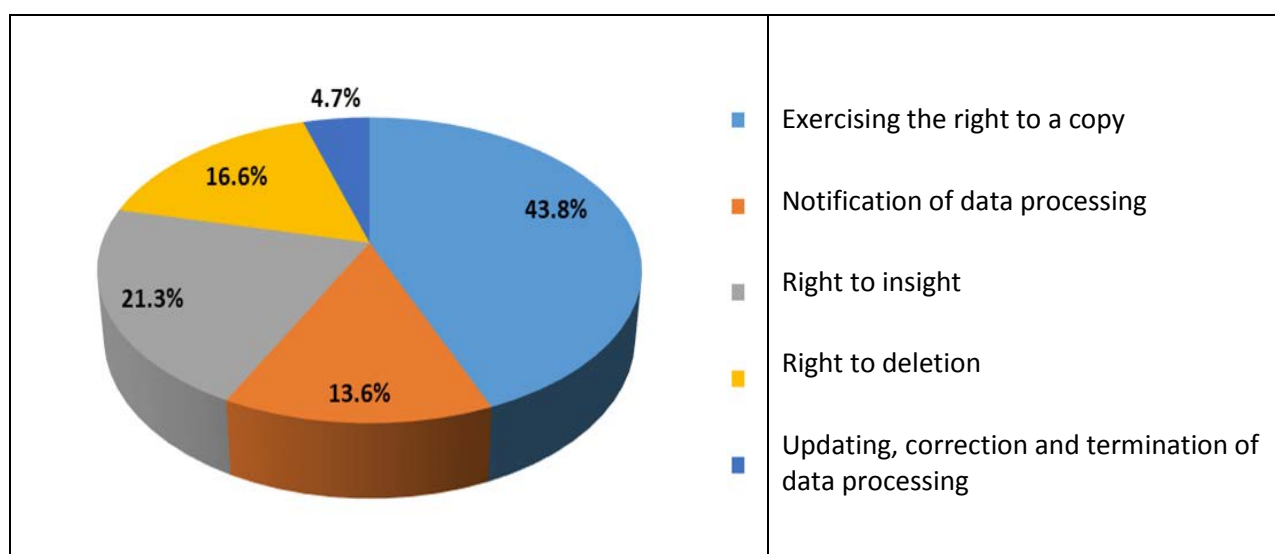
The requests regarding which, due to the appropriate inaction of the controllers, complaints were filed with the Commissioner, refer to the exercise of: the right to a copy (43.8%); rights of access (21.3%); rights to deletion (16.6%), rights to notification of data processing (13.6%) and rights to update, correction and temporary suspension of data processing (4.7%). The largest number of complaints filed with the Commissioner in 2019, as in previous years, relates to the exercise of the right to copy (43.8%), which is also the request most often submitted to the controllers. During 2019, there was a noticeable increase in complaints related to the deletion of data (16.6%), mostly from the records kept by the Ministry of the Interior. The reason for that is that during the processing of certain data, not only the right to data protection and the right to privacy are violated, but other rights are also violated, such as the presumption of innocence, the right to work and the like.

Thus for example in one case, the Commissioner has filed an appeal against the decision of the Ministry of the Interior rejecting the request of the person to delete personal data from the operational-criminal collection, because the data, in accordance with Article 41, paragraph 8 of the Law on Records and Data Processing jobs in the field of law enforcement are kept permanently in this collection. In the conducted procedure, the Commissioner found that the complaint was founded, because the Ministry of Internal Affairs did not consider the

possibility of applying the provision of Article 7, paragraph 2 of the said law, which stipulates that collected and entered personal data must be deleted after the expiration of storage period *or when it is determined that the reasons for which the personal data was entered in the records have ceased to exist*. The justification of the decision states that the legitimate interest of the controller to record the data on the criminal report due to the grounds of suspicion that a person has committed a crime is recorded in his databases, but from the point of view of a democratic society the permanent storage of data on the person based on the conducted procedure, the grounds for suspicion that he committed a criminal offense have not been confirmed, as in the specific case. Having in mind the types of data processed in the Operational-Criminal Collection, such as, among other things, DNA profile, fingerprint, data on drug or alcohol addiction, as well as particularly sensitive data on health status, the Commissioner has annulled the appeal decision and returned the case for retrial with instructions to reconsider in the new procedure the possibility of applying Article 7, paragraph 2 of the Law on Records and Data Processing in the field of internal affairs, weighing the interests of the company protected by permanent storage of data in relation to interest to protect the rights of persons to privacy and other rights of the person, i.e., whether the retention of personal data of persons suspected but not convicted, it is necessary in a democratic society.

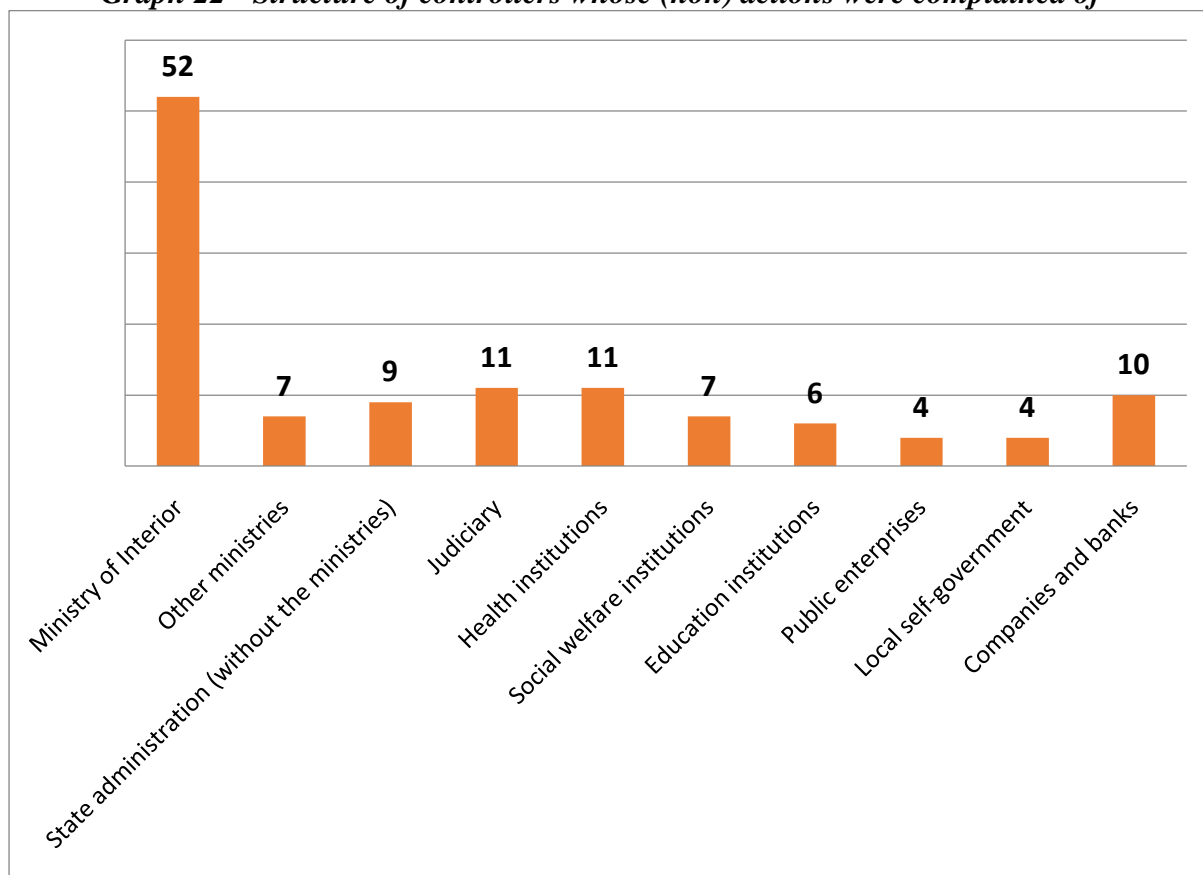
The smallest number of complaints submitted to the Commissioner refers to the updating, correction and suspension of data processing, which indicates a small interest of citizens in correcting the data processed by controllers.

Graph 21 - Requests for complaints to the Commissioner in 2019



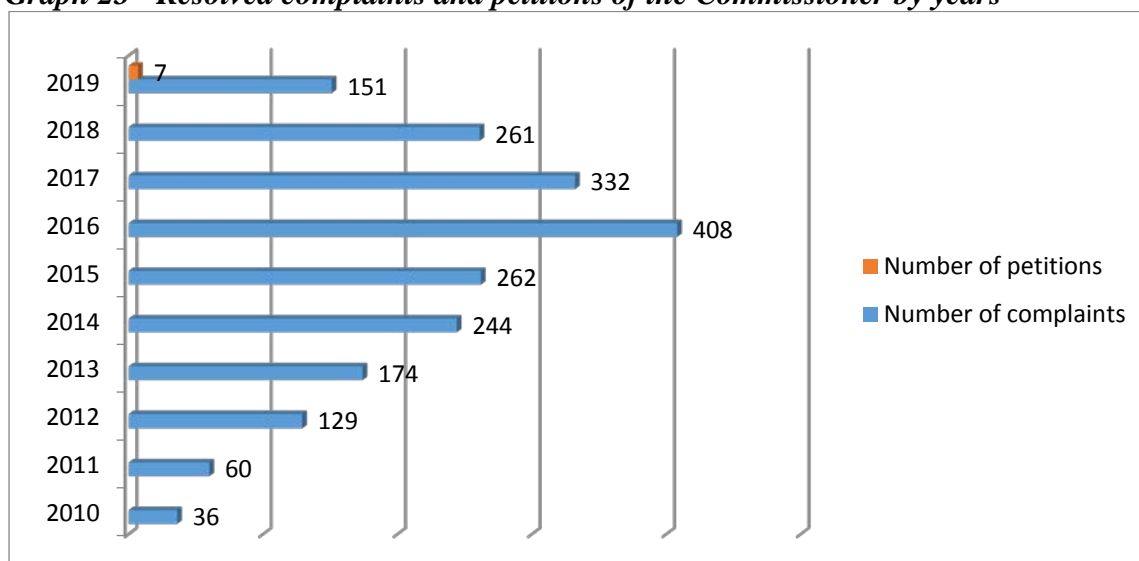
The largest number of complaints, as many as 111, were filed due to (non) actions of government bodies, i.e. bodies and organizations entrusted with public authorities and public companies. The largest number (69) was stated due to (non) action of state administration bodies as controllers. Due to (non) acting of ministries, 59 complaints were filed, of which only 52 complaints were filed against the Ministry of Interior, and 7 complaints were filed due to (non) acting of all other ministries. Complaints filed against the MIA (52) account for 43% of all complaints (121) filed with the Commissioner, due to the large number of records kept by the MIA, and thus the large number of citizens' requests, but also due to the large number of decision of the MIA rejecting or refusing citizens' requests.

Graph 22 - Structure of controllers whose (non) actions were complained of



Of the 159 complaints that the Commissioner acted on during 2019, he has completed the procedure on 151 complaints (113 from 2019 and all 38 from 2018), and 8 complaints (all from 2019) were transferred to action in 2020.

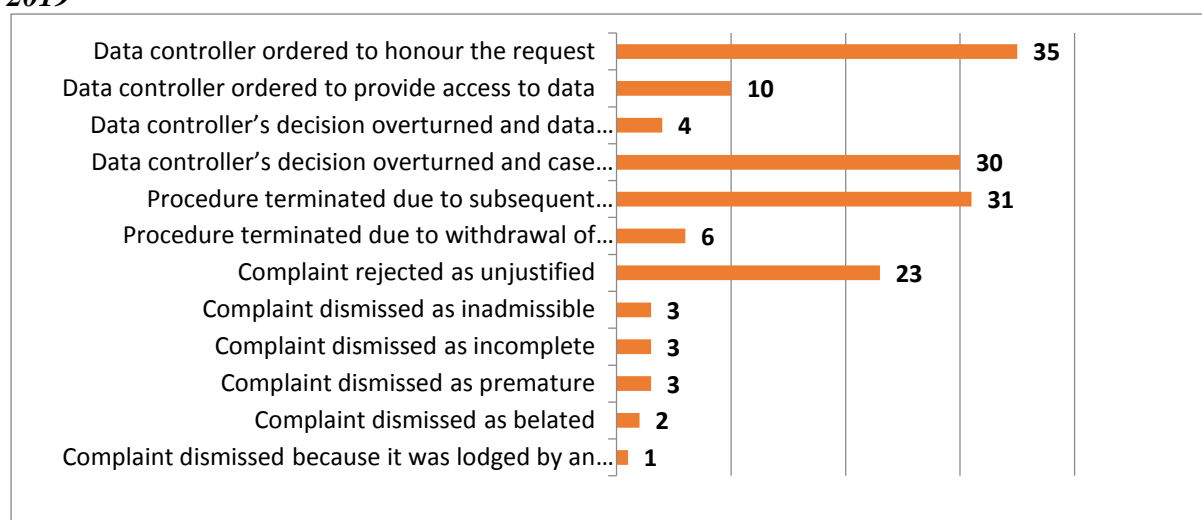
Graph 23 - Resolved complaints and petitions of the Commissioner by years



In the decisions made on the filed appeals, the Commissioner determined that the appeal was founded in 79 cases, 52.3%, of which in 49 cases, a decision was made with

an order to the controller (order to the controller to act upon the request (35), order to the controller to hand over the data to the information seeker (10), annulled the decision of the controller with the order to act on the request (4)). The Commissioner has revoked the controller's decision and returned the case to the controller for retrial in 30 cases. In 37 cases, or 24.5%, the Commissioner has suspended the procedure with a conclusion because the controller acted on the request, or the submitter withdrew from the appeal before the Commissioner made the decision on the appeal. Other complaints, or 23.2% of the total resolved complaints, were resolved by the Commissioner by rejecting the complaint as unfounded in 23 cases, or 15.2%, and in 12 cases, or 8%, the Commissioner has rejected the complaint for formal reasons (stated by an unauthorized person, incomplete, inadmissible, premature and untimely complaint).

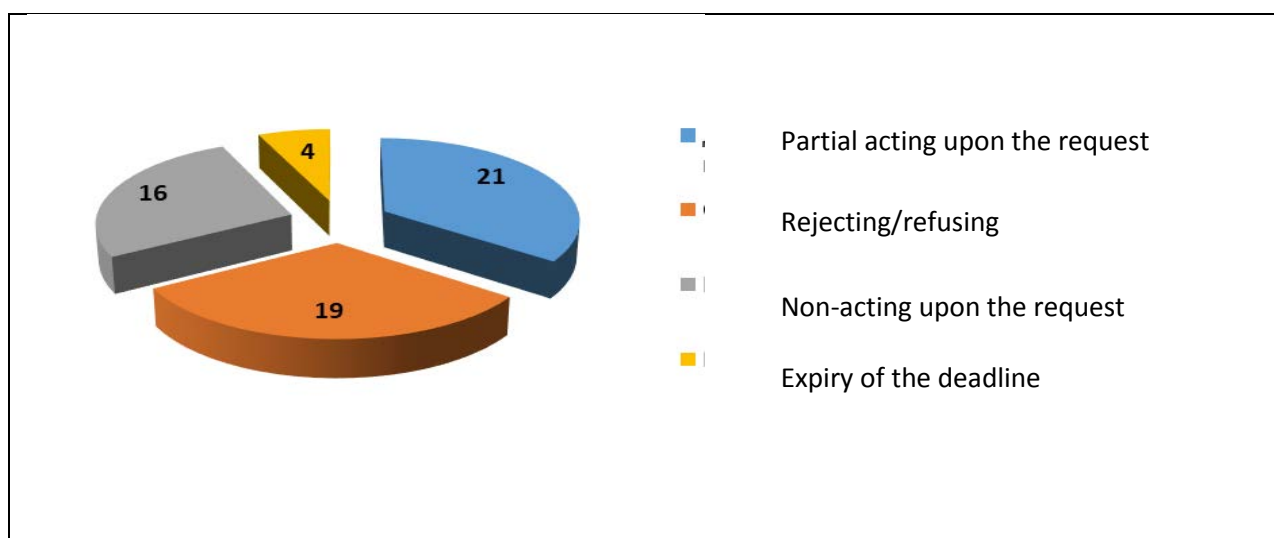
Graph 24 - Decisions of the Commissioner on Appeals made in 2019



During the reporting period, the Commissioner has issued a total of 52 binding and final decisions (49 on appeals and 3 on complaints). With these decisions, the Commissioner gave an order to the controller to act upon the request or to provide the requested information to the information seeker, as well as for the controller to inform the Commissioner about the execution of the decision. According to the decision of the Commissioner, 48 controllers acted in full (92.3%), and informed the Commissioner about it. By the end of the reporting period, other controllers did not inform the Commissioner about the procedure or the procedure is in progress.

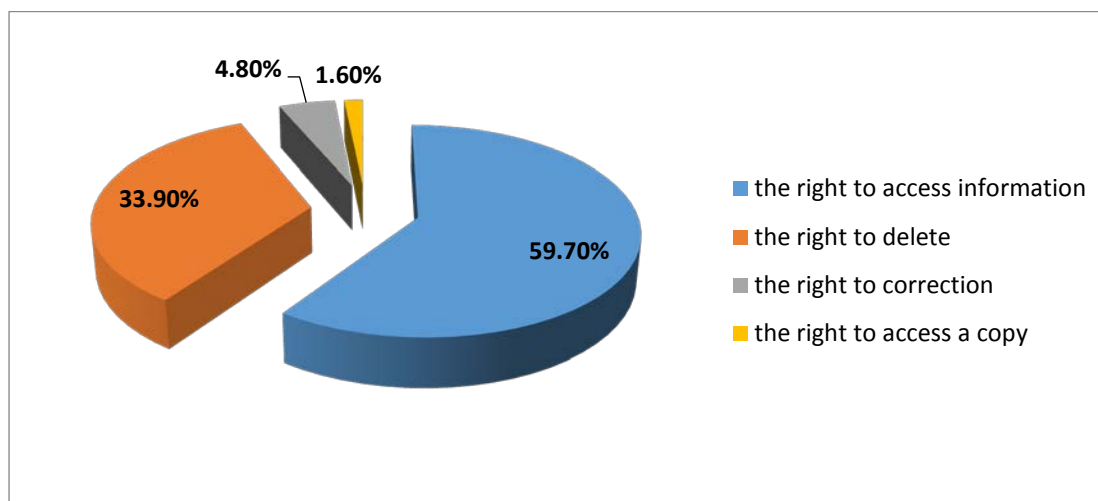
Complaints

In 2019, the Commissioner has received 60 complaints submitted under the new LPDP. The reasons for submitting a complaint to the Commissioner were: partial action of the controller upon the request (21); rejection or refusal of the request by the controller (19); failure of the controller to comply with the request (16) and the expiration of the subsequent deadline (4).

Graph 25 - Basis of filing complaints in 2019

Complaints submitted to the Commissioner refer to data from: police records, official registers that contain personal data, records kept by banks, court records, records of disability and health insurance, etc.

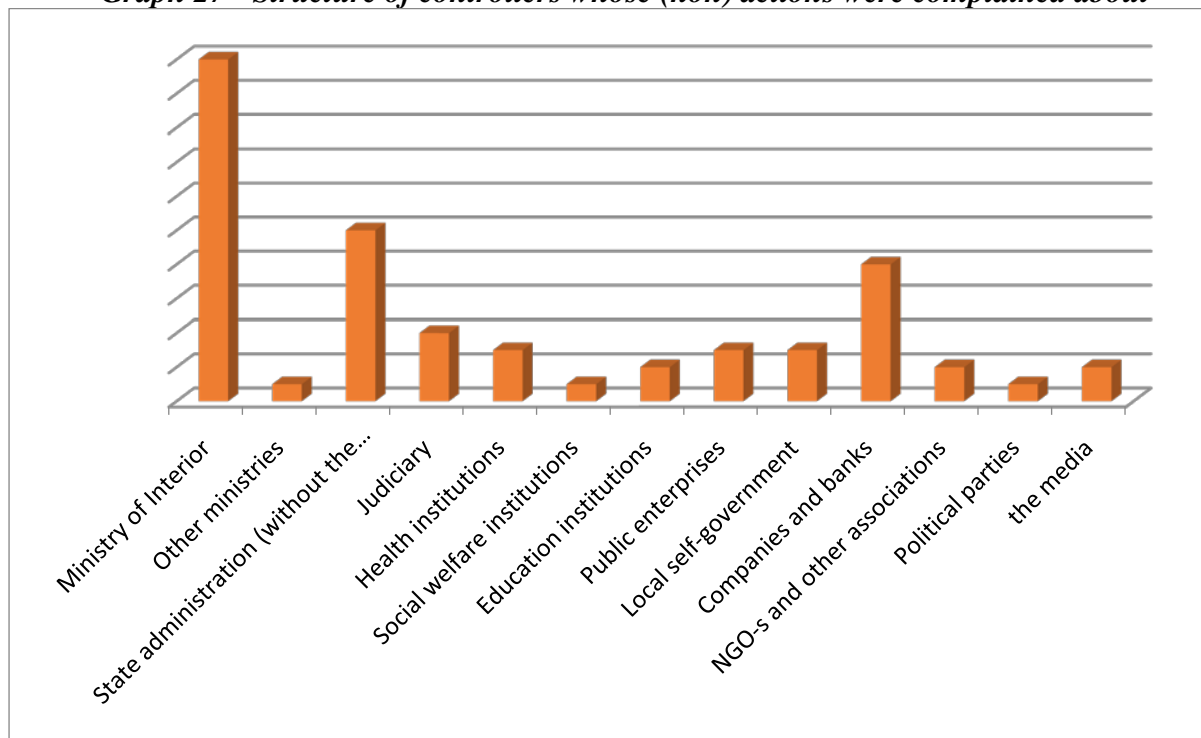
The requests on which, due to the failure of the controllers, complaints were submitted to the Commissioner, relate to the exercise of: the right to access information (59.7%), the right to delete (33.9%), the right to correction (4.8%) and the right to access a copy (1.6%).

