



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

REPORT

ON THE WORK OF THE COMMISSIONER FOR INFORMATION OF
PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION

FOR 2022

B e l g r a d e
March 2023

2022 IN NUMBERS



106 employees



APPROVED BUDGET: 296,713,000.00
EXECUTED BUDGET: 286,990,843.18

FREEDOM OF INFORMATION



8,702 complaints resolved



126 infringement warrants issued



8 petitions for institution of infringement proceedings



116 replies to legal action



66 rulings to proceed with executing rulings



53 requests submitted to the Government



77 rulings to terminate execution



9 rejected/dismissed petitions for enforcement



6,459 Information Directories on the work of public authorities



2,624 measures to improve transparency



181 opinions



694 referred requests



57 replies to applications



62 requests for information on the work of other authorities



2 motions for repeated proceeding



1 petition to review a decision of the Administrative Court



203 case files forwarded to the Administrative Directorate



509 annual reports submitted by public authorities

PERSONAL DATA PROTECTION



406 inspections



1 criminal report



2 petitions for institution of infringement proceedings



42 corrective measures



1440 checklists



616 registered personal data protection officers



38 notices of personal data breaches



177 complaints resolved



13 replies to legal action



339 replies to applications



2 requests for data transfer



399 opinions



4 preliminary opinions



3 requests for approval of binding corporate rules

ALL FIELDS OF ACTING



36,524 clarifications given by telephone



77 public announcements



41 cases in the field of European integration



23 opinions on draft laws and other general legal instruments



233 requests for information from the Commissioner



80 requests concerning case information



296 cases in the field of international/national cooperation



102 reports



53 trainings on LFAIPI and LPDP



6 requests for the exercise of data subject rights



265 applications

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COMMISSIONER'S FOREWORD

The present report of the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter referred to as the "Commissioner") for 2022 is the eighteenth annual report on the Commissioner's work implementing the Law on Free Access to Information of Public Importance (LFAIPI) and the fourteenth annual report on his work implementing the Law on Personal Data Protection (LPDP) submitted by the Commissioner to the National Assembly of the Republic of Serbia.

The Commissioner's work in 2022 was marked primarily by a vast increase in the number of processed cases compared with all previous years. This was particularly true of cases in the field of freedom of information and complaints against actions taken by public authorities pursuant to freedom of information requests.

Thus, in 2022 the Commissioner opened a total of 18,701 cases (12,221 in 2021), including 13,285 cases in the field of freedom of information (7,244 in 2021), 4,116 cases in the field of personal data protection (3,366 in 2021) and 1,300 cases in both fields (1,611 in 2021).

In parallel, in 2022 the Commissioner closed the procedure in 17,672 cases in total (12,210 in 2021), including 12,769 cases in the field of freedom of information (7,341 in 2021), 3,589 cases in the field of personal data protection (3,261 in 2021) and 1,314 cases in both fields (1,608 in 2021).

This state of affairs can be attributed primarily to the fact that the Law amending the Law on Free Access to Information of Public Importance took effect (as of 17 February 2022), which substantially expanded (by approximately 30%) the scope of the Law in terms of public authorities which are subject to it, while also significantly expanding the Commissioner's powers in this field and reducing scope for abuse of freedom of information, which had been an issue before the enacted amendments.

As a result of all this, a large number of cases (numbering in their thousands) effectively "spilled over" from magistrates' courts to the Commissioner.

Unfortunately, notwithstanding the major normative amendments, which resulted in a noticeable improvement in this area of human rights, numerous instances of abuse of freedom of information have emerged (numbering in their thousands), severely hampering the exercise of rights on the one hand, while on the other creating an additional burden for Serbia's national budget.

The exercise of this right was further hindered by the revised position of the Administrative Court on the issue of recognising the cost of filing a lawsuit, which also added an additional financial strain on the budgets of public authorities, especially the most vulnerable ones, such as local communities, social work centres, primary schools, medical centres...

To counter this negative phenomenon, further amendments to the Law on Free Access to Information of Public Importance are needed, which will hopefully be passed in 2023.

Notwithstanding these issues, it would seem that the legislative amendments have served their purpose, with the situation in the field of freedom of information increasingly improving, although not yet to the intended, and indeed necessary, degree.

Regarding the situation in the field of personal data protection, an encouraging development in 2022 was the continued drafting of the Strategy for Personal Data Protection until 2030. Hopefully, in 2023 this Strategy will be adopted and the necessary amendments will be made to the Law on Personal Data Protection to reflect the development of digitalisation, increasing use of artificial intelligence and increasingly common use of biometric personal data.

Overall, the situation in the areas of human rights protected by the Commissioner has improved from the previous years, although it is not yet seen as satisfactory.

This assessment of the state of play is also supported by the fact that the Commissioner made use of the possibility available to him under the amendments to the Law on Free Access to Information of Public Importance and opened an office in Novi Sad, the first of its kind for this institution outside of its Belgrade seat, with further offices in Kragujevac and Niš scheduled to be opened in 2023, which will provide all Serbia's citizens with substantially equal opportunities to contact the Commissioner in order to obtain remedy in the exercise of the human rights protected by this institution.

I am hopeful that the trend of improved exercise of the rights protected by the Commissioner will continue through 2023.

COMMISSIONER

Milan Marinović

General Information

- **Name of the authority:** Commissioner for Information of Public Importance and Personal Data Protection (the Commissioner)
- **Status:** An autonomous public authority, independent in the exercise of its powers
- **Seat address:** Bulevar kralja Aleksandra 15, 11000 Belgrade
- **Remote office outside of the Commissioner's seat:** Vojvode Šupljikca 21, 21101 Novi Sad
- **Registration number:** 17600524
- **Tax Identification Number:** 103832055
- **Address for the receipt of submissions:** Bulevar kralja Aleksandra 15, 11000 Belgrade
- **Address for the receipt of electronic submissions:** office@poverenik.rs
- **Foundation:** The Commissioner was established as an autonomous public authority, independent in the exercise of his powers, under the Law on Free Access to Information of Public Importance (LFAIPI)¹ of 2004. The Law on Personal Data Protection (LPDP)² of 2008 expanded the Commissioner's mandate to the area of personal data protection.

Commissioner's Mandate

The Commissioner is entrusted with a twofold mandate: to protect freedom of information under the LFAIPI and to protect personal data and enforce compliance with the LPDP.

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

- Monitors compliance of public authorities with their obligations laid down in this Law and reports to the public and the National Assembly thereof;
- Submits initiatives to adopt or amend legislation to implement and promote freedom of information;
- Proposes measures for public authorities to take in order to improve their compliance with this Law;
- Undertakes necessary measures to train the staff of public authorities and introduce them to their obligations with regard to freedom of information, to ensure effective application of this Law;
- Resolves complaints against decisions of public authorities which violate the rights governed by this Law;
- Informs the public about the substance of this Law and the rights governed by this Law;

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

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

³ Law amending the LFAIPI (*Official Gazette of the Republic of Serbia* number 105/21)

- Gives opinions on draft laws and proposals of other regulations, as well as public policy documents, if these govern issues relevant for exercising the freedom of information;
- Initiates constitutional and legal reviews of laws and other general legal documents governing issues relevant for the exercise of the freedom of information;
- Issues and updates a manual with practical instructions for effective exercise of the rights governed by this Law, in the Serbian language and in other languages which are officially used under the law, and introduces the public to the substance of this manual on implementation of the law through the press, electronic media, the internet, public debates and in other ways;
- Issues instructions for compiling and publishing information directories on the work of public authorities and, on request from public authorities, provides advice to ensure proper, complete and timely compliance with the duty to public information directories;
- Keeps and maintains a single information system on the information directories;
- Files petitions for institution of infringement proceedings if public authorities fail to update and produce information directories on their work;
- Lays down in detail the form and manner of submission of annual reports by public authorities about their activities undertaken to comply with the Law and files petitions for institution of infringement proceedings against the responsible person if a public authority fails to submit an annual report to the Commissioner;
- Submits an annual report to the National Assembly on the activities undertaken by public authorities to comply with the LFAIPI, as well as on his activities and expenses, in accordance with Article 36 paragraph 1 of the LFAIPI;
- Orders public authorities to declassify requested data and passes rulings to uphold complaints and order public authorities to grant the requester access to such data, in the procedure pursuant to complaints against decisions to reject requests concerning classified data referred to in Article 9 item 5 of the Law, if he finds that the reasons for classification no longer pertain or that the data was not classified in accordance with the law governing data classification and protection of classified data, after consulting the case file to which the complaint relates in order to find all relevant facts for ruling on the complaint;
- Issues infringement warrants, in accordance with the law governing infringement proceedings, after determining that a complaint filed on the grounds of refusal of a public authority to comply with a request (“administrative silence”) is founded;
- Administratively enforces his rulings by imposing enforcement measures and/or by fining the offending public authorities for failure to meet the obligations set out in the Commissioner’s ruling;
- Files petitions for institution of infringement proceedings for the infringements under the Law on Free Access to Information of Public Importance, when it is found in the procedure pursuant to a complaint that an infringement has occurred;
- Performs other duties provided for in this Law.

Under the Law on Personal Data Protection, the Commissioner:

- Supervises and enforces the LPDP within his powers;
- Raises public awareness on the risks, rules, safeguards and rights concerning data protection, especially where the data subjects are minors;
- Gives opinions to the National Assembly, the Government and other public authorities and organisations, in accordance with the regulations governing statutory and other measures relating to the protection of natural persons' rights and freedoms concerning data protection;
- Raises the awareness of data controllers and processors of their obligations under this Law;
- On request from data subjects, provides information on their rights under this Law;
- Acts on complaints of data subjects, determines whether the LPDP was breached and notifies the complainant on the course and outcome of the procedure he conducts in accordance with Article 82 of the LPDP;
- Cooperates with the oversight authorities of other countries in connection with personal data protection, including in particular information exchange and provision of mutual legal assistance;
- Inspects compliance with the LPDP, in accordance with the LPDP and, *mutatis mutandis*, the laws governing inspection supervision;
- Files petitions for institution of infringement proceedings if he finds breaches of the LPDP, in accordance with the law governing infringements;
- Keeps up with the development of information and communication technologies, as well as commercial and other practices relevant for personal data protection;
- Develops standard contractual clauses referred to in Article 45 paragraph 11 of the LPDP;
- Compiles and publishes the lists referred to in Article 54 paragraph 5 of the LPDP;
- Issues the opinions in writing referred to in Article 55 paragraph 4 of the LPDP when he considers that intended processing actions could give rise to risks unless risk mitigation measures are implemented;
- Keeps records of personal data protection officers referred to in Article 56 paragraph 11 of the LPDP;
- Promotes the development of codes of conduct in accordance with Article 59 paragraph 1 of the LPDP and gives opinions on and approves codes of conduct in accordance with Article 59 paragraph 5 of the LPDP;
- Obtains evidence of independence and expertise of legal entities and of absence of conflict of interest in the process of accrediting the legal entities tasked with supervising compliance with the codes of conduct in accordance with Article 60 of the LPDP;
- Promotes the issuing of personal data protection certificates and relevant trademarks and labels in accordance with Article 61 paragraph 1 and lays down certification criteria in accordance with Article 61 paragraph 5.LPDP;
- Conducts periodic reviews of the certificates in accordance with Article 61 paragraph 8 of the LPDP;

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

Inspection and other powers

The Commissioner is authorised to:

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

The Commissioner is authorised to undertake the following corrective action:

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

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

The Commissioner is also authorised to:

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

1. SUMMARY OF THE 2022 ANNUAL REPORT OF THE COMMISSIONER FOR INFORMATION OF PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION

This summary of the Commissioner's 2022 Annual Report presents the state of play regarding the application of the LFAIPI and the LPDP, measures and activities undertaken by the Commissioner, as well as obstacles and challenges in the exercise of freedom of information and personal data protection.

In 2022, the Commissioner opened 18,701 cases, including 13,285 cases in the field of freedom of information, 4,116 cases in the field of personal data protection and 1,300 cases in both fields of action of the Commissioner.

The Commissioner closed the procedure in 17,672 cases in total, including 12,769 cases in the field of freedom of information, 3,589 cases in the field of personal data protection and 1,314 cases in both fields.

The majority of the cases concerned: resolving complaints against breaches of freedom of information (**8,702**); inspection of personal data processing (**416**); checklists sent to data controllers (**1,440**), implementing measures to improve transparency in the work of public authority in connection with the determination of status of public authorities, comments and suggestions concerning registration with the Single Information System of Information Directories, as well as compiling of information directories and submission of annual reports to the Commissioner (**2,634**). A significant number of activities concerned: trainings on application of the LPDP and the amended LFAIPI; cooperation with relevant Serbian, international and regional authorities and contribution to reporting activities in connection with Serbia's EU accession process.

Full visibility of the role and work of the Commissioner, both in the field of freedom of information and in the field of personal data protection, is a constant duty, which the Commissioner continued performing in 2022 through the media, on websites, on the Open Data Portal, on social networks etc. The media have attached much attention to the Commissioner's statements concerning the application of the LPDP and the Commissioner's proposals for the development of a Personal Data Protection Strategy, as well as the application of the Law amending the Law on Free Access to Information of Public Importance, including in particular the expanded scope of public authorities required to comply with the LFAIPI (Article 3) and public authorities required to publish Information Directories on their work using the Commissioner's Single Information System (Article 39) and submission to the Commissioner of annual reports on the activities undertaken to comply with the LFAIPI (Article 43), as well as individual cases of violations of the rights protected by the Commissioner.

In the course of 2022, the Commissioner issued **6 opinions** on draft laws from the viewpoint of the Commissioner's mandate pursuant to requests submitted by public authorities and **17 opinions** on other general legal documents. The Commissioner also issued **181 opinions** on correct application of the LFAIPI and **403 opinions** on correct application of the LPDP in the course of 2022.

The job classification for the Commissioner's Office comprises 110 posts, which are staffed by 156 employees in total. According to the Commissioner's 2022 Staffing Plan, the Commissioner's Office should, in addition to the Commissioner, have also two Deputy Commissioners and 134 employees in 2022. The job classification for the Commissioner's Office also includes an advisor post staffed by 3 employees, in accordance with Article 5 paragraph 5 of the Decision on Operation of the Office of the Commissioner for Information of Public Importance and Personal Data Protection, under which the Commissioner can have up to four advisors to the Commissioner, some of whom may be employed at this institution. As at 31 December 2022, the Commissioner's Office had 105 persons in indefinite employment and 8 persons in fixed-term employment (5 of those were hired to cover the increased scope of work, 2 were hired as replacements for absent civil servant, while 1 person was hired by the Commissioner's Cabinet). Also, 6 persons were hired under temporary and occasional work contracts.

In the course of 2022, the Commissioner's Office had a total of 35 employees with security clearance to access classified information.

The work of the Commissioner and his Office is funded under the law from the national budget of the Republic of Serbia. The Law on the Budget of the Republic of Serbia for 2022 allocates funding to the Commissioner for the funding source 01 – Budget Revenue in the amount of RSD 296,713,000.00.

The Commissioner has been certified for information security management systems in compliance with the requirements of the ISO 27001:2013 standard. Recertification according to ISO/IEC 27001:2013 and certification according to ISO/IEC 27701:2019 (PIMS) were carried out in February 2021.

In compliance with the obligations under the amended LFAIPI, the Commissioner also launched the Single Information System on his website www.poverenik.rs, which contains information directories about the work of public authorities. In this information system, the information directories are created in an electronic and machine-readable formats, in accordance with the Instructions on the Preparation and Publishing of Information Directories on the Work of Public Authorities (*Official Gazette of the Republic of Serbia* No. 10/22). The Commissioner's own information directory was also created using this information system.

After the deadline for publishing information directories, by the end of November 2022, a total of 6,129 (six thousand one hundred and twenty-nine) public authorities published their Information Directories in the Single Information System. As of the time of writing of this Report, 6,495 (six thousand four hundred and ninety-five) public authorities in total have published their information directories, including 1,975 local communities, 1,499 schools, 27 public enterprises, 154 courts and all public prosecutors' offices. As regards the country's highest authorities, information directories have been published by the President of the Republic, the Constitutional Court, the Supreme Court of Cassation and the National Bank of Serbia. Regarding ministries, 16 out of the total of 25 have prepared their information directories.

The web portal “Commissioner’s e-Government” has not yet been released into production for objective reasons.

In the course of 2022, the Commissioner continued supporting the Open Data Portal at <https://data.poverenik.rs>, through which he makes numerous data created in his work available to the general public, in a machine-readable format and in the form of visualisations.

In 2022, the Commissioner continued his successful cooperation with international organisations and forums, as well as with representative offices of numerous international or transnational organisations in Serbia. The Commissioner cooperated in particular with the competent institutions of countries of the region and the former Yugoslavia in the field of freedom of information and of personal data protection.

In 2022, just like every year to date, the Commissioner submitted the 2021 Annual Report to the National Assembly and posted it on his website. The National Assembly reviewed the reports of independent authorities, including the 2021 Annual Report of the Commissioner for Information of Public Importance and Personal Data Protection, at the 6th Session of the Committee on Justice, Public Administration and Local Self-government on 26 December 2022. The National Assembly adopted the Commissioner’s 2021 Annual Report at its plenary session held on 27 February 2023.

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

I Commissioner’s Activities in the Field of Freedom of Information

• Protection of freedom of information by the Commissioner

In the field of freedom of information, in 2022 the Commissioner **handled 16,018 cases** concerning the protection and promotion of rights. Of those, 2,733 case had been carried forward from the preceding year, while 13,285 cases were received in 2022. The Commissioner **resolved 12,769 cases**, while 3,174 cases remained pending and have been carried forward to 2023.

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

On the basis of the new powers with which this institution has been vested under the amended LFAIPI, the Commissioner issued **126 infringement warrants and filed 8 petitions for institution of infringement proceedings.**

Other activities included: providing assistance to citizens in the exercise of freedom of information through written opinions and clarifications for action, as well as provision of

assistance to public authorities in complying with the law, in particular by issuing opinions and providing training; monitoring compliance with the statutory duty of public authorities pertaining to proactive publishing of information, specifically their information directories, in the Single Information System for Information Directories, and measures undertaken in this regard; issuing of opinions concerning the enactment of regulations and other legislative initiatives; measures relating to administrative enforcement of rulings; preparation of publications and other means of publishing positions from the Commissioner's practice; participation in conferences and other expert events; communication concerning requests by information requesters filed with or forwarded to the Commissioner. The Commissioner also acted on freedom of information requests in which citizens and members of the media requested information of public importance created in the Commissioner's work.

The main obstacles hampering the exercise of freedom of information in 2022 included: abuse of freedom of information, inability to enforce by administrative means the Commissioner's rulings passed under the LFAIPI in force until 16 February 2022 and inadequate liability.

- *Handling of complaints*

The number of complaints formally lodged with the Commissioner on the grounds of violation of freedom of information remains continually high, with an upward trend year-on-year. In 2022, this institution received **9,219** complaints, which was an increase of **43.8%** from the previous year, while **2,475** pending complaints had been carried forward from the preceding year.