Graph 26 - Reasons for submitting a request to the controller, i.e. complaints to the Commissioner

The largest number of complaints, as many as 47, were filed due to the (non) actions of government bodies, i.e. bodies and organizations entrusted with public authorities and public companies. The largest number (31) was submitted due to (non) action of state administration bodies as controllers. Due to (non) actions of ministries, 21 complaints were filed, of which 20 complaints were against the Ministry of Interior, and due to (non) actions of all other ministries together, 1 complaint was filed. The largest number of

complaints was filed against the Ministry of the Interior (32.8%), for the same reasons why the largest number of complaints were filed against the Ministry of the Interior in the previous period (a large number of records kept by the Ministry of the Interior, a large number of citizens' requests rejected or refused).

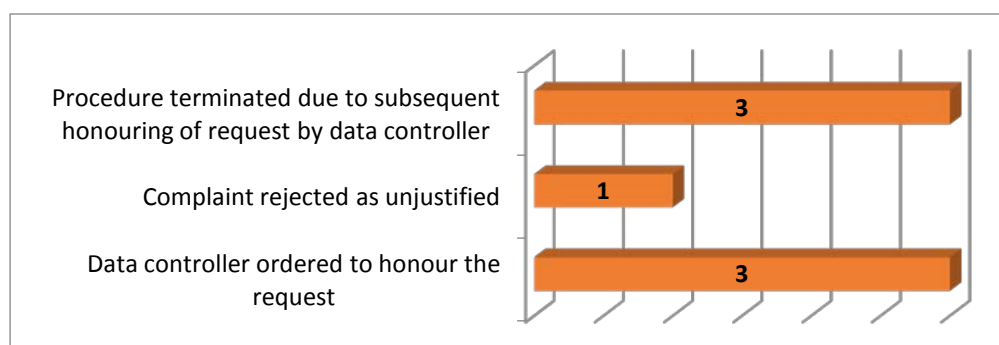
Graph 27 - Structure of controllers whose (non) actions were complained about



Of the 60 complaints submitted to him, the Commissioner has completed the procedure on 7 complaints in 2019, and the other 53 were transferred to the procedure in 2020.

In the decisions (7) made on the submitted complaints, the Commissioner has determined that the complaint was founded in 3 cases, or 42.86%, and in all 3 a decision was made with an order to the controller to act upon the request. The Commissioner rejected one complaint as unfounded, and suspended the procedure in the remaining 3 cases, or 42.86% by a conclusion, because the controller has acted upon the request, before the Commissioner made a decision on the complaint.

Graph 28 - Decisions of the Commissioner on Complaints made in 2019



3.3.3. Data export or transfer

In 2019, 5 requests for export, or data transfer, were submitted to the Commissioner (3 requests for data transfer under the old LPDP and 2 requests for data transfer under the new LPDP). A total of 6 requests for data transfer were transferred from the previous period, so that during 2019, there were a total of 11 requests for data export, or data transfer.

In 2019, a total of 9 requests for disclosure of data were resolved (all 6 that were transferred from the previous period and 3 requests for disclosure that were submitted during 2019 under the old LPDP).

The requests were resolved as follows: in two cases, the request was allowed, 5 requests were rejected as unfounded, in 1 case the information seeker withdrew the request and 1 request was rejected for formal reasons.

The requests required the disclosure of data to the United States, Israel, New Zealand, India and the Philippines. The two requests for data transfer submitted under the new LPDP relate to the transfer of data to Saudi Arabia.

Two requests for data transfer under the new LPDP were transferred to the procedure in 2020.

3.3.4. Reporting

As part of the performance of legal obligations, the Commissioner receives reports, i.e. attachments to reports from the authorities, but also submits his reports, i.e. attachments to the reports to the authorities.

Regarding the report, i.e. attachments for reports received by the Commissioner from the authorities, it should be noted that in accordance with Article 130a) of the Law on Electronic Communications (Official Gazette of RS, No. 44/2010, 60/2013 - Decision of the CC and 62/2014 and 95/2018-other law), the Commissioner receives reports, i.e. records on access to retained data from electronic communications controllers. The subject records for the previous year were submitted by 21 electronic communications controllers to the Commissioner.

In accordance with the provision of Article 18 of the Law on Records and Data Processing in the Field of Internal Affairs (Official Gazette of RS, No. 24/2018), the Ministry of Internal Affairs submitted its annual report to the Commissioner.

In accordance with the provision of Article 43 of the Law on Free Access to Information, state bodies are obliged to submit to the Commissioner annual reports on the actions of these bodies, undertaken for the purpose of implementing the LPDP. Of 3,813 of these bodies, 1,238 have submitted the subject reports for the previous year to the Commissioner.

Regarding the report, i.e. attachments to the reports that the Commissioner submits to the authorities, it is necessary to point out first of all the annual work report that the Commissioner submits to the National Assembly, and also to the Government of RS and makes available to the public by publishing it on his website. In 2019, as in every previous year, the Commissioner has fulfilled this legal obligation in a timely manner.

Other reports, i.e. attachments to the reports that the Commissioner submits to the authorities, primarily refer to the realization of Serbia's integration processes in the EU, and during 2019 the following reports were submitted:

1. The report for the fourth quarter of 2018 was submitted to the Council for the implementation of the Action Plan for Chapter 23;
2. The report on the implementation of the NPAA for the fourth quarter of 2018 was submitted to the Ministry of Justice;
3. The completed Tables of Transitional Criteria were submitted to the Ministry of Justice;
4. Reports for the second part of the annex to the Annual Progress Report for 2018 were submitted to the Ministry of Justice;
5. Report for the second part of the annex to the Annual Progress Report for 2018 was submitted to the Ministry of Public Administration and Local Self-Government;
6. The report for the second part of the annex to the Annual Progress Report for 2018 was submitted to the Ministry of European Integration;
7. A meeting was held with representatives of the Delegation of the European Union, the Ministry of Public Administration and Local Self-Government and the Commissioner regarding the situation in the field of free access to information of public importance;
8. Comments to the Tables of Transitional Criteria were submitted to the Ministry of Justice, at the request of the European Commission;
9. Two meetings were held on the occasion of filling in the Tables of Transitional Criteria - in the Ministry of Justice and in the EU Delegation to the Republic of Serbia;
10. The Association of Judges of Serbia was given an opinion on the comments on the amendments to the Action Plan for Chapter 23;
11. The Ministry of Justice responded to the initiative to establish a working group for negotiations to conclude an agreement with Eurojust;
12. A proposal for EU regulations within the competence of the Commissioner, in the area of Chapter 23, was submitted to the Ministry of Justice, which should be translated into Serbian;
13. The report on the implementation of the National Program for the Adoption of the Acquis for the first quarter of 2019 was submitted to the Ministry of Justice;
14. An amendment to the report on the right of access to environmental information was submitted to the United Nations Economic Commission;
15. The Ministry of Justice received a comment to the Proposal of the basis for conducting negotiations and concluding an agreement on cooperation between the Republic of Serbia and Eurojust;
16. A report was submitted to the Ministry of Justice on the implementation of planned measures and activities regarding the establishment or strengthening of institutional and administrative capacities in the second quarter of 2019 determined by the National Program for the Adoption of the Acquis Communautaire (NPAA);
17. The Report on the Status of Implementation of Activities from the Action Plan for Chapter 23 "Justice and Fundamental Rights" for the first and second quarters of 2019 was submitted to the Council for the Implementation of the Action Plan for Chapter 23;

18. The Ministry of Justice received a comment to the draft agenda of the 6th session of the Subcommittee on Justice, Freedom and Security, scheduled for October 2/3, 2019;
19. The report for the implementation of the Action Plan for Chapter 23 was submitted for the third quarter of 2019;
20. The report for the third quarter of 2019 on the implementation of the National Program for the Adoption of the Acquis (NPAA) was submitted to the Ministry of Justice;
21. The Ministry of European Integration was informed of the proposed agenda of the 6th meeting of the Stabilization and Association Committee;
22. Attachments to the 2019 Annual Progress Report were submitted to the Ministry of Justice;
23. Attachments to the 2019 Annual Progress Report were submitted to the Ministry of European Integration;
24. Attachments for the annual progress report for 2019 were submitted to the Ministry of Public Administration and Local Self-Government;
25. Suggestions on the Draft Operational Conclusions from the meeting of the Ad Hoc Group on Public Administration Reform were submitted to the Ministry of European Integration.

3.3.5. Actions of state bodies in connection with the acts of the Commissioner in the field of personal data protection

3.3.5.1. Actions of prosecutor's offices upon criminal charges of the Commissioner

The Commissioner has filed 3 criminal charges in 2019. All criminal charges were filed for the criminal offense under Article 146 of the Criminal Code (unauthorized collection of personal data). Criminal charges were filed against two officials in the Ministry of Internal Affairs of the Republic of Serbia and one against a responsible person in the elementary school "Đuro Strugar" from Belgrade. So far, from 2010 to the end of the reporting period, the Commissioner has filed a total of 42 criminal charges, for criminal offenses under Articles 143 (unauthorized wiretapping and recording), 144 (unauthorized photographing), 146 (unauthorized collection of personal data), 299 (computer sabotage), 302 (unauthorized access to a protected computer, computer network and electronic data processing), 329 (false representation), 355 (forgery of a document) and 359 (abuse of official position) of the CC.

During 2019, the Basic Public Prosecutor's Office of Leskovac has informed the Commissioner that the criminal report of the criminal offense of unauthorized collection of personal data from Art. 146, para. 3 of the CC was rejected.

According to the data available to the Commissioner, based on the criminal charges that the Commissioner has filed so far, only 2 indictments have been filed. In connection with the indictments, one final conviction was passed (the person was sentenced to 6 months probation) and 1 acquittal. 20 criminal charges were rejected due to the statute of limitations for prosecution, 14 were postponed for the reason of opportunity, and 3 investigations were suspended due to statute of limitations. Proceedings on other criminal charges are still pending.

The Commissioner believes he gave enough elements for the further processing in the criminal charges he has submitted to the public prosecutors' offices, in order for the perpetrators of criminal acts to be discovered and appropriately sanctioned.

3.3.5.2. Acting of misdemeanor courts upon requests of the Commissioner for initiating misdemeanor proceedings

In 2019, the Commissioner has submitted 23 requests for initiating misdemeanor proceedings due to violations of the provisions of the LPDP. Regarding all misdemeanor requests that he has submitted so far in 2019, the Commissioner has received 19 decisions of misdemeanor courts (16 first instance and 3 decisions of the second instance court). The first instance courts have decided as follows: 10 convictions and 6 proceedings were suspended, of which 5 due to the statute of limitations. The decisions of the second instance court are as follows: 1 appeal was rejected and the conviction upheld, 1 appeal was partially upheld with regard to the imposed fine and 1 verdict was changed due to the occurrence of absolute statute of limitations.

In the convicting verdicts, the misdemeanor courts have issued reprimands to the defendants in 3 cases, and in the other 7 they have imposed fines, in the total amount of RSD 965,000. The penal policy of misdemeanor courts during 2019 was stricter compared to 2018, because the average fine per one sentence in 2018 was RSD 41,944, while this fine according to the verdict in 2019 was RSD 137,857.

The Commissioner has repeatedly and, unsuccessfully pointed out, including in the process of drafting and adopting the Law on Misdemeanors, that the two-year deadline for the occurrence of absolute statute of limitations is too short, which is why the lawsuits are suspended in a large number of cases. This is shown by the practice of misdemeanor courts from year to year, so that the Commissioner points out this problem on this occasion as well.

3.3.5.3. Proceedings of the Administrative Court on lawsuits against decisions of the Commissioner for Data Protection

In 2019, 10 lawsuits were filed with the Administrative Court against the Commissioner's decisions (8 lawsuits were filed against the decision rejecting the information seeker's appeal as unfounded in whole or in part, 1 lawsuit was filed against the decision rejecting the appeal as unfounded and 1 lawsuit was filed by the controller to whom the measure of temporary prohibition of data processing and elimination of irregularities has been imposed).

In 2019, the Administrative Court resolved 5 lawsuits, dismissing 2 lawsuits, accepting 2 lawsuits and returning the case for retrial and rejecting 1 lawsuit. 4 lawsuits decided by the Administrative Court were filed in 2019, and 1 lawsuit was filed in 2016.

On this occasion, a case in which the Administrative Court accepted the lawsuit and returned the case to the Commissioner for retrial is pointed out. In that case, the Commissioner rejected as unfounded the appeal of the appellant, i.e. the plaintiff, filed against the act of the City of Belgrade, the City Administration of the City of Belgrade, the

Secretariat for Social Protection, as the data controller, stating that there are no conditions for correction, updating, termination and temporary suspension of data processing in the information system of the controller related to the average basic salary for the 12 months preceding the month in which the use of maternity leave begins, because these data were the subject of an administrative dispute.

The plaintiff filed a lawsuit against the decision of the Appellate Commissioner with the Administrative Court, in which, among other things, she stated that her request was not decided by a decision as prescribed by Article 26, paragraph 2 of the LPDP, but a notice was sent containing no disposition or explanation, thus violating the rules of procedure.

Resolving this administrative dispute, the Administrative Court ruled that the lawsuit be upheld, the decision annulled and the case returned to the Commissioner for reconsideration. The reasoning of the verdict states that the conditions for passing the disputed decision of the defendant body were not met, because the data controller was obliged to make a decision on the submitted request and decide on the plaintiff's request for correction, updating, interruption and temporary suspension of inaccurate data to which they relate, and which obligation arises from Article 26, paragraph 1 of the LPDP. Instead, the first-instance body submitted a letter to the plaintiff from which it cannot be determined whether it marked the personal data as disputed until its accuracy is determined or has already corrected them, i.e. that it is not an act of a decisive nature and as she could not challenge the legality of that act in the appellate procedure, since the act has no dispositive or explanation, and it is not known what the decision is or what the reasons for its adoption are. The Commissioner, as a second instance body, was obliged to eliminate the stated violations of the rules of procedure in the procedure upon the appeal, which he failed to do, thus violating the law to the detriment of the plaintiff.

3.4. Opinions and initiatives of the Commissioner

3.4.1. Opinions on laws and other regulations and general acts

In 2019, from the point of view of the right he protects the Commissioner gave 85 opinions on drafts and proposals of laws and other regulations and general acts, of which 54 opinions refer to drafts and proposals of laws, and 31 on other regulations and general acts.

Of the opinions related to the drafts and proposals of the law, 51 opinions were given by the Commissioner at the request of the authorities, and 3 at his own initiative. Of these 54 opinions, 36 are given from the aspect of LPDP, 1 from the aspect of the Law on Free Access to Information, 13 from the aspect of both laws, i.e. LPDP and the Law on Free Access to Information, and the remaining 4 from the aspect of general competence of the Commissioner as a state body.

Opinions (54) relating to 51 drafts and draft laws (opinions have been given on two drafts or draft laws on two occasions) are:

1. The Ministry of Labour, Employment, Veteran and Social Policy was given an opinion on the Draft Law on Occupational Safety and Health, from the aspect of LPDP;
2. The Ministry of Agriculture, Forestry and Water Management was given an opinion on the Draft Law on Waters, from the aspect of the Law on Free Access to Information and LPDP;
3. The Ministry of the Interior was given an opinion on the Draft Identity Card Law, from the aspect of LPDP;
4. The Ministry of Justice was given an opinion on the Draft Law on Amendments to the Law on Civil Procedure, from the aspect of the Law on Free Access to Information and the LPDP;
5. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Amendments to the Law on the Fundamentals of the Education System, from the aspect of LPDP (on two occasions);
6. The Commissariat for Refugees and Migration was given an opinion on the Draft Law on Amendments to the Law on Migration Management, from the aspect of LPDP;
7. The Ministry of Construction, Transport and Infrastructure was given an opinion on the Draft Law on the Register of Spatial Units and Address Register, from the aspect of LPDP;
8. The Ministry of Finance was given an opinion on the Draft Law on Amendments to the Law on the Central Register of Compulsory Social Insurance, from the aspect of LPDP;
9. The Ministry of Finance was given an opinion on the Draft Law on Amendments to the Law on Budget of the Republic of Serbia for 2019, from the aspect of the Commissioner's competence;
10. The Ministry of Labour, Employment, Veteran and Social Policy
 1. was given an opinion on the Draft Law on the Rights of the Child and the Protector of the Rights of the Child, from the aspect of the LPDP;
11. The Ministry of Finance was given an opinion on the Draft Law on Amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism, from the aspect of LPDP;
12. The Ministry of Labour, Employment, Veteran and Social Policy
 2. was given an opinion on the Draft Law on Amendments to the Law on Prohibition of Discrimination, from the aspect of LPDP;
13. The Ministry of Finance was given an opinion on the Draft Law on Games of Chance, from the aspect of the Law on Free Access to Information and the LPDP;
14. The Ministry of Labour, Employment, Veteran and Social Policy
 3. was given an opinion on the Draft Law on Social Cards, from the aspect of LPDP;
15. The Ministry of Public Administration and Local Self-Government was given an additional opinion on the draft version of the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, from the aspect of the Commissioner's competence.
16. The Ministry of Public Administration and Local Self-Government was given an opinion on the working version of the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, from the aspect of the Commissioner's competence;

17. The Ministry of Justice was given an opinion on the Draft Law on the National Database for the Prevention and Fight against Terrorism, from the aspect of the LPDP;
18. The Ministry of Culture and Information was given an opinion on the Draft Law on Amendments to the Law on Culture, from the aspect of the Law on Free Access to Information and LPDP;
19. The Statistical Office of the Republic of Serbia was given an opinion on the Draft Law on Population Census, from the aspect of LPDP;
20. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Trademarks, from the aspect of the Law on Free Access to Information and the LPDP;
21. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Amendments to the Law on Higher Education, from the aspect of the Law on Higher Education;
22. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on the National Qualifications Framework of the RS, from the aspect of the Law on Free Access to Information and LPDP;
23. The Ministry of Finance was given an opinion on the Draft Law on Audit, from the aspect of LPDP;
24. The Ministry of Finance was given an opinion on the Draft Law on Accounting, from the aspect of LPDP;
25. The Ministry of Youth and Sports was given an opinion on the Draft Law on Ratification of the Council of Europe Convention on the Manipulation of Sports Competitions from the aspect of the Law on Sports;
26. The Ministry of Finance was given an opinion on the Draft Law on Alternative Investment Funds, from the aspect of LPDP;
27. The Ministry of Finance was given an opinion on the Draft Law on Open-End Investment Funds with a public offering, from the aspect of the Law on Free Access to Information and the LPDP;
28. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Amendments to the Law on the National Qualifications Framework, from the aspect of the Law on Free Access to Information and the LPDP;
29. The Ministry of Culture and Information was given an opinion on the Draft Law on Amendments to the Law on Culture, from the aspect of LPDP;
30. The Ministry of the Interior was given an opinion on the Draft Law on Amendments to the Law on Travel Documents, from the aspect of the Law on Free Access to Information and the LPDP;
31. The Ministry of Justice was provided with an opinion on the Draft Law on Amendments to the Law on Enforcement and Security, from the aspect of LPDP;
32. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on the Dual Model of Studies in Higher Education, from the aspect of the LPDPL;
33. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Amendments to the Law on Information Security, from the aspect of LPDP;
34. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Electronic Communications, from the aspect of LPDP;

35. The Ministry of Justice was given an opinion on the Draft Law on Prevention of Corruption, from the aspect of the Law on Free Access to Information and the LPDP;
36. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Science and Research, from the aspect of LPDP;
37. The Ministry of Public Administration and Local Self-Government was given an additional opinion on the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, from the aspect of the Commissioner's competence;
38. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Amendments to the Law on Electronic Commerce, from the aspect of LPDP (on two occasions);
39. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Trade, from the aspect of the Law on Free Access to Information and the LPDPP (on two occasions);
40. The Ministry of Culture and Information was given an opinion on the Draft Law on Archival Material and Archival Activities, from the aspect of LPDP;
41. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Amendments to the Law on Information Security, from the aspect of LPDP;
42. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Regulated Professions and Recognition of Professional Qualifications, from the aspect of LPDP;
43. The Ministry of Labour, Employment, Veteran and Social Policy
4. was given an opinion on the Draft Law on Gender Equality from the aspect of the Law on Free Access to Information and the LPDP;
44. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Commodity Exchanges, from the aspect of LFAIPI;
45. The Ministry of Defense was given an opinion on the Draft Law on Health Care and Health Insurance of Military Health Insurance, with an explanation, for consideration and giving an opinion in accordance with the provisions of the LPDP;
46. The Ministry of Trade, Tourism and Telecommunications was given an opinion on the Draft Law on Consumer Protection, from the aspect of LPDP;
47. The Ministry of Culture and Information was given an opinion on the Draft Law on the Staro Sajmište Memorial Center, from the aspect of the LPDP;
48. The Ministry of Labour, Employment, Veteran and Social Policy
5. was given an opinion on the Draft Law on the Rights of Veterans, War Invalids, Civilian War Invalids and their Families, from the aspect of the LPDP;
49. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Dual Education, from the aspect of LPDP;
50. The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law on Amendments to the Law on Secondary Education, from the aspect of LPDP;
51. The Ministry of the Interior was given an opinion on the Draft Law on Identity Card, from the aspect of LPDP.

Opinions (31) relating to 27 other regulations and general acts (opinions were given on particular other regulations and general acts on two occasions) are:

1. Ministry of Foreign Affairs - Polish counter-draft of the Executive Program of Cooperation in the Field of Culture, Education, and Science for the period 2018-2021;
2. Public Policy Secretariat - Proposed conclusion on the adoption of the Report on the results of the implementation of the ePapir Administrative Burden Reduction Project and the amended Operational Action Plan for the establishment of a single public register of administrative procedures and other operating conditions;
3. Ministry of Public Administration and Local Self-Government - Catalog of employees' job positions, on two occasions;
4. Government of RS- National Review of Progress in Implementing the Beijing Declaration and Platform for Action +25;
5. Republic Geodetic Authority - Proposal of Decree on implemented rules for national geospatial data infrastructure metadata;
6. Ministry of Foreign Affairs - Serbian counter-draft of the Executive Program of Cooperation in the Field of Culture, Science and Education for the period 2018-2021, on two occasions;
7. Republic Public Prosecutor's Office - Rulebook on Amendments to the Rulebook on Administration in Public Prosecutor's Offices, on three occasions;
8. Ministry of Education, Science and Technological Development - Proposal of the Rulebook on the procedure of assigning a unique educational number;
9. Ministry of Education, Science and Technological Development - Draft Rulebook on the Unified Information System of Education;
10. MIA - Proposal of instructions on conditions of building, use and maintenance of the video surveillance system in the Ministry of Interior;
11. National Bank of Serbia - Draft recommendations on the actions of financial institutions regarding the protection of personal data in connection with the implementation of the procedure of video identification of users of financial services;
12. Ministry of Justice - Proposal of Decision on the list of states, parts of their territories or one or more sectors of certain activities in those states and international organizations in which it is considered that a temporary level of protection of personal data is provided;
13. Ministry of Public Administration and Local Self-Government - Working version of the Draft Decree on the manner of taking over, exchanging data, access and protection of data contained in the Central Population Register;
14. International Working Group on Data Protection in Telecommunications, Germany - Working Paper on the Protection of Children's Privacy in Online Services;
15. The Commissioner for Information of Public Importance and Personal Data Protection submitted to the Ministry of Public Administration and Local Self-Government a request for an opinion on the application of Article 62 of the Law on General Administrative Procedure (Official Gazette of RS, No. 18/16, 95/18 (authentic interpretation), for the purpose of acting by the Commissioner on submissions when it is obvious that the person knows which body is competent to act, as well as that the Commissioner is not competent to act in a specific case;
16. Ministry of Public Administration and Local Self-Government - Proposal of Decree on the manner of taking over, exchanging data, access and protection of

- data contained in the Central Population Register, as well as other technical issues of importance for keeping the Central Population Register;
17. Ministry of Labour, Employment, Veteran and Social Policy - Proposed strategy for prevention and protection against discrimination for the period 2020 - 2025 with the accompanying Action Plan;
 18. Ministry of Justice - Proposal of Decision on formation of the Council for monitoring the implementation of the Law on Personal Data Protection;
 19. Ministry of Health - Proposed conclusion of the Government of RS on the consent that the PE "Post of Serbia" for the needs of general screening of malignant diseases invites participants to give opinions;
 20. MIA - Draft Agreement on Cooperation between the National Crime Agency of the United Kingdom (NCA) and the Southeast European Law Enforcement Center (SELEC);
 21. Ministry of Public Administration and Local Self-Government - Proposal of Decree on Internal Labor Market of State Bodies;
 22. Ministry of Culture and Information - Draft Rulebook on Personal Data Protection;
 23. Ministry of Trade, Tourism and Telecommunications - Proposal of Decree on determining the list of activities in areas in which activities of general interest are performed and in which ICT systems of special importance are used with a justification;
 24. Commissioner for the Protection of Equality - Draft Rulebook on Pseudonymization;
 25. Ministry of Public Administration and Local Self-Government - Draft methodology for voter registry verification;
 26. Ministry of Trade, Tourism and Telecommunications - Proposal of Decree on the procedure of notification of incidents in ICT systems of special importance;
 27. Ministry of Culture and Information - Proposed strategy for the development of the public information system in the Republic of Serbia for the period 2020-2025.

3.4.2. Initiatives and proposals

The Commissioner has submitted seven initiatives and proposals in 2019, as follows:

1. A motion for review of the constitutionality of Article 102, paragraph 1 of the Law on Defense was submitted to the Constitutional Court - the motion was rejected;
2. A proposal for the review of the constitutionality of Art. 40 of LPDP – the proposal was rejected;
3. A letter was sent to the Government of the Republic of Serbia regarding the need for amendments to the Strategy on Personal Data Protection, as well as the adoption of the Action Plan and the establishment of a special working body in relation to it;
4. An initiative was submitted to the National Assembly to postpone the implementation of the LPDP;

5. An initiative was submitted to the National Assembly and the Government of the Republic of Serbia to amend the Draft Law on Amendments to the Law on Republic Administrative Fees;
6. A request was sent to the Ministry of Justice requesting an authentic interpretation of Article 4, item 24 of the Law on Personal Data Protection - definition of "competent authority", and
7. An initiative was submitted to the Government of the Republic of Serbia to sign the Protocol amending the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (better known as Convention 108+).

The Commissioner has submitted to the Constitutional Court a proposal for assessing the constitutionality of Article 40 of the LPDP, which, in the Commissioner's opinion, does not represent a basis for restricting a constitutionally guaranteed right, but possibly a basis for regulating the possibility of restricting a person's rights. The Commissioner proposed to the Constitutional Court that, after the procedure, it make a decision that Article 40 of the LPDP is not in accordance with the Constitution of the Republic of Serbia, because it regulates that certain rights from the LPDP can be limited not only by law. On the contrary, the Commissioner's position is that restrictions on fundamental rights and freedoms may be regulated only by law and only if necessary to achieve a certain legitimate goal. The position similar to the Commissioner was stated by the European Commission in its Study on the assessment of the compliance of the Law on Personal Data Protection of the Republic of Serbia with the EU regulations of May 28, 2019, where it is specifically stated that Article 40 of the LPDP, for reasons stated by the Commissioner, is not in accordance with the GDPR and the so-called Police Directive, as well as the case law of the European Court of Human Rights and the European Court of Justice. The Constitutional Court has concluded that there were no preconditions for conducting the procedure, and rejected the Commissioner's proposal.

On this occasion, the initiative of the Commissioner submitted to the Government of RS is pointed out, that it is necessary for the Government of RS to make significant changes to the existing Strategy for Personal Data Protection from 2010, in terms of adopting a new Strategy or amending the existing one with the goal of harmonizing with LPDP and the current situation. The Commissioner has particularly pointed out in the initiative that the current situation in the field of personal data protection unequivocally indicates that the fact that in the previous ten years there was no political will to implement this strategy was a much bigger problem than the solutions contained in the Strategy. In that sense, the content of the Strategy should be updated, which means that all elements should be defined for the next period of 5 to 7 years. On that occasion, the standards set by the GDPR should also be taken into account. The content of this document is a strategic issue of the Government of RS, not one ministry, because this is not about the application of only one law (LPDP), but of all regulations related to the processing of personal data, in almost all spheres of life and in the competence of all ministries. Also, it is necessary for the Government of RS to adopt the Action Plan for the implementation of the Strategy as soon as possible, in accordance with the new/innovated Strategy, because the ten-year delay in the adoption of the Action Plan is one of the key reasons for the non-implementation of the Strategy. Based on the Action Plan, precise operational plans should be adopted at the level of each individual stakeholder. Finally, it is necessary to form a special working body that will monitor the implementation

of the Strategy and Action Plan, and whose position and competencies would be defined in the Strategy itself.

On March 18, 2019, the Commissioner submitted to the Government of RS the initiative for the Republic of Serbia to sign the Protocol amending the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (better known as Convention 108+). The Protocol modernizes and improves the Convention 108+, and the most important innovations are: improved principles of proportionality and legality, as well as transparency of processing; extension of the category of sensitive data; prescribing the obligation to report data breaches; ensuring that data protection principles are applied to all processing activities, including national security; respect for the independence of personal data protection bodies, as well as strengthening international cooperation. On November 22, 2019, a few months after the Commissioner's initiative, the Government of RS has signed this Protocol. During the work on this report, the National Assembly has ratified this Protocol at the session on March 2, 2020.

3.5. Activities of the Commissioner on the affirmation of rights

In 2019, the Commissioner has organized and implemented a large number of trainings in the field of personal data protection, primarily due to the fact that the application of LPDP began on August 22, 2019. This law obliges the controllers and processors of personal data to be trained in the application of the Law on Personal Data Protection and to designate persons for the protection of personal data. As a very small number of controllers and processors were fully trained for the application of the LPDP and designated a person for personal data protection by the beginning of the application of the LPDP, the Commissioner, independently and in cooperation with partner organizations, began organizing trainings for controllers and processors, in a small number of cases have designated, or in the vast majority of cases plan to designate as persons for the protection of personal data.

The goal of these trainings is for the aforementioned persons to acquire new, or upgrade the existing knowledge on the right to protection of personal data and to get acquainted with the new obligations that, in accordance with the Law on Personal Data Protection, controllers and processors of personal data have. In accordance with the available human and material capacities, the Commissioner organized trainings by target groups and by territorial distribution.

In addition to trainings organized and implemented by the Commissioner, either independently or in co-organization with other institutions, trainings in the field of personal data protection are conducted continuously and organized by the National Academy of Public Administration, for the public servants. The representatives of the Commissioner also participate in these trainings in the role of lecturers, in addition to other lecturers.

The trainings held by the Commissioner are:

1. The Assistant Secretary General and representatives of the Commissioner's Office delivered a lecture for students of the Faculty of Law, University of Belgrade in the field of competence and work of the Commissioner's institution on March 6, 2019.

2. The Assistant Secretary General delivered a lecture for students of the Faculty of Organizational Sciences on the topic of personal data protection within the subject "Legal basis of information systems" on March 25, 2019.
3. The Assistant Secretary General delivered a training on the implementation of the new LPDP at the National Academy of Public Administration on July 18, 2019.
4. The Assistant Secretary General delivered a training on the implementation of the new LPDP at the National Academy of Public Administration on July 26, 2019.
5. On August 6, 2019, the Assistant Secretary General conducted a one-day training for representatives of all ministries of the Government of the Republic of Serbia and representatives of the Cabinet of the Prime Minister of the RS, entitled "Towards the implementation of the Law on Personal Data Protection"; the goal was for the employees in the ministries and the Cabinet of the Prime Minister of the RS to acquire, or to upgrade the existing knowledge on the right to protection of personal data and to get acquainted with the novelties brought by the LPDP.
6. The Assistant Secretary General delivered a training at the National Academy of Public Administration on the new LPDP intended for the authorities on August 9, 2019.
7. The Assistant Secretary General delivered a training on the implementation of the new LPDP at the National Academy of Public Administration on August 30, 2019.
8. The Assistant Secretary General delivered a training on the Law on Personal Data Protection on the premises of the Provincial Government, organized by the Human Resources Management Service of the Provincial Government in Novi Sad and the Office of the Commissioner, on September 13, 2019. The aim of the training is to strengthen the capacities of officials employed in provincial bodies and professional services of the Provincial Government, in the field of personal data protection.
9. The Assistant Secretary General delivered a training on the implementation of the new LPDP at the Serbian Chamber of Commerce on September 23, 2019.
10. The Assistant Secretary General delivered a training on the implementation of the new LPDP on September 24, 2019, organized by the Partners of Serbia.
11. The Assistant Secretary General delivered a training on the implementation of the new LPDP on September 25, 2019, organized by JUKOM and the Open Society Fund.
12. The Assistant Secretary General delivered a training on the application of the LPDP intended for the Association of Serbian Banks - Bankinfo 2019, on October 9, 2019 on Kopaonik.
13. The Assistant Secretary General delivered a training on the application of the LPDP intended for hotels and tourist organizations, on October 10, 2019 in the Chamber of Commerce of Vojvodina in Novi Sad.
14. The representative of the Commissioner delivered a training on the application of the LPDP intended for the centers for social work, in Kragujevac on October 14, 2019.
15. The Assistant Secretary General delivered a training on the application of the LPDP intended for accountants in the Chamber of Commerce of Vojvodina, in Novi Sad on October 17, 2019.

16. The Assistant Secretary General delivered a training on the application of LPDP intended for representatives of the Association of Insurers of Serbia, on October 21, 2019.
17. The Assistant Secretary General delivered a training on the application of the LPDP intended for the representatives of the Registry Office of Public Libraries, on October 30, 2019.
18. Two representatives of the Commissioner delivered a training on the application of LPDP to members of the Association of Serbian Banks, on 31/10-1/11/2019 in Vrnjačka Banja.
19. The Assistant Secretary General delivered a training on the application of LPDP to the representatives of the Association of Accountants and Auditors of Serbia, on November 1, 2019 in the Sava Center.
20. The representative of the Commissioner delivered a training on the application of LPDP intended for the Tourist Organization of Serbia, on November 13, 2019 in Belgrade.
21. The representative of the Commissioner delivered a training on the application of the LPDP intended for employees in the centers for social work and the Chamber of Social Protection, on November 18, 2019 in Apatin.
22. The Assistant Secretary General delivered a training for the representatives of the Library in Šabac, on November 19, 2019.
23. The representative of the Commissioner delivered a training on the application of LPDP intended for members of the Association of Tax Advisors, on November 25, 2019 in Belgrade.
24. The Assistant Secretary General delivered a training on the implementation of the LPDP intended for managers and employees of the Provincial Assembly, on November 25, 2019 in Novi Sad.
25. The representative of the Commissioner delivered a training on the application of LPDP intended for the representatives of the Federation of Independent Trade Unions, on November 27, 2019 in Kikinda.
26. The Assistant Secretary General delivered a lecture on exercising the right to personal data protection for students of the Fourth Belgrade Gymnasium, on November 26, 2019.
27. The Commissioner delivered a lecture on the topic of the new Law on Personal Data Protection at the gathering "Serbian Insurance Days", organized by the Association of Insurers of Serbia in Aranđelovac, from November 27 to 29, 2019;
28. The representative of the Commissioner delivered a training on the application of LPDP intended for the representatives of the Federation of Independent Trade Unions in Kikinda, on December 2, 2019.
29. The representative of the Commissioner delivered a training on the application of LPDP intended for the representatives of the Association of Accountants and Bookkeepers of Serbia in Belgrade, on December 2, 2019.
30. The Assistant Secretary General delivered a training on the application of the LPDP intended for representatives of the University of Belgrade, on December 5, 2019.

31. The representative of the Commissioner delivered a training on the application of LPDP intended for employees in the centers for social work, organized by the Chamber of Social Protection in Šabac, on December 6, 2019.
32. The representative of the Commissioner delivered a training for the representatives of the Tourist Organization of Serbia in Belgrade, on December 6, 2019.
33. The representative of the Commissioner delivered a training on the application of LPDP intended for the representatives of the Association of Accountants and Bookkeepers of Serbia in Novi Sad, on December 6, 2019.
34. Two representatives of the Commissioner delivered two trainings for representatives of the Federation of Independent Trade Unions in Kikinda, on 10/12 and 12/17/2019.
35. The Assistant Secretary General delivered a training on the implementation of the LPDP organized by USAID in Niš, on December 11, 2019.
36. The representative of the Commissioner delivered a training on the application of LPDP intended for the representatives of the Association of Accountants and Bookkeepers of Serbia in Belgrade, on 12/12/2019.
37. The Assistant Secretary General delivered a training on the application of LPDP for members of the Regional Chamber of Commerce of the South Bačka District in Novi Sad, on December 16, 2019.
38. The representative of the Commissioner delivered a training on the application of the LPDP for members of the Association of Serbian Banks, on December 17, 2019 in Belgrade.
39. The Assistant Secretary General delivered a training on the application of the LPDP intended for members of the Chamber of Public Executors, on 20 December 2019 in Belgrade.
40. The Assistant Secretary General delivered a training on the application of the LPCP for the employees of the Anti-Corruption Agency, on December 24, 2019.
41. The Commissioner delivered a lecture to the students of the Criminal Police University on the topic of free access to information of public importance and personal data protection, on December 24, 2019;

As part of his activities on the affirmation of rights, the Commissioner has placed special emphasis on training persons for specific and particular tasks in the field of personal data processing and protection. To that end, the Commissioner signed an Agreement with the Faculty of Security Studies of the University of Belgrade on long-term educational, scientific, technical and business cooperation in the field of education of personnel in charge of personal data processing and protection. The subject of this Agreement is the organization and implementation of a short study program called "Training of managers for personal data protection", and the goal of this program is professional training and education of persons to perform personal data protection. The Commissioner expects that the implementation of this program will start from 2020. For the purposes of implementing this study program, the Office of the Commissioner will have the role of the teaching base of the Faculty of Security Studies, and student internships will be a part of it. With this, the subject program of studies within higher education institutions, which will train persons for specific and particular jobs in the field of personal data processing and protection, will become an integral part of the educational system of the Republic of Serbia.

As part of the activities to affirm the right to protection of personal data, the Commissioner has pointed out the situation in this area and has presented the main challenges in the work of this state body at the event organized on January 28, on the occasion of marking the Day of Personal Data Protection. In order to inform the general and professional public about the exercise of this right, the Publication No. 4 was presented: Protection of personal data: Views and opinions of the Commissioner.

Affirming the right to free access to information of public importance, the Commissioner organized a conference on September 28 dedicated to the International Day of the Right of the Public to Know. This conference has been organized every year since 2006, in cooperation and with the support of the OSCE Mission to Serbia, the Independent Association of Journalists of Serbia, the Association of Journalists of Serbia and the Coalition for Freedom of Access to Information. This year as well, various bodies were awarded recognitions for the achieved results and contribution to the realization of the public's right to know, as well as a special award for the best Information Booklet on the work of bodies. On that occasion, the Publication number 8 was presented: Free access to information: Views and opinions of the Commissioner.

The Commissioner has continued the established practice of student internships in 2009, in order to acquire practical knowledge in the field of free access to information of public importance and protection of personal data. Within the cooperation between the Faculty of Law of the University of Belgrade and the Commissioner, a 15-day internship was organized for two groups of third and fourth year students of the Legal Clinic for Environmental Law.

Trainings in the field of freedom of access to information of public importance, in which the representatives of the Commissioner participate in the role of lecturers, are conducted continuously in the organization of the National Academy of Public Administration for the needs of public servants. In addition to these trainings, in 2019, trainings for students of the Legal Clinic for Environmental Law of the Faculty of Law, University of Belgrade were realized, followed by trainings for young investigative journalists organized by the United Nations Program (UNDP) within the Platform for Responsible Public Financial Management, as well as training intended for the representatives of the civil sector organized by the Belgrade School of Environmental Law.

4. COOPERATION ACTIVITIES OF THE COMMISSIONER

4.1. Cooperation with state bodies, civil society organizations and business associations

In 2019, the Commissioner has cooperated with state bodies, civil society organizations and business associations, as well as other institutions, by participating in numerous gatherings, conferences, round tables, professional gatherings, as well as in meetings directly organized with this subjects.