The complainants/information requesters in 2022 were mostly **individual citizens and attorneys, civil society organisations and other citizens' associations and the media.**

The Commissioner resolved **8,702 complaints** in 2022. The largest share of the resolved complaints, **4,548** in total or **52.2%**, were lodged due to public authorities completely ignoring the freedom of information requests, i.e. the so-called "administrative silence", while **2,966** or **34.1%** of the complaints were lodged because of refusal to provide information or incomplete replies without passing a decision with a statement of reasons for the rejection and without instructions on available legal remedies, as required by the law; **918** or **10.6%** of the complaints were lodged against decisions of public authorities which rejected the freedom of information requests and provided a statement of reasons; **246** or **2.8%** of the complaints related to notices provided by public authorities containing elements of a decision, while **24** complaints, or **0.3%**, were lodged against the requesters' demand to be reimbursed for the expenses of the procedure.

The complaints were mostly **founded – 3,736 complaints** or **42.9%** of the total number⁴. As had been the case in previous years, 2022 saw a continuation of the trend of many

⁴ When analysing the fact that the number of founded complaints was lower than in the previous years, which saw significantly higher percentages of founded complaints (e.g. 63.55% in 2021), one fact that should be borne in mind is that a group of malicious requesters from Vranje lodged 5,027 complaints in 2022, all of which were dismissed

procedures pursuant to founded complaints lodged with the Commissioner ending in **termination of the procedure. In 1,897 cases (50.8%)** out of the total number of founded complaints, the procedures were terminated because the public authorities had in the meantime complied with the freedom of information request, upon learning of the complaint and receiving a request for a reply from the Commissioner, but before a decision could be passed pursuant to the complaint, with the complainants formally withdrawing their complaints in **616** cases.

Out of the 547⁵ rulings passed by the Commissioner pursuant to complaints filed by information requesters, in which he ordered public authorities to make information available, the authorities failed to comply in 148 cases or 27.06%, which means that the average rate of compliance with the Commissioner's decisions was 72.94%.

As regards the structure of the complaints resolved in 2022, most of the complaints were lodged against **Republic-level national and other authorities and organisations: 4,521 complaints or 51.96%**, of which **800** complaints were lodged against **ministries and their subordinate authorities**, and **1,389** or **15.96%** against **public enterprises**, including **509** complaints against national-level public enterprises. Many complaints were lodged against **local self-government authorities and local public services and organisations**, as many as **2,042** or **23.47%**, as well as **judicial authorities and institutions**, the latter accounting for as many as **670** complaints or **7.7%**.

In 2022, the Commissioner used the authority provided for in Article 26 of the LFAIPI in **12** cases when acting pursuant to complaints of violations of freedom of information and demanded of the respondent public authorities to present for a review the documents containing the information requested by the requester, so the Commissioner could determine whether the information contained in those documents could be made available or not. In two cases, the respondent public authorities did not comply with the Commissioner's requests, in two cases the authorities invited the Commissioner to access the requested documents and information on their premises, while in eight cases the respondent public authorities provided the Commissioner with the requested documents.

The share of the Commissioner's decisions upheld by courts has remained consistently high at more than **91.5%** since this authority began operating, which is the best indicator of the quality of work undertaken by this public authority.

on formal grounds or rejected as unfounded or rejected on the grounds of protection of public interest or protection of other persons' rights, which resulted in a seemingly lower number of founded complaints than was actually the case. This issue is discussed in detail in the section of this Report [Current Situation and Obstacles for the Exercise of the Freedom of Information and the Right to Personal Data Protection](#).

⁵ In 646 complaints in total, the Commissioner ordered the first-instance public authorities to provide the requesters with the information; with 547 rulings passed pursuant to these complaints because 99 complaints had been joined with other complaints.

- ***Enforcement of the Commissioner's decisions***

The Commissioner received 118 motions for administrative enforcement of the Commissioner's rulings in 2022.

In 2022, the Commissioner initiated the procedures for enforcement of his rulings, acting on motions filed by information requesters; however, with regard to cases where the freedom of information requests had been filed before 16 February 2022, while the previous version of the LFAIPI (*Official Gazette of the Republic of Serbia* No. 120/04, 54/07, 104/09, 36/10) was in force, he could not implement such procedures by imposing fines. Such procedures were filed by filing petitions to the government to ensure compliance with the rulings through direct enforcement⁶. The Commissioner filed 53 petitions with the Government to enforce his ruling, but received no feedback on any of those⁷.

Under the Law amending the LFAIPI, which has been in force since 17 February 2022, the path has been cleared for resolving the two key issues affecting enforcement of the Commissioner's decisions, namely the issue of setting the amounts of fines and the issue of competence for enforcing the imposed fines. Fines will range between RSD 20,000 and RSD 100,000 and may be imposed multiple times. Imposed fines will be enforced by a court, in accordance with the law governing execution and security. Proceeds from the fines will constitute revenue for the national budget. It remains to be seen in the coming period how much of an effect the legislative amendments will have and whether they will actually reduce rate of non-compliance with the Commissioner's decisions, which remained far from satisfactory in 2022 (at 27.06%).

• **Protection of rights before the Administrative Court and other courts**

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

A party dissatisfied with a decision has the right to file a complaint with the Administrative Court, as does the Republic Public Prosecutor's Office, in cases where it believes a decision harms a public interest.

⁶ Article 28 paragraph 4 of the LFAIPI

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

The party concerned and the competent Public Prosecutor's Office may file a petition with the Supreme Court of Cassation to review a judicial decision, in cases where the Administrative Court ruled on a case with full jurisdiction. According to the information available to the Commissioner, one petition for a review of a decision of the Administrative Court was filed with the Supreme Court of Cassation in 2022.

In 2022, **the Constitutional Court** received **55** constitutional appeals against the Commissioner's decisions. In the course of 2022, the Constitutional Court passed 2 decisions pursuant to constitutional appeals⁸ in the field of freedom of information, both of which rejected the constitutional appeals.

- **Compliance of public authorities with their statutory obligations, supervision and responsibility**

The amendments to the Law on Free Access to Information of Public Importance overhauled the manner in which information directories on the work of public authorities are compiled, published and updated. They also increased the number of authorities required to produce such information directories. The most significant change concerns the manner in which such information directories are produced: they are now created on a platform kept and maintained by the Commissioner, namely the Single Information System of Information Directories (SIS). As of the time of writing of this Report, 6,675 information directories by public authorities are available in the SIS, while the total number of public authorities registered in the system is 7,153. In addition, the Commissioner has prepared the Instructions on the Preparation and Publishing of Information Directories on the Work of Public Authorities in accordance with the Law.

Also, the number of public authorities required to submit annual reports to the Commissioner has increased significantly. This obligation now applies to all public authorities referred to in Article 3 of the LFAIPI – 12,287 of them as of the time of writing of this report. The number of reports submitted for 2022 is 5,129, while 5,582 public authorities were registered to access the Portal used for the submission of annual reports. More than half of the public authorities required under the Law to submit their reports to the Commissioner failed to do so.

According to the information provided in the reports submitted by public authorities 2022 (5,129 reports), 4,595 public authorities published an Information Directory in the Single Information System. Also, it would appear that compliance with the statutory duty to provide training to employees on proper application of the Law on Free Access to Information has improved from previous years, given that the number of public authorities that submitted their reports is much higher than in the past years (with 3,128 public authorities reporting they have complied with this duty).

The number of reports submitted by authorities falling within the category of education institutions (schools, preschool facilities) is similar to last year, at 1,682, while the number of

⁸ The Constitutional Court had received two of the resolved constitutional appeals in 2019.

reports submitted by local self-government authorities (cities and municipalities) has almost doubled. A mild increase has also been observed in the number of reports submitted by national-level authorities and organisations (agencies, directorates, institutes, funds, chambers etc.). Hunters' associations have mostly complied with this statutory duty, with 71 of them submitting reports, and as many as 912 local communities have also complied.

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-government⁹, responsible for inspecting compliance with the LFAIPI, notified the Commissioner that *"The Administrative Inspectorate acted on 216 rulings passed by the Commissioner for Information of Public Importance and Personal Data Protection in procedures pursuant to complaints filed by information requesters which had been forwarded to this authority. In 105 cases it was found that the public authority concerned had complied with the Commissioner's ruling and made the requested information available to the requester, while in the remaining cases the procedure conducted by the Administrative Inspectorate is currently underway.*

We acted pursuant to 125 applications concerning compliance with the freedom of information regulations.

According to the 2022 Annual Work Programme, administrative inspectors were not to conduct any scheduled inspections of compliance with the freedom of information regulations.

The 2023 Annual Work Programme of the Administrative Inspectorate provides for scheduled inspections of compliance with the freedom of information regulations, which will entail in particular supervision of compiling, publishing and updating the information directories, the authorised freedom of information officers, compliance with freedom of information requests, submission of annual reports to the Commissioner etc."

In 2022, the Administrative Inspectorate submitted no petitions for institution of infringement proceedings to magistrates' courts for breaches of Articles 46-48 of the Law on Free Access to Information of Public Importance.

According to the data provided by Serbian magistrates' courts which provided such data to the Commissioner, in 2022 these courts received a total of 2,392 petitions for institution of infringement proceedings for breaches of freedom of information, all of which were lodged by information requesters as the injured parties.

According to the data provided by the Magistrates' Court of Appeals of Belgrade, in 2022 this Court received a total of 1,449 cases of appeals against decisions of magistrates' courts in freedom of information matters, and it resolved 1,431 cases. An analysis of the provided data suggests that, in 2022, similarly as in 2021, the Magistrates' Court of Appeals upheld a much higher number of convictions by magistrates' courts than had been the case in earlier years.

Table summary of types and scope of the Commissioner's measures and activities in 2022

⁹ Letter by the Administrative Directorate number 021-02-18/2022-01 of 30 January 2023.

in the field of freedom of information

No.	Types of activities and measures	Total
1.	Cases received	13,285
2.	Pending cases carried forward from previous year	2,733
3.	Total cases handled	16,018
4.	Cases resolved	12,768
5.	Complaints received	9,219
6.	Complaints resolved	8,702
7.	Infringement warrants issued	126
8.	No infringement warrant issued pursuant to a party's request (no infringement found)	4
9.	Lodged petitions to institute infringement proceedings	8
10.	No petition to institute infringement proceedings lodged (declined jurisdiction)	12
11.	No petition to institute infringement proceedings lodged (no infringement found)	16
12.	Notices concerning subsequent compliance with freedom of information requests after a complaint was lodged with the Commissioner	17
13.	Opinions concerning application of the LFAIPI	181
14.	Replies to legal action lodged with the Administrative Court	116
15.	Acting pursuant to requests on the work of / held by other authorities - the Commissioner advised the requesters on the correct procedure	62
16.	Motions for administrative enforcement of the Commissioner's rulings	137
16.1.	Passed rulings to proceed with executing rulings	66
16.2.	Commissioner's petitions to the Government to provide assistance/enforce rulings	53
16.3.	Rulings terminating the execution of rulings	77
16.4.	Motions for administrative enforcement rejected as unfounded	1
16.5.	Motions for administrative enforcement dismissed on formal grounds	8
16.6.	Cases in which the Commissioner petitioned the Administrative Inspectorate to conduct inspections and institute infringement proceedings	203
17.	Written communication with public authorities concerning application of the LFAIPI (advice and instructions provided to public authorities with a view to improving transparency in connection with the publishing of Information Directories in the Commissioner's Single Information System and submission of Annual Reports to the Commissioner, as well as other communication)	2,634
18.	Replies to applications concerning compliance with the LFAIPI	57
19.	Referred requests (Article 19)	694
20.	Motions for repeated proceedings (all upheld)	2
21.	Motions to review decisions of the Administrative Court	1

II Commissioner's Activities in the Field of Personal Data Protection

In 2022, the Commissioner had extensive activities in the field of personal data protection, due to the current situation in this field. This is supported by the number of opened cases (**4,116**), as well as the number of cases closed by the Commissioner (**3,589**).

- **Supervision**

In the course of 2022, the Commissioner **closed 416 supervision procedures** in total, including 266 scheduled and 150 unscheduled supervisions.

The conducted inspections resulted in the filing of 1 criminal report, 2 petitions for institution of infringement proceedings, 42 corrective measures ordered, including 39 warnings to data controllers and/or processors and 3 measures imposing a temporary or permanent restriction on processing activities, including a ban on processing. The Commissioner conducted 328 field inspections and 42 desk inspections.

The Commissioner **initiated 354 supervisions** in the course of 2022. In terms of structure of the controllers in respect of which the Commissioner initiated supervision procedures in the course of 2022, **education institutions (38.7%)** and **local self-government authorities (28.5%)** accounted for the highest share and saw a multiple increase from previous years, while **companies** accounted for 13.8% of all supervisions, which was several times lower than in previous years.

The most frequent cause for initiation of supervision procedures was safety of personal data (41.1%).

The Commissioner filed **one criminal report** in 2022, for the criminal offence referred to in Article 146 of the Criminal Code (unauthorised collecting of personal data).

The Commissioner filed **two petitions for institution of infringement proceedings** for violations of provisions of the LPDP in 2022.

The Commissioner acted on 339 applications in the field of personal data protection, 25 of which were forwarded for further acting to the Ministry of the Interior, since they concerned video surveillance, which governed by the Law on Private Security.

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

From the effective date of the new LPDP to the end of the reporting period, the Commissioner sent checklists to the addresses of **4,633** data controllers, 3,635 of whom replied by the end of the reporting period (while 326 controllers failed to do so even after the Commissioner's intervention), while 45 data controllers submitted checklists to the Commissioner of their own accord.

On the basis of the received checklists, the Commissioner conducted assessments of the level of risk for personal data processing in 3,680 cases.

Under the LPDP, the Commissioner has a duty to keep accurate and up-to-date **records of personal data protection officers**. In 2022, **616 personal data protection officers** were registered. Since the effective date of the LPDP, a total of **4,378** data controllers and/or processors submitted information on their personal data protection officer to the Commissioner, and 2,686 of those are public authorities.

Furthermore, since the effective date of the LPDP, the Commissioner has received **36 decisions on the appointment of representatives of foreign companies** in accordance with the LPDP.

- **Complaints**

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

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

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

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

In 2022, the Commissioner received **181 complaints**.

The Commissioner handled 218 complaints and **resolved 177 complaints** (140 from 2022 and 37 carried forward from 2021), while 41 complaints have been carried forward to 2023.

In the decisions passed pursuant to the lodged complaints, the Commissioner determined the complaints were founded in 51 cases and passed rulings ordering the controllers to take action on the requests. The Commissioner terminated the procedure by passing a ruling in 16 cases, because the controllers took action on the requests before the Commissioner ruled on the complaints (15), or because the complainant had withdrawn the complaint (1). The Commissioner dismissed 42 complaints on formal grounds and ruled 68 complaints were unfounded.

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

The most frequent reasons for lodging of complaints with the Commissioner include **partial compliance of the controller with the request (77)**, **rejection or dismissal of the request by the controller (62)** and **failure of the controller to take action on the request (42)**.

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

Requests in respect of which complaints were lodged with the Commissioner on the grounds of failure of data controllers to act concerned the exercise of: **the right to access data (85.9%)**, **the right to deletion of personal data (11.4%)**, **the right to correction and supplementation (1.6%)** and **termination of processing (1.1%)**.

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

As regards the structure of data controllers against whom complaints were lodged with the Commissioner, the largest number of the complaints, as many as **164**, were lodged against failure to act by public authorities at all levels and authorities and organisations with delegated public powers. Most of these (96) were lodged against failure to act or acting of judicial authorities and authorities in the field of the judiciary. Failure to act or acting of ministries was alleged in 35 complaints, with 32 complaints lodged against the Ministry of the Interior 32, while failure to act or acting of other ministries was alleged in three complaints.

During the reporting period, the Commissioner passed a total of **51** binding and final rulings ordering the controllers to take action on the request or provide the requester with the requested data and to report to the Commissioner of its compliance with the decision.

- **Transfer of data to other countries or international organisations**

In the course of 2022, the Commissioner handled **three requests** for data transfer in total, two of which had been carried forward from the previous period, while one was received in 2022 and concerned data transfer to the United States of America under contractual provisions. The Commissioner ruled on 2 requests for data transfer, both of them carried forward from the previous period. One request was dismissed, while in the other case the requester was notified *it did not need the Commissioner's approval for the contract*, since personal data would be transferred only to the Member States of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, which are considered to afford an appropriate level of protection.

In the course of 2022, the Commissioner handled 3 **requests for approval of binding corporate rules**, all of which had been carried forward from earlier years. Of those, 2 requests were approved, while 1 was rejected.

- **Acting of public authorities in connection with the Commissioner's legal documents in the field of personal data protection**

According to the information available to the Commissioner, **13 legal actions** were lodged with the Administrative Court in 2022 against the Commissioner's decisions. Out of the total number of legal actions, data controllers lodged 9, all of which were lodged by the Ministry of the Interior, because of the Commissioner's order to strike from the records maintained by that Ministry the data pertaining to a complainant. As regards the remaining 4 legal actions, one was lodged by an applicant who objected to the Commissioner's acting in the course of an inspection, while 3 were lodged by complainants who objected to the Commissioner's decisions.

In the course of 2022, the Administrative Court **ruled on 14 legal actions** by rejecting the claim as unfounded in 12 cases, dismissing 1 claim and terminating the proceeding pursuant to 1 claim.

The Commissioner filed **one criminal report** in 2022, for the criminal offence referred to in Article 146 of the Criminal Code (unauthorised collecting of personal data).

In 2022, the Commissioner filed **two petitions for institution of infringement proceedings** for violations of provisions of the LPDP. Pursuant to all infringement petitions filed to date, in 2022 the Commissioner received 12 decisions of magistrates' courts (8 from courts of first instance and 4 from courts of second instance).

Table summary of types and scope of the Commissioner's measures and activities in the field of personal data protection in 2022

No.	Types of activities and measures	Total
1.	Cases received	4,116
2.	Cases resolved	3,589
3.	Inspections	416
3.1	Criminal reports filed	1
3.2	Corrective measures ordered	42
4.	Petitions to institute infringement proceedings	2 ¹⁰
5.	No petition to institute infringement proceedings lodged (no infringement found)	1
6.	No petition to institute infringement proceedings lodged (expired statute of limitations)	1
7.	Processed checklists	1,440
8.	Complaints	177
9.	Replies to legal action	13
10.	Notices of personal data breaches	38
11.	Applications	339
12.	Request for data transfer	2
13.	Request for approval of binding corporate rules	3
14.	Opinions	399
15.	Preliminary opinion (Article 55 of the LPDP)	4
16.	Analyses	1
17.	Records of requests to access retained data	123
18.	Processed records of personal data protection officers	616
19.	Processed decisions on appointment of representatives of foreign companies in accordance with the LPDP	15

¹⁰ 1 petition for institution of infringement proceeding was filed directly in an inspection procedure, without the establishment of a new case and without forwarding to the Department for the Prosecution of Infringements.

2. CURRENT SITUATION AND OBSTACLES FOR THE EXERCISE OF THE FREEDOM OF INFORMATION AND THE RIGHT TO PERSONAL DATA PROTECTION

2.A. FREEDOM OF INFORMATION

2.A.1. Legal Framework

Exercise and protection of the constitutionally guaranteed freedom of information in Serbia are governed by the Law on Free Access to Information of Public Importance (LFAIPI). This Law has been amended and supplemented on a number of occasions, initially in 2007, when the requirements for the Commissioner's appointment were made more stringent, then in 2009, when its procedural and penal provisions were supplemented, and also in 2010, to determine competence for enforcement of the Commissioner's decisions. The most recent amendments to this Law were made in 2021, when major changes were introduced to address the existing issues in the implementation of the LFAIPI and the Commissioner's powers were significantly expanded. Namely, the Law amending the LFAIPI¹¹ came into force on 16 November 2021 and became effective on 17 February 2022.