These are the events:

- The Secretary General of the Commissioner's Office participated in the closing ceremony of the Twinning project "Prevention and Fight against Corruption", on January 16, 2019 in the Club of Deputies;
- The Assistant Secretary General participated in the annual meeting of the UNDP Team in Serbia with partners, at the Metropol Hotel, on January 24, 2019;
- On January 28, 2019, the Commissioner traditionally marked the Day of Personal Data Protection in the Club of Deputies;
- The Assistant Secretary General participated in the press conference entitled "Corruption Perceptions Index of Transparency International for 2018", at the Media Center, Terazije 3, on January 29, 2019;
- The Deputy Commissioner and the Secretary General attended the 62nd session of the Committee on Administrative-Budgetary and Mandate-Immunity Issues on February 8, 2019 at which the request of the Commissioner for determining the maximum number of employees in 2019 was considered;
- The Assistant Secretary General participated in the conference "Human Rights Beyond the Negotiating Chapters and the Revision of the Action Plan for Chapter 23", organized by YUCOM on February 22, 2019;
- The Assistant Secretary General participated in the conference "Civil Society for Responsible Government" on February 4-5, 2019 in the Metropol Hotel organized by the NGO CRTA;
- The Assistant Secretary General attended the conference "Improvement of financial responsibility in the institutions of the Republic of Serbia through external audits" organized by the State Audit Institution on February 19, 2019 at the Metropol Hotel;
- Two representatives of the Commissioner participated in the conference on the topic of the New Law on Public Procurement and Control of Users of Public Funds, February 6-9, 2019 on Zlatibor, organized by the Institute of Economics and Law;
- The representative of the Commissioner attended the solemn annual assembly of the Association of Victims of Violence HAJR, on February 22, 2019 in the hall of the Assembly of the City of Belgrade;
- The representative of the Commissioner attended the presentation of the annual reports "Human Rights in Serbia 2018" and "The Right to Asylum in the Republic of Serbia 2018", on February 21, 2019 organized by the Belgrade Center for Human Rights;
- The representative of the Commissioner attended the press conference "Publicity of the work of central and local authorities", on February 28, 2019 organized by Transparency Serbia;
- The Deputy Commissioner attended the 64th session of the Committee on Administrative-Budgetary and Mandate-Immunity Issues, on March 18, 2019, at which the proposals for determining the maximum number of employees in 2019 were considered, i.e. the Rulebook on Internal Organization and Systematization of Jobs for the purpose of giving consent;
- The World Bank representative, Ellen Kelly, an expert on justice, visited the Commissioner for Information of Public Importance and Personal Data Protection on March 28, 2019. The Assistant Secretary General informed the Ms. Kelly about the Commissioner's competencies and activities, the obstacles the Commissioner faces in his work, as well as on the conduct of judicial bodies in relation to the Commissioner's acts, in the areas of access to information of public importance and personal data protection;
- The Assistant Secretary General attended the reception marking the National Day of the Republic of Bulgaria, on March 4, 2019 at the Metropol Hotel;

- Two representatives of the Commissioner participated in the tenth annual conference on the Internet in Serbia - DIDS 2019, on March 5, 2019, in the Metropol Hotel, organized by the Foundation "Registry of the National Internet Domain of Serbia" (RNIDS);
- The Secretary General attended the XIII Annual Assembly of the NALED Alliance, entitled "The Road to Successful Reforms", on April 18, 2019 at the Hyatt Hotel in Belgrade;
- At the invitation of the Embassy of the Kingdom of the Netherlands in Belgrade, the Assistant Secretary General attended the ceremony marking the King's Day, on April 24, 2019 at the Crowne Plaza Hotel in Belgrade;
- The Assistant Secretary General attended the lecture "Encouraging communities to acquire knowledge about the history and culture of the Roma", on April 11, 2019, in the ceremonial hall of the Serbian Academy of Sciences and Arts, organized by the Office of the Council of Europe in Belgrade;
- The Assistant Secretary General participated as a panelist in the promotion of the Guide through the Law on Personal Data Protection and GDPR, a publication published by the Share Foundation and the OSCE Mission to Serbia, on April 15, 2019;
- The Assistant Secretary General spoke at the conference "E-commerce 2019" on innovations in e-business and e-commerce defined in the new Law on Personal Data Protection. The conference took place on April 17-18, 2019 in Palić, under the auspices of the Ministry of Trade, Tourism and Telecommunications, the Serbian Chamber of Commerce and CRET;
- The representative of the Commissioner attended the debate on the role of the Judicial Academy in the professional training of future judges and of judges, on April 5, 2019, in the Stone Hall of the Federation of Independent Trade Unions of Serbia in Belgrade, organized by the Association of Judges of Serbia and the Open Society Foundation;
- The representative of the Commissioner attended the presentation of the independent report of the coalition PrEUgovor on reforms within Chapters 23 and 24, on April 16, 2019 in the Media Center;
- The representative of the Commissioner participated in the Round Table "How much do local governments invest in the implementation of youth policy?", organized by the Ana and Vlade Divac Foundation on April 19, 2019 in the Media Center;
- The representative of the Commissioner attended the celebration of the Competition Day, on April 12, 2019 in the Club of Deputies and organized by the Commission for Protection of Competition;
- The representative of the Commissioner attended the opening ceremony of the exhibition entitled: "25 paintings: Universal Declaration of Human Rights in illustrations by Nebojša Petrović", on April 15, 2019 in the Youth Center, organized by the United Nations Human Rights Team and the Belgrade Center for Human Rights;
- The Commissioner's representative participated in a workshop entitled "Form, structure and content of local government websites and Facebook pages", which is based on the analysis and recommendations for improving the websites and Facebook profiles of seven cities and municipalities that are beneficiaries of USAID technical support for the Government Accountability Initiative Project (GAI). The workshop took place on April 8, 2019, at the Park Hotel;
- The representative of the Commissioner attended the presentation of the project "Secret World of Donations and Execution of Contracts in Public Procurement in Healthcare" organized by the Legal Scanner together with the Association of Hemophiliacs of Serbia with the support of the Open Society Foundation on April 18, 2019 in the Media Center;

- The Assistant Secretary General attended the award ceremony for investigative journalism in 2019, which took place at the Faculty of Dramatic Arts on May 7, 2019;
- The representative of the Commissioner participated in the debate Anti-Corruption Deliberation, organized by the Bureau for Social Research, on May 9, 2019, in the Bor City Assembly;
- Two representatives of the Commissioner attended the round table on the Draft Law on Census, which was organized in the premises of the Statistical Office of the Republic of Serbia on May 10, 2019;
- The Assistant Secretary General attended the ceremony marking the Day of the Registrar of Serbia, at the Hyatt Hotel on May 10, 2019, organized by the Ministry of Public Administration and Local Self-Government;
- The Assistant Secretary General participated in a lecture on the implementation of the new Law on Personal Data Protection, organized by the Ministry of Culture and Information in cooperation with the National Library of Serbia, on May 14, 2019;
- The Assistant Secretary General attended the celebration of the 25th anniversary of the Beta news agency on May 15, 2019 at the Center for Cultural Decontamination;
- The Assistant Secretary General participated in the Digital Day 2019 conference, on May 16-17, 2019 at the Jugoslovensko dramsko pozorište;
- The representative of the Commissioner attended the award ceremony "Duga" for 2018/19 organized by the Gay Straight Alliance on the occasion of the International Day against Homophobia and Transphobia in the Ceremonial Hall of the Belgrade City Assembly on May 17, 2019;
- The Assistant Secretary General participated in the Congress of Psychologists of Serbia on May 21, 2019 on Zlatibor;
- The representative of the Commissioner attended the international conference on the occasion of the 70th anniversary of the Council of Europe entitled "Application of Council of Europe instruments and standards in the field of media and information" at the Jugoslovenska kinoteka organized by the Ministry of Culture and Information in cooperation with the Council of Europe Office in Belgrade on 24/05/2019;
- The Assistant Secretary General attended the celebration of the 25th anniversary of the Independent Association of Journalists of Serbia on May 25, 2019 at the Center for Cultural Decontamination;
- Assistant Secretary General participated in the expert meeting "Days of Southeast European Law" in Belgrade, Metropol Hotel, on May 27-28, 2019;
- The Assistant Secretary General attended the signing of the Memorandum of Understanding in the field of good governance between 96 local governments with the Swiss PRO program on May 29, 2019 at the Metropol Hotel;
- The Assistant Secretary General participated in the conference "Compliance functions in banks", on May 31, 2019 in Vrnjačka Banja;
- The Deputy Commissioner participated in the conference EnE19 - Clean Air - Healthier Future, on June 4, 2019 at the Serbian Chamber of Commerce within the UN marking the World Environment Day and the European Week of Sustainable Development. The conference was organized by the professional association Ambassadors of Sustainable Development and Environment and by the Serbian Chamber of Commerce;
- The representative of the Commissioner participated in the round table "Why should the reform of the security services be an indispensable part of the negotiations for EU membership?", organized by the Belgrade Center for Security Policy on June 4, 2019 in the Media Center;

- On June 5, 2019, the Commissioner organized a gathering dedicated to marking the 15th anniversary of the establishment of the institution of the Commissioner, with the participation of a large number of representatives of government, diplomatic corps, media and citizens' associations. The "Jubilee monograph 15 years of the Commissioner's work" was also presented at the gathering;
- The representative of the Commissioner participated in the conference "Elections for the European Parliament - results, expectations and possible impacts on the Western Balkans" in the Aeroklub on June 13, 2019, organized by the European Movement in Serbia with the support of the Konrad Adenauer Foundation;
- The Deputy Commissioner participated in the 62nd session of the Committee on Justice, Public Administration and Local Self-Government, on June 17, 2019, in Hall II of the House of the National Assembly, where the annual report of the Commissioner for 2018 was considered;
- The representative of the Commissioner participated in the public debate on the draft law on the social card, which was organized in the House of the National Assembly on June 17, 2019;
- The Assistant Secretary General participated in the seminar "Harmonization of health care institutions with the Law on Personal Data Protection and the envisaged penalties in case of non-application", 20/06/2019 organized by the Institute for Standardization of Serbia and the Center for Risk Analysis and Crisis Management;
- The representative of the Commissioner participated in the round table within the project "Protection of children from violence in the education system", organized by UNICEF, the Ministry of Education, Science and Technological Development and the Center for Interactive Pedagogy, on June 21, 2019, at the Tulip In Hotel;
- Two representatives of the Commissioner participated in the workshop on the application of the GDPR, organized by the Informatics Association of Serbia on June 25, 2019 in the Serbian Chamber of Commerce;
- The representative of the Commissioner participated in the conference "Amendments to the Constitution of Serbia within the process of accession to the European Union - advocating for changes to the Constitution" on June 26, 2019 in Aeroklub;
- The representative of the Commissioner participated in the conference Labor market and social analysis in the Western Balkans from data to policy organized by the European Movement in Serbia with the support of the Konrad Adenauer Foundation on June 28, 2019;
- The Deputy Commissioner and the Assistant Secretary General received representatives of Article 19 from London, Great Britain, and at a joint meeting discussed, among other things, reports on the human rights situation in Serbia, and especially on the state of media freedom, on July 2, 2019;
- The Assistant Secretary General and two Assistant Secretary Generals participated as panelists in a conference dedicated to the new Law on Personal Data Protection and its implementation, with the participation of representatives of the Ministry of Justice, organized by the Foreign Investors Council on July 8, 2019;
- The Deputy Commissioner attended the consideration of the Report on the implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2018 on July 10, 2019 in the National Assembly of the Republic of Serbia. The National Assembly of the Republic of Serbia adopted the Draft Conclusions of the Committee on Justice, Public Administration and Local Self-Government on July 15, 2019 in the plenum, on the occasion of the consideration of the

Report on the Implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2018, submitted by the Commissioner to the National Assembly of the Republic of Serbia on 03/25/2019;

- Three representatives of the Commissioner participated in the seminar "Protection of personal data and law enforcement agencies" on July 26, 2019. organized by the Belgrade Center for Security Policy at the Envoy Hotel;
- The Assistant Secretary General participated in the workshop on the topic of harmonization with the new Law on Personal Data Protection, organized by the Registry of the National Domain of the Republic of Serbia on July 30, 2019 at the Falkensteiner Hotel;
- Commissioner Milan Marinović and Minister of Public Administration and Local Self-Government Branko Ružić held a meeting which confirmed the continuation of good cooperation between the two institutions, on August 7, 2019. The topic of the meeting was also the novelties proposed in the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, which is in the final phase of harmonization of the text;
- On August 19, 2019, the Commissioner met with the Commissioner for the Protection of Equality, Brankica Janković, with whom he discussed issues in the field of work of the two independent institutions and their further cooperation. The main topic of the discussion was activities in the field of personal data protection, bearing in mind that the protection of personal data is very important from the aspect of protection against discrimination, and the Commissioner agreed that it would be better to postpone the implementation of the new Law on Personal Data Protection;
- The Commissioner met with representatives of the Association of Journalists of Serbia (UNS) on September 3, 2019. In a conversation with the UNS President Vladimir Radomirović and associates, the key role of journalists in the implementation of the Law on Free Access to Information of Public Importance was emphasized;
- The Commissioner received representatives of civil society organizations dedicated, inter alia, to the protection of privacy and personal data, namely: the Committee of Lawyers for Human Rights (YUCOM), the Share Foundation, the Partner for Democratic Change Serbia (Partners Serbia) and Belgrade Center for Security Policy (BCSP), on September 5, 2019. These organizations informed the Commissioner about their previous, as well as planned activities in the coming period, in connection with the challenges posed by the implementation of the Law on Personal Data Protection. The Commissioner especially pointed out that he will deliver a number of trainings in the coming period for appropriate representatives of controllers and processors of personal data, in order to better enable them to apply the Law on Personal Data Protection;
- The Commissioner participated in the conference "Presentation of the Transparency Index - LTI 2019 - The most transparent municipalities and cities in Serbia" organized by Transparency Serbia, on September 6, 2019 in the Media Center;
- The Commissioner received Diana Alonso-Blas, Eurojust's personal data protection official, on September 6, 2019. The main topic of discussion was the conclusion of the Agreement on Cooperation with Eurojust and the manner of achieving future cooperation between Eurojust, on the one hand, and the Commissioner and other competent authorities in Serbia, on the other hand;
- The Commissioner participated in the conference "Protection of whistleblowers at the central and local level" on September 9, 2019 in the Aeroklub, organized by the Ministry of Justice, the United States Agency for International Development's (USAID)

“Government Accountability Initiative” project, the EU project “Prevention and Fight against Corruption” and the organization Pištaljka;

- On September 13, 2019, the Commissioner received representatives of the USAID Government Accountability Initiative (GAI) Project, and introduced them to the activities it implements, as well as to the amendments to the Law on Free Access to Information of Public Importance proposed to the competent Ministry of Public Administration and local self-government, as well as with the current challenges in relation to the implementation of the Law on Personal Data Protection, and the activities that, in this regard, it realizes and plans to realize in the coming period, with special emphasis on upcoming trainings strengthen the controllers and processors of personal data;
- The Deputy Commissioner, and two Assistant Secretary General participated as panelists in the conference "Future of Information in Serbia", on 23-24 September 2019 at the Zira Hotel, organized by the Open Society Foundation and the Partner for Democratic Change;
- At the invitation of the Ministry of Justice, the Assistant Secretary General participated in a meeting entitled "Presentation of the Law on Personal Data Protection", on September 23, 2019 at the Serbian Chamber of Commerce;
- A representative of the Commissioner participated in the training on "Training on Improving Reporting on the Implementation of the Action Plan for Chapter 23", on September 24 and 25 in the Club of Deputies;
- The Assistant Secretary General participated in the meeting entitled "New Commissioner - New Law - New Obligations", in Novi Sad, on September 25, 2019, organized by Yucom;
- The Commissioner and the Assistant Secretary General participated in the round table "Forum on Free Access to Information - Culture of Openness, Transparency and Accountability", on September 26, 2019 at the Envoy Hotel;
- Organized by the Commissioner for Information of Public Importance and Personal Data Protection, the OSCE Mission to Serbia, the Coalition for Freedom of Access to Information, the Association of Journalists of Serbia and the Independent Association of Journalists of Serbia with the participation of a large number of media representatives, citizens, authorities and members of the diplomatic corps, a gathering was organized to mark the International Day of the Right of the Public to Know, on September 27. The meeting was addressed by: Milan Marinović, Commissioner for Information of Public Importance and Personal Data Protection, HE Sam Fabrizi, Head of the Delegation of the European Union to Serbia, HE Ambassador Andrea Oricio, Head of the OSCE Mission to Serbia, and Tobias Flessenkemper, Head of the Council of Europe Mission in Belgrade. The publication "8 - Free access to information - Views and opinions of the Commissioner" was presented at the meeting and awards were given to the authorities for the best Information Booklet, as well as for contributing to the affirmation of the public's right to free access to information of public importance;
- The representative of the Commissioner attended the celebration of the International Day of the Elderly, entitled "Bridge of Understanding - Intergenerational Solidarity organized by the Commissioner for the Protection of Equality" on October 1, 2019. in the Small Hall of the National Assembly;
- The Commissioner received the Dean of the Faculty of Security, University of Belgrade, Prof. Dr. Vladimir Cvetković, and at this meeting the Agreement on long-term educational, science, technical and business cooperation of the two institutions in the field of education of personnel in charge of processing and protection of personal data was signed on October 3, 2019;

- The Commissioner participated in the Annual Conference of Judges on October 9-10, 2019 in Vrnjačka Banja;
- The Commissioner attended the promotion of the 19th and 20th class of the Center for Basic Police Training in the Ministry of the Interior, at the Palace of Serbia on October 11, 2019;
- The Assistant Secretary General participated in the conference "From Principles to Practical Application - Law on Personal Data Protection" on October 15, 2019 at the Hilton Hotel;
- The Commissioner attended the celebration of the 75th anniversary of the liberation of Belgrade in the Second World War on October 18, 2019;
- The Secretary General attended the celebration of the day of the Security-Information Agency - 120 years of the civil security service on October 23, 2019;
- The representative of the Commissioner attended the presentation of the report on the state of the rule of law in Serbia, organized by the coalition prEUgovor on October 24, 2019 in the Media Center;
- The representative of the Commissioner attended the presentation of the new phase of the joint program of the European Union and the Council of Europe for the Western Balkans and Turkey in Aeroklub on October 30, 2019;
- The Assistant Secretary General attended the celebration of the 200th anniversary of Erste Bank in the City Assembly on October 31, 2019;
- The Commissioner attended the signing ceremony of the Agreement on Cooperation between the Republic of Serbia and EUROJUST, organized by the Ministry of Justice, on November 12, 2019 in the Palace of Serbia;
- The representative of the Commissioner attended the expert discussion "Life imprisonment without the possibility of parole: Implications in theory and practice", organized by the Lawyers' Committee for Human Rights and the Belgrade Center for Human Rights on November 12, 2019 in the hotel "Saint Ten", in Belgrade;
- The representative of the Commissioner attended the presentation of the publication "White Paper 2019" organized by the Foreign Investors Council in "Hyatt" hotel on November 13, 2019;
- The Commissioner and the Assistant Secretary General participated in the Conference on GDPR, which was organized by the Law Office "Janković Popović Mitić" in the Metropol Hotel, on November 14, 2019 in Belgrade;
- On November 15, 2019, the Commissioner received the representative of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) with associates, and on that occasion introduced them to the activities it implements, both in the field of access to information of public importance and in the field of personal data protection;
- The Deputy Commissioner attended the conference on the occasion of the International Day for Tolerance, organized by the Commissioner for the Protection of Equality in cooperation with the OSCE Mission to Serbia and the Embassy of the Kingdom of Norway in Serbia on November 18, 2019 in the Club of Deputies;
- The representative of the Commissioner attended the panel discussion "Debate on the rule of (no) rights - Serbia 2020", organized by the Politicon Network in cooperation with the Line and the Institute, with the support of the European Fund for the Balkans, and within the project "Rule of Law in the Western Balkans: (Un)revealing the rules of the game ", in the Crocodile Center, in Belgrade on November 19, 2019;
- The representative of the Commissioner participated in the event "Protection of personal data. Challenges and experience in practice to date", on 11/19/2019. in Belgrade, at the

Falkensteiner Hotel, organized by PwC Serbia, on the occasion of marking one year since the adoption of the new Law on Personal Data Protection and the first three months since that law was applied;

- The Commissioner presented at the conference Index of Transparency of Public and State-Owned Enterprises organized by Transparency Serbia in the Media Center on November 20, 2019;
- The representative of the Commissioner attended the conference on the occasion of the completion of the project: "Fight against torture and impunity" organized by the International Assistance Network IAN and the Committee of Lawyers for Human Rights YUCOM on November 20, 2019, in the Aeroklub, in Belgrade;
- The representative of the Commissioner participated in the conference organized by the Forum for the Prevention of Abuse of Payment Cards on November 22, 2019 in the Serbian Chamber of Commerce;
- The representative of the Commissioner participated in the Smart eGovernment conference at the Hyatt Hotel on November 25, 2019;
- The Deputy Commissioner attended the celebration of 150 years of administrative justice and administrative dispute in Serbia, as well as the celebration of 10 years of work of the Administrative Court in Serbia, on November 28, 2019 in the Club of Deputies;
- The representative of the Commissioner attended the conference "5 years: analysis of the work of the Protector of Citizens of the Republic of Serbia in the period 2015-2016" organized by YUCOM 11/29/2019 in the Aeroklub;
- The Commissioner participated in the gathering "Serbian Insurance Days", organized by the Association of Insurers of Serbia in Arandelovac on November 27 - 29, 2019;
- The Commissioner attended the celebration of the 98th anniversary of the Association of Serbian Banks, on December 4, 2019 in the Geozavod building;
- The Deputy Commissioner participated in the final event within the project "The Future of Freedom of Information in Serbia" and the panel on "Where is the public in the work of public institutions?" Organized by the Partners for Democratic Change on December 5, 2019;
- The Assistant Secretary General attended the celebration of the 72nd anniversary of the Institute for International Politics and Economy on December 6, 2019;
- The Commissioner attended the presentation of the results of the survey of citizens' perceptions on the fight against corruption, organized by USAID, on December 9, 2019 in the Media Center;
- The representative of the Commissioner attended a press conference at which the results of the research entitled "Human Rights in the Eyes of the Citizens of Serbia" were presented, organized by the Belgrade Center for Human Rights in the Media Center on December 9, 2019;
- The Assistant Secretary General participated in the public debate on the Draft Strategy for the Development of Artificial Intelligence in the Republic of Serbia for the period 2020-2025 on December 10, 2019 in the Science and Technology Park Belgrade;
- The Commissioner participated in the Conference "You are right!", dedicated to the celebration of December 10 - International Human Rights Day, organized by the Office for Human and Minority Rights. The conference reviewed the achievements in 2019 and defined plans for achieving values and standards in order to protect and promote human rights;
- The Commissioner attended the 47th regular session of the Assembly of the Standing Conference of Towns and Municipalities in the Sava Center on December 11, 2019;

- The representative of the Commissioner attended the celebration of the 10th birthday of the Union of Organizations of Serbia dealing with the protection of persons living with HIV/AIDS, in the Office for Youth, on December 11, 2019;
- The representative of the Commissioner participated as a panelist at the Round Table "Legal and ethical issues related to research on governance and open science in open countries" organized by the Institute of Economic Sciences on December 11, 2019;
- The Secretary General attended the presentation of the publication of the coalition prEUgovor entitled "Institutional Barometer", 11/12/2019 in the Media Center;
- The Commissioner attended the celebration of 10 years of work of the Anti-Corruption Council on December 12, 2019 in the National Assembly;
- The Commissioner participated in the meeting dedicated to the consideration of the introduction of specialized judicial reports for resolving environmental cases, organized by the Ministry of Environmental Protection and the OSCE Mission to Serbia on December 16, 2019;
- The Commissioner, the Assistant Secretary General and the representative of the Commissioner attended the promotion of the Manual for the Procedure of Public Prosecutors on Criminal Complaints of Whistleblowers, in the Club of Deputies, on December 17, 2019, organized by the Portal "Pištaljka" and the Republic Public Prosecutor's Office;
- The Assistant Secretary General attended the celebration of the Day of Archives in Serbia entitled "Kingdom of Serbia and Kingdom of Italy, on the occasion of 140 years from the establishment of diplomatic relations" on December 17, 2019;
- The representative of the Commissioner attended the panel discussion "Road to the EU = the road to public administration at the service of citizens" at the EU Info Center, organized by the Center for European Policies on December 17, 2019;
- Two representatives of the Commissioner attended the award ceremony of the Knight of the Call on December 18, 2019 at the National Theater;
- The Commissioner attended the promotion of the publication "25 years - missing persons, an ongoing process" on December 18, 2019 in the Club of Deputies, at the invitation of the Commission for Missing Persons;
- The Commissioner participated in the discussion "From Finland to Croatia - Finnish Presidency of the EU Council" on December 19, 2019 organized by the Center for European Policies;
- The representative of the Commissioner participated in the round table organized by the Belgrade Center for Security Policy "How can the Services be in the service of citizens, not politicians?", on December 20, 2019 in the Media Center;
- The Commissioner received the Resident Representative of the UN Development Program in Serbia (UNDP), Ms. Francine Pickup and her associates on December 20, 2019. The topic of the meeting was the future cooperation between UNDP and the Commissioner based on potential support to the UNDP Commissioner in order to strengthen the principles of the rule of law and transparency in work. The Digital Agenda for Europe was also discussed at the meeting;
- The Commissioner delivered a lecture to the students of the Faculty of Law, University of Belgrade on the topic of misdemeanor law in ecology on December 20, 2019;
- The representative of the Commissioner attended the conference "Protector of Citizens in the Context of European Integration" organized by YUCOM, December 20, 2019 in the Moskva Hotel;

- The Commissioner attended the celebration of 175 years since the establishment of the main control in the Republic of Serbia at the invitation of the State Audit Institution on December 25, 2019 at the National Theater;
- The Deputy Commissioner attended the presentation of the publication "Law on General Administrative Procedure - Anatomy of a Legal Project" by prof. Dr. Stevan Lilić 12/26/2019 in the House of Human Rights and Democracy;
- The Assistant Secretary General attended the ceremonial awarding of the annual award for personal contribution to the fight against corruption "Verica Barać", on December 26, 2019 in the National Library of Serbia.