The new Law amending the LFAIPI created normative conditions for eliminating some of the key issues in this field (unavailability of administrative enforcement for the Commissioner's rulings, inadequate liability of employees and responsible persons at public authorities for compliance with the obligations under the LFAIPI). Furthermore, arrangements have been adopted which will significantly improve the situation in this field and ensure more effective exercise of freedom of information (strong affirmation of the principle of proactive transparency, expansion of the scope of public authorities subject to the Law, increased powers of the Commissioner, opening of regional offices of the Commissioner outside of Belgrade).

Unfortunately, this Law fails to address one of the key issues in exercising freedom of information, which is the enormous and systemic abuse of freedom of information. Admittedly, some of the amendments have helped prevent information requesters and their attorneys from filing petitions for institution of infringement proceedings against the heads of public authorities and persons authorised to handle freedom of information requests in public authorities before the Commissioner has ruled on a complaint against the public authority concerned and before the Commissioner has stated his position on the filing of for institution of infringement proceedings. However, the amendments have exacerbated the issue of abuse of the right, as the legal concept of abuse of freedom of information has been removed from the law. In doing so, the legislator failed to take into consideration the fact that the legal concept of abuse of freedom of information protects the essence of this right and those requesters who request information in accordance with the objective and the spirit of the law. In all likelihood, this inadequate legislative arrangement stems from the legislator's mistaken belief that this arrangement would solve the issue of "abuse of the right" by public authorities, which has also been a problem. However, the way to address this problem is to impose proper liability on the authorised and responsible persons at public authorities and consistently apply the regulations;

¹¹ *Official Gazette of the Republic of Serbia* No. 105 of 8 November 2021

this problem should also be addressed through the work of the Commissioner, as the authority of second instance in the process of exercising freedom of information, authorised to annul any decision of an authority of first instance in situations where such authorities unfoundedly invoke abuse of this right.

Below is a summary of key amendments and supplements to the Law. These include:

1. The Law affirms the principle of proactive transparency, as a way of exercising freedom of information (Article 1 of the Law). Information directories are published in a single information system kept and maintained by the Commissioner, in an electronic and machine-readable format; it is updated every 30 days; the scope of information published has been expanded and the number of authorities required by law to produce information directories is larger; failure to compile and update an information directory is an infringement for which the head of the public authority is liable (Articles 39 and 40 of the Law).
2. The range of public authorities subject to the Law on Free Access to Information of Public Importance has been significantly expanded (Article 3 of the Law).
3. The range of grounds that constitute formal conditions for potential restriction or exclusion of freedom of information has been expanded (Article 9 of the Law).
4. The legal concept of abuse of freedom of information, previously provided for in Article 13 of the Law, has been removed in its entirety, i.e. it can no longer constitute grounds for restricting or excluding freedom of information.
5. The Law lays down the course of action to be taken by a public authority when requested information is contained in a large number of document. If this would make it difficult for the public authority to take action on the request within 15 days, the public authority may notify the requester thereof within seven days of receipt of a formally correct request and offer the requester to either make the request more specific or access the documents before determining the copies of which documents he/she actually needs (Article 16 paragraph 3 of the Law). This provision has not been elaborated in more detail.
6. The rules for complying with a deficient freedom of information request. The requester must be instructed how to supplement the request within eight days of its receipt (Article 15 paragraph 5 of the Law). The authority gives the requester a period in which to make the request formally correct, which period may not be shorter than 8 days or longer than 15 days. The document dismissing a request now has the form of a ruling (Article 15 paragraph 6 of the Law).
7. The rule concerning extension of the period for complying with a freedom of information request to 40 days has been amended, in that its scope has been changed: whereas formerly this option was available only if the public authority intended to make the information fully available, now this period applies also to the handling of a request, meaning that a request may also be rejected by a ruling within such extended period (Article 16 paragraph 4 of the Law). Public authorities are still required to send notice of extension of the period to the requester within seven days of receipt of the request, and this can be done only if the public authority

concerned is unable to take action on the request within 15 days for objective reasons.

8. Special rules are laid down for compliance with freedom of information requests that concern classified information within the meaning of the Law on Data Secrecy; these rules differ depending on whether the data was classified by a different authority (Article 16 paragraph 5 of the Law) or by the authority to which the request is submitted and which decides on the request (Article 16 paragraphs 6 and 13 of the Law). In the former case, the request is still forwarded for handling to the authority which classified the data, while in the latter case the authority is required to review whether the reasons for which such data was classified still pertain. If not, the authority passes a decision to declassify the data (in accordance with the Law on Data Secrecy) and the requester is granted access to the information. However, if the reason for which the data was classified still pertain, the statement of reasons provided in the authority's decision rejecting the request must specify both the reason for initial classification and the reasons why the data has to remain classified. (The same obligation also applies if any data constitutes a trade or professional secret).
9. The Commissioner has a new power when deciding on a complaint against a decision rejecting a request relating to classified data. If, in the procedure pursuant to such complaint, the Commissioner finds that the reasons for classifying the data no longer pertain, or that the data was not properly classified in accordance with the Law on Data Secrecy, he will pass a ruling upholding the complaint and ordering the public authority to declassify the requested data and grant the requester access to such data. Before making a decision, the Commissioner must consult the case file to which the complaint refers (Article 24 paragraph 7 and 8 of the Law).
10. The range of public authorities against which a complaint may not be lodged with the Commissioner and whose decisions can only be challenged in an administrative dispute has been expanded. In addition to the six authorities currently exempted, complaints are no longer admissible against the National Bank of Serbia, and its decisions can only be challenged in an administrative dispute (Article 22 paragraph 3 of the Law).
11. Time limits applicable to the Commissioner's acting pursuant to complaints have been changed. The Commissioner is required to pass a ruling without delay, and in any case not later than within 60 days of receipt of the complaint, except in cases of complaints concerning failure of public authorities to act in accordance with Article 16 paragraph 2 of the Law (information relevant for the protection of life or freedom of a person or for the endangerment or protection of public health or the environment, when the authority of first instance has a period of 48 hours in which to take action on the request), in which case the Commissioner is required to pass a ruling within 30 days of receipt of the complaint (Article 24 paragraphs 1 and 2 of the Law).
12. When he determines pursuant to a complaint for failure to comply with a request (administrative silence) that the complaint is founded, the Commissioner will issue a ruling ordering the public authority to take action on the request within a specified period (Article 24 paragraph 6 of the Law). In these situations, the Commissioner

does not decide on the merits of the request. When the Commissioner passes such a ruling, he shall, in accordance with the law governing infringement proceedings, issue an infringement warrant referred to in Article 47 of the Law (Article 24 paragraph 10 of the Law), which provides that a fine in the amount of RSD 30,000 shall be charged to infringement to the authorised freedom of information officer (or the head of the authority if no authorised freedom of information officer is designated) if he/she fails to comply with a request within the time limits referred to in Article 16 of the Law (administrative silence).

13. A decision to terminate the procedure pursuant to a complaint is passed in the form of a ruling (Article 24 paragraph 9 of the Law).
14. Public authorities are required to provide the Commissioner, on his request and within a period he specifies, which cannot be longer than 15 days, with all data necessary for finding facts relevant for the passing of the rulings referred to in Articles 24 and 25 of the Law, as well as for deciding whether to file a petition for institution of infringement proceedings in connection with those rulings. For the purpose of finding facts, the Commissioner shall be granted access to any medium subject to this Law. The authority responsible for keeping records of citizens' permanent and temporary residential addresses and Unique Master Citizen Number must provide the Commissioner, on his request, with any data contained in those records that are necessary for the issuing of infringement warrants and for the filing of petitions for institution of infringement proceedings (Article 26 of the Law).
15. Mechanisms for administrative enforcement of the Commissioner's rulings have been unblocked. The Commissioner shall ensure a respondent public authority complies with the obligations imposed on it by the Commissioner ruling through indirect enforcement, by imposing fines. Fines are imposed by rulings. Fines will range between RSD 20,000 and RSD 100,000 and may be imposed multiple times. Imposed fines will be enforced by a court, in accordance with the law governing execution and security. Proceeds from the fines will constitute revenue for the national budget. (Article 28a of the Law).
16. The Commissioner has been vested with new powers. In addition to issuing of infringement warrants, he is also authorised to file petitions for institution of infringement proceedings, for the infringements set forth in the Law, when he finds in the procedure pursuant to a complaint that an infringement was committed. The information requester cannot file a petition for institution of an infringement proceeding against a public authority before the procedure pursuant to the complaint before the Commissioner is closed, or before the administrative dispute is closed in cases where lodging of complaints with the Commissioner is not permitted. In such cases, the information requester must first ask the Commissioner to file a petition for institution of an infringement proceeding, or alternatively must make such demand of the Administrative Inspectorate if an administrative dispute was conducted. If the Commissioner or the Administrative Inspectorate does not reply within eight days to the information requester's request to initiate a proceeding or if the reply states that there are no grounds for filing a petition for institution of an infringement proceeding, the information requester is authorised to file a petition for institution of an infringement proceeding himself/herself. If the

Commissioner or the Administrative Inspectorate files a petition for institution of an infringement proceeding, either pursuant to a request made by the information requester or on own initiative, it must notify the information requester in the event of withdrawal of such request, within eight days of such withdrawal, so the information requester could continue pursuing the procedure (Article 28b).

17. The Commissioner may establish offices outside of the institution's seat. Performance of duties at such offices is governed by the work organisation and job classification instrument of the Commissioner's Office. (Article 29 paragraphs 2 and 3 of the Law). Offices are planned to be opened in Kragujevac, Niš and Novi Sad.
18. The Commissioner is elected by the National Assembly, by a majority of votes of all members of parliament, on proposal from the parliamentary committee in charge of public administration, for an eight-year term, in a public call procedure. The Law also governs in detail the manner of the Commissioner's election and the conditions the incumbent must fulfil (Article 30 of the Law).
19. The Commissioner no longer requires approval of the National Assembly for the general instrument on work organisation and job classification of the Commissioner's Office; instead, he is only required to notify the National Assembly thereof within 15 days of passing of such instrument (Article 34 paragraph 3 of the Law).
20. Authorised freedom of information officers have an expanded scope of obligations and significantly greater liability (including in particular infringement liability, which is now explicitly provided for by the law). The law also for the first time explicitly provides for a responsibility and duty of employees at a public authority to provide the authorised freedom of information officer with all necessary assistance and to provide complete and accurate information necessary for complying with a request (Article 38 of the Law).
21. The duty to submit a regular annual report to the Commissioner now applies to all public authorities, without exception, by the 31st of January of the current year in respect of the preceding year. In addition to the information already required under the previous Law, the new Law also requires the following information to be provided to the Commissioner: the head of the public authority and the authorised freedom of information officer; the number of submitted requests concerning public health or environment protection, as referred to in Article 16 paragraph 2 of this Law; the number of submitted requests concerning information on the management of public assets; and the number of submitted requests concerning information within the mandate of that public authority. The Commissioner will lay down the form to be used for the submission of annual reports. In the event of failure to submit an annual report, the Commissioner is authorised to file a petition for institution of an infringement proceeding against the head of the public authority (Article 43 of the Law).
22. The Law makes a distinction between infringements for which the head of the public authority is liable (Article 46 paragraph 1 of the Law), those for which the authorised freedom of information officer is liable (Article 46 paragraph 2 of the Law) and those for which employees at the public authority are liable (Article 46

paragraph 3 of the Law). All these infringements are punishable by a fine ranging from RSD 20,000 and RSD 100,000.

23. The authorised freedom of information officer shall not be liable for an infringement if he/she acted on the order of the head of the public authority and undertook all actions he/she was required to take under the law, other regulations or general instruments in order to prevent the commission of the infringement (Article 46 paragraph 4 of the Law).
24. Procedures for the exercise of freedom of information initiated before the effective date of this Law will be closed in accordance with the provisions of the Law on Free Access to Information of Public Importance (*Official Gazette of the Republic of Serbia* Nos. 120/04, 54/07, 104/09 and 36/10) (stand-alone Article 30 of the Law amending the Law on Free Access to Information of Public Importance).

As regards international treaties, the Commissioner reiterates that the Government's Minister of Justice had signed, as early as in 2009, the Council of Europe Convention on Access to Official Documents ("Tromso Convention") of 18 June 2009, but the Government has not yet initiated the procedure to have that Convention ratified by the National Assembly. The importance of that Convention, which came into force on 1 December 2020, is that it is the first general legally binding document of the Council of Europe concerning access to official documents, notwithstanding the fact that, in some segments, the LFAIPI affords a higher level of rights than the minimum required by the Convention, which is allowed under the Convention. In this context, the Commissioner held a conference with the Council of Europe Office in Belgrade in May 2021 to highlight the importance of this Convention. On that occasion, the Commissioner, representatives of the Council of Europe and the Minister of Public Administration and Local Self-Government underscored the importance of ratifying the Convention. However, the Convention remains unratified by the National Assembly.

2.A.2. About the Exercise of the Right to Know in 2022 and the Identified Obstacles

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

For the first time since the enactment of the LFAIPI in 2004, it would appear that the greatest obstacle to exercising freedom on information is the enormous and systemic abuse of freedom of information, which will be discussed in more detail below. Notwithstanding this fact, the number of founded complaints about breaches of freedom of information remains high, coupled with a large share of the Commissioner's decisions that have not been complied with. Furthermore, the Commissioner has issued a significant number of infringement warrants to authorised and responsible persons in public authorities for administrative silence in response to freedom of information requests, and thus the situation in the field of freedom of information cannot be seen as satisfactory to the required extent.

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

In essence, the situation is such that obtaining of information from public authorities is still a substantially difficult endeavour without lodging a complaint with the Commissioner or bringing legal action before the Administrative Court in situations where such complaints are not allowed.

It is still widely common for public authorities to comply with a request and provide information only after the requester has complained to the Commissioner and after the Commissioner has forwarded the complaint to the respondent authority for a reply. This necessarily results in termination of the procedure pursuant to the complaint, while also causing unnecessary stress for those who request information and unnecessary spending of public resources in connection with handling of the complaints and involvement of staff at the Commissioner's Office. The fact that information is provided only after a public authority learns of a lodged complaint is proof that there was effectively no reason for not complying with the submitted requests in the first place, and such irresponsible and wasteful treatment of citizens and public resources by public authorities could have and must have been avoided.

Access to information is most commonly denied by claiming that the requesters abused freedom of information, that the information is confidential or that disclosure of the information would be a breach of someone's privacy (even when the persons concerned are public office holders and officers and the information concerns their work), often without offering much in the way of proper argumentation and evidence.

Unfortunately, it is common for public authorities not to provide access to information even after being ordered by the Commissioner to do so, and thus the share of this institution's rulings that have not been complied with remains high, especially in cases pursuant to journalists' complaints. Although journalists use the LFAIPI as an essential tool in their work, they increasingly face difficulties when attempting to access information on the work of public authorities, as evident from the very high share of rulings that have not been complied with (32.4%) after the Commissioner passed such rulings pursuant to journalists' complaints and ordered the respondent authorities to grant access to such information. The number of the Commissioner's rulings pursuant to complaints by journalists and members of the media that have not been complied with remains significantly higher than the general trend (27.06%) observed with other requesters, which is unacceptable, because journalism is a profession that requires access to information in order to report on and inform about topics of general public interest.

Moreover, a worsening trend in comparison with 2021, when there had been no cases of public authorities denying the Commissioner access to information upon his request in accordance with the powers laid down in Article 26 of the LFAIPI, is that such cases occurred in 2022. Namely, when resolving complaints for breaches of freedom of information in the course of 2022, the Commissioner used the power granted to him under Article 26 of the LFAIPI in 12 cases and requested the respondent public authority to grant him, for consultation, access to documents containing the information requested by the requesters, so he could determine whether the information contained in such documents can be made available pursuant to the freedom of information requests or not. In eight cases, the respondent public

authorities presented the requested files and documents for the Commissioner to consult; in two cases, the respondent public authorities, specifically the Military Security Agency and the Higher Court in Belgrade, failed to grant the Commissioner access to the requested files, while in two cases the authority of first instance (the Higher Public Prosecutor's Office of Belgrade) invited the Commissioner to access the requested files on the premises of the respondent public authority.

This situation in the field of freedom of information can largely be attributed to the fact that legal mechanisms for the enforcement of the Commissioner's rulings under the "old" LFAIPI, i.e. the fining mechanisms, were completely blocked, which made it difficult for requesters to access information, and this in turn resulted in a constantly high share of the Commissioner's rulings that have not been complied with. In addition, the Government's support, which would ensure compliance with the Commissioner's rulings through direct enforcement, in accordance with the law, was also lacking. This is one of the greatest obstacles to exercising freedom of information. However, an encouraging new development is that the Law amending the LFAIPI has created normative conditions for addressing these issues, and the full effects of the legislative changes will be seen in the coming period.

An issue that particularly hampered and burdened the work of the Commissioner's Office in 2022 was the severe and hitherto unseen abuse of freedom of information by five interlinked complainants from Vranje, which will be explained in detail further in this Report. In a short period of time, these complainants filed **5027** complaints, which severely hampered access to requested information for journalists, human rights associations, persons requesting information concerning the protection of public health and harm to the environment, as well as all other citizens who request information in accordance with the objective and the spirit of the law. Furthermore, the number of complaints filed with the Commissioner in 2022 was significantly higher than before due to the "spill-over" of cases from magistrates' courts to the Commissioner. This can be attributed to the fact that, after the effective date of the "new" Law, information requesters as injured parties are no longer able to directly file a petition for institution of an infringement proceeding with a court themselves; instead, they must first raise the matter with the Commissioner by filing a complaint with this institution, as the body with primary authority to file petitions for institution of infringement proceedings for the infringements punishable under the LFAIPI. Only after the proceeding pursuant to such complaint is closed and after the Commissioner has determined that there are no grounds for filing a petition for institution of an infringement proceeding, the information requester as the injured party may file a petition for institution of an infringement proceeding with the magistrates' court with jurisdiction over the case.

All of this bears witness to the fact that 2022 was a year marked by enormous and systemic abuse of freedom of information, which in effect severely hampered the exercise of freedom of information by citizens. The already difficult situation was exacerbated by the revised position of the Administrative Court, taken at the 105th Full Judicial Panel held on 21 June 2022, regarding justifiability of reimbursement of legal expenses incurred by information requesters when hiring attorneys to represent them in procedures pursuant to complaints filed with the Commissioner. Namely, the Administrative Court, without offering any legal argumentation or justification and without providing reasons for the change of its long-held position, revised its position after more than 13 years by ruling that public authorities are now required to reimburse complainants for the expenses of hiring legal counsel in cases where the

Commissioner determines the complaint is founded. This change of position was followed by a substantial increase in instances of abuse of freedom of information. This example shows that a major issue in Serbia's legal system is the fact that lodging of petitions for a review of judicial decisions with the Supreme Court of Cassation is not allowed, except in cases where the Administrative Court rules on a dispute with full jurisdiction, which is not the case in such instances, and the Commissioner therefore has no legal option to request a review of the position held by the Administrative Court.

The Commissioner therefore intends to raise this issue with the competent authorities, including in particular the authorities authorised to propose laws, and demand urgent legislative amendments, including *inter alia* those designed to devise systemic ways of preventing abuse of freedom of information and to enable parties in an administrative dispute (including the Commissioner as the respondent in an administrative dispute) to apply for an extraordinary remedy in the field of freedom of information (petition for review of a judicial decision).