4.2. International and regional cooperation

In 2019, as in previous years, the Commissioner had successful international and regional cooperation. The Commissioner continued to establish successful cooperation with the representatives of international or transnational organizations in Serbia (OSCE, United Nations Development Program - UNDP, Delegation of the European Union to the Republic of Serbia, Council of Europe, USAID Responsible Government Project), and established cooperation with other entities.

The Commissioner especially cooperated with the competent institutions from the region and from the former Yugoslavia in the field of personal data protection and in the field of free access to information of public importance. The Commissioner has achieved such cooperation with the competent institutions in Europe and the world, especially by participating in important international conferences and events.

The Commissioner's meetings with the representatives of international and foreign entities referred to the current state of exercising the right to access information and protection of personal data, especially to the issues of application of the new LPDP, as well as possible new solutions in the Law on Free Access to Information. Topics of the relationship between the executive and the legislature towards the institution of the Commissioner, issues in the field of European integration and international and regional cooperation, as well as issues of implementation of tasks set out in the action plans for Chapters 23 and 24 were also discussed.

Representatives of the Commissioner participated in the following international and regional gatherings, as well as meetings dedicated to free access to information and protection of personal data, as follows:

- The Assistant Secretary General attended the reception on the occasion of the opening of the new premises of the Embassy of the Kingdom of the Netherlands and the election of its First Secretary.
- The Assistant Secretary General of the Commissioner's Office participated in the meeting of the Working Group of the International Conference of Commissioners for Information.
- The Assistant Secretary General participated in the 11th International Conference of Information Commissioners 2019 (ICIC 2019), on March 10-13, 2019 in the Republic of South Africa, Johannesburg, organized by the South African Information Access Authority and the Center for Human Rights of the University of Pretoria.

- The Assistant Secretary General participated in the 47th meeting of the Bureau of the Advisory Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, on March 20-22, 2019 in Paris.
- At the invitation of the EU Delegation to Serbia, the Deputy Commissioner, participated in the meeting of the EU Delegation to Serbia with the Ambassadors of the EU Member States. The Deputy Commissioner informed the participants of the meeting about the activities and challenges regarding the freedom of access to information and protection of personal data.
- The Deputy Commissioner received the Head of the Council of Europe Mission in Belgrade, Tobias Flessenkemper, with whom she discussed issues in the field of work of the Commissioner. The main topic of discussion was activities in the field of personal data protection, the forthcoming implementation of the new Law on Personal Data Protection and the signing of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108), adopted 10. October 2018.
- The Deputy Commissioner, the Secretary General and the Assistant Secretary General participated in the Third Meeting of the "Initiative 2017", on May 26-28 2019, in Budva. At the meeting, the representatives spoke about the state of harmonization of national legislation with the General Data Protection Regulation (GDPR).
- The Assistant Secretary General participated in the 29th International Conference of European Bodies for Personal Data Protection, on May 8-10, 2019, in Tbilisi, Georgia, organized by the Office for Personal Data Protection of Georgia and within the conference had a presentation on "Personal Data Protection and International Organizations".
- The Assistant Secretary General participated in the workshop on personal data protection, on May 28, 2019, in Flensburg.
- Two representatives of the Commissioner attended the 11th plenary session of the European Data Protection Board (EDPB), in Brussels, in the hall of the Albert Borschette Congress Center on June 4, 2019. This visit was conducted within the IPA 2017 project "Countering Serious Crime in the Western Balkans", that had Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH as the implementing partner.
- The Assistant Secretary General participated in the conference on the significance of the new Convention 108+, adopted in October 2018. The conference was organized within the 38th plenary session of the Advisory Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data on June 12, 2019 in Strassbourg.
- The Assistant Secretary General participated in the 119th Plenary Session of the Venice Commission, where she gave a presentation on the protection of personal data regarding the use of social networks during the election processes on June 21, 2019.
- On August 8, 2019, the Commissioner received the Ambassador of Sweden to Serbia, Jan Lundin, and had a long conversation with him. The subject of the discussion was human rights and their protection in Serbia, especially the right to free access to information and the right to protection of personal data.
- The Commissioner received the Head of the Council of Europe Mission in Belgrade, Tobias Flessenkemper, and talked with him about issues in the field of work of the Commissioner, on August 13, 2019. The main topic of the discussion were activities in the field of personal data protection and the challenges posed by the forthcoming implementation of the new Law on Personal Data Protection, with special reference to the

Commissioner's initiative to the National Assembly regarding the postponement of the new Law on Personal Data Protection, as well as the signing of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) of the Council of Europe, adopted in 2018.

- The Commissioner received Mateja Norčič Štamcar, Deputy Ambassador and Nora Hairinen, Head of the Political Sector of the EU Delegation to Serbia on August 15, 2019. The subject of discussion was human rights and their protection in Serbia, and especially the right to protection of personal data. The Deputy Ambassador showed special interest in the activities of the Commissioner in the field of personal data protection and the challenges posed by the forthcoming implementation of the new Law on Personal Data Protection, as well as in the Commissioner's initiative to postpone the implementation of the new Law on Personal Data Protection.
- Two representatives of the Commissioner attended the 13th plenary session of the European Data Protection Board (EDPB), in Brussels, in the hall of the Albert Borschette Congress Center on September 10, 2019. This visit was conducted within the IPA 2017 project "Countering Serious Crime in the Western Balkans", that had Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH as the implementing partner
- The Assistant Secretary General participated in the 48th session of the Bureau of the Advisory Committee of Convention 108, in Paris on September 25-27, 2019.
- The representative of the Commissioner participated in the 5th meeting of the Subcommittee on Justice, Freedom and Security on October 2-3, 2019 in Belgrade.
- The Secretary General attended the celebration of the National Day of the Republic of Korea on October 7, 2019 at the Hyatt Hotel.
- In organization of the Ministry of European Integration in cooperation with the TAIEX department of the European Commission's Directorate General, the Commissioner participated in a seminar dedicated to the protection of whistleblowers in the enlargement countries, on October 7-8, 2019 in Brussels.
- The Deputy Commissioner attended the celebration of the National Day of Austria, on October 14, 2019 in the City Assembly.
- The representative of the Commissioner participated in the 6th meeting of the Special Group for Public Administration Reform in Brussels on October 14, 2019.
- The Commissioner and the Assistant Secretary General participated in the 41st International Conference of Commissioners for Personal Data Protection and Privacy, in Tirana (Albania), on October 21-24, 2019.
- The Deputy Commissioner and the Assistant Secretary General attended the celebration of the National Day of Hungary, at the invitation of the Embassy of Hungary on October 22, 2019.
- The Deputy Commissioner and the Assistant Secretary General attended a reception at the French Embassy on the occasion of the laureate Vaclav Havel, for the award for human rights on October 15, 2019.
- The Deputy Commissioner and the Assistant Secretary General attended the celebration of the European Day of Justice, organized by the Embassy of the Netherlands on October 23, 2019.
- The Commissioner received the President of the Agency for Personal Data Protection of Bosnia and Herzegovina, Petar Kovačević, on October 31, 2019.
- The Commissioner and the Assistant Secretary General participated in the 10th International Conference "Personal Data Protection" organized by the Russian body

responsible for personal data protection - Roskomnadzor in Moscow, on November 7, 2019, with a presentation on "The new legal framework for personal data protection in the Republic of Serbia."

- The Assistant Secretary General spoke at a one-day conference jointly organized by the Council of Europe and the Review of Computer Law and Security entitled "Convention 108+ and the future global data protection standard".
- Two representatives of the Commissioner attended the 15th plenary session of the European Data Protection Board (EDPB), in Brussels, in the hall of the Albert Borschette Congress Center on November 12-13, 2019. This visit was conducted within the IPA 2017 project "Countering Serious Crime in the Western Balkans", that had Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH as the implementing partner
- The Commissioner received the Ambassador of the Netherlands, H.E. Gilles Beschoor Plug in Serbia on 11/18/2019.
- The Assistant Secretary General participated in the 39th plenary session of the Bureau of the Advisory Committee of Convention 108 on November 20-22, 2019 in Strasbourg. On that occasion, Serbia signed the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) of the Council of Europe, which was adopted by the Council of Europe on 18 May 2018 (Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, CETS No.223).
- The representative of the Commissioner was on a study visit to EUROJUST and EUROPOL in The Hague on November 25-27, 2019 organized by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.
- The Commissioner received the Ambassador of the Republic of Austria, H.E. Nikolaus Lutterotti on 11/27/2019.
- The Assistant Secretary General participated in the conference Application of the Principle of Transparency in the Practice of Local Self-Governments on November 28-29, 2019 in the hotel "Mona" on Zlatibor.

4.3. Cooperation with the media and presentation of the activities of the Commissioner in the media

As in previous years, the Commissioner has cooperated intensively with the media and journalists' associations in 2019 as well.

The Commissioner's statements, which attracted media attention, referred to issues related to the adoption of the new LPDP, as well as to new solutions in the Draft Amendments to the Law on Free Access to Information of Public Importance. In addition, media attention was drawn to the Commissioner's statements relating to individual cases of breaches of the right of access to information or data protection, some of which are also presented in this report. Also, the media attention was attracted by the topics of consideration and adoption of the Commissioner's Report for 2018, as well as of the election of a new commissioner.

Journalists from the Tanjug and Beta agencies, dailies Danas, Politika, Blic, Kurir, Večernje novosti, the weeklies NIN, Vreme, List Zrenjanin, Novi Magazin, Nedeljnik, Ekspres, and numerous other media such as: RTS, CINS, KRIK, BIRN, Radio Free Europe, Insider, N1, Adria Media Group, Južne vesti, Istinomer, VOICE, TV Studio B, AL Jazeera,

RT Vojvodina, TV Prva, 24 sata and other media have asked the Commissioner for a statement.. The Commissioner appeared on the following televisions with a national frequency: RTS, TV Pink, TV Happy, as well as on RTV, TV N1 and on Radio Belgrade.

A large number of media reported on the celebration of the Day of Personal Data Protection on January 28, 2019 and the International Day of the Public's Right to Know on September 28, 2019. The Commissioner's cooperation with journalists' associations is also reflected in the fact that the representatives of UNS and NUNS are traditionally members of the Commission for awarding recognitions for the promotion of the right to free access to information, which is granted on September 28.

During the year, the Commissioner has published 61 press releases on his website. The Commissioner has contributed to open and transparent work with the Open Data Portal and the official Twitter account of the Commissioner, and they help the journalists to get information about the work of the Commissioner in a faster and easier way.

5. OFFICE OF THE COMMISSIONER AND MEANS FOR WORK

5.1. Employees in the Commissioner's Office

Rulebook on Internal Organization and Systematization of Jobs in Commissioner's Office, dated March 8, 2019, to which the Committee on Administrative-Budgetary and Mandate-Immunity Issues of the National Assembly gave its consent by Act 21 No. 02-419/19 of March 18, 2019, which came into force on March 27, 2019, the Commissioner's Office systematized job positions for 94 employees (of which 92 civil servants: positions, civil servants and state employees and 2 advisors to the Commissioner). The Rulebook was adopted at the same session of the Board when the maximum number of employees in Commissioner's Office was determined.

With the proposal of the Personnel Plan for 2019, dated April 22, 2019, the Commissioner determined that 3 elected persons and 94 employees are needed to perform the Commissioner's competencies, and he sent it to the Ministry of Finance, on April 23, 2019 in order to obtain consent, with the proposal emphasizing that the proposed number of civil servants in 2019 is sufficient for the smooth execution of tasks within the scope of the Commissioner until the implementation of the new LPDP, and that the total number will be reconsidered when the provisions of the new LPDP begin to apply.

The Ministry of Finance sent a letter dated 15/05/2019 with the consent to the Proposal of the Personnel Plan of the Commissioner for 2019, considering that the the Law on Budget of the Republic of Serbia for 2019 (Official Gazette of RS No. 95/18) provided funds for planned number of employees.

The Committee on Administrative-Budgetary and Mandate-Immunity Issues of the National Assembly passed the Decision 21 of 08/02/2019 on determining the maximum number of permanent employees employed for an indefinite period of time in Commissioner's Office in 2019, which determined that the number of permanent employees in Commissioner's Office in 2019 may be 94, provided that it may have the number of permanent employees for which the mass of funds for the payment of salaries determined by the Law on the Budget of the Republic of Serbia for 2019 has been provided.

At the beginning of 2019, the Commissioner's Office had 78 permanent employees employed for an indefinite period of time. During 2019, 5 people were hired for an indefinite period of time, and 2 people terminated their employment, and on December 31, 2019, the Commissioner's Office had 81 employees employed for an indefinite period of time. At the end of 2019, a competition was organized to fill all nine vacancies in Commissioner's Office (competition was not organized to fill the positions of two advisors to the Commissioner and two positions related to the Central Registry, which, in accordance with the provisions of the new LPDPL, ceased to be kept with the entry into force of this law). Based on the competition, 7 vacancies were filled, of which 6 people were hired for an indefinite period and 1 person for a definite period of time - as a trainee; the employees started work in January 2020.

During the year, a total of 2 persons were hired, in different periods, for a certain period of time, one person to replace a temporarily absent worker and one employee for a fixed-term employment. As of December 31, 2019 in Commissioner's Office does not have persons with temporary employment.

The new LPDP introduces numerous new competencies and authorities for the Commissioner, as well as new institutes, which is why it is necessary to significantly strengthen the personnel capacities of the Commissioner for the successful application of this law. Prior to the commencement of the application of the LPDP (August 22, 2019), the Commissioner adopted a new Rulebook on Internal Organization and Systematization of Jobs in Commissioner's Office, on July 31, 2019. The total number of systematized executors according to the mentioned rulebook is 129, which is an increase in relation to the previous Rulebook on Internal Organization and Systematization of Jobs in Commissioner's Office, which systematized 94 employees. Having all the above in mind, the stated increase in the number of employees in the new Rulebook is expected and justified.

At the time of writing, the Committee on Administrative-Budgetary and Mandate-Immunity Issues of the National Assembly gave its consent to the new Rulebook on March 2, 2020.

With the Proposal of the Personnel Plan in 2020, the Commissioner planned to have 110 employees (without the elected persons).

5.2. Development and improvement of the work of the Commissioner's Office

5.2.1. Improving the employee knowledge and skills

Throughout 2019, in order to improve the work of Commissioner's Office organized numerous activities to improve the knowledge and skills of the employees.

Thus, in 2019 it continued its activities to strengthen the information security management system available to the Commissioner in his work according to the requirements of the standard SRPS ISO/IEC 27001: 2013, given the great importance of these activities, not only in terms of information security, but also from the aspect of performing the function of supervision over the application of LPDP by the controllers who are certified for the stated standard.

The first supervisory audit by the lead auditor of the company CIS - Certification & Information Security Services GmbH/Quality Austria Center d.o.o., Belgrade was conducted in September 2018, while the second was conducted on October 2, 2019. On that occasion, with certain recommendations for further work, it was stated that the institution of the Commissioner has successfully responded to all requirements of the standard and has thus gained the right to extend the validity of the internationally accredited certificate on Information Security Management System according to SRPS ISO/IEC 27001: 2013, which was reported on 23/10/2019, a certificate was issued to the Commissioner by Quality Austria Center d.o.o. from Belgrade, under number 334/1 (picture below).

The Commissioner continued to work on improving the work of his own service. Thus, the activities on strengthening the Information Security Management System, which the Commissioner uses in his work according to the requirements of the standard SRPS ISO/IEC 27001: 2013, continued. To this end, employee training was conducted, so that in addition to previously 8 auditors certified for Information Security (the highest level of certification for SRPS ISO/IEC 27001) and 17 data security managers, another 7 employees were trained to recertify the existing certificates for data security in 2019. Also, 4 employees were trained for the ISO 31000 standard, and 65 employees were trained in "Fundamentals of Information Security and Introduction to the ISO 27001: 2013 Standard".

In 2019, in addition to Commissioner Milan Marinović, who received a certificate from the Office of the National Security Council for access to classified information marked with the highest degree of "state secret" after a security check, in accordance with the Law on Classified Information, one employee of the Commissioner received a certificate of the Office of the National Security Council for access to classified information. This increased the number of employees in the Commissioner's Office with a certificate to access classified information to 22 (plus 2 elected persons - the Commissioner and the Deputy Commissioner).

In 2019, the employees of the Commissioner's Office improved their knowledge and skills in various thematic trainings, courses and other types of training.

For example, periodic training for safety and health at work was conducted in July for all employees.

A training on LPDP was organized in August, which began to be conducted at the end of that month.

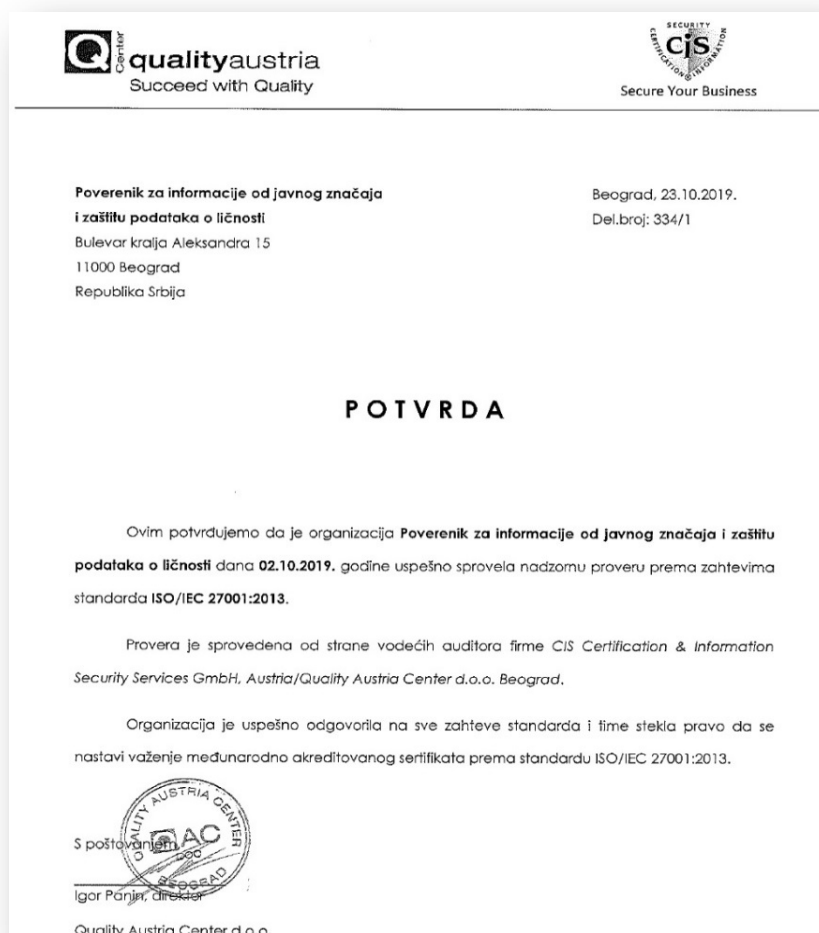
At the end of August, 11 employees participated in training on teaching skills organized by the National Academy of Public Administration. By the end of the year, seven of them had entered the accreditation process for lecturers at this institution.

In October, the Commissioner's Integrity Plan, as one of the measures to improve the corruption risk management, provided education and testing of employees and public officials on ethics and integrity.

In November, through the program of professional development of francophone employees organized by the Ministry of European Integration and the Embassy of France, one employee paid a study visit - internship in the French personal data protection body Commission nationale de l'informatique et des libertés CNIL.

In December, seven authorized persons from the Supervision Sector attended training on the application of the Law on Inspection Supervision, organized by the National Academy of Public Administration.

5.2.2. IT Development of the Commissioner's Office



The Commissioner continued to work on improving the work of his own service. Thus, the activities on strengthening the Information Security Management System, which the Commissioner uses in his work according to the requirements of the standard SRPS ISO/IEC 27001: 2013, continued. To this end, employee training was conducted, so that in addition to previously 8 auditors certified for Information Security (the highest level of certification for SRPS ISO/IEC 27001) and 17 data security managers, another 7 employees were trained to recertify the existing certificates for data security in 2019. Also, 4 employees were trained for the ISO 31000 standard, and 65 employees were trained in "Fundamentals of Information Security and Introduction to the ISO 27001: 2013 Standard".

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5.2.2. IT Development of the Commissioner's Office

Having in mind the requirements set before the state authorities by the new regulations related to e-business and the process of digitalization of public administration (Law on Electronic Government, Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business, as well as other numerous bylaws), the Commissioner strengthened the infrastructure of his computer network in 2019, both by performing works on the arrangement, installation and replacement of obsolete network devices, and by ensuring the redundancy of the entire info information system, by providing additional capacity for electronic data storage, and in particular performed the optimization and reorganization of the interconnection, thus enabling faster flow of information between network devices on the 10G network.