Notwithstanding the large-scale abuse of freedom of information which hampered this institution's work in 2022, the Commissioner managed, among other things, to resolve 8702 complaints, including all complaints filed by the malicious complainants from Vranje, thereby preventing those complainants from depleting the national budget of the Republic of Serbia by at least RSD 124,443,000.00 (one hundred and twenty-four thousand four hundred and forty-three thousand dinars) (which translates to approximately EUR 1,060,895.14 at the middle exchange rate of the National Bank of Serbia).

For the fourth consecutive year, the National Assembly has continued its good practice of reviewing the Commissioner's Annual Reports in a plenary session, in the wake of several years when the Commissioner's reports were not reviewed in the parliament's plenary session. Although this was not formally done in 2022, at the time of writing of this Report, in February 2023, the National Assembly reviewed the Commissioner's 2021 Report and adopted relevant conclusions in that regard¹².

2.A.3. Main Obstacles hindering the Exercise of Freedom of Information

The obstacles which hindered the exercise of freedom of information in 2022 remained the same as in 2021, although it should be noted that large-scale abuse of freedom of information emerged for the first time as one of the main obstacles to the exercise of this right.

In essence, the obstacles hindering the exercise of freedom of information included the following:

2.A.3.1. Abuse of Freedom of Information

¹² Resolution of the National Assembly of the Republic of Serbia No. 10 of 27 February 2023 – *Official Gazette of the Republic of Serbia* No. 16/2023

Multiple reasons have contributed to the enormous increase in abuse of freedom of information in 2022, to such an extent that the exercise of this freedom was difficult, and indeed virtually impossible, for journalists, citizens' associations, the media and all citizens who request information in accordance with the objective and the spirit of the law. These include:

1) **Deletion of the legal concept of abuse of freedom of information from the Law** – As already noted, the legislator failed to take into consideration the fact that the legal concept of abuse of freedom of information protects the essence of this right and those requesters who request information in accordance with the objective and the spirit of the law. This was an attempt to solve the issue of “abuse of the right” by public authorities, which has also been a problem. However, the way to address this problem is to impose proper liability on the authorised and responsible persons at public authorities and consistently apply the regulations. In addition, in practice this was not enough of a concern to warrant the removal of this legal concept, one that protects the very essence of freedom of information, as the Commissioner, as the authority of second instance in the process of exercising freedom of information, annulled any decision of an authority of first instance in situations where such authorities unfoundedly invoke abuse of this right.

2) **The case of malicious requesters from Vranje** – Between 1 August 2022 and 6 September 2022, five interlinked persons filed **5027** complaints in the field of freedom of information. This number of complaints was significantly higher than the previous five-year average of 4121 complaints per year filed by complainants from the entire Serbia. The said persons initially filed complaints on the grounds of so-called “administrative silence”, deliberately misrepresenting the fact by alleging that the public authorities had not complied with their freedom of information requests, only to immediately file complaints against the replies they received from the public authorities in the same procedures. The time when this “operation” took place was also telling, as it was the summer holiday season. In addition, service of writs on these complainants was very difficult. Also, the five interlinked persons submitted identical requests to the same public authorities within short intervals, after which they filed complaints with the Commissioner. Based on all these facts, it was clear that this was not a case of persons exercising one of the fundamental human rights – the right to access information; instead, these interlinked persons had dishonest ulterior motives, most likely of a lucrative nature. As a result, the Commissioner's workload was virtually at a maximum. The Commissioner's Office also saw an increase in costs and expenses from additional hiring of administrative staff, costs of delivery and postage, lease of additional printers and equipment etc. It should be noted that, if these cases had not been resolved on time, the cost of hiring legal counsel by the parties (i.e. the complainants from Vranje) before the Administrative Court would have run into RSD 124,443,000.00 (one hundred twenty-four million four thousand forty-three thousand dinars), which translates to EUR 1,060,895.14 at the middle exchange rate of the National Bank of Serbia, all of which would have to be paid from the Commissioner's budget. i.e. from the national budget of the Republic of Serbia, which is public money and the budget of all Serbian citizens. However, addressing this issue meant that a backlog of other cases was created, which hampered access to information for journalists, the media, non-governmental organisations and other complainants. It is therefore crucial to understand that

abuse of this right significantly hinders the exercise of this right, while the legal concept of abuse of the right protects that same right.

3) **A shift in the long-held position of the Administrative Court regarding reimbursement of legal expenses of hiring attorneys to represent requesters in procedures pursuant to complaints** – During the many years of this institution's practice, the Commissioner has always passed decisions in procedures pursuant to complaints to reject as unfounded any claims for reimbursement of legal expenses associated with the complaint, primarily due to the fact that this is a single-party procedure. Such position of the Commissioner was upheld by the Administrative Court over the years, since its formation on 1 January 2010. The Administrative Court of the Republic of Serbia upheld the Commissioner's position and decisions, justifying its stance that the Commissioner had acted correctly by rejecting as unfounded any claims by plaintiffs (complainants/requesters) for reimbursement of legal expenses associated with the complaint by opining that the procedure for exercising freedom of information was a single-party procedure, initiated pursuant to a request by the party rather than *ex officio*, and the expenses of legal representation before the Commissioner were neither necessary nor justified. However, at the 105th Full Judicial Panel held on 21 June 2022, the Administrative Court revised its position regarding justifiability of reimbursement of legal expenses incurred by information requesters when hiring attorneys to represent them in procedures pursuant to complaints filed with the Commissioner, ruling that public authorities are now required to reimburse complainants for the expenses of hiring legal counsel in cases where the Commissioner determines the complaint is founded. A particularly worrying aspect of this matter is that the Administrative Court failed to offer any legal argumentation or justification for such a U-turn on this issue, or any motivation underlying its revised position. This revised position was followed by a substantial increase in instances of abuse of freedom of information, both before authorities of first instance and in procedures before the Commissioner. Many law offices have stepped in with their associates and have been flooding numerous public authorities with identical or similar freedom of information requests which bear no connection to their operations and activities. This issue is all the more worrying because these malicious complainants tend to "attack" those public authorities that are already in the most difficult financial situation and have fewest human and financial capacities and resources (elementary schools, medical centres, preschool facilities, social work centres and local communities, usually in small or impoverished towns). Expenses of this kind have also significantly affected and will continue affecting the Commissioner's budget, which is also public money, because all decisions passed by the Commissioner before the Administrative Court revised its position have been overturned and returned to the Commissioner for repeated procedure, and in such cases the Commissioner, being the defendant in the administrative dispute, is required to reimburse the complainant for the legal expenses of hiring an attorney to represent them. However, a far more worrying issue in this regard is that this revised position of the Administrative Court will also harm the exercise of freedom of information, as it became clear relatively quickly after the Administrative Court delivered its revised position that the purpose of *en masse* filing freedom of information requests, and the subsequent complaints, was not to exercise this freedom, but to obtain financial gain, while persons who actually need information of public importance, either because their work depends on it, e.g. journalists, civil society organisations etc., or because who demand obviously important information concerning e.g. environment protection, harm to public property, unlawful activities of public authorities,

misspending of budget funds etc., have been unable to timely exercise freedom of information and access information of public importance that is also relevant for the society as a whole. As an illustration, according to the data available to the Commissioner's Office thus far, it is clear that attorney N.D. of B. received more than one million and three hundred thousand dinars for legal expenses incurred in connection with complaints and judgments of the Administrative Court, within just two months of learning of the revised position of the Administrative Court.

Finally, the Commissioner notes that the said position taken at the 105th Full Judicial Panel, although adopted on 21 June 2022, was not published until 3 November 2022, with a delay of more than four months, during which period the Administrative Court used no other means to inform the Commissioner of its revised position, which further harmed the Commissioner's budget, and thus effectively the national budget of the Republic of Serbia, because the Commissioner passed decisions in accordance with the Court's previous position before learning of the revised one, and will therefore be bound to reimburse legal expenses of hiring attorneys when he loses the relevant disputes because of the changed position of the Court, which was unknown to him at the time because the Court failed to timely notify the Commissioner of its revised position or at least timely make it publicly available.

2.A.3.2. Unavailability of Administrative Enforcement for the Commissioner's Rulings

The issue of administrative enforcement of the Commissioner's rulings, which dates back to earlier years, was also pertinent in 2022 and it affected all cases where the freedom of information request had been filed before 17 February 2022. Indeed, this issue is strongly associated with the application of the new Law on General Administrative Procedure (effective as of 1 June 2017), which imposes very high fines which the Commissioner should impose as penalties on public authorities as respondents in administrative enforcement procedures, to force them to comply with the decision and provide the requested information.

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

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

It remains to be seen in the coming period how much of an effect the legislative amendments will have and whether they will actually reduce rate of non-compliance with the Commissioner's decisions, which remained far from satisfactory in 2022 (the share of decisions that were not enforced in 2022 was 27.06%).

2.A.3.3. Inadequate Liability

Liability of public authorities for breaches of freedom of information, from the most drastic forms of such breaches, i.e. completely ignoring citizens' requests and failure to comply

with the Commissioner's enforceable and binding rulings, to failure to comply with other statutory obligations of public authorities, remained symbolic in 2022, as far as cases where freedom of information requests had been filed before 17 February 2022, and such liability was initiated exclusively by petitions for institution of infringement proceedings filed by information requesters as the injured parties.

The situation regarding liability for violations of freedom of information is perhaps best illustrated by the fact that the competent authority, namely the Administrative Directorate, did not file a single petition for institution of an infringement proceeding with the competent authorities in 2022, whereas the Commissioner ruled 3,736 complaints to be founded and resolved the cases in the same year, which is proof that violations of freedom of information had occurred and public authorities had breached the law. Furthermore, it should be borne in mind that, just in the first year after the Commissioner was granted new competences and powers on 17 February 2022, he issued 126 infringement warrants and filed 8 petitions for institution of infringement proceedings. As infringement warrants are issued in cases of the so-called "administrative silence", it is clear how poor the overall situation is, because there should be zero tolerance of "administrative silence" in response to citizens' requests.

Furthermore, the level of compliance with other statutory obligations is likewise not satisfactory. More than half of all public authorities required under the Law to submit reports to the Commissioner have not done so. Also, many public authorities have published the information directories on their work in the manner required under the "new" law only after significant delays, while others have not yet complied with this obligation. Notwithstanding all these issues, the situation regarding submission of annual reports and submission of information directories has certainly improved from the period before the LFAIPI amendments.

For years now, the Commissioner has been drawing attention to the fact that absence of liability – and not just infringement liability – for violations of this right undoubtedly encourages the responsible persons at public authorities to persist in this behaviour, confident that they will not suffer any consequences for it. Also, the fact that full liability for violations of this right has not been enforced for years is the main reason for the very high number of complaints the Commissioner receives.

Faced with this state of affairs, in 2022 citizens continued filing petitions for infringement proceedings themselves with magistrates' courts; yet, while the number of such petitions was high, it was significantly lower than in 2021. According to the data provided by magistrates' courts, 2,392 such petitions were filed in 2022, versus 4078 in 2021. This can be attributed to the fact that the law has been amended and the injured parties, as information requesters, are not able to directly file a petition for institution of an infringement proceeding with a court; instead, they must first raise the matter with the Commissioner, i.e. they must file a complaint with the Commissioner, who now has primary authority to file a petition for institution of an infringement proceeding if he finds, in the procedure pursuant to a complaint, that an infringement punishable under the Law on Free Access to Information of Public Importance was committed.

2.A.4. Typical Cases of Inadequate Acting of Public Authorities pursuant to Freedom of Information Requests in 2022

1. Insistence on Unnecessary Formalities for Filing Freedom of Information Requests

When complying with freedom of information requests, public authorities often insist on unnecessary formalities, which hamper the exercise of this right by citizens.

In this context, an illustrative case concerns an authority of first instance that failed to comply with a freedom of information request by requester A.A. and justified such non-compliance by claiming they had not opened a case at all because the information requester specifically addressed his submission to person B.B., an employee of that authority. The fact that the request was linguistically worded to address B.B., an employee of the Cadastre Service in the city of P., rather than the public authority at which she is employed, does not provide justification for “administrative silence”, since this is a minor formal omission which does not warrant refusal by the public authority to comply with it, especially as the submission was clearly designated as a freedom of information request through express reference to the Law on Free Access to Information of Public Importance, while the requested information concerns the work of that public authority, and thus the substance of the submission unambiguously identifies it as a freedom of information request; therefore, the justification put forth by the public authority, especially in view of the principle of protection of parties’ rights laid down in Article 7 of the Law on General Administrative Procedure, is just unnecessary formalism. In his ruling¹³, the Commissioner therefore ordered the public authority to make the information available to the requester. This ruling has been complied with.

2. Unfounded Invoking of Personal Data Protection by Authorities of First Instance when Information on Public Spending is requested

Public authorities frequently invoke the right to privacy and personal data protection in situations where the requested information concerns remuneration for overtime work, entertainment expenses, termination payments etc. which are paid from public funds, i.e. from the budget, which is unfounded when the information concerns management of public funds and spending of public money. In principle, all information concerning management of public funds and spending of public money should be available to the public, and in this regard it should be borne in mind that the scope of privacy is narrower for public office holders and employees of public authorities compared to other citizens.

In this context, an illustrative case concerns a public enterprise which denied a requester access to information on a person who served as executive director of that enterprise, specially information as to whether that person had received a termination payment and, if so, on what date and in what amount. The public enterprise invoked that person’s right to privacy and referred to the provisions of Article 14 of the Law on Free Access to Information of Public Importance. In his ruling¹⁴, the Commissioner ordered the authority of first instance to make the requested information available to the requester, subject to appropriate protection of that

¹³ Commissioner’s ruling No. 071-01-4091/2020-03 of 17 November 2021

¹⁴ Commissioner’s ruling No. 071-01-111/2022-03 of 10 March 2022

person's data (withholding of the person's Unique Master Citizen Number, address of residence, bank account number, years of service etc.), noting that the condition for an exclusion of the right to privacy under the quoted provision of Article 14 item 2 of the Law on Free Access to Information of Public Importance was met. This was due to the fact that the Government of the Republic of Serbia had passed a decision by which it appointed A.A. to serve as acting general manager of that public enterprise. Article 27 paragraph 2 of the Law on Public Enterprises (*Official Gazette of the Republic of Serbia* Nos. 15/2016 and 88/2019) clearly lays down the conditions a person appointed to serve as executive director must meet. The provisions of Article 131, Article 132 and Article 133 of the Law on Employees in Public Services (*Official Gazette of the Republic of Serbia* Nos. 113/2017, 95/2018, 86/2019, 157/2020 and 123/2021) clearly specify the cases in which employees are entitled to a termination payment. Furthermore, numerous decisions from the case law of the European Court of Human Rights clearly affirm the position that public officials, which in this particular case can be interpreted as including directors of public enterprises, enjoy a significantly narrower scope of the right to privacy compared to other persons, as they hold posts that are of particular interest for the country and the normal functioning of all its vital functions, and must therefore be aware of the fact that the public will carefully scrutinise their work, which in turn means that the public will also be interested in and request information on their life, especially their professional life. All these arguments support the conclusion that, in this specific case, the interest of the public to know prevails over the interest to protect the privacy of the data subject. Moreover, as the requested information concerns a termination payment, made by the said public enterprise which was founded by the Republic of Serbia and in respect of which the Serbian Government exercises the founder's rights, to the executive director of that enterprise, it is undisputable that the funds for the termination payment were secured from public money, i.e. public funds, and the public always has a prevailing interest to know information concerning the spending of public money. In view of these facts, the position of the authority of first instance that access to the requested information would have breached the data subject's right to privacy cannot be upheld. This ruling of the Commissioner has been complied with.

3. Unfounded Claims by First-Instance Authorities of Potential Hindering and Interfering with the Conduct of Criminal Proceedings

Public authorities often claim, without proper justification, that the provision of requested information would interfere with the conduct of a criminal proceeding or any other legally regulated proceeding, in situations where no proceeding is conducted or where requests concern only general instruments or statistics etc.

In this context, an illustrative case concerns a citizens' association that protects human rights requested from a gynaecology and obstetrics clinic its Procedure for Induced Miscarriage. In its appealed decision, the authority of first instance refused to provide access to the requested document, claiming it was not able to provide the requested information because a criminal proceeding had already been instituted against an unknown perpetrator, and provision of the requested information would prejudice subsequent conduct of the proceeding

pursuant to the filed criminal report. The Commissioner's ruling¹⁵ annulled the appealed document and ordered the authority of first instance to make the requested information available to the requester. Namely, the procedure for carrying out an induced miscarriage is by its nature a general document which guides the actions of the staff of gynaecology and obstetrics clinic in all cases of induced miscarriage, and it is therefore unclear, and indeed impossible to even hypothetically imagine, how the disclosure of the requested information could prejudice a specific criminal proceeding and its final outcome. The reason for this lies in the fact that the said document is of a general nature and applies to the conduct of all cases of induced miscarriage; it is not an individual protocol applied in a specific case to a particular patient. This ruling has been complied with.

4. Lack of Knowledge of Amended Freedom of Information Legislation

A specific issue concerning inadequate compliance of public authorities with freedom of information requests that emerged in 2022 is their lack of knowledge of the provisions of the Law amending the Law on Free Access to Information of Public Importance, which took effect on 17 February 2022. In a significant number of cases, this hindered and hampered the exercise of freedom of information on the one hand, while on the other causing unnecessary expenses and outlays for the authorities of first instance. The following cases provide illustrative examples of this:

4.1. Secret Data classified by Another Public Authority

A complainant filed a freedom of information request with the joint-stock company Central Securities Registry, Depository and Clearing House of Belgrade, requesting copies containing information on the sale of 100% of a bank's shares. The authority of first instance invoked the provision of Article 9 item 5 of the Law on Free Access to Information of Public Importance and rejected the request, claiming that the requested documents had been classified by the National Bank of Serbia; however, in doing so, the authority of first instance failed to consider the provision of Article 16 paragraph 5 of the Law on Free Access to Information of Public Importance, which provides that, if a public authority holds documents containing secret information classified by another public authority, such public authority shall forward the request for handling to the classifying authority within eight days of receipt and notify the requester thereof. The Commissioner's ruling¹⁶ therefore set aside the decision of the authority of first instance and ordered it to repeat the procedure, instructing the authority of first instance to first find all relevant facts pertinent to the application of Article 16 paragraph 5 of the Law on Free Access to Information of Public Importance.

4.2. Expanded Scope of Public Authorities

The provisions of the "new" Law have significantly expanded the scope of public authorities subject to the Law. Many legal entities failed to familiarise themselves with the amendments to the Law in due time, neglecting the fact that they had acquired the status of public authorities under the new legislation, and they thus remained "silent" in response to

¹⁵ Commissioner's ruling No. 071-11-1521/2022-03 of 1 June 2022

¹⁶ Commissioner's ruling No. 071-11-1788/2022-03 of 17 August 2022

freedom of information requests, which resulted in infringement liability of responsible persons at those authorities, where the Commissioner acted *ex officio* and issued infringement warrants to responsible persons at such legal entities.

One such case is the case of joint-stock company Dimničar, which performs activities of general interest and public utility activities. Under previously applicable legislation, this company had not been treated as a public authority and complaints filed against it had been dismissed. However, under the currently applicable Article 3 Item 8 of the Law on Free Access to Information of Public Importance, a public authority is a legal entity or sole trader performing activities of general interest, in accordance with the law governing the status of public enterprises. Article 2 of the Law on Public Enterprises (*Official Gazette of the Republic of Serbia* No. 15/16 and 88/19) provides *inter alia* that activities of general interest include public utility services. Article 2 paragraph 3 item 13 of the Law on Public Enterprises (*Official Gazette of the Republic of Serbia* Nos. 88/11, 104/16 and 95/18) states the chimney sweeping is an activity of general interest. Upon consulting the Articles of Association of joint-stock company Dimničar of Belgrade of 30 December 2020, published in the register of companies on the website of the Serbian Business Registers Agency, it was found that Article 7 stipulates that the company's core business activity includes, among other things, chimney sweeping and cleaning of boiler rooms, boilers, ventilation ducts and air extraction devices. Furthermore, upon accessing the website of the City of Belgrade, it was found that the said company was entrusted with cleaning and maintaining chimneys, smoke ducts and thermal power plants, reviewing and controlling smoke extraction and ventilation ducts and cleaning of greasy ventilation installations, ventilation devices and floors in catering establishments (the company is required by law to carry out such cleanings every three months). In view of these facts, joint-stock company Dimničar, having its registered offices in Belgrade, is deemed to be a public authority within the meaning of the quoted provision of Article 3 item 8 of the Law on Free Access to Information of Public Importance. For this reason, the Commissioner ordered the said company in his ruling¹⁷ to take action on the requester's freedom of information request.

¹⁷ Commissioner's ruling number 071-11-1079/2022-03 of 19 April 2022

2.B. RIGHT TO PERSONAL DATA PROTECTION

2.B.1. Legal Framework

2.B.1.1. International Legal Framework

- **European Union**

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

2. General Data Protection Regulation (GDPR) – Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC¹⁸, is a key document in this field that has been directly applicable in the EU Member States since May 2018.

3. Law Enforcement Directive - Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, took effect in May 2018. the Law Enforcement Directive protects personal data of victims, witnesses and suspects in criminal trials and facilitates cross-border cooperation in the fight against crime and terrorism.

Acquis communautaire in the field of personal data protection includes also other regulations, as well as judgments of the Court of Justice of the European Union and decisions of the European Data Protection Board¹⁹. A strong impetus to further improvement of relevant protection of personal data is provided by the European Data Protection Supervisor²⁰, as well as dedicated data protection units and high officials at Europol and Eurojust.

¹⁸ www.poverenik.rs/sr/međunarodni-dokumenti6/međunarodni-dokumenti-arhiva/3447-direktiva-95-46-e3.html

¹⁹ The European Data Protection Board, formerly Article 29 Working Party, has the status of an EU body. It is comprised of representatives of national data protection bodies and the European Data Protection Supervisor. The EDPB has broad decision-making powers in disputes between national data protection bodies and provides advice and guidance on the key concepts of the GDPR and the Law Enforcement Directive.

²⁰ The European Data Protection Supervisor is an independent supervisory body which guarantees compliance of EU institutions and bodies with their data protection obligations. The main duties of the EDPS include supervision, counselling and cooperation.

Serbia's willingness to embark on the path of European integration, especially after 1 September 2013, the effective date of the Stabilisation and Association Agreement²¹ between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part, commits the country to harmonise its personal data protection legislation with *acquis communautaire* and other European and international privacy regulations (Article 81 of the SAA). In terms of international law, harmonisation of national personal data legislation with *acquis communautaire* is Serbia's international law commitment under the Stabilisation and Association Agreement.

- **Council of Europe**

1. **European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)**²² – Article 8 guarantees the right to privacy.
2. **Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108)**²³ – the first legally binding international document in the field of personal data protection.
3. **Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data**²⁴
4. **Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+)**²⁵

2.B.1.2. National Legal Framework

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

1. Constitution of the Republic of Serbia – The provisions of Article 42 guarantee the right to personal data protection²⁶

²¹ Law on Ratification of the Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part (*Official Gazette of the Republic of Serbia - International Treaties* No. 83/2008).

²² The ECHR came into force on 3 September 1953 and has 47 parties. The Republic of Serbia became a party on 3 March 2004.

²³ Convention 108 came into force on 1 October 1985 and has 55 parties. The Republic of Serbia became a party on 1 January 2006

²⁴ The Additional Protocol came into force on 1 July 2004 and has 44 parties. The Republic of Serbia became a party to the Additional Protocol on 8 December 2008

²⁵ The Protocol has not yet come into force; it has been open for signatures since 10 October 2018 and has 11 parties. The Republic of Serbia became a party to the Protocol on 26 May 2020

²⁶ Constitution of the Republic of Serbia, Article 42 - Protection of personal data shall be guaranteed. Collecting, keeping, processing and using of personal data shall be regulated by the law. Use of personal data for any the purpose other the one were collected for shall be prohibited and punishable in accordance with the law, unless this is necessary to conduct criminal proceedings or protect safety of the Republic of Serbia, in a manner stipulated by the law. Everyone shall have the right to be informed about personal data collected about him, in accordance with the law, and the right to court protection in case of their abuse.

2. Law on Ratification of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data²⁷

3. Law on Ratification of the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data²⁸

4. Law on Ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data²⁹

5. Law on Personal Data Protection – LPDP

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

In accordance with the need to complete the national legal framework, the Commissioner passed certain secondary legislation³⁰ on the basis of his obligations and power under the LPDP to regulate the field of personal data protection in more detail, including:

1. Bylaw on the Form and Manner of Keeping Records of Personal Data Protection Officers³¹

2. Bylaw on the Form and Manner of Keeping Internal Records of Breaches of the Law on Personal Data Protection and Measures undertaken in the Course of Inspections³²

3. Bylaw on the Form of Notice of Personal Data Breach and Notifying the Commissioner for Information of Public Importance and Personal Data Protection of Personal Data Breaches.³³

4. Bylaw on the Form of the Complaint³⁴

5. Decision on the List of Types of Personal Data Processing Activities that require a Data Protection Impact Assessment and an Opinion of the Commissioner for Information of Public Importance and Personal Data Protection³⁵

6. Bylaw on the Form of the Official Identity Document of Persons Authorised to conduct Inspections under the Law on Personal Data Protection³⁶

7. Decision on Endorsement of Standard Contractual Clauses³⁷

²⁷ *Official Gazette of FRY - International Treaties*, No. 1/92, *Official Gazette of Serbia and Montenegro – International Treaties*, No. 11/2005 - new law and *Official Gazette of the Republic of Serbia – International Treaties* Nos. 98/2008 - new law and 12/2010)

²⁸ *Official Gazette of the Republic of Serbia - International Treaties*, No. 98/2008

²⁹ *Official Gazette of the Republic of Serbia - International Treaties*, No. 4/2020

³⁰ All secondary legislation has been published in the Official Gazette of the Republic of Serbia and posted on the Commissioner's website www.poverenik.rs/sr/подзаконски-акти4.html

³¹ *Official Gazette of the Republic of Serbia* No. 40/2019

³² *Official Gazette of the Republic of Serbia* No. 40/2019

³³ *Official Gazette of the Republic of Serbia* No. 40/2019

³⁴ *Official Gazette of the Republic of Serbia* No. 40/2019

³⁵ *Official Gazette of the Republic of Serbia* Nos. 45/2019 and 112/2020

³⁶ *Official Gazette of the Republic of Serbia* No. 61/2019

³⁷ *Official Gazette of the Republic of Serbia*, number 5/2020

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

1. Decision on the List of Countries, Parts of Their Territory or One or More Sectors within Specific Industries in Those Countries and International Organisations which are considered to provide an Adequate Level of Personal Data Protection.³⁸

2.B.2. Main Obstacles hindering the Exercise of the Right to Personal Data Protection

2.B.2.1. Deficiencies of the LPDP

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

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

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

³⁸ Official Gazette of the Republic of Serbia No. 55/2019

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

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

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

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

Acting on an initiative by the Commissioner, the Government of the Republic of Serbia passed the Decision to form the Working Group on Preparing the Draft Personal Data Protection Strategy with the Action Plan, which includes among its members the Commissioner for Information of Public Importance and Personal Data Protection and the Deputy Commissioner for Personal Data Protection.

Adoption of a Personal Data Protection Strategy has emerged as a necessary step towards facilitating more effective exercise of the right to personal data protection in the Republic of Serbia. The Strategy and the accompanying Action Plan should address the issues which arose due to the imprecise and incomplete wording of the LPDP, as well as the lack of relevant legislation in this field, including those governing the processing of biometric personal data, processing of personal data through video surveillance, digitalisation and the relationship between the development of artificial intelligence and personal data protection.

It is expected that the Working Group will complete its work in 2023 and the Government will then adopt the Strategy and the Action Plan on its implementation.

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

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

1. The Commissioner received a request for opinion on whether there was an official or unofficial English translation of the Standard Contractual Clauses endorsed by the Commissioner in accordance with the Serbian Law on Personal Data Protection and, if there is no such translation, whether it was allowed to create an English version that would be used in contracts written in English, or whether such use would render the Standard Contractual Clauses invalid.

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

The text of the Standard Contractual Clauses endorsed by the Commissioner in accordance with the Law on Personal Data Protection is in Serbian, without an official translation into English or any other foreign language.

These Standard Contractual Clauses govern the relationship between the controller and the processor and, since their application concerns cases of personal data protection which are subject to the national Law on Personal Data Protection, they must be concluded in the Serbian language, which nevertheless does not prevent the contracting parties from obtaining a translation of the Standard Contractual Clauses into a foreign language for their own purposes. However, if the contracting parties were to conclude the Standard Contractual Clauses only in a foreign language, they would not be valid within the meaning of the national Law.

2. A public authority requested the Commissioner's opinion on whether a public authority is obliged to provide requested data pursuant to a request filed by an attorney-at-law with reference to Article 36 of the Law on the Legal Profession (*Official Gazette of the Republic of Serbia* Nos. 31/11 and 24/12 – decision of the Constitutional Court).

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

The right to information provided for in Article 36 of the Law on the Legal Profession – which sets forth in paragraph 1 that an attorney-at-law has the right, in order to provide legal assistance, to seek and obtain from government authorities, state institutions and state-owned enterprises timely information, documents and evidence in their possession or under their control, while paragraph 2 provides that government authorities, state institutions and state-owned enterprises legal nature a separate right and must be distinguished from the right enforced by the Commissioner.

Namely, in accordance with Articles 5 and 6 of the Law on Free Access to Information of Public Importance, the rights enshrined in that Law (the requester's right to be informed whether a public authority holds or otherwise has access to a specific piece of information of public importance, the right to access information of public importance by being allowed to consult a document containing such information of public importance, the right to a copy of such documents and the right to be sent a copy of such document on his/her request by post, fax, e-mail or by other means) belong to everyone under equal terms. Accordingly, a freedom of information request can be filed by anyone, regardless of their profession or other personal characteristic; thus, the fact that a requester who filed a freedom of information request under the said law to a public authority that holds the requested information happens to be an attorney-at-law could not bear relevance on the exercise of those rights.

On the other hand, as regards the duty of government authorities, institutions, enterprises and other personal data controllers to act in compliance with the Law on Personal Data Protection, we are of the opinion that Article 36 of the Law on the Legal Profession, in and of itself, does not constitute legal grounds for making data on a specific individual available to an attorney-at-law for the purpose of providing legal assistance, given that the said Article refers to the application of a separate law with regard to the duty of government authorities, state institutions and state-owned enterprises to grant attorneys-at-law access to

data, and this matter would need to be governed by a separate law for such granting of access to personal data to attorneys-at-law to be lawful from the aspect of compliance with the Law on Personal Data Protection.

3. The Commissioner received a request for an opinion as to whether a public authority which, in accordance with the law, keeps records containing data on imposed criminal penalties must obtain consent from the data subject before making certain data available to another authority, which is authorised under the law to request and receive the requested data.

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

In accordance with the provisions of Article 19 of the Law on Personal Data Protection, personal data which relate to criminal convictions, punishable offences and safety measures can be processed on the basis of Article 12 paragraph 1 of that Law only under the supervision of the competent authority or, if such processing is permitted under the law, subject to special measures to protect the data subject's rights and freedoms, while single records of criminal convictions are to be kept solely by and under the supervision of the competent authority.

Under Article 4 item 26) of the Law, competent authorities include: public authorities responsible for preventing, investigating and detecting criminal offences and prosecuting perpetrators or enforcement of criminal sanctions, including protection from and prevention of threats to public and national safety, as well as legal entities authorised under the law to perform such activities.

As regards processing of personal data for the purpose of compliance with the controller's statutory duties or for the purpose of performing activities in the public interest or exercising the controller's powers under the law within the meaning of Article 12 paragraph 1 item 3) and 5) of the Law, in accordance with of Article 14 of the Law, the basis for such processing is governed by the law.

Processing by competent authorities for special purposes is lawful only if such processing is necessary for the performance of duties of such competent authority and if it is provided for by the law (Article 13 of the Law).

Thus, from the viewpoint of application of the said Law, for a processing activity (including data collection or submission of data or making data available to another entity) to be permitted, the purpose of such processing must be specified, explicit, justified and lawful, there must be a relevant legal basis for the intended processing, i.e. the entity filing the request for the provision of data must be authorised to process data for that purpose, and the controller must have a duty to make the data available, taking into consideration also any special regulations applicable in each specific case.

If the processing of personal data in question is necessary for the purpose of compliance with the controller's statutory duties or for the purpose of performing activities in the public interest or exercising the controller's powers under the law within the meaning of Article 12 paragraph 1 item 3) and 5) of the Law, or if the processing in question is done by competent authorities for special purposes, and if the basis for such cases of processing is provided for by the law, in accordance with Article 13 of the Law, it is not necessary to also obtain the consent of the data subject.

4. A legal entity submitted a request for an opinion as to whether a controller of personal data is required to submit to the Commissioner an internal instrument by which it regulates the handling of personal data it processes as part of its activities and whether there is any set, implied or common threshold beyond which data processing is considered to constitute large-scale data processing, in connection with the duty to designate a personal data protection officer.

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

Adoption of a general data protection instrument is one of the measures a controller can undertake in accordance with the provisions of Article 41 of the Law on Personal Data Protection in order to ensure and be able to demonstrate it processes personal data in accordance with that Law.

However, this measure is not imposed on controllers by the law as an imperative obligation; instead, it is the controller duty to determine which measures it will undertake, including the adoption of one or more internal instruments, taking into account the relevant aspects of its processing activities, such as the nature, scope, circumstances and purpose of processing, as well as the likelihood and level of risks for the rights and freedoms of data subjects.

There is no requirement to notify the Commissioner of this measure, except where the Commissioner so demands in the conduct of a procedure within his remit.

Accordingly, it is not necessary for a controller to proactively submit to the Commissioner an internal instrument it has adopted.

As regards the potential duty of the controller/processor to designate a personal data protection officer, please note that each controller/processor is ultimately responsible for compliance with the Law, taking into account all relevant circumstances of the personal data processing it carries out, while the Commissioner can take a stand on any specific processing only after he determines the circumstances of such processing in one of the procedures he is authorised to conduct within his mandate (such as the supervision procedure, the procedure pursuant to a complaint etc.).

Namely, in accordance with the provisions of Article 56 paragraph 2 of the Law, the controller and the processor have an obligation to designate a personal data protection officer in one of the cases referred to in items 1) to 3) of that Article, i.e. if: 1) the processing is carried out by public authorities, except in the case of processing by a court for the purpose of exercising its judicial powers; 2) the core activities of the controller or the processor comprise processing activities the nature, scope or purposes of which are such that they require regular and systematic supervision of a large number of data subjects; and if 3) the core activities of the controller or the processor comprise large-scale processing of the special types of personal data referred to in Article 17 paragraph 1 or of personal data concerning criminal convictions and punishable offences referred to in Article 19 of the Law.

In all other cases, the controller or the processor has no obligation to designate a personal data protection officer, but can opt to do so of their own accord.

Since the terms used in the Law to determine the conditions under which a personal data protection officer must be designated, including “the core activities of the controller or the processor”, “regular and systematic supervision”, “large number of data subjects” and “large-

scale processing”, are not defined in more detail in the Law, in our opinion the controller, or the processor, when determining whether the activities concerned constitute their core activities in a specific case, should consider whether the processing concerns those activities that are inseparable from the controller’s/processor’s business operations, i.e. those activities that are essential for achieving the objectives of the controller’s/processors’ business operations. To determine whether supervision in a specific case is regular and systematic, a factor to be taken into account whether the behaviour of the data subjects is supervised on a regular basis and systematically, i.e. whether the data are processed permanently or over a specific period of time, whether such processing is continual or repetitive, i.e. whether it is constant or periodic, whether such processing is organised and whether it is designed as part of a plan or strategy. When determining whether a large number of data subjects is involved, i.e. whether the processing constitutes large-scale processing, factors to be taken into consideration include the exact number of persons whose data are processed or their share in the relevant population, the scope of data, whether the processing activities are permanent in their nature, the geographic coverage of the processing activities etc.

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

1. Customer complaint by a bank client demanding an investigation by viewing of security camera footage over missing money cannot be considered a request for the exercise of rights referred to in Article 26 of the Law on Personal Data Protection

Extract from the statement of reasons:

On 30 May 2022, the Commissioner for Information of Public Importance and Personal Data Protection received a complaint from the person A.A., filed through her attorney-in-fact N.N., an attorney of Belgrade, against Postal Savings Bank Belgrade, alleging a breach of her rights to access personal data based on her customer complaint filed with Postal Savings Bank as a client on 11 March 2022.

(...)

Upon deliberating on the complaint, it was decided as stated in the operative part of this ruling, for the following reasons:

It was found through examination of the case file that the complainant’s attorney-in-fact had not enclosed with the complaint the request for the exercise of rights in connection with personal data processing filed with Postal Savings Bank Belgrade before the complaint was filed, as required under the Law on Personal Data Protection; instead, he enclosed the customer complaint that A.A. had filed on 11 March 2022, in which she alleged she had withdrawn EUR 5,000.00 from her sight deposit savings account on 3 September 2021 at a branch office of Postal Savings Bank, and at or around 10 February 2022 she had noticed the money was missing, and she therefore asked the Bank to “rewind the camera footage to that day to see what happened” and to inform her whether there was any possibility of the Bank fully or partially compensating her for that money if it finds that the money had been stolen by an unidentified person.

In his letter number 072-16-1213/2022-06 of 2 June 2022, the Commissioner asked the complainant’s attorney-in-fact to present, within eight days of receipt of the letter, a copy of

the request for the exercise of rights in connection with personal data processing which the complainant had filed with Postal Savings Bank Belgrade in accordance with the Law on Personal Data Protection, advising the attorney-in-fact he will otherwise act in accordance with Articles 58 and 59 of the Law on General Administrative Procedure and dismiss the complaint.

In its submission of 6 June 2022, the complainant's attorney-in-fact once again enclosed the customer complaint of 11 March 2022 which he had initially enclosed with the complaint, and which, in terms of its content, does not constitute a request for the exercise of rights in connection with personal data processing under the Law on Personal Data Protection, because it was demanded of Postal Savings Bank Belgrade by the customer complaint to rewind the footage from the security cameras at one of its branch offices to 3 September 2021, to review what had happened and to fully or partially compensate the complainant for the lost money.

Article 59 paragraph 1 of the Law on General Administrative Procedure provides *inter alia* that a submission is deficient if it contains a formal deficiency preventing its processing, or if it is unintelligible or incomplete, while paragraph 2 of the same Article provides that, if the deficiencies contained in a submission are not eliminated within a specified period, the authority shall dismiss the submission by passing a ruling.