A great contribution to the affirmation of the right to free access to information of public importance and to the protection of personal data has been achieved by procuring new and by maintaining existing software.

After the software was purchased and after the "Commissioner's Practice" portal was created, citizens could to get acquainted with the Commissioner's practice, which is published on a daily basis, through an easy and quick search by various parameters.

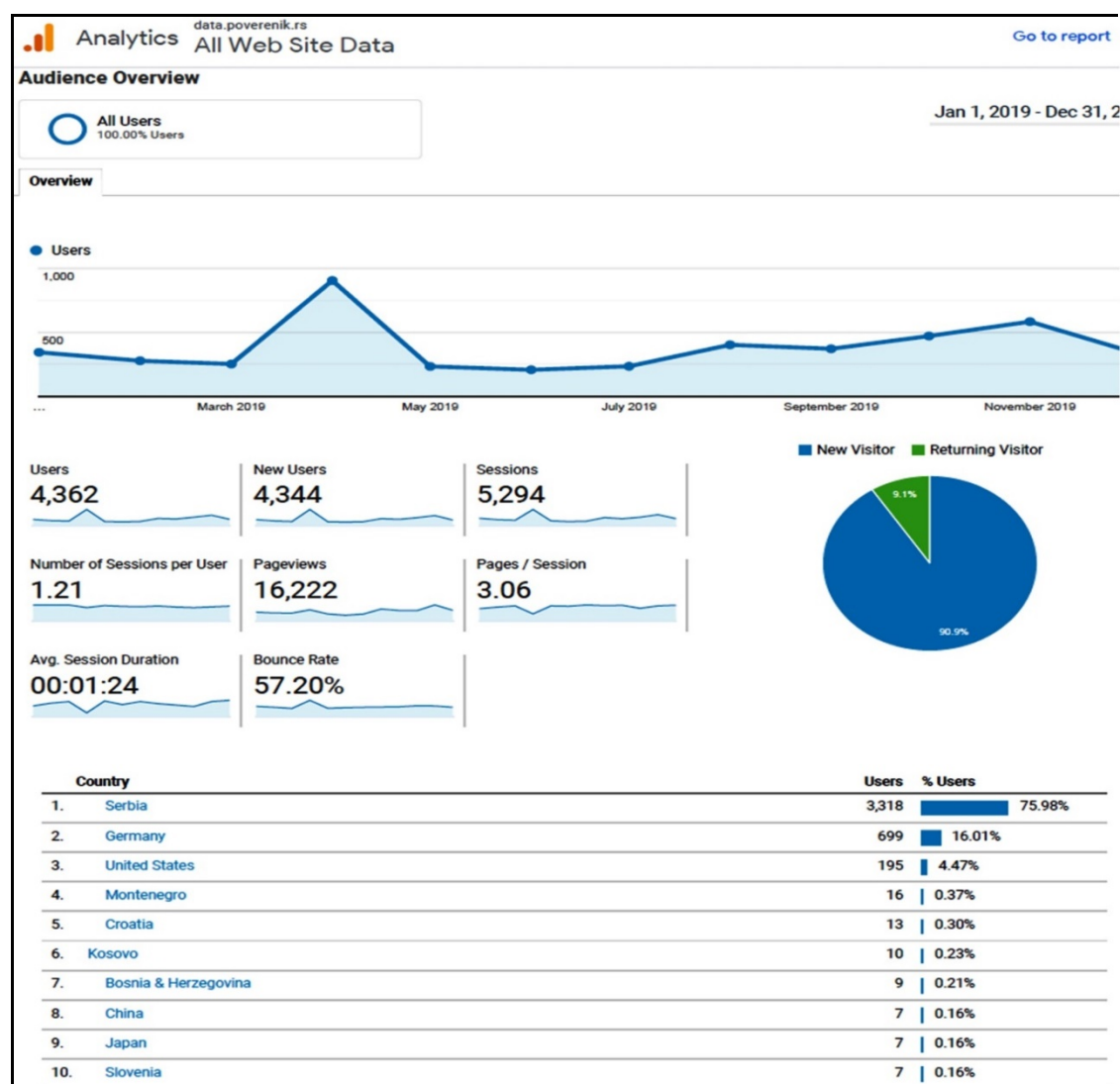
In 2019, the Commissioner continued to maintain the Open Data Portal, through which numerous data derived from his work, in a machine-readable format and through visualizations, are made available to the entire public via the Internet.

There is a significant increase in interest in the Commissioner's open data.

Compared to last year, the use of the Open Data Portal increased by 65% in 2019.

The following statistics for 2019 speak in favor of the above:

- total of unique visitors of the Portal: 4,362;
- opened pages: 16,222;
- visits to pages with visualization: 587 unique visitors;
- percentage of visits from the territory of the Republic of Serbia: 76%;
- total download of datasets: 2,405;
- The average retention of visitors per visited page is: 1 minute and 24 seconds.



Also, the Commissioner continued to maintain the Portal for submission of annual reports of the authorities in order to facilitate the submission of annual reports of the authorities that were submitted in paper form in the period before the procurement of this software.

In 2019, the licenses were extended for the use of software that aims to adapt and use the official website of the Commissioner, i.e. make available to blind and partially sighted people.

The Commissioner's official Twitter account, in addition to its basic informative function, also aims to promote positive social values, primarily in terms of protection of basic human rights. This account contains data on the work of the Commissioner, current events from all over the world related to: free access to information of public importance, the right of the public to know, open data, open administration, personal data protection, information security, privacy, etc.

In accordance with the provisions of the new LPDP, the controller and processor of personal data are obliged to designate one natural person (not more natural persons) for the protection of personal data, in the situations specified in this law. Other controllers and processors are not required to, but they may designate a person to protect personal data. However, all those who appoint a data protection person, regardless of whether the LPDP obliges them to do so or not, are obliged to publish the contact data of the personal data protection person and submit them to the Commissioner who keeps appropriate records of personal data protection persons.

In accordance with the above, on 31/12/2019, only 2,112 controllers have submitted to the Commissioner the information on the person for the protection of personal data, of which 1,390 are authorities. Given the presumed number of entities subject to this obligation, it is indisputable that the Commissioner's commitment to postpone the application of the new LPDP was justified due to the unwillingness of a large number of entities to meet the obligations prescribed by this law.

In order to facilitate the fulfillment of the stated obligation, as the least demanding of all prescribed by the new Law, the Commissioner gave a very receptive and simple instruction on his website, as well as how to perform the stated obligation in the simplest way. Albeit, not only was there no significant trend of increasing the number of submitted notifications on contact details of persons designated for the protection of personal data, but in many cases numerous irregularities were observed in fulfilling this statutory obligation, such as: submission of data not for one but for several persons designated for the protection of personal data; submission of private data of persons designated for personal data protection (private contact telephones, private email addresses, private residential addresses), submission of data for which there is no prescribed obligation (UPIDN, etc.); submission by the authorities of private contact email addresses, created on the Google e-mail service, etc.

Considering that until 31/12/2019, only 2 violations of personal data were reported to the Commissioner (in the period of significantly increased threats to the security of computer networks by so-called "crypto blockers" and other types of ransomware), it is justified to conclude that controllers either do not know about the legal obligation or refrain (more likely) from notifying the Commissioner, so as not to expose themselves to possible inspections and/or reputational risk that could affect the business and trust of clients or recipients of their products and/or services.

In accordance with the provisions of the Law on Personal Data Protection, accurate and up-to-date records on persons for the protection of personal data are kept by the Office of the Commissioner.

5.3. Funds and expenditures for the work of the Commissioner's office

The work of the Commissioner and the Commissioner's Office is financed from the budget of the Republic of Serbia, pursuant to the law.

The Law on the Budget of the Republic of Serbia for 2019 has approved funds to the Commissioner for the source of financing 01 - budget revenues in the amount of RSD 212,405,000.00, which is 14% less than the Commissioner's Financial Plan Proposal.

The Budget of the Republic of Serbia for 2019 has allocated funds for salaries to the Commissioner, which ensure that the Commissioner has 94 employees at the end of 2019, with which the Ministry of Finance agreed by an act dated 15/05/2019, by approving the Personnel Plan of the Commissioner for 2019.

The stated number of employees in Commissioner's Office was determined by the Committee on Administrative-Budgetary and Mandate-Immunity Issues of the National Assembly of the Republic of Serbia by the Decision on the maximum number of employees, employed for an indefinite period, in the Office of the Commissioner for Information of Public Importance and Personal Data Protection from February 8, 2019, which established that the Office of the Commissioner in 2019 has 94 employees - without the persons elected by the National Assembly (the Commissioner and two Deputy Commissioners). The slow dynamics of filling vacancies with the Commissioner was conditioned by objective reasons, waiting for the approval of the Commissioner's Personnel Plan and waiting for the election of a new Commissioner.

When planning financial resources for 2019, the Commissioner had in mind the scope of work of the Commissioner, the international obligations of the Republic of Serbia, provisions of the National Assembly conclusions¹⁰⁵, certain strategic documents which envisage strengthening the Commissioner's capacity¹⁰⁶, the increased inflow of cases in the field of free access to information and personal data protection, as well as the fact that Commissioner received new competencies with the new LPDP.

When it comes to the financial resources needed for the implementation of the law, as stated in the justification of the LPDP, it will be necessary to provide additional funds in the Budget of the Republic of Serbia in the coming years.

After the Commissioner approves the new Rulebook on Internal Organization and Systematization of Jobs in the Commissioner's Office, which provides for a larger number of employees compared to the currently valid act on systematization, given the new competencies provided by the new LPDP, the Commissioner will request the necessary financial resources.

¹⁰⁵ Conclusion regarding the review of the Report on the implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2018, RS No. 33 (Official Gazette of RS No. 51/2019).

¹⁰⁶ Law on Ratification of the Stabilization 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 RS - International Agreements No. 83/2008); Action plan for Chapter 23 within the accession negotiations of the Republic of Serbia with the European Union, entered into force on 23/10/2015.

Appropriations from the budget and current expenditures and expenses of the Commissioner are shown in the following tables:

Table 7 – Approved budget for 2019

Share	Program	Function	Program activity/ Project	Economic classification	Description	Total funds
11					Commissioner for Information of Public Importance and Personal Data Protection	212,405,000
				01	Sources of funding for section 11	
	1001				Budget revenues	212,405,000
					Improvement and protection of human and minority rights and freedoms	212,405,000
		160			General public services not elsewhere classified	212,405,000
			11		Availability of information of public importance and protection of personal data	212,405,000
				411	Salaries, allowances and compensation of employees (salaries)	138,237,000
				412	Social contributions payable by employer	23,709,000
				413	Compensation in kind	300,000
				414	Social benefits to employees	1,250,000
				415	Compensation for employees	2,700,000
				416	Rewards and bonuses	350,000
				421	Recurrent expenses	6,400,000
				422	Travel expenses	4,000,000
				423	Contracted services	19,734,000
				425	Repairs and maintenance	3,700,000
				426	Material	5,300,000
				482	Mandatory fees and penalties	725,000
				512	Machines and equipment	4,950,000
				515	Intangible assets	1,050,000

The Law on the Budget of the Republic of Serbia for 2019 has approved funds to the Commissioner for the source of financing 01 - revenues from the budget in the amount of RSD 211,325,000.00. The National Assembly of the Republic of Serbia urgently adopted amendments to the Law on the Budget of the Republic of Serbia for 2019 - Rebalance of the Budget for 2019, which was published in the Official Gazette of RS, No. 72/2019. The budget rebalance for 2019 increased the funds for the Commissioner on the appropriation of the economic classification 411 - Salaries, allowances and compensation of employees (salaries) and on the appropriation of the economic classification 412 - Social contributions at

the expense of the employer in the total amount of RSD 1,080,000.00, so the total budget of the Commissioner for 2019 is RSD 212,405,000.00.

RSD 188,727,681.15 or 88.85% of the approved budget funds were spent for the work of the Commissioner's Office in 2019, guided by the principles of responsible fiscal management, rationality, functionality and efficiency.

Table 8 - Execution of the Commissioner's budget for 2019

Function	Source of financing	Program	Project	Economic classification	Description	Approved funds by the RS Budget Law for 2019. (Official Gazette of RS No. 95/2018 and 72/2019)	Implemented	% of the implementation
160	01	1001	0011	411	Salaries and allowances for employees	138,237,000.00	127,016,554.31	91.88
				412	Social contributions at the expense of the employer	23,709,000.00	21,866,714.75	92.23
				413	Fees in kind	300,000.00	298,900.00	99.63
				414	Social benefits	1,250,000.00	310,109.81	24.81
				415	Employee benefits	2,700,000.00	2,542,608.01	94.17
				416	Rewards and bonuses	350,000.00	337,694.20	96.48
				421	Fixed costs	6,400,000.00	3,924,155.05	61.31
				422	Travel expenses	4,000,000.00	1,604,841.86	40.12
				423	Contractual services	19,734,000.00	19,216,638.01	97.38
				425	Repair and maintenance	3,700,000.00	1,733,173.27	46.84
				426	Material	5,300,000.00	3,814,343.80	71.97
				482	Taxes, fees and penalties	725,000.00	642,174.00	88.58
				512	Machinery and equipment	4,950,000.00	4,389,719.28	88.68
				515	Intangible assets	1,050,000.00	1,030,054.80	98.10
TOTAL 01 Budget revenues						212,405,000.00	188,727,681.15	88.85
TOTAL FOR FUNCTION 160:						212,405,000.00	188,727,681.15	88.85

The largest part of current expenses and expenditures of the Commissioner in 2019 from the source of financing 01 - revenues from the budget, not counting the personal income of employees, i.e. salaries, contributions and fees based on work, refer to computer services,

professional services, communication services, administrative services, information services, then ongoing repairs and maintenance of equipment, gasoline costs, administrative equipment and renewal of licenses necessary to increase computer security networks of the Commissioner's Office according to the ISO/IEC 27001 standard.

Table 9 - Overview of the major expenditures and expenses

Description	Funds spent - source of fin. 01
Recurring expenses	
Communication services (Internet costs, mobile and landline phone services, postal services)	3,370,042.12
Travel expenses	
Expenses for business trips abroad (mostly stemming from the legal obligation of the Commissioner in the context of international activities)	1,287,018.36
Contracted services	
Administrative services (translation and interpretation services and other administrative services)	2,613,716.30
Computer services (computer and software maintenance services)	7,245,000.00
Information services	1,403,662.18
Professional services	4,349,125.52
Services for hospitality and catering (organisation of conferences, round tables, meetings)	1,404,035.00
Current repairs and maintenance	
Current repairs and maintenance of the equipment (equipment for transport and administrative equipment)	1,250,224.87
Materials	
Material for transport (petrol and other materials for vehicles)	2,515,045.23
Machines and equipment	
Administrative equipment (computer equipment, in-built equipment, furniture)	4,389,719.80
Intangible assets	
Intangible assets (computer software, licenses)	1,030,054.80

In order to create optimal conditions for the work of employees in the application of both laws within the scope of work of the Commissioner, the Commissioner's Office in 2019 from the source of funding 01 - budget revenues, procured administrative equipment, mostly computer equipment in the amount of RSD 3,471,240.00, office furniture in the amount of RSD 531,459.48 and electronic equipment in the amount of RSD 254,419.80, while the rest of the funds were spent on the purchase of printers and landlines needed for the work of the Commissioner.

Table 10 – Purchased equipment and intangible assets

Ec. Class.	Account	Account description	Source of financing	executed
512	512211	Furniture	01	531,459.48
	512221	IT equipment	01	3,471,240.00
	512222	Printers	01	66,600.00
	512232	Telephones	01	66,000.00

	512241	Electronic equipment	01	254,419.80
Total 512:		Machines and equipment	01	4,389,719.28
515	515111	Computer software	01	42,336.00
	515192	Licenses	01	987,718.80
Total 515:		Intangible assets	01	1,030,054.80

Table 11 – Overview of the purchased equipment

No.	Item	Source of financing	quantity	Price per piece + VAT	Total
1	Organizer Galant	01	4	39,999.00	159,996.00
2	Metal shelf 200x92x55/5	01	1	8,688.00	8,688.00
3	Combined shelf	01	1	243,963.60	243,963.60
4	Drawer	01	1	118,811.88	118,811.88
5	MikroTik CRS317-1G-16S	01	1	48,000.00	48,000.00
6	Adapter DVI(24+5)	01	8	300.00	2,400.00
7	USB Flash 32GB 3.1 Kingston DT2000/32GB DataTraveler 2000	01	10	18,000.00	180,000.00
8	SFP+ cable for direct 10Gigabit connection	01	10	3,480.00	34,800.00
9	Qnap TS-1273U-RP-8G	01	1	288,000.00	288,000.00
10	Qnap TS-432XU-2G Diskless 4-Bay NAS	01	1	86,400.00	86,400.00
11	Intel® 82599EN 10 Gigabit Ethernet Controller	01	3	26,400.00	79,200.00
12	APC Smart-UPS SRT 6KRMXLI	01	2	582,000.00	1,164,000.00
13	APC Smart-UPS SMC1500IC	01	2	79,200.00	158,400.00
14	HDD WD100EFAX 10TB	01	16	38,880.00	622,080.00
15	Samsung SSD 970 EVO 1TB MZ-V7E1T0BW	01	2	32,160.00	64,320.00
16	Qnap LAN-10G2SF-MLX Dual-port 10GbE SFP + network expansion card	01	1	30,960.00	30,960.00
17	Dual M.2 PCIe SSD expansion card	01	1	16,800.00	16,800.00
18	Asus Transformer T101HA-GR030T	01	1	71,880.00	71,880.00
19	Desktop i3/i5/SSD256/8GBRAM ca WIN 10 Pro and Office Home and Business 2019	01	8	78,000.00	624,000.00
20	Yealink SIP-T19P E2	01	10	6,600.00	66,000.00
21	HP LaserJet Pro M402dne	01	3	22,200.00	66,600.00
22	Camera IP IR cube 3MP 1/3" progressive scan CMOS	01	1	20,040.00	20,040.00
23	Camera IP IR Cube 3MP	01	1	12,240.00	12,240.00
24	Epson projector EB-W05	01	1	57,999.00	57,999.00
25	Fellowes shredder	01	2	55,640.40	111,280.80
26	Ceilling loudspeaker 20W	01	4	4,998.00	19,992.00
27	Amplifier 100V Ceopa CE-MP70P 70W	01	1	32,868.00	32,868.00
Total					4,389,719.28

The Commissioner's Office procured intangible assets in the total amount of RSD 1,030,054.80, which mainly relate to the renewal of licenses to increase the security of the Commissioner's computer network in accordance with SRPS ISO/IEC 27001: 2013, then to

renew the license to adjust availability the Commissioner's web portal for blind and partially sighted persons, as well as for the procurement of ABBYY Fine reader software necessary for the transfer of the Commissioner's paper documentation into electronic and then into digital content in order to improve the work of the service.

Table 12 - Overview of purchased intangible assets

No.	Item	Source of financing	quantity	Price per piece + VAT	Total
1	Basic Support VMware	01	1	106,546.80	106,546.80
2	Mdaemon Renewal 150 users	01	1	45,408.00	45,408.00
3	Mdaemon Antivirus Renewal 150 users	01	1	46,464.00	46,464.00
4	Mdaemon Outlook connector Renewal 150 users	01	1	28,116.00	28,116.00
5	Archab Svr for Mdaemon arhiver Rnw Archab 150 users	01	1	39,600.00	39,600.00
6	ESET Endpoint Protection Standard	01	250	936.00	234,000.00
7	Annual Basic Maintenance Rnw Veeam Backup Essentials	01	3	49,248.00	147,744.00
8	The right to use the annual license of TTS server, license for sound system of web portal TTS server, web portal on android platform and sound system of documents in word, pdf and html	01	1	339,840.00	339,840.00
9	ABBYY Fine reader 14 Corporate	01	1	42,336.00	42,336.00
Total					1,030,054.80

At the end of 2019, the Ministry of Finance - Central Harmonization Unit, based on Article 83, paragraph 2, item 1 of the Law on Budget System, reviewed the quality of the financial management and control system (hereinafter: FMC) with the Commissioner, in order to evaluate the existing financial management and control system, and in particular the system of internal controls established by the Commissioner. In this report, the Quality Review Team concluded that the established FMC system at the Commissioner is at a satisfactory level and that the management continuously undertakes activities and measures to monitor and further develop the FMC and has a pronounced proactive approach in risk management. It was stated that: "Management puts appropriate emphasis on the quality of the system and implements measures to overcome the existing risks in a timely and proper manner. Key results and progress towards the goals are visible and presented. Regular monitoring of achievements, findings and recommendations and corrective actions based on internal and external audit has been established and is at a high level. Regular review and monitoring of the progress of the FMC system is carried out by individual annual reports of the organizational units, as well as the annual report on the introduction and development of FMC, which are standard monitoring procedures."

6. PROPOSALS OF THE COMMISSIONER

In order to improve the current situation in the field of free access to information of public importance and protection of personal data in Serbia, all on the basis of and in

accordance with the allegations in this report, the Commissioner presents the following proposals to the National Assembly and the Government of Serbia.

6.1. The Commissioner's proposals to the National Assembly of the Republic of Serbia are

1. To adopt without delay the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, prepared in cooperation and in accordance with the Commissioner's suggestions, in a text that would contribute to the improvement of the rights regulated by the Law;
2. That the competent committees of the National Assembly consider the Report of the Commissioner for 2019 and, based on the recommendations contained in this report, determine the proposed conclusions with recommendations and measures for improving the situation and send them to the National Assembly for consideration;
3. To open a discussion on the Report and proposed conclusions of the competent committees and adopt appropriate conclusions in order to exercise and further improve the right to free access to information of public importance and protection of personal data and remove obstacles identified in this report;
4. To ensure continuous supervision over the implementation of its conclusions by the available mechanisms of control over the work of the Government of RS, insisting on the responsibility for omissions in the work of government bodies;
5. In the process of adopting laws, the competent committees and expert services of the National Assembly shall duly consider the opinions and positions of the Commissioner regarding the possible effects of those laws on exercising the right to free access to information of public importance and the right to personal data protection;
6. By the end of 2020, to adopt laws whose provisions are related to the processing of personal data and are harmonized with the LPDP;
7. To provide timely full support to the Commissioner as an independent state body in the exercise of his competence.

6.2. The proposals of the Commissioner to the Government of the Republic of Serbia are:

1. To adopt a new or to amend the existing Strategy for Personal Data Protection, harmonized with the current situation in the field of personal data protection, as well as the Action Plan for its implementation, all in cooperation and in accordance with the suggestions of the Commissioner;
2. To determine without delay the Draft Law on Amendments to the Law on Free Access to Information of Public Importance, in cooperation and in accordance with the Commissioner's suggestions, in a text that would contribute to the improvement of the rights regulated by the Law;
3. To determine in a timely manner the draft laws on amendments to the laws whose provisions related to the processing of personal data are harmonized with the Law on Personal Data Protection, so that the National Assembly can adopt these laws by the end of 2020;
4. When considering draft laws and other regulations, to consider with due care the opinions and positions of the Commissioner regarding the possible effects of these

regulations on exercising the right to free access to information of public importance and the right to protection of personal data;

5. To establish, in accordance with its own obligations prescribed by the Law on Free Access to Information of Public Importance, an adequate mechanism for ensuring the execution of final, executive and binding decisions of the Commissioner;
6. To provide adequate conditions and financial resources for the smooth operation of the Commissioner as an independent state body, especially in relation to: broader competences of the Commissioner established by the new Law on Personal Data Protection; performing a supervisory function; conducting second-instance proceedings, as well as the growing volume of work whose untimely execution generates litigation costs at the expense of the budget;
7. To take measures to determine the responsibility of the authorities, especially officials, who have not performed their duties in accordance with the law;
8. To cooperate with the Commissioner to ensure that the competent ministries, as well as other authorities, improve knowledge in the areas of the right to access information of public importance and the right to protection of personal data, in order to improve the level of realization of these rights in the Republic of Serbia.

COMMISSIONER

Milan Marinovic

Belgrade, March 23, 2020

No .: 073-10-2395/2019-01

7. Summary of the report on the implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2019

I General remarks on the Commissioner

The Summary of the Report on the Implementation of the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for 2019 shows the situation regarding the implementation of these laws, measures and activities taken by the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner), as well as obstacles and challenges in exercising the right to free access to information and the right to protection of personal data.

The basic role of the Commissioner as an independent state body, in accordance with the Law on Free Access to Information of Public Importance (hereinafter: the Law on Free Access to Information) and the Law on Personal Data Protection (hereinafter: LPDP) is to protect and enable the realization and promotion of the rights prescribed by these laws.

Last year, the National Assembly of the Republic of Serbia, at the Fifteenth Extraordinary Session in the Eleventh Convocation, at the sitting of 26 July 2019, passed a decision on the election of Milan Marinović as Commissioner for Information of Public Importance and Personal Data Protection.

In 2019, the Commissioner continues to face the same or similar challenges in his work as in previous years, namely that the competent or controlled bodies do not act or do not act in a timely and complete manner upon the acts of the Commissioner adopted on the basis of the Law on Free Access to Information. LPDP. Also, the same conclusion applies to the number of pending cases, because the data on the number of received cases (13,989) and the number of completed proceedings per case (13,997) in 2019 are almost identical to these data for 2018.

The year 2019 was marked not only by the election of a new commissioner, but also by an extremely inappropriate long-term practice of the National Assembly, especially in the period of four related years (2014-2017) when the National Assembly did not consider a single report submitted by the Commissioner. The practice is changing in a positive direction, because the National Assembly, at its session on July 15, 2019, considered the report of the Commissioner for 2018 in the plenum and on that occasion it made certain conclusions, which, unfortunately, have not been implemented yet.

In 2019, the Commissioner had the largest number of cases related to: resolving complaints due to violation of the right to free access to information of public importance; supervising the processing of personal data and providing expert opinions in connection with the adoption and amendment of regulations or their application. Also, a significant part of the activities was related to: delivering trainings for the implementation of the new LPDP; cooperation with relevant bodies at the international and regional level and contribution to reporting activities related to the process of Serbia's accession to the European Union.

In 2019, after a security check was conducted, and in accordance with the Law on Data Secrecy, Commissioner, Milan Marinović was granted a certificate by the Office of the

National Security Council for access to classified data marked with the highest degree of "state secret".

Full visibility of the role and work of the Commissioner, both in the field of free access to information of public importance and in the field of personal data protection, is a constant task that the Commissioner accomplished in 2019 in the media, on the website, on the Open Data Portal, on social networks and the like. The attention of the media was especially captured by the statements of the Commissioner related to the application of the new LPDP and the Commissioner's proposals for amendments to the Law on Free Access to Information, as well as individual cases of violations of rights whose exercise the Commissioner protects.

II Activities of the Commissioner in the field of free access to information

1. About exercising the right of the public to know in 2019 and obstacles

The Institute of the Right to Free Access to Information of Public Importance, established by the Law on Free Access to Information of Public Importance, is continuously used extensively in Serbia. It is mostly used by individual citizens, followed by citizens' associations, journalists and media representatives, government bodies themselves, political parties and their members, lawyers, business entities and others. Judging by the complaints filed with the Commissioner due to the violation of this right, the information seekers find it most difficult to obtain information on budget funds, public procurement, investments and other dispositions and records of public funds and property, which is why the number of complaints regarding this information has increased in 2019 almost twofold compared to the previous year.

In 2019, the Commissioner received the largest number of complaints since the beginning of the application of the Law on Free Access to Information (5,275), which is 57.6% more than in 2018. Other cases in the work of the Commissioner, which together with the complaints were a total of 9,637 (2,877 cases were transferred from 2018, and 6,760 cases were received in 2019) relate mostly to assisting citizens in exercising this right through written opinions and clarifications for actions, as well as to assist the authorities in the application of the law, then to monitor the implementation of the legal obligation of the authorities in terms of proactive disclosure of information and take measures in this regard, to give opinions regarding the adoption of regulations and more.

Based on resolved cases (6,547), and especially resolved complaints (5,188) in 2019, the Commissioner concludes the following:

The situation in exercising the right to free access to information of public importance in 2019 has not changed significantly compared to the previous year, and from the point of view of the Commissioner and a large number of complaints due to the so-called administrative silence¹⁰⁷ and the large number of well-founded complaints due to the violation of rights¹⁰⁸, cannot be assessed as satisfactory. In short, the situation is such that obtaining information from the authorities is still greatly hindered without filing a complaint with the Commissioner or filing a lawsuit at the Administrative Court where an appeal is not allowed.

¹⁰⁷ Of 5,188 resolved appeals, 2,306 or 44.44% were filed due to complete ignoring of the request, 2,298 appeals or 44.3% due to the negative response of the body and only 584 appeals or 11.26% due to the decision of the body refusing/rejecting the request.

¹⁰⁸ 4,321 complaints or 83.29% of the total number of resolved complaints (5,188) were founded.

In the structure of complaints resolved in 2019, the largest number, more precisely 3,159 complaints or 60.89% are complaints against republic state and other bodies and organizations, of which 766 complaints (24.25%) are against ministries and their bodies. The number of complaints against republic bodies and organizations has increased by 71.13% in 2019.

The number of complaints against public companies has increased by 4.73%, and a decrease in the number of complaints was recorded with the judiciary, local self-government bodies and provincial bodies. Of all the bodies, the least complaints were filed against the provincial authorities.

The authorities largely act upon the request of the information seekers and submit the information only after the information seeker files a complaint to the Commissioner, and the Commissioner submits it to the authority for a statement. This necessarily leads to the suspension of the petition procedure, but at the same time causes unnecessary harassment of those seeking information and unnecessary spending of public resources in connection with the processing of petitions and the engagement of employees. Giving information only after learning about the complaint actually shows that there were no essential reasons for not acting on the submitted requests, and that this is an irresponsible and irrational attitude of the authorities towards citizens and public resources.

Information is withheld under the pretext that it is confidential, or that providing information would violate someone's privacy (even when it comes to office holders and officials and the information relates to their work) or under the guise of abuse of rights by information seekers, and all that, very often, without adequate argumentation and evidence. The Commissioner is not able to actually check the facts regarding the increasingly frequent answers of the authorities that they do not have the requested information, since he was not entrusted with the function of supervising the application of the Law on Free Access to Information, as it is in the competence of the Administrative Inspection.

It is often the case that the authorities do not provide information to information seekers even after the Commissioner's order, so the level of unexecuted decisions is still high, especially in cases of complaints from journalists¹⁰⁹. Although journalists use the Law on Free Access to Information as a basic tool for doing their job, they find it increasingly difficult to obtain information on the work of government bodies, which is confirmed by the very high percentage of unexecuted decisions made by the Commissioner on their complaints ordering for the information to be made available. More precisely, more than half of the Commissioner's decisions made in 2019 on the complaints of journalists were not executed by the authorities.

In 2019, there were also situations when the authorities denied "confidential" information to the Commissioner himself when he requested it so that he could make a decision on the appeal, and such behavior remains unpunished. In more than half of the requested files (13) for inspection, the authorities refused to do so (7).

The described situation in the freedom of access to information is significantly contributed by the fact that the legal mechanisms of forced execution of the Commissioner's decision, i.e. fines are completely blocked and make it difficult for information seekers to obtain information. In addition, there is no support from the Government to ensure the execution of the Commissioner's decision by direct coercive measures, in accordance with the law. Together, this is one of the biggest obstacles to exercising rights.

¹⁰⁹ The percentage of unexecuted decisions of the Commissioner made on the complaints of journalists is 52.29% of the number of decisions made on their appeals.

The legal obligations regarding the application of measures to improve the publicity of work prescribed by the Law on Free Access to Information are not consistently implemented by the authorities. A large number of authorities for which the law prescribes the obligation to publish the Information Booklet, conduct staff training, maintain information carriers and submit reports to the Commissioner on the implementation of the Law, have not done so for years, without suffering any responsibility or consequences, although failure to comply with each of these obligations is sanctioned as a misdemeanor, and the Commissioner regularly notifies the Administrative Inspectorate in order to initiate the liability proceedings.

The responsibility for unfounded denial of information to the information seekers, i.e. the public, is reduced exclusively to the initiative of information seekers as the injured parties, since the competent body (Administrative Inspection) almost does not submit the requests for initiating misdemeanor proceedings against the responsible persons in government bodies. Thus, in 2019, the competent authority has submitted only one request for initiating a misdemeanor procedure, and the citizens, as the injured party, have submitted 4,903 requests.

Apart from the fact that from year to year there is a very large number of complaints on which the Commissioner conducts proceedings, the work of the Commissioner's Office has been burdened for many years by a large backlog due to inadequate number of employees and a large influx of cases due to lack of action or inappropriate actions of the authorities. The inability of the Commissioner to decide on the appeal within the legal deadline of 30 days opens the possibility of conducting administrative-court proceedings before the Administrative Court, due to which the court awards court costs at the expense of the Commissioner. The frequency of lawsuits and the Commissioner's efforts to prevent the occurrence of court costs additionally burden the work of the service and disrupt the order of resolving complaints. At the same time, it negatively affects the exercise of the rights of those citizens who do not resort to a lawsuit against the Commissioner in case of delay in making a decision on the appeal. Consequently, although not caused by the Commissioner's fault, this may also affect citizens' trust in the competent authorities, which should ensure freedom of access to information.

Despite all obstacles, the effects of the Commissioner's action on obtaining information on the work of public authorities are still at a high level, in terms of the number of cases in which information seekers have exercised their right in relation to the complaints that have been founded.

The degree of confirmed decisions of the Commissioner in court proceedings since the beginning of his work is also at a high level, i.e. over 94% and that is the best confirmation of the quality of work of this state body.

2. Basic obstacles in exercising the right to access information

The obstacles that burdened the exercise of the right to free access to information in 2019 are almost identical to those in 2018. The difference is that, after several years of not considering the Commissioner's Report at the sessions of the National Assembly, that is, in the plenum, the National Assembly has considered the 2018 Commissioner's Report and has adopted appropriate conclusions¹¹⁰ on that occasion. However, the conclusions adopted calling on the Government to intensify its activities on the preparation of amendments to the Law on Free Access to Information, then to ensure the implementation of the Commissioner's

¹¹⁰ Conclusion of the National Assembly of the RS No. 33 of July 15, 2019 Official Gazette RS No. 51/19

decision and to apply measures to establish responsibility for failure to comply with state bodies and responsible officials their legal obligations have not yet been fulfilled.

The essence of obstacles to exercising the right to access information is reflected in the following:

2.1. Legal framework

The exercise and protection of the constitutionally guaranteed right to free access to information of public importance in Serbia is regulated by the 2004 Law on Free Access to Information of Public Importance.

The Commissioner has been pointing out the need for further improvement of this law in the interest of the public's right to know and the strengthening of a democratic and open society, and the elimination of obvious obstacles in practice since 2012. The process of amending this law, which started then, was interrupted due to the parliamentary elections.

The last process of amending the Law on Free Access to Information was started by the ministry responsible for administrative affairs in December 2017, but the procedure for determining the Proposal and adopting the Law on Amendments to this Law has not been completed. The last deadline for its adoption, which is envisaged by the Draft Revised Action Plan for Chapter 23, was the fourth quarter of 2019.

The proposed amendments to the Law, which were the subject of a public debate in 2018 and 2019, consultations with the competent authorities, including the Commissioner, as well as the assessments of the European Commission, contain certain improvements, such as expanding the application of the Law to new entities in the public sector and improving the publication of information on a proactive basis.

However, according to the latest version of the Draft Law available on the Ministry's website from 2019, it is concluded that some of the Commissioner's proposals that would improve the situation in exercising the public's right to know are not respected, or are partially respected, so that certain norms continue to leave room for different interpretations and problems in the application of this law.

The Ministry did not accept the proposal of the Commissioner to entrust the supervision over the application of the Law on Free Access to Information to the Commissioner instead of the Administrative Inspection, although the proposal of the European Commission was expressed in the opinion of SIGMA from October 8, 2019. This also refers to the prescribing of authorizations for issuing misdemeanor orders for a certain number of misdemeanors from this law, including the so-called administrative silence. The Commissioner's proposal is based on the fact that the Administrative Inspection does not submit requests for initiating misdemeanor proceedings against the responsible persons in government bodies, even in cases of the most serious violation of the rights of information seekers. Also, the institute of a misdemeanor order and the possibility for the Commissioner to impose a fine himself would be especially effective and would certainly lead to a reduction in the very pronounced phenomenon that the authorities ignore the requests of information seekers with impunity. At the same time, the proposed solution would relieve the misdemeanor courts of acting on the requests submitted by the citizens who were the injured party due to failure to obtain the requested information from the authorities, and it would relieve the citizens themselves, which is most important.

The Ministry has partially accepted the Commissioner's proposals regarding the regulation of the enforcement of his decisions. The proposal to compare the amount of fines in the administrative procedure prescribed by the Law on Access to Information with the one

prescribed by the Law on General Administrative Procedure, in order to reduce the huge disproportion between these fines and to have a positive effect on the actions of bodies and exercising rights, was not accepted.

The initial text of the Draft Law contained provisions whose implementation would lead to less transparency of the public sector. One of such solutions referred to the complete exclusion from the application of the Law on Access to Information of State-Owned Enterprises with Large Financial and Material Assets, due to which the information kept by them has always been of great interest to the public, as well as the exclusion of the National Bank of Serbia before the Commissioner, with the existing six bodies whose exclusion, according to the assessments of the expert public, the civil sector and the opinion of the European Commission prepared by SIGMA, is otherwise problematic. According to SIGMA, the proposed solution regarding state-owned companies "is not sustainable, it is contrary to the principles of openness and transparency, comparative law and narrows the level of the right to access information", which is why, as stated in its comments from 12/19/201, it is necessary to consider the possibility of abandoning such solutions. In addition to the Commissioner, representatives of a large number of civil society organizations as well as the expert community, have warned the authorities about the harmfulness of the given solutions. It is concluded that these "harmful" proposals in the amendment to the Law were abandoned due to great pressure from the expert community and the general public.

The latest version of the Draft Law from 2019 contains a modified solution regarding state-owned companies in the sense that they are not completely exempted from the application of the Law on Access to Information, but additional reasons for possible restriction of public rights regarding information about their work are prescribed. According to this version of the Draft Law, the Ministry has abandoned the original decision on the possibility of first instance bodies to directly, and not only through the competent prosecutor's office, conduct an administrative dispute against the Commissioner's decisions, which could have resulted in delays in obtaining information and loss of their significance due to the passage of time.

The postponement of the adoption of the amendments to the Law on Free Access to Information necessarily leads to the postponement of the amendments to the bylaw on the preparation and publication of the Information Booklet¹¹¹. This delays the implementation of the Commissioner's initiative to publish the Information Booklet on the work of state bodies in digital format, on a common electronic platform for which the Commissioner has already created the adequate conditions, which should lead to a greater transparency and to easier monitoring of the implementation of this legal obligation.

Having in mind the above, it is concluded that further delay in the adoption of amendments to the Law on Free Access to Information is not in the interest of citizens and the exercise of their rights.

Also, in connection with the re-use of information regulated by the Law on Electronic Administration from 2018, it was opened as a disputable issue of protection of this right, i.e. which body would be competent for its protection. If the intention of the legislator was for it to be in the competence of the Commissioner (having in mind the provision that the provisions on the procedure of exercising the right to free access to information of public importance are applied to the procedure of exercising the right to reuse information), then it is the Commissioner's opinion that the competence of the body for protection of rights has to be explicitly prescribed by this or the Law on Free Access to Information.

¹¹¹ Instructions for the preparation and publication of Information Booklet on the state body (Official Gazette of RS No. 68/10), issued by the Commissioner

When it comes to international documents, the Commissioner reiterates that it would be useful to exercise the right of the Government to initiate the procedure for ratification of the Council of Europe Convention on Access to Official Documents, dated 18 June 2009, by the National Assembly, which was signed by the Minister of Justice of the Government of Serbia in 2009. The significance of this Convention, when it enters into force, is that it would be the first general legally binding document of the Council of Europe in terms of access to official documents, regardless of the fact that the Law on Free Access to Information of the Republic of Serbia in some segments provides a higher level of which is bound by the Convention, and which the Convention itself allows.

2.2. Impossibility of administrative enforcement of the Commissioner's decision

The problem with the administrative execution of the Commissioner's decision dates from previous years and it has burdened the exercise of rights in 2019 as well. The cause of the enforcement problem is the different interpretation of the relevant enforcement norms by the competent authorities involved in this process, and in their refusal of competence and cooperation in providing the data necessary for the enforcement.

In fact, this problem is expressed in connection with the application of the new Law on General Administrative Procedure (June 1, 2017), which prescribes very high penalties that the Commissioner should impose in the procedure of administrative execution on the authorities as executors, as a means of coercion for them to execute the decision and submit the information.

The genesis of this problem is detailed in the Commissioner's 2017 Report, so it will not be repeated in this report. The Ministry of Public Administration and Local Self-Government concluded that the issue of execution of the Commissioner's decision should be resolved through amendments to the Law on Access to Information in a "precise and applicable" manner, which has not happened yet, which was discussed earlier.

The other prescribed mechanism that should lead to the execution of the Commissioner's decision, which obliges the authorities to provide the complainants with the required information, and which is within the competence of the Government of Serbia, also did not function in 2019. It is a legal obligation of the Government to ensure the execution of its decisions at the request of the Commissioner, by direct coercion. Of a total of 294 requests for securing execution that the Commissioner has submitted to the Government from 2010 to December 31, 2010, it did not do so in a single case. In 2019 alone, the Commissioner has asked the Government to ensure the enforcement in 52 cases. Thus, the relevant legal provision on the role of the Government in ensuring the execution of the Commissioner's decision has no practical effect from the very beginning, i.e. from 2010 when it was introduced through amendments to the Law on Free Access to Information.

In the Report of the General Secretariat of the Government on the activities and measures taken by the Government in connection with the legal obligation to ensure the execution of the Commissioner's decision, dated January 17, 2020, it is stated that "The Government of the Republic of Serbia, General Secretariat of the Government, regarding assistance to the Commissioner in the procedure of administrative execution of the Commissioner's decision and prescribed in Art. 28, par.4 of the Law on Free Access to Information of Public Importance, by applying measures within its competence, i.e. by ensuring the execution of the Commissioner's decision by direct coercion, has the same possibilities as the Commissioner himself. "

Therefore, the justification of the stated legal solution, which refers to the execution of the Commissioner's decisions, is questionable. In fact, the question arises whether the lack of support from the Government is a consequence of the fact that the acts on the work of its professional services do not regulate this issue in detail, as to who and in what way in the Government services would implement this obligation in accordance with the law governing general administrative procedure and the provisions on administrative enforcement by direct coercion, or it is a consequence of the absence of political will to implement this measure.

2.3. Inadequate accountability

The responsibility of the authorities for violating the right to free access to information, from the most drastic forms, such as complete ignoring of citizens' requests and non-compliance with executive and binding decisions of the Commissioner to the non-fulfillment of other legal obligations of government bodies, is symbolic in 2019 as well and it was initiated almost exclusively by the requests for misdemeanor proceedings by information seekers as injured parties.