Taking into account the fact that, in this particular case, the complainant had not filed a request for the exercise of rights in connection with personal data processing with the controller, within the meaning of Article 26 of the Law on Personal Data Protection, nor had she complied with the Commissioner's order of 2 June 2022 to submit the request within the specified period of 8 days and thus eliminate the deficiency, on the basis of Article 78 paragraph 1 item 6), in conjunction with Article 77 paragraph 2 of the Law on Personal Data Protection and Article 59 paragraph 2 of the Law on General Administrative Procedure, it was decided as stated in the operative part of this ruling.

Number: 072-16-1213/2022-06 of 4 July 2022

2. The Commissioner lacks jurisdiction to protect rights enshrined in other laws

Extract from the statement of reasons:

Person A.A., represented by attorney N.N., filed a complaint with the Commissioner for Information of Public Importance and Personal Data Protection on 23 November 2022 alleging a breach of his right to access personal data by Eurobank Direktna a.d. Belgrade pursuant to a request of 4 July 2022. The complaint stated the Bank had a duty to comply with his request and, under Article 36 of the Law on the Legal Profession, provide him with data on a contract he did not have, i.e. the complainant alleged the Bank had acted in violation of Article 21 and 26 of the Law on Personal Data Protection.

Upon examining the complaint and other documents in the case file, it was decided as stated in the operative part of this ruling for the following reasons:

Upon consulting the case file, it was found that N.N., an attorney of Belgrade, had sent a submission on 4 July 2022 entitled "request for the submission of documents", in which he requested of the Bank to provide him with an entire document file (a loan agreement with essential elements) signed by his client for the purpose of conducting a proceeding and asked the Bank to provide him with the required documents under Article 36 of the Law on the Legal Profession.

In view of the foregoing, and weighing the substance of the complaint within the meaning of the Law on Personal Data Protection, the Commissioner holds that, in this particular case, the submission is not a complaint over a breach of the right to access personal data referred to in Article 26 of the Law on Personal Data Protection, which includes the data subject's right to request information from the controller whether it processes his data, the right to access such data and the duty of the controller to provide the data subject with a copy of the data it processes. Namely, the complainant had submitted a request to the Bank in which he invoked the Law on the Legal Profession, and then filed a complaint with the Commissioner because the Bank refused to provide the requested documents, which constitutes a breach of the provisions of Article 36 of the Law on the Legal Profession, rather than a breach of the right to access personal data, and the Commissioner therefore lacks jurisdiction to act pursuant to the complaint in this particular case.

Number: 072-16-1809/2022-06 of 22 December 2022

3. A complaint filed over the controller's failure to comply with a request is founded when the controller fails to reply to the request within 30 days of submission

Extract from the statement of reasons:

Acting pursuant to the complaint, the Commissioner decided as stated in the operative part of this ruling for the following reasons:

Upon consulting the case file, it was found that the complainant had filed a request for the exercise of rights with the controller on 28 July 2021, submitted to the latter's e-mail address udruzenje.bankarskih.klijenata@gmail.com, in which he requested information, under Article 26 of the Law on Personal Data Protection, as to whether the controller processed information relating to his mobile phone number 06x/xxx and, if so, to provide him with a copy of such data.

(...)

Under Article 4 paragraph 1 item 1) of the Law on Personal Data Protection, personal data means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Article 21 paragraph 1 of the Law on Personal Data Protection provides *inter alia* that the controller shall undertake appropriate measures to provide the data subject with all information concerning the exercise of the rights provided for in this Law, in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means; paragraph 2 provides *inter alia* that the controller shall facilitate the exercise of data subject rights; paragraph 3 provides *inter alia* that the controller shall provide information on action taken on a request to the data subject without undue delay and in any event within 30 days of receipt of the request; paragraph 4 provides that, if the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within 30 days of receipt of the request of the reasons for not

taking action and on the possibility of lodging a complaint with the Commissioner and seeking a judicial remedy.

Article 26 paragraph 1 of the said Law provides *inter alia* that the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data, while paragraph 3 of the same Article provides that the controller shall provide a copy of the personal data undergoing processing.

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

Upon considering the substance of the request, the allegations made in the complaint, the reply to the complaint and the legislative provisions quoted above, the Commissioner holds the complaint is founded, because the Controller failed to take action (decide) within the statutory time limit on the request by which the complainant sought to exercise his data subject rights. Namely, under the quoted provision of Article 21 of the Law on Personal Data Protection, the Controller is required to undertake appropriate measures to provide the data subject with all information concerning the exercise of the rights referred to in Article 26 of this Law, i.e. the Controller is required to provide the data subject with a copy of the personal data undergoing processing, or notify the data subject of the reasons for not taking action on the request, taking into account the provision of Article 4 paragraph 1 item 1) and 2) of the Law on Personal Data Protection. Since the Controller failed to do so in this particular case, the Commissioner holds that the complainant's data subject rights were breached.

Number: 072-16-2452/2021-06 of 12 January 2022

4. Compliance with the conditions for accessing personal data in accordance with the Law on Personal Data Protection

Extract from the statement of reasons:

Upon deliberation of the complaint and other documents in the case file, the Commissioner holds the complaint to be founded.

It was determined from the case file that the complainant A.A. had filed a request for the exercise of data subject rights with the controller on 6 December 2021, through its attorneys-in-fact B.B., C.C., D.D. and E.E., as representatives of the human rights and freedoms protection association Belgrade Centre for Human Rights, by which request he sought to be provided with copies of documents concerning the use of force against him on 25 July 2021, including specifically: copies of reports by members of the Security Service at the Penal and Correctional Facility in Belgrade concerning the use of force against A.A., with justifiability assessments for such use of force; copies of medical documentation (medical records, physician's report) with a copy of colour photographs made during the medical examinations; and video surveillance footage in connection with the actions of the Security Service at the Penal and Correctional Facility in Belgrade.

It was further found that the Controller had taken action pursuant to the request and provided the complainant with its reply to the request No. 24-227/22-05/1 of 21 February

2022, by which the complainant was notified he could consult all documents created by the Security Service in the offices of the Penal and Correctional Facility, while copying of the medical records could only be done on the basis of a special power of attorney with an exhaustive list of specific requested documentation contained in the medical record or his written statement that he consents to making the documentation contained in his medical records available to his attorney-in-fact. The complainant was also advised it would be contrary to the established practice to provide colour photographs and video surveillance footage, especially those classified as confidential or top secret.

(...)

Article 26 paragraph 1 of the said Law provides *inter alia* that the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data, while paragraph 3 of the same Article provides that the controller shall provide a copy of the personal data undergoing processing.

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

Upon considering the substance of the request, the Controller's reply 24-227/22-05/1 of 21 February 2022, the allegations made in the complaint, the reply to the complaint and the legislative provisions quoted above, the Commissioner holds that the complaint is founded and the complainant's right to access the requested data is undisputable.

(...)

Namely, the Controller's claim that access to data contained in the complainant's medical records would only be possible on the basis of a special power of attorney with an exhaustive list of specific requested documentation contained in the medical record because this is required under the provisions of the Law on Patients' Rights, as well as the claim that it would be contrary to the established practice to provide colour photographs and video surveillance footage, have no bearing on this administrative matter and would not have resulted in a different outcome, because this case concerns the exercise of data subject rights under the Law on Personal Data Protection. Under this Law, restrictions of data subject rights are laid down in Article 40 and apply only if such restriction a necessary and proportionate measure in a democratic society to safeguard the interests listed in items 1) through 10) in paragraph 1 of the said Article. As in this specific case the Controller did not invoke safeguarding national security, defence, public security, the prevention, investigation, detection or prosecution of criminal offences or other important objectives of general public interest protected under Article 40 as the grounds for restricting the right, and the Commissioner has found no such interest that would justify any restriction of the complainant's data subject rights, he decided as stated in the operative part of this ruling, on the basis of Article 79 paragraph 2 item 3) of the Law on Personal Data Protection.

5. The burden of proof to demonstrate that conditions for deleting data from the operational criminal files of the Ministry of the Interior are met rests with the data subject

Extract from the statement of reasons:

Upon consulting the case file, it was found that the person A.A., acting through his attorney-in-fact B.B. of Novi Sad, had filed a request with the Controller on 16 March 2022 filed, seeking to delete the criminal reports processed in the Controller's records, because none of the criminal reports filed against him had resulted in criminal prosecution and they had all been dismissed.

(...)

If was further found that the Commissioner had sent letter number 072-16-1001/2022-06 of 10 June 2022 to demand of the complainant, acting through his attorney-in-fact, to present evidence on the outcome of the proceedings pursuant to the criminal reports filed under numbers KU.../94, KU .../96, KU .../97, KU .../97, KU .../97, KU .../97, KU .../97, KU .../98, KU .../98, KU .../98, KU .../99, KU .../00, KU .../00, KU .../00, KU .../11, KU .../01, KU .../21, KU .../02, which he failed to do as of the time of passing of this ruling.

Under Article 7 paragraph 1 of the Law on Records and Data Processing in Law Enforcement, the Ministry is required to rectify and update without delay any data which are found to be inaccurate, while paragraph 2 provides that personal data collected and entered in the records must be deleted upon expiry of the retention periods set forth in this Law or other laws or when it is determined that the reasons for which such personal data were entered in the relevant records no longer apply.

Under Article 41 paragraph 1 of the Law on Records and Data Processing in Law Enforcement, for the purposes of investigating criminal offences, the Ministry keeps records and processes data on natural persons and legal entities that are reasonably suspected of having committed criminal offences, as well as data on the outcome of criminal prosecution. Paragraph 2 of the same Article provides that data on the outcome of criminal prosecution or dismissal of criminal charges, inclusion of added counts in criminal charges, reclassification of criminal offences, non-pursuit of charges and the principle of opportunity are to be provided to the Ministry by the competent public prosecutor's office, while paragraph 8 of the same Article provides that such data are classified, labelled in accordance with the data classification legislation and kept permanently.

(...)

As neither the complainant nor the Controller have any information on the outcome of criminal prosecution pursuant to criminal reports Nos. KU .../94, KU .../96, KU .../97, KU .../97, KU .../97, KU .../97, KU .../97, KU .../98, KU .../98, KU .../98, KU .../99, KU .../00, KU .../00, KU .../00, KU .../11, KU .../01, KU ...1/21, KU .../02, and thus it has not been established beyond doubt that the criminal offences which the complainant was suspected of having committed have actually been resolved, the Commissioner holds that the purpose for which such data were collected has not yet been achieved, and therefore the conditions for expungement of the said criminal records are not met at this point.

As in this particular case there is no proof of the outcome of criminal prosecution, the data on the filed criminal reports are necessary for achieving the purpose laid down in Article 41 of the Law on Records and Data Processing in Law Enforcement, because such data are processed by the Controller as the authority responsible for the prevention, investigation, detection and prosecution of criminal offences or the execution of criminal penalties and, accordingly, the conditions for deleting the data within the meaning of Article 30 paragraph 2 of the Law on Personal Data Protection are not met.

6. Rights in connection with personal data processing belong to the data subject

Extract from the statement of reasons:

Upon deliberation of the complaint, it was decided as stated in the operative part of this ruling for the following reasons:

Upon consulting the case file, it was found that the person A.A. had filed a request to exercise data subject rights with the Controller on 3 August 2022, by which he sought to be provided with documentation concerning an event of 21 July 2022, including: 1) the police report of the event; 2) the physician's report made during the field visit following a call by the duty officer at the Social Work Centre in Trstenik; 3) report by the psychiatrist in Kruševac and 4) report by Social Work Centre concerning the safeguards it put in place in connection with this case.

It was further found that the Controller had replied to the complainant's request electronically on 11 August 2022, stating that, on the basis of information it had provided, the duty officer at the Social Work Centre had under taken the following activities in connection with the events of 21 July 2022 at 9:11 PM involving the person B.B.: he reported the event to the Emergency Medical Service in Trstenik, whose officers made a field visit and referred B.B. to the Psychiatric Ward of the General Hospital in Kruševac; escorted by the police, B.B. was examined by a specialist psychiatrist at the General Hospital in Kruševac; on 22 July 2022, B.B. was interviewed in the offices of the Social Work Centre in connection with the circumstances of the event of 21 July 2022, of which an official record was made. On 29 July 2022, A.A. was also interviewed in the offices of the Social Work Centre, also in connection with the circumstances of the event of 21 July 2022, of which an official record was made. The letter stated that the Social Work Centre enclosed for A.A.'s reference the police report filed by the Police Station in Trstenik, recorded at the Social Work Centre under administrative number 03-560-1246/2 of 22 July 2022, while in connection with the request for documents in the form of medical examinations of B.B., it was stated that the Social Work Centre did not have the consent of B.B. to provide A.A. with the report of the specialist psychiatrist of 21 July 2022 and instead had only received his consent to direct consultation of those documents.

(...)

Under Article 26 paragraph 1 of the Law on Personal Data Protection, the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information: 1) the purposes of the processing; 2) the categories of personal data concerned; 3) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations; 4) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period; 5) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing; 6) the right to lodge a complaint with the Commissioner; 7) where the personal data are not collected from the data subject, any available information as to their source; 8) the existence of automated decision-making, including profiling, referred to in Article 38 paragraph 1 and 4 of

this Law, while paragraph 3 of the same Article provides that the controller provide a copy of the personal data undergoing processing on the data subject's request.

Upon considering the substance of the request, the allegations made in the complaint, the reply to the complaint, the Controller's response to the complainant in connection with the request and the legislative provisions quoted above, the Commissioner holds the complaint is unfounded. The reason for this is the fact that this particular case does not involve exercising the right to access personal data within the meaning of Article 26 of the Law on Personal Data Protection, because the complainant did not request information on the purpose of processing his data, the categories of his personal data processed by the Controller in its files, the recipients or categories of recipient to whom the personal data have been or will be disclosed or the envisaged period for which the personal data will be stored; instead, it is concerned with safeguards put in place by the Social Work Centre in Trstenik from 21 July 2022 to the date of filing of the request, in connection with an even caused by his father B.B., which information does not constitute his personal data within the meaning of Article 4 paragraph 1 item 1) of the Law on Personal Data Protection. In view of the foregoing, it follows that that no breach of the complainant's data subject rights occurred.

Number: 072-16-1685/2022-06 of 8 November 2022

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

1. Processing of personal data contained in a patient's medical records

The Commissioner issued a Warning to a Medical Institution (Controller) because the Controller had failed to provide appropriate protection of personal data relating to the patient A.A., including protection against unauthorised or unlawful processing, by applying appropriate technical, organisational and staffing measures, thereby violating the principle of "integrity and confidentiality" referred to in Article 5 paragraph 1 item 6) LPDP, and had also failed to comply with the provisions of Article 42 paragraph 1 item 2) and of Article 50 of the LPDP, because it had failed to ensure that necessary protection mechanisms are put in place when determining the manner of processing and while carrying out the processing, with a view to ensuring compliance with the conditions for processing laid down by LPDP and protecting the rights and freedoms of data subjects, i.e. it had failed to implement relevant technical measures to achieve an appropriate level of safety, proportionate to the risk of unauthorised disclosure and access to data.

Some of the facts found:

The Controller processes personal data on the basis of the Law on Health Care, the Law on Medical Documentation and Records in the Field of Health Care, the Law on Patients' Rights and the Law on Personal Data Protection, while the purpose of processing is laid down by those Laws; the Controller uses a medical information system, which supports all interactions between patients and the medical institution, within the medical institution and

between the medical institution and the National Health Insurance Fund; access to electronic medical documentation via the medical information system is granted to the attending medical doctor and paramedics; employees log in with their user account and password; within the medical information system used by the Controller, health care workers and associates involved in the treatment of a patient have access to that patient's electronic medical documentation; there is a difference in terms of the scope of access authorisations between medical doctors and paramedics; the medical information system used by the Controller does not allow unauthorised persons to access and enter data, i.e. mid-level medical staff to not have the same authorisations as medical doctors; it is possible to enter, modify, access and delete patients' personal data, but only the attending medical doctor is allowed to do so; over a specific period, 18 (eighteen) health care workers and associates accessed a patient's e-medical records.

After learning of this event, the Commissioner conducted a supervision, after which he issued a Warning to the Controller. The Controller complied with the Commissioner's warning within the specified period and reported that disciplinary action had been taken against all 18 health care workers and associates who had made unauthorised access to a patient's e-medical records.

Case number: 072-04-1476/2022-07

2. Processing of employees' biometric data using face recognition devices for the purpose of keeping time and attendance records

A medical centre (Controller) was ordered to cease processing facial images of its employees for unique identification of those persons using facial recognition devices, for the purpose of keeping time and attendance records, because it had processed its employees' biometric data in breach of the provisions of Article 17 of the LPDP and without the legal basis referred to in Article 12 paragraph 1 of the LPDP, because it had breached the data minimisation principle laid down by Article 5 paragraph 1 item 3 of the LPDP and because it had carried out such processing without assessing the impact of the envisaged processing activities on personal data protection and obtaining the Commissioner's opinion, in breach of the provisions of Articles 54 and 55 of the LPDP. The controller was ordered to delete by committee all of its employees' personal data that had been collected for further processing using facial recognition devices for the purpose of keeping time and attendance records and to notify, within the same period, all employees whose data had been collected of such data deletion.

Some of the facts found:

The Controller had installed the facial recognition device in the hall of its administrative building, for the purpose of keeping time and attendance records of its employees. The Controller stated it carried out such processing on the basis of the Labour Law.

The manufacturer and supplier of the facial recognition device was the company Y Ltd. (Processor). The Controller had entered into a "Z" Service Agreement (an agreement for a set of time and attendance recording services, on the basis of time and attendance data generated

sing software recognition software) with the Processor, without regulating its relationship with the Processor in accordance with the provisions of Article 45 of the LPDP.

The Controller failed to provide information to its employees whose data were processed, in accordance with the obligations laid down by Article 23 of the LPDP. The Controller failed to assess the impact of the envisaged processing activities on personal data protection before commencing with the personal data processing activities, as required by the provisions of the Decision on the List of Types of Personal Data Processing Activities that require a Data Protection Impact Assessment and an Opinion of the Commissioner for Information of Public Importance and Personal Data Protection, and failed to seek an opinion of the Commissioner before commencing with the personal data processing activities, as required under Article 55 of the Law on Personal Data Protection.

In the course of the supervision procedure, the Controller stated it had only carried out “trial processing”. By the time of the inspection, the Controller had taken photographs of 240 out of its 280 employees. According to the Processor, the trial processing of personal data had been done in the following manner until the time of the inspection: the 240 employees had been photographed using the facial recognition device; the employees’ photographs were stored in the device itself and linked to each employee’s name and surname and his/her organisational unit; at the time of their entry into or exit from the building, each employee was required to stand in front of the device, which then performed scans and automated recognition on the basis of stored digital photographs; the data thus collected, i.e. the employee’s name and surname and organisational unit, with the time of arrival to and departure from work, were then sent to the Processor’s server, where the Processor would further process the data and the time and attendance data thus processed for each employee would then be sent to the Controller.

The Controller acted as instructed and timely notified the Commissioner of its compliance with the ruling.

Case number: 072-21-1091/2022-07

3. Processing of individuals’ voices for the purpose of recording “pranks”

The Commissioner issued a Warning to a company (Controller) because its processing of personal data (audio files containing the voice of an individual who received an interactive voice response call), which the Controller had carried out by making audio recordings of “pranks” (practical jokes involving certain individuals) and by posting those recordings on its website, did not comply with any of the requirements for lawfulness of processing laid down by the Law on Personal Data Protection, which constituted a violation of the principle of “lawfulness, fairness and transparency” laid down in Article 5 paragraph 1 item 1) of the said Law.