The situation regarding liability for violation of the right to access information is best illustrated by the fact that in 2019 the competent authority, the Administrative Inspection, has submitted to the misdemeanor courts only one request for misdemeanor proceedings, against over four thousand well-founded complaints resolved by the Commissioner in the same year, which is evidence that there has been a violation of rights, a violation of the law on the side of the authorities. Also, the degree of fulfillment of other legal obligations related to publishing the Information Booklet, submitting reports to the Commissioner, conducting training is less than 30%, and over 3.8 thousand authorities are subject to these obligations, which means that the vast majority of bodies ignores this obligation, with impunity.

The Commissioner has been pointing out for years that the absence of responsibility for the violation of this right, and not only the misdemeanor responsibility, undoubtedly encourages those responsible in the authorities to continue to do so, in the belief that they will not bear any consequences. In addition, the years-long absence of full responsibility for the violation of rights is the main cause of a very large number of complaints to the Commissioner. The objective inability of the Commissioner to resolve all complaints within the legal deadline causes dissatisfaction of the citizens and is often the reason for filing lawsuits and causing costs and unnecessary budget expenditures.

In such a state of affairs, the citizens whose rights were violated, in their capacity as injured parties, have also submitted requests for initiating misdemeanor proceedings to the misdemeanor courts in 2019, and in a much larger number than in the previous year. According to the data of the misdemeanor courts, a total of 4,903 requests were submitted in 2019, and in cases in which a conviction was passed, the largest number of imposed sentences is in the minimum amount of RSD 5,000.

These data support the validity of the Commissioner's proposal to entrust the function of supervising the implementation of the Law on Free Access to Information to this body.

2.4. Difficult implementation of the Commissioner's authority

In 2019, in the procedure of resolving complaints due to violation of the right to access information the Commissioner applied the authorization from Article 26 of the Law on Free Access to Information of Public Importance in 13 cases and requested from the authorities, for insight, documents with information that are the subject of the request of the appellant, so as to determine whether the information contained in the documents could be

made available or not. Six bodies acted at the request of the Commissioner and submitted the requested documents, namely: the Customs Administration, the Securities Commission, the Second Basic Public Prosecutor's Office in Belgrade, the Ministry of Defense, PUC "Parking Service" Belgrade and the City Administration of Niš.

In seven cases, the authorities did not submit the requested documents, namely: the Ministry of Internal Affairs-MIA (in three cases it did not submit, and in one it submitted only a part of the document), the Commercial Court of Appeals in Belgrade, the Higher Public Prosecutor's Office in Belgrade and the Military Security Agency. The following is an overview of the cases:

The information that the Ministry of the Interior completely denied or partially submitted to the Commissioner, refers to the acts on job systematization in three cases. In one of the mentioned cases, which refers to the acts on systematization, the Ministry of the Interior did not respond to the Commissioner's request, in the other it submitted a response without an attached document, and in the case of documents related to cooperation with Huawei, it also did not submit a response or requested documents, to which the Commissioner again requested the submission of the requested documents;

The Commercial Court of Appeals in Belgrade refused to submit to the Commissioner the decision of that court 12 Pž 2802/18 dated 29 August 2018 which refers to the revocation of the first instance verdict in connection with the certification of the annex to a certain contract. The Court did so after the Commissioner decided on the appeal and ordered the Court to provide the information to the information seeker and after the Commissioner submitted the case files to the Administrative Inspectorate for the purpose of taking supervisory measures.

The Military Security Agency (VBA) of the Ministry of Defense did not submit to the Commissioner, even after a repeated and reasoned request, for inspection the VBA document *strictly confidential* no. 44-123 dated 7 October 2014, which was the subject of a journalist's request. The explanation of the Agency is that these are secret data which, according to its interpretation of the regulations on special measures of physical and technical protection of secret data, can be taken out of the premises, which, as it states, means " they don't have to necessarily".

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

1. Legal framework

The beginning of the application of the LPDP on August 22, 2019 represents only the beginning of the formation of the legal framework in the field of personal data protection in Serbia, which has been inappropriately regulated for several years. Namely, for years there has been inconsistency or incomplete harmonization of the national legal framework with relevant international standards, i.e. community law, mutual incompatibility or incomplete harmonization of numerous sectoral laws with the RS Constitution, issues that should be regulated by law are regulated by bylaws, and finally disorderly or inadequate regulation of certain issues in numerous regulations, and especially in the LPDP itself.

In the opinion of the Commissioner, the new LPDP does not regulate the matter of personal data protection comprehensively and in accordance with the relevant international standards. In order to establish a comprehensive and harmonized legal order in the field of personal data protection in Serbia, it is necessary to harmonize the provisions of all other

laws related to the processing of personal data with the LPDP. So far, a comprehensive analysis of the number and content of amendments to these laws has not been made, although the period of nine months from the entry into force of the LPDP until the implementation of this law was a period in which, among other things, it was necessary for the Government of RS to define these issues. Given the large number of laws that need to be harmonized with the LPDP by the end of the year, it would be necessary to start implementing activities on this issue as soon as possible. The protection of personal data requires a systematic approach of all competent entities, which implies the adoption of a modern Strategy for the protection of personal data, and in connection with that, the Action Plan for its implementation. In order to overcome the stated shortcomings of the legal framework, in addition to the presented measures, it is necessary to act in principle by the competent authorities aimed at exercising the right to protection of personal data in all respects in accordance with the law.

Based on the obligations and authorizations granted by the LPDP, the Commissioner gave his contribution to the regulation of the national legal framework in the field of personal data protection, among other things by adopting certain bylaws that regulate this area in more detail, namely: complaint form; types of personal data processing activities for which an assessment of the impact on the protection of personal data must be performed and the opinion of the Commissioner must be sought; form of notification on violation of personal data and manner of notifying the Commissioner; the form and manner of keeping records of persons for the protection of personal data; checklist forms and instructions for completing them; form of identification card of the authorized person for performing inspection supervision according to the Law on Personal Data Protection; the form and manner of keeping internal records on violations of the Law on Personal Data Protection and measures taken in conducting the inspection supervision, as well as the decision on determining standard contractual clauses.

Viewed from the aspect of the international legal framework, the activities of the European Union and the Council of Europe have significantly intensified in the last few years in the field of personal data protection. The most influential document in this area in the European Union is the General Regulation¹¹² 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (hereinafter: GDPR). The GDPR is directly applicable in the Member States of the European Union. In addition to the GDPR, an important part of the international legal framework in Europe is Directive 2016/680 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the prevention, detection, investigation or prosecution of criminal offenses and on the free movement of such information, as well as the repeal of Council Framework Decision 2008/977 (hereinafter referred to as the "Police Directive").

The member states of the European Union were obliged to harmonize their regulations with it until the beginning of the implementation of both of these documents (May 25, 2018), but some of them have not done so yet, and many controllers and data processors have not yet harmonized their operation.

¹¹² <https://www.poverenik.rs/sr/pravni-okvir-zp/medjunarodni-dokumenti/2502-uredba-2016679.html>

One of the most important documents in this area in the Council of Europe is the Convention¹¹³ for the Protection of Individuals with regard to Automatic Processing of Personal Data. This Convention has been modernized and improved by the Protocol¹¹⁴ of Amendment to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (better known as Convention 108+). The Republic of Serbia has signed this protocol on November 22, 2019, at the initiative of the Commissioner. During the work on the Report of the Commissioner, the National Assembly, at the session on March 2, 2020, made the decision to ratify this protocol.

The EU law in the field of personal data protection includes other regulations, as well as judgments of the Court of Justice of the European Union and decisions of the European Committee for Personal Data Protection, which unites independent bodies for personal data protection of all EU member states.

2. Activities of the Commissioner in the field of personal data protection

Having in mind the existing normative framework, as well as non-undertaking of strategic measures by the competent authorities in the field of personal data protection, the activities of the Commissioner, no matter how numerous and in principle on the side of personal data protection, could not lead to significant improvement in this area. In particular, the Commissioner could not prevent by his decisions the numerous cases of unauthorized or excessive data processing by the controllers, just as he could force certain controllers not by his decisions to disclose data or issue a copy of data, or to do so within the time frame and in the manner prescribed by the LPDP. Also, with his opinions on drafts and proposals of laws and other regulations and general acts, the Commissioner could not convince all authorities of the need to respect them. The Commissioner's call for postponement of the start of the application of the LPDP due to the fact that not all controllers are ready to act in accordance with the obligations prescribed by the LPDP, as well as the indication of the need to adopt a modern Personal Data Protection Strategy and Action Plan for its implementation bore fruit.

The activities of the Commissioner in the field of data protection in 2019 were extensive, which is conditioned by the current situation in this area. This is best seen in the data on the number of received cases (6,078), as well as in the data on the number of cases in which the Commissioner has ended the proceedings (6,313). On this occasion, special attention is paid to the cases related to the procedures for supervising the application of the LPDP, to the handling of complaints, the giving of opinions on draft laws and other regulations and general acts, as well as to the initiatives and proposals the Commissioner gave.

The provisions of the new LPDP are regulated by the procedure of supervision, procedures on appeals regarding requests for exercising rights related to processing, as well

¹¹³ Law on Ratification of the Convention - Official Gazette of the FRY - International Agreements, no. 1/92, Official Gazette of Serbia and Montenegro - International Agreements, no. 11/2005 –another law and Official Gazette of RS - International Agreements", no. 98/2008 – another law and 12/2010)

¹¹⁴ www.poverenik.rs/sr/међународни-документи/3226-протокол-о-изменама-и-допунама-конвенције-о-заштити-лица-у-односу-на-аутоматску-обработку-личних-података-2018.html

as procedures on requests for issuing licenses for data export from Serbia, which have not been completed by the day of application of the new LPDP (August 22, 2019), will end according to the provisions of the old LPDP.

Considering that both the old and the new LPDP were in force in 2019, the activities under both of these laws will be presented.

2.1. Supervision

In 2019, the Commissioner completed a total of 701 supervision procedures, of which 21 supervision was initiated under the new LPDP, and 680 under the old LPDP. The number of completed inspections is about 50% lower than in 2018, due to the fact that on the day the new LPDP came into force (November 21, 2018), the Central Register of Data Collections ceased to be kept, which has directly caused the Commissioner in 2019 to initiate and terminate a significantly smaller number of procedures for the supervision of controllers regarding their obligation to enter personal data collections in the Central Registry under the old LPDP.

Of 701 completed supervision procedures, 21 supervision was initiated under the new LPDP, and 680 under the old LPDP. All supervision procedures were completed as follows: 487 cases were terminated by establishing that they had acted upon the previously conducted supervision; 141 the case ended with a notification under Art. 50 of the old LPDP, because it was determined that there were no irregularities; 47 cases were terminated by an official note because it was determined that there were no violations of the LPDP, that is, there were no elements for conducting the inspection procedure; 23 cases were completed by filing a request to initiate misdemeanor proceedings and 3 cases were completed by filing criminal charges.

The structure of controllers over whom the Commissioner initiated the supervision procedure in 2019 is very similar to the one from 2018, and companies are still the controllers over whom the Commissioner initiated more supervision procedures than over all other controllers together. The most common reason for initiating the supervision procedure is the use of personal data (name, family name, address) contrary to the law.

For the purpose of preventive and educational action, the Commissioner has compiled checklists, which contain questions to which it is necessary to give accurate and comprehensive answers. In this way, the bodies supervised by the Commissioner are helped to exactly know their obligations in advance - what they need to do in order to harmonize their operations and actions with the regulations and to prevent damage, as well as what the authorized person from the Commissioner's office checks in the supervision procedure. From the beginning of the application of the new LPDP until the end of the reporting period, the Commissioner sent checklists to the addresses of 1,053 controllers, to which 975 controllers responded, i.e. submitted a completed checklist to the Commissioner, and 72 controllers did not do so. Based on the received completed checklists, the Commissioner performed an assessment of the level of risk of personal data processing.

2.2. Complaints/Petitions

In accordance with the old LPDP, 121 complaints were filed with the Commissioner from 01/01/2019 to 08/22/2019. The new LPDP, whose application began on August 22, 2019, introduced the institute of complaints, and 60 complaints were submitted to the Commissioner in accordance with it. The new LPDP regulates that the subject of the data has the right to file a complaint to the Commissioner if he/she considers that the processing of his/her personal data has been performed contrary to the provisions of the LPDP. In the complaint procedure, the provisions of the law governing the inspection supervision in the part related to the handling of petitions shall apply accordingly. A person may exercise the right to lodge a complaint with the Commissioner at the same time as the right to initiate other administrative or judicial protection proceedings.

Complaints - the most common reasons for filing a complaint with the Commissioner: the controllers did not disclose the data or did not issue a copy of the data (45); the controllers denied the request (43); the controller did not act upon the request of the information seekers within the prescribed time limit, the so-called administrative silence (31), etc.

Complaints filed with the Commissioner relate to data from: police records, official registers containing personal data, personnel records, records kept by educational institutions, areas of pension, disability and health insurance, court records, case files of social work centers, registry books, medical records, bank records, etc.

The largest number of complaints (111) were filed with the Commissioner due to (non)acting of government bodies, i.e. bodies and organizations entrusted with public authorities and public companies. Most of them (69) were declared due to (non)acting of state administration bodies as controllers. Due to (non)acting of ministries, 59 complaints were filed, of which only 52 complaints were filed against the Ministry of the Interior, and 7 complaints were filed due to (non)acting of all other ministries. Complaints filed against the Ministry of the Interior are numerous, but it must be borne in mind that the Ministry of the Interior keeps a very large number of records, thus receiving a large number of citizens' requests, but also the fact that there are numerous decisions of the Ministry of the Interior rejecting or refusing citizens' requests.

In 2019, the Commissioner completed the procedure on 151 complaints, of which: in 79 cases he determined that the complaint was founded; in 37 cases, the conclusion suspended the procedure because the controller, before making the decision of the Commissioner on the appeal, acted on the request or the submitter withdrew from the appeal; in 23 cases he rejected the appeal as unfounded and in 12 cases he rejected the appeal for formal reasons.

Petitions - The reasons for submitting a petition to the Commissioner are: partial action of the controller upon the request (21); rejection or refusal of the request by the controller (19); failure of the controller to comply with the request (16) and the expiration of the subsequent deadline (4).

Petitions submitted to the Commissioner refer to data from: police records, official registers that contain personal data, records kept by banks, court records, records of disability and health insurance, etc.

The largest number of complaints (47) were filed due to (non)acting of government bodies, i.e. bodies and organizations entrusted with public authorities and public companies. Most of them (31) were submitted due to (non)acting of state administration bodies as controllers. Due to (non)acting of ministries, 21 complaints were submitted, of which only 20 complaints against the Ministry of the Interior, and due to (non)acting of all other ministries together 1 complaint (the explanation is the same as before in relation to complaints).

Of 60 petitions that were submitted to him, in 2019, the Commissioner completed the procedure (7 of the remaining 53 were transferred to the procedure in 2020). In the decisions made on the submitted petitions (7), the Commissioner determined that: the petition was founded, so that he made a decision with an order to the controller to act upon the request (3); by the conclusion, he suspended the procedure, because the controller acted upon the request before making the decision of the Commissioner, and he rejected one petition as unfounded.

- During the reporting period, the Commissioner issued a total of 52 binding and final decisions (49 on complaints and 3 on petitions). With these decisions, the Commissioner gave an order to the controller to act upon the request or to provide the requested information to the information seeker, as well as for the controller to inform the Commissioner about the execution of the decision. According to the decision of the Commissioner, 48 controllers acted in full, while other controllers did not inform the Commissioner about the action by the end of the reporting period or the action is in progress.

2.3. Opinions

In 2019, the Commissioner, from the point of view of the right he protects, gave 85 opinions on drafts and proposals of laws and other regulations and general acts, of which 54 opinions refer to drafts and proposals of laws, and 31 on other regulations and general acts. Out of 54 opinions related to drafts and draft laws, 36 were given from the aspect of LPDP, one from the aspect of the Law on Free Access to Information, 13 from the aspect of both laws simultaneously, i.e. LPDP and the Law on Free Access to Information, and the remaining 4 from the aspect general competencies of the Commissioner as a state body.

2.4. Initiatives and proposals

The Commissioner submitted 7 initiatives and proposals in 2019. On this occasion, the following is pointed out: 1) Proposal to the Constitutional Court to assess the constitutionality of Article 40 of the LPDP, which, in the opinion of the Commissioner, is not in accordance with the Constitution of the Republic of Serbia because it stipulates that certain rights from the LPDP need not be limited only by law. On the contrary, the Commissioner is of the opinion that restrictions on fundamental rights and freedoms can be provided only by law and only if it is necessary to achieve a certain legitimate goal. A position similar to the

Commissioner was presented by the European Commission in its Study on the assessment of the compliance of the Law on Personal Data Protection of the Republic of Serbia with EU regulations of 28 May 2019, where it is specifically stated that Article 40 of the LPDP, for reasons stated by the Commissioner, is not in accordance with the GDPR and the Law Enforcement Directive, as well as with the practice of the European Court of Human Rights and the European Court of Justice. The Constitutional Court concluded that there were no preconditions for conducting the proceedings, and rejected the Commissioner's proposal; 2) The Commissioner submitted an initiative to the Government of RS to make significant changes to the existing Strategy for Personal Data Protection from 2010, in terms of adopting a new Strategy or amendments to the existing one, in order to harmonize it with the LPDP and the current situation. In the initiative, the Commissioner emphasized that it is necessary for the Government of RS to adopt an Action Plan for the implementation of the Strategy as soon as possible, in accordance with the new/innovated Strategy, because the ten-year failure to adopt the Action Plan is one of the key reasons for the non-implementation; 3) The Commissioner submitted to the Government of RS an initiative for the Republic of Serbia to sign the Protocol amending, modernizing and improving the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (better known as Convention 108+). The Government of RS has signed this protocol a few months after the Commissioner's initiative.

During the work on the Commissioner's Report, the National Assembly ratified this protocol.

2.5. Other activities in the field of personal data protection

Export/transfer of data - In 2019, 5 requests for export, i.e. transfer of data from Serbia were submitted to the Commissioner (3 requests for export of data under the old LPDP and 2 requests for data transfer under the new LPDP). A total of 9 requests for disclosure of data were resolved (all 6 that were transferred from the previous period and 3 requests for disclosure that were submitted in 2019 under the old LPDP). The requests were resolved as follows: in two cases, the request was approved, 5 requests were rejected as unfounded, in one case the information seeker withdrew the request and 1 request was refused for formal reasons.

Trainings - In 2019, the Commissioner organized and conducted 39 trainings in the field of personal data protection, primarily due to the fact that the application of LPDP began on August 22, 2019. This law obliges the controllers and processors of personal data to be trained in the application of the Law on Personal Data Protection and to designate persons for the protection of personal data. The goal of the trainings is for these persons to acquire new, or to upgrade the existing knowledge on the right to protection of personal data and to get acquainted with the new obligations that the controllers and processors of personal data have in accordance with the Law on Personal Data Protection. In accordance with the available human and material capacities, the Commissioner organized trainings by target groups and by territorial distribution.

In addition to trainings organized and conducted by the Commissioner, either independently or in co-organization with other institutions, trainings in the field of personal data protection are conducted continuously and organized by the National Academy of Public Administration, for the needs of public servants. Representatives of the Commissioner also participate in these trainings in the role of lecturers, next to other lecturers.

During 2019, the employees of the Commissioner's Office improved their knowledge and skills in various thematic trainings, courses and other types of training. For example, trainings were conducted: in the field of information security; for acquiring and improving teaching skills; on ethics and integrity, as well as for the implementation of the Law on Inspection Supervision.

Reporting - Within the reporting activity, it is necessary to point out first of all the annual work report that the Commissioner submits to the National Assembly and to the Government of RS and makes it available to the public by publishing it on its website. In 2019, as in every previous year, the Commissioner fulfilled this legal obligation in a timely manner.

Regarding the reports, i.e. attachments for the reports that the Commissioner submits to the authorities, the most numerous are reports, i.e. attachments for reports related to Serbia's integration processes in the EU.

Cooperation - In 2019, in the field of personal data protection, the Commissioner has established cooperation with state bodies, civil society organizations and business associations, as well as with other institutions, by participating in numerous gatherings, conferences, round tables, professional gatherings, as well as at meetings directly organized with these entities.

In 2019, as in previous years, the international and regional cooperation of the Commissioner was successful. The Commissioner continued to achieve successful cooperation with the representatives of international or transnational organizations in Serbia, and in particular he established cooperation with competent institutions from the region and the former Yugoslavia, in the field of personal data protection. The Commissioner has achieved such cooperation with the competent institutions in Europe and the world, especially by participating in important international conferences and gatherings.

2.6. Actions of state bodies in connection with the acts of the Commissioner in the field of personal data protection

In 2019, the Commissioner filed three criminal charges for the criminal offense under Article 146 of the Criminal Code (unauthorized collection of personal data). Criminal charges were filed against two officials in the Ministry of the Interior, and one against a responsible person in a primary school. The Commissioner was informed that one criminal report was rejected in 2019. This continued the practice of predominantly rejecting the Commissioner's criminal charges due to the statute of limitations.

In 2019, the Commissioner submitted 23 requests for initiating misdemeanor proceedings due to violations of the provisions of the LPDP. Regarding all misdemeanor requests that he has submitted so far, the Commissioner received 19 decisions of misdemeanor courts (16 first instance and 3 decisions of the second instance court) in 2019. The penal policy of misdemeanor courts has noticeably tightened in 2019, compared to 2018.

In 2019, 10 lawsuits were filed with the Administrative Court against the Commissioner's decisions (8 lawsuits were filed against the decision rejecting the information seeker's appeal as unfounded in whole or in part, 1 lawsuit was filed against the decision rejecting the appeal as unfounded and 1 lawsuit was filed by the controller to whom the measure of temporary prohibition of data processing and elimination of irregularities has been imposed). In 2019, the Administrative Court resolved 5 lawsuits, rejecting 2 lawsuits, accepting 2 lawsuits and returning the case to the Commissioner for retrial and refusing 1 lawsuit.