Under Article 4 paragraph 1 item 1) of the LPDP, personal data means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors

specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Under Article 5 paragraph 1 item 1) of the LPDP, personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject (“lawfulness, fairness and transparency”).

Under Article 12 paragraph 1 of the LPDP, processing shall be lawful only if and to the extent that at least one of the following applies: 1) the data subject has given consent to the processing of his or her personal data for one or more specific purposes; 2) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; 3) processing is necessary for compliance with a legal obligation to which the controller is subject; 4) processing is necessary in order to protect the vital interests of the data subject or of another natural person; 5) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; 6) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a minor.

Thus, in accordance with Article 4 paragraph 1 item 1) of the Law on Personal Data Protection, voice, as an identifier of a natural person’s physiological/physical identity, constitutes personal data; and since it was found through supervision that the processing of personal data (audio files containing the voice of an individual who received an interactive voice response call), which the Controller had carried out by making audio recordings of “pranks” and by posting those recordings on its website, did not comply with any of the requirements for lawfulness of processing laid down in Article 12 paragraph 1 of the LPDP, such processing of personal data by the Controller constituted a breach of the said provision of the LPDP and also violated the principle of “lawfulness, fairness and transparency” laid down in Article 5 paragraph 1 item 1) of the Law on Personal Data Protection.

Facts found:

Upon accessing the Controller’s website, it was found that it was possible to listen to a “prank”, vie the time when it was ordered and hear the reaction of the targeted person, and the relevant audio file did not contain the telephone numbers of the persons ordering the interactive voice response calls or the persons receiving the interactive voice response calls; and the pranks involved the Controller creating and posting on its website an audio file containing the recorded voice of the persons who receive the interactive voice response calls.

The Controller notified the Commissioner it had shut down the service indefinitely in the territory of the Republic of Serbia because it lacked the technical capabilities required to perform voice modulation.

Case number: 072-21-457/2022-07

4. Processing of personal data in online shopping

The company X (Controller) was permanently banned from processing personal data, specifically the number of the identity document (identity card/passport) collected from natural persons in online shopping on certain websites, because, at the time when the contested data were collected, the conditions laid down in Article 12 paragraph 1 item 3 of the Law on Personal Data Protection had not been met, since the Controller's legal obligation arose at the time of making a refund to the customer; this also constituted a breach of the principle of "lawfulness, fairness and transparency" referred to in Article 5 paragraph 1 item 1) of the same law. In addition, in accordance with Article 5 paragraph 1 item 3 of the Law on Personal Data Protection, collected data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ("data minimisation"). In this specific case, the purpose of processing is the refund to the customer for goods already purchased or withdrawal from purchase in the case of an advance payment.

Some of the facts found:

The Controller collects data on the number of the identity document (identity card/passport) from natural persons in online shopping on certain websites and claims those data are mandatory; it purports the legal basis for such personal data processing is Article 12 paragraph 1 item 3 of the Law on Personal Data Protection and the Controller's statutory obligation under the Technical Instructions for Administrative and Technical Inspection of ESIR and L-PFR Functionalities issued by the Tax Administration; it claims the data is processed so that the Controller could make refunds to customers in accordance with the provisions of the Technical Instructions for Administrative and Technical Inspection of ESIR and L-PFR Functionalities issued by the Tax Administration in accordance with the Law on Fiscalisation and its implementing secondary legislation, and thus constitutes a statutory obligation for the Controller; it claims that the data are stored for minimum 30 days of deliver; it states that technical development work is currently underway to ensure that a request for identity card information is sent when customers send a goods return/contract withdrawal form, rather than as part of the shopping form.

In connection with the Ruling, which permanently banned the Controller from processing the said personal data, the Controller notified the Commissioner it had fully complied with it and had ceased collecting identity document numbers of natural persons and deleted all previously collected data.

Case number: 072-21-1134/2022-07

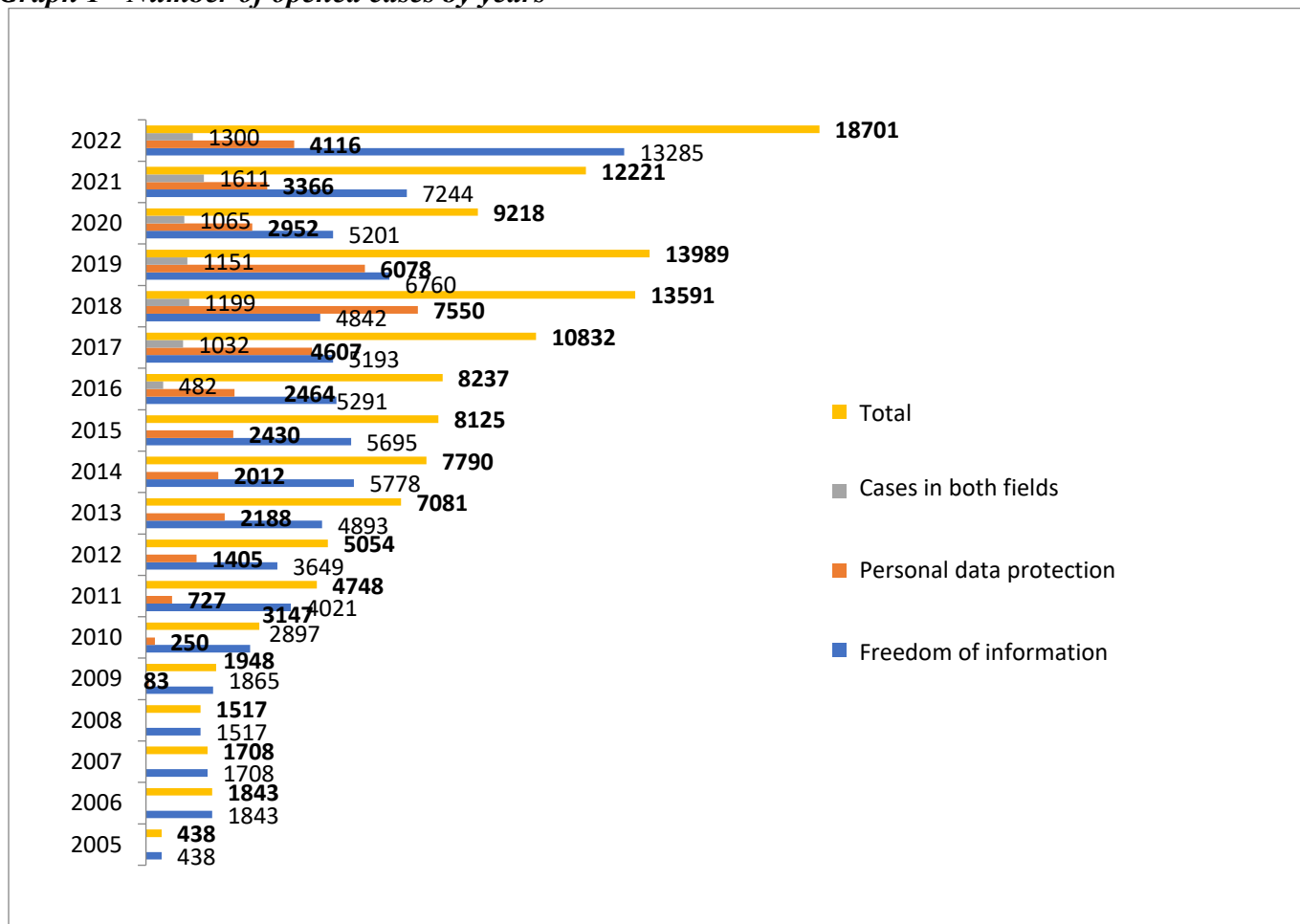
3. COMMISSIONER'S ACTIVITIES

3.1. SUMMARY OF TOTAL ACTIVITIES

In 2022, the Commissioner opened 18,701 cases, including 13,285 cases in the field of freedom of information, 4,116 cases in the field of personal data protection and 1,300 cases in both fields of action of the Commissioner.

In 2022 the Commissioner handled a total of 21,754 cases, since 3,053 pending cases had been carried forward from the previous years. Out of that number, approximately 86%, or 18,701 cases, were opened by the Commissioner in 2022 (13,285 in the field of freedom of information, 4,116 in the field of personal data protection and 1,300 in both fields of the Commissioner's mandate).

Graph 1 - Number of opened cases by years



In the course of 2022, the Commissioner closed the procedure in 17,672 cases, including 12,769 cases in the field of freedom of information, 3,589 cases in the field of personal data protection and 1,314 cases in both fields.

There were 4,082 pending cases carried forward to 2022 (3,249 in the field of freedom of information, 798 in the field of personal data protection and 35 in both fields).

Graph 2 - Number of resolved cases by years

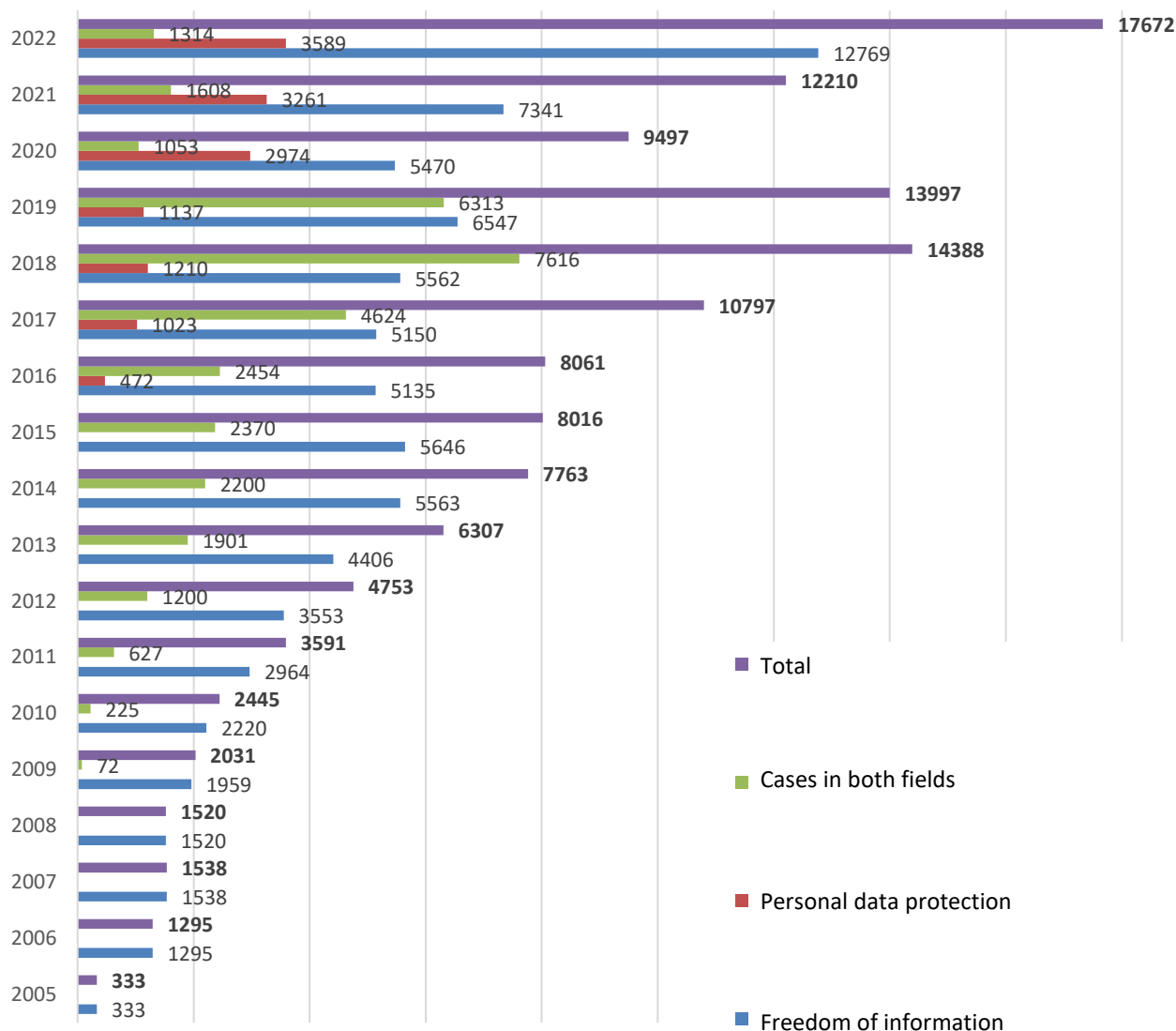


Table 1 – Commissioner’s activities in 2022

<i>The Commissioner’s activities in 2022 included mainly:</i>		
1.	Resolving cases pursuant to complaints against breaches of freedom of information and the right to personal data protection.	In total, 8,879 complaints were resolved (8,702 complaints in the field of freedom of information; 177 complaints in the field of personal data protection).
2.	Initiation of inspections of compliance with and implementation of the LPDP.	The Commissioner initiated 354 inspections of compliance with and implementation of the LPDP, including 214 scheduled and 140 unscheduled inspections.
3.	Closing of inspections of compliance with and implementation of the LPDP.	The Commissioner closed a total of 416 cases in the field of inspection.
4.	Opinions on draft laws and other general legal instruments.	The Commissioner issued 23 opinions on draft laws, bills and other regulations to public authorities, on request of those public authorities. Of those, 6 opinions concerned draft laws, while 17 concerned other general legal instruments.
5.	Provision of assistance to natural persons and legal entities and public authorities or data controllers in the exercise of their rights or in proper application of the LFAIPI and the LPDP by clarifying vague issues and procedures.	The Commissioner issued 584 opinions and replies on correct application of both laws, including 399 on correct application of the LPDP, 4 preliminary opinions of the Commissioner (Article 55 of the LPDP) and 181 opinions on correct application of the LFAIPI.
6.	Prosecution of infringements.	The Commissioner issued 126 infringement warrants and filed 8 petitions for institution of infringement proceedings for breaches of the LFAIPI and 2 petitions for institution of infringement proceedings for breaches of the LPDP.
7.	Provision of assistance to citizens in connection with their freedom of information requests or personal data protection requests referred to the Commissioner by authorities which to not hold the requested information so the requests could be forwarded to the relevant authorities that will be able to provide the information.	756 cases.
8.	Other communication of an advisory and instructional nature with public authorities concerning compliance with the LFAIPI, in connection with compliance with the regulations on promoting transparency, in connection with the submission of annual reports to the Commissioner and compiling and publishing of	2,634 cases.

	information directories in the Commissioner's Single Information System, which contribute to continual improvements in proactive publishing information, an increase in the volume of information on the work of public authorities published on their website and the active role of public authorities in facilitating the exercise of rights.	
9.	Activities concerning Serbia's EU accession process.	The Commissioner submitted 41 contributions and reports, including those submitted to: <ul style="list-style-type: none"> - the Ministry of Justice, - the Ministry of Public Administration and Local Self-Government, - the Ministry of European Integration, - the Anti-Corruption Agency.
10.	Public announcements addressed by the Commissioner to the general public.	77 times.
11.	Activities concerning submission of information on personal data protection officers.	616 personal data protection officers recorded, and 15 recorded decisions on the appointment of representatives of foreign companies in accordance with the LPDP.
12.	Issuing of checklists.	Checklists were sent to the addresses of 2,067 data controllers. Of those, risk assessments were conducted in 1,402 cases; 1399 data controllers submitted completed checklists to the Commissioner, on the basis of which the Commissioner assessed the level of data processing risks, while 3 controllers submitted completed checklists to the Commissioner of their own accord, and the Commissioner also assessed the level of data processing risks on the basis of those checklists.
13.	Acting on freedom of information requests.	233 cases of acting on freedom of information requests filed with the Commissioner.
14.	Activities concerning enforcement of the Commissioner's rulings.	137 cases were closed and 205 documents were passed.
15.	Replies to the Administrative Court to legal action brought in administrative disputes against the Commissioner's decision and failure to resolve complaints within the statutory period, the so-called "administrative silence".	129 replies.
16.	Replies to citizens' applications concerning issues of exercise of rights in the fields of	661 replies.

	personal data protection and freedom of information, as well as issues that are outside of the Commissioner's mandate.	
17.	Submission of case files to the Administrative Inspectorate for requested inspection in situations where public authorities fail to comply with the rulings passed by the Commissioner.	203 cases.
18.	Telephone calls by citizens, journalists and representatives of the media, as well as employees of public authorities, to consult on matters concerning the exercise of the rights within the Commissioner's mandate.	The Commissioner answered 36,524 telephone calls.

Table 2 – Structure of resolved cases

No.	Freedom of information - 12,769 cases resolved	Number of resolved cases
1.	Complaints	8,702
2.	Cases involving infringements for breaches of the LFAIPI	183
3.	Motions for administrative enforcement	137
4.	Motions for repeated procedures	2
5.	Opinions	181
6.	Measures to improve transparency	2,634
7.	Applications	57
8.	Replies to legal action	116
9.	Petitions to review decisions of the Administrative Court	1
10.	Referred requests	694
11.	Requests for information on the work of other authorities	62

Table 3 - Structure of resolved cases

No.	Personal data protection - 3,589 cases resolved	Number of resolved cases
1.	Inspections	416
2.	Cases involving infringements for breaches of the LPDP	3
3.	Complaints	177
4.	Replies to legal action	13

5.	Notices of personal data breaches	38
6.	Applications	339
7.	Requests for data transfer	2
8.	Requests for approval of binding corporate rules	3
9.	Opinions	399
10.	Preliminary opinions (Article 55)	4
11.	Analyses	1
12.	Records of requests to access retained data	123
13.	Processing of checklists (1399 data controllers submitted the checklists, 3 data controllers did so of their own accord, while 38 data controllers failed to do so even after the Commissioner's intervention)	1,440
14.	Recorded personal data protection officers	616
15.	Recorded decisions on the appointment of representatives of foreign companies in accordance with the LPDP	15

Table 4 - Structure of resolved cases

No.	Both fields - 1,314 cases resolved	Number of resolved cases
1.	Public announcements	77
2.	Requests for information submitted to the Commissioner	233
3.	Requests concerning case information	80
4.	Requests for exercise of data subject rights	6
4.	Claims for expense reimbursement	12
5.	Objections	1
6.	Cases in the field of European integration	41
7.	National cooperation	213
8.	International cooperation	83
9.	Opinions on draft laws and other general legal instruments	23
10.	Initiatives and proposals	8
11.	Reports	102
12.	Applications that do not concern the Commissioner's mandate	265
13.	Other communication with public authorities, controllers and the public	116
14.	Annulment of decision in connection with an administrative dispute	1
15.	Trainings	53

3.1.1. Commissioner's Opinions, Initiatives and Proposals

3.1.1.1. Commissioner's Opinions

1) Opinions on draft laws

In the course of 2022, the Commissioner issued **6 opinions on draft laws** on request from the relevant public authorities, in accordance with the legislative procedure. All opinions were given from the viewpoint of the Commissioner's mandate.

- The Ministry of Labour, Employment, Veteran and Social Affairs was given an opinion on the Draft Law on Work Placement, from the viewpoint of the Commissioner's mandate.
- The Ministry of Education, Science and Technological Development was given an opinion on the Draft Law amending the Law on the National Qualifications Framework, from the viewpoint of the Commissioner's mandate.
- The Ministry of Culture was given an opinion on the Draft Law on Film and Other Audio-visual Heritage, from the viewpoint of the Commissioner's mandate.
- The Ministry of Foreign Affairs was given an opinion on the Draft Law on Participation of Civilians in International Missions and Operations outside of the Borders of the Republic of Serbia.
- The Ministry of Finance was given an opinion on the Draft Law amending the Law on the Budget of the Republic of Serbia for 2022 and the Draft Law on the Budget of the Republic of Serbia for 2023.

2) Opinions on drafts and proposals of other legal instruments

In the course of 2022, the Commissioner issued **17 opinions on drafts and proposals of other general legal instruments** on request from the relevant public authorities. All opinions were given from the viewpoint of the Commissioner's mandate.

- The Ministry of Public Administration and Local Self-Government was given opinions on: the Draft Decree on Performance Evaluation of Civil Servants and the Draft Guidance amending and supplementing the Guidance on Implementation of the Law on Single Electoral Roll, in all cases from the viewpoint of the Commissioner's mandate.
- The Ministry of Mining and Energy was given opinions on: the Draft Bylaw on the Content and Keeping of Register of Buyer-Producers connected to the Transmission, Distribution or Closed Distribution Systems with the Methodology for estimating the Electricity Output from the Facilities of Buyers-Producers, with a statement of reasons, on two separate occasions, and the Draft Decree on Vulnerable Energy Customers, with a statement of reasons, in all cases from the viewpoint of the Commissioner's mandate.
- The Ministry of the Interior was given opinions on: the Draft Basis for the Conclusion of the Agreement between the Government of the Republic of Serbia and the

Government of the Republic of Italy on Mutual Recognition and Replacement of Driving Licences, with a Draft Ruling, Statement of Reasons, the text of the Agreement, Equivalence Tables, a list of model driving licences with model images, the Certificate of Validity and Authenticity and the Rules for the Transfer of Personal Data, on two separate occasions, and the Draft Action Plan on Entry of the Republic of Serbia in the Schengen Area, with a Statement of Reasons, in all cases from the viewpoint of the Commissioner's mandate.

- The Ministry of Agriculture, Forestry and Water Management was given an opinion on the Draft Decree establishing the Annual Programme for the Development of Advisory Services in Agriculture for 2022, from the viewpoint of the Commissioner's mandate.
- The Ministry of Human and Minority Rights and Social Dialogue was given opinions on: the Draft Fourth and Fifth Periodic Reports of the Republic of Serbia on Implementation of the UN Convention on the Rights of the Child; Draft Report on the Achievement of Gender Equality in the Republic of Serbia for 2021; and the Draft Action Plan (2022-2023) on implementation of the Strategy for the Prevention and Protection against Discrimination for 2022-2030, in all cases from the viewpoint of the Commissioner's mandate.
- The Ministry of Defence was given an opinion on the Draft Resolution of the Government endorsing the Report of the Political Council on Execution of the National Plan on Implementation of the United Nations Security Council Resolution 1325 – Women, Peace and Security in the Republic of Serbia (2017-2020), from the viewpoint of the Commissioner's mandate.
- The Ministry of Justice was given an opinion on the Protocol of Data Exchange in the Process of *Ex Officio* Appointment of Defenders to Minors in Misdemeanour Proceedings, from the viewpoint of the Commissioner's mandate.
- The Republic Property Directorate was given opinions on: the Draft Ruling with a statement of reasons on the acquisition of two motor vehicles on behalf of the Republic of Serbia and for the purposes of the Commissioner for Information of Public Importance and Personal Data Protection, and the Draft Ruling with a statement of reasons which proposes that the City of Novi Sad grant the Republic of Serbia the use, free of charge, of office space owned by the City of Novi Sad for the purposes of the Commissioner for Information of Public Importance and Personal Data Protection, which was given on two separate occasions.

3) Opinions concerning Application of the LPDP

In the course of 2022, the Commissioner issued a total of **399 substantiated opinions** concerning the application of the LPDP, including: 253 opinions issued to citizens, attorneys and the media, 5 opinions issued to NGOs and other associations and trade unions, 52 opinions issued to legal entities (private companies, insurance companies, banks, mobile operators, internet providers), 83 opinions issued to government authorities, local self-government authorities, health care and social welfare institutions, education institutions and public enterprises and 6 opinions issued to residential community managers.

In 2022, the Commissioner also issued **4 preliminary opinions** in accordance with Article 55 of the LPDP concerning data protection impact assessment. These opinions were issued to local self-government authorities (2) and private companies (2).

3.1.1.2 Commissioner's Initiatives and Proposals in 2022

The Commissioner applied to the Administrative Court in connection with the submitted initiative to clarify the inconsistent case law of the Administrative Court regarding the adjudication of legal expenses in freedom of information cases. The Commissioner asked whether this contested legal issue had been raised in a Full Judicial Panel for discussion and potential taking of a stand.

3.1.2. Reporting

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

In accordance with Article 130a) of the Law on Electronic Communications³⁹, the Commissioner receives reports and records of access to retained data from operators of electronic communications. As of the time of writing of this report, the Commissioner has received such reports in respect of the preceding year from **111 operators** of electronic communications.

In accordance with Article 43 of the LFAIPI, public authorities are required to submit to the Commissioner annual reports on the actions they have undertaken to comply with the LFAIPI. Out of the 12,000 public authorities in total, only 5,129 have submitted such reports in respect of the preceding year to the Commissioner.

The submitted annual reports have shown the following:

- A total of 31,309 freedom of information requests were registered; out of that, 25,055 were accepted and acted upon, 438 were dismissed and 2,138 were rejected;
- 6,122 complaints were registered: 1,014 for rejection of requests, 2309 for non-compliance with requests and 1993 other complaints;
- 3,128 public authorities conducted trainings, while 4,967 regularly maintain data storage media;
- 4,595 of the public authorities that submitted their reports have published their Information Directories in the SIS;

³⁹ *Official Gazette of the Republic of Serbia* No. 44/2010, 60/2013 – Constitutional Court Decision and 62/2014 and 95/2018 - new law.

- 56 public authorities charged the expenses of issuing copies containing information of public importance. The amount of charged expenses according to the reports is RSD 1,080,245.00;
- As regards categories of requested information, according to the reports submitted by public authorities these concerned:
 1. Budget (salaries, donations, sponsorships, contracts...) – 4625 requests,
 2. Environment protection – 1141 requests,
 3. Public health – 1195 requests,
 4. Issues within the mandate of public authorities – 20,430 requests.

Out of the 31,309 freedom of information requests, 17,794 or 56.83% of the total number were filed by citizens, while members of the media submitted 2,585 requests, or 8.26%. interestingly, public authorities filed 1250 freedom of information requests, or 4% of the total number.

According to the data obtained by the Commissioner from the Treasury Administration of the Ministry of finance, a total of RSD 120,609.20 was debited to the account used for the payment of necessary expenses of issuing copies of documents containing information of public importance (840-742328843-30). However, according to the data presented in the reports submitted by public authorities, the amount of expenses charged in 2022 was RSD 1,080,245.00. This likely means that public authorities charged the expenses through their own accounts.

In accordance with Article 18 of the Law on Records and Data Processing in Law Enforcement, the Ministry of the Interior (MoI) submitted to the Commissioner its Annual Report on Implementation of the LPDP at the MoI for 2022.

Other reports and contributions to reports submitted by the Commissioner to public authorities concern primarily Serbia's EU integration processes. Such reports were submitted to the following recipients in 2022:

- Ministry of Justice: Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q3 and Q4 2021, Report on the Achievement of Interim Benchmarks under the Revised Action Plan for Chapter 23 for the period 1 July – 31 December 2021; Report on the Needs for Analytical and Technical Support in the EU Accession Negotiation Process; contributions for the 8th meeting of the Sub-committee on Justice and Security; contributions to the European Commission's annual Serbia Report; replies to the Survey of Needs for Analytical and Technical Support in the EU Accession Negotiation Process; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 - achievement of interim benchmarks through impact indicators within the Commissioner's mandate; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q1 2022; Table – National Programme for Adoption of the Acquis – NPAA (2022-2025) and completed NPAA Financial Effects Assessment Form within the Commissioner's mandate in connection

with the preparation of the new National Programme for Adoption of the Acquis for the period 2022-2025; supplemented report on the status of implementation of activities under the Revised Action Plan for Chapter 23 – Q1 2022, on request of the European Commission; Report on Implementation of the Revised Action Plan for Chapter 23 in Q2 2022, on request from the European Commission; Comments on the Draft First Report on the Achievement of Interim Benchmarks under the Revised Action Plan for Chapter 23 – interim benchmark 50 and impact indicator 2 within the Commissioner’s mandate; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – Q3 2022 within the Commissioner’s mandate; Report on the Early Warning Mechanism under the Revised Action Plan for Chapter 23 – Q3 2022, within the Commissioner’s mandate;

- Anti-Corruption Agency: Report on Implementation of Activities under the Revised Action Plan for Chapter 23 for Q4 2021; replies to the questionnaire on regulatory impact assessment of strategic documents within subchapter “Fight against Corruption” in the Revised Action Plan for Chapter 23; contribution within the Commissioner’s mandate for the 13th session of the Open-ended Intergovernmental Working Group on the Prevention of Corruption; Report on Implementation of Activities under the Revised Action Plan for Chapter 23 within the Commissioner’s mandate; Quarterly Report on Implementation of Activities under the Revised Action Plan for Chapter 23 – subchapter “Fight against Corruption” within the Commissioner’s mandate;
- Ministry of European Integration: contribution to the European Commission’s annual Serbia Report within the Commissioner’s mandate; supplemented contribution to the European Commission’s annual Serbia Report – section Democracy, within the Commissioner’s mandate; Table – National Programme for Adoption of the Acquis – NPAA (2022-2025) and completed NPAA Financial Effects Assessment Form within the Commissioner’s mandate in connection with the preparation of the new National Programme for Adoption of the Acquis for the period 2022-2025 (NPAA); supplement to the new NPAA for the period 2022-2025 within the Commissioner’s mandate, on request of the European Commission; after the EU expert mission “Case-based Review of Independent or Regulatory Bodies”, the Commissioner submitted to the Ministry of European Integration his complete answers to additional questions by EU experts.
- Ministry of Public Administration and Local Self-Government: contribution to the European Commission’s annual Serbia Report within the Commissioner’s mandate.

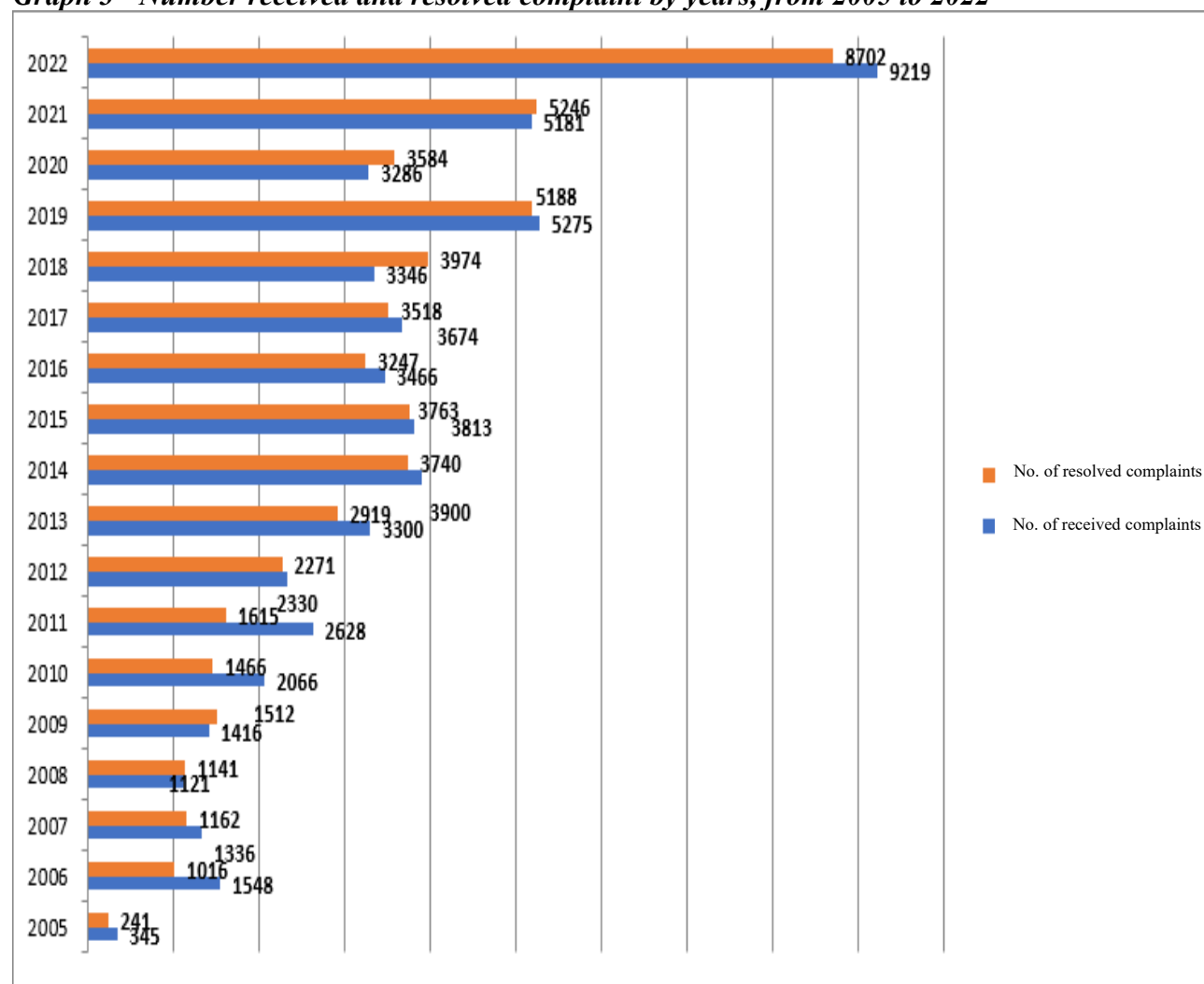
3.2. COMMISSIONER'S ACTIVITIES IN CONNECTION WITH PROTECTION AND ADVANCEMENT OF FREEDOM OF INFORMATION

3.2.1. Protection of Freedom of Information by the Commissioner

3.2.1.1. Handling of Complaints

The number of complaints formally lodged with the Commissioner on the grounds of violation of freedom of information remains continually high, with an upward trend year-on-year, as presented in the *graph* below. **In 2022, this institution of the Commissioner received the highest number of complaints ever during one calendar year since its formation, namely 9,219 complaints, while 2,475 pending complaints had been carried forward from the preceding year.**

Graph 3 - Number received and resolved complaint by years, from 2005 to 2022



One of the main causes of the significant increase in the number of complaints lodged in 2022 is a serious abuse of the right by five related complainants in Vranje, which was addressed in more detail in Chapter 2.A.2., who lodged 5027 complaints in a very short period of time. All these complaints were resolved and the majority were found to be unfounded (4240), while the procedure pursuant to complaints was terminated in a small number of complaints (787), mainly because first-instance authorities had difficulties with submission of evidence on acting on requests of complainants from Vranje, because mail in Vranje had difficulties in its operations while abuse of the right was occurring. Thus, all data in this Report relating to the field of freedom of information should not be taken at face value because the general impression can be indicative of a seemingly significant improvement in the field of freedom of information (fewer founded complaints etc.), although trends were similar to previous years, without data on complaints by malicious complainants in Vranje. It can also be an indication that the situation in certain segments is deteriorating (e.g. it may seem that the percentage of founded complaints lodged against the so-called “administrative silence” increased, however, one of the manners how malicious complainants in Vranje tried to render the institution of the Commissioner incapable to work is false and untrue presentation of the fact that authorities failed to honour their request for access, although in many cases it was found that authorities indisputably honoured their request long before expiration of the statutory deadline of 15 days to honour the requests). All data in this Report should therefore be viewed in the light of the fact that unprecedented, serious abuse of freedom of information by complainants in Vranje can to a certain extent result in a false impression of the actual situation in the field of freedom of information.

The Commissioner resolved 8,702 complaints in 2022. 4,548 or 52.2% complaints were lodged due to public authorities completely ignoring the freedom of information requests (“administrative silence”). 918 complaints or 10.6% of the total number of resolved complaints, were lodged against decisions of public authorities which rejected the freedom of information requests and provided a statement of reasons. In 2,966 cases, or 34.1% of the total number of resolved complaints, public authorities provided incomplete replies to information requests, while in 246 complaints, or 2.8%, public authorities replied to information requests by notices containing elements of a decision, in the total number of resolved complaints in 2022. In 24 cases, or 0.3%, complaints were lodged against the requesters’ demand to be reimbursed for the expenses of the procedure.

The complaints were largely **founded** – 3,736 complaints or 42.9% of the total number of resolved complaints. If we view these figures in the light of the fact that out of 8,702 resolved complaints, 4,240 relate to malicious complainants in Vranje, which were found to be unfounded, it is clear that the actual percentage of founded complaints lodged with the Commissioner is still very high.

In 2022, as in previous years, the trend of many procedures pursuant to founded complaints lodged with the Commissioner ending in **termination of the procedure** continued. In 1,897 cases (50.8%) out of the total number of founded complaints the procedure was terminated, because the public authorities had in the meantime complied with the freedom of information request, upon learning of the complaint and receiving a request for a reply from

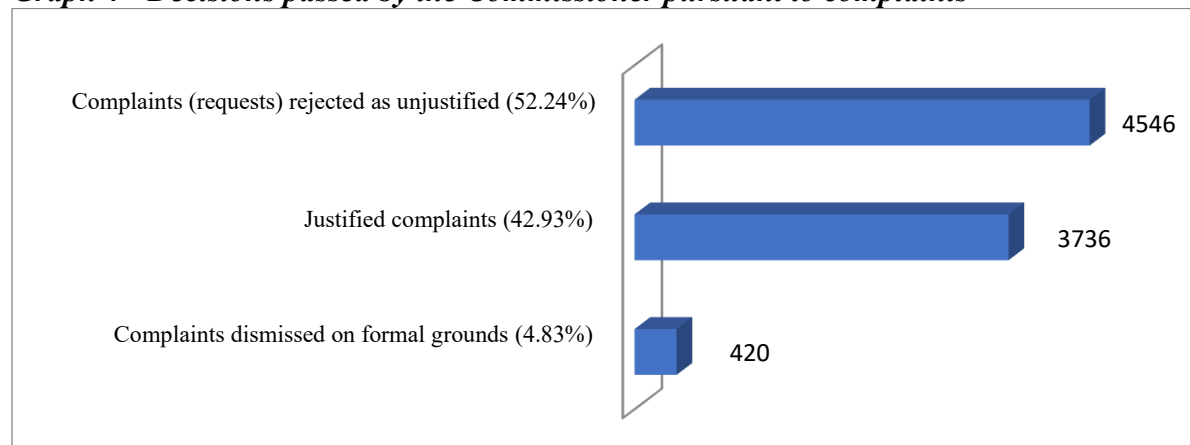
the Commissioner, but before a decision could be passed pursuant to the complaint, with the complainants formally withdrawing their complaints in **616** cases. This shows that the trend of previous years continues, namely that freedom of information is still difficult to exercise without the Commissioner's intervention, which reaffirms poor treatment and lack of accountability of public authorities towards citizens, disrespect of laws and wasteful or unnecessary involvement of employees and spending of public money, since there was no actual reason for denial of information before complaints were lodged.

According to the data held by the authorities who submitted their reports to the Commissioner, the total of 31,309 freedom of information requests were submitted to those authorities in 2022.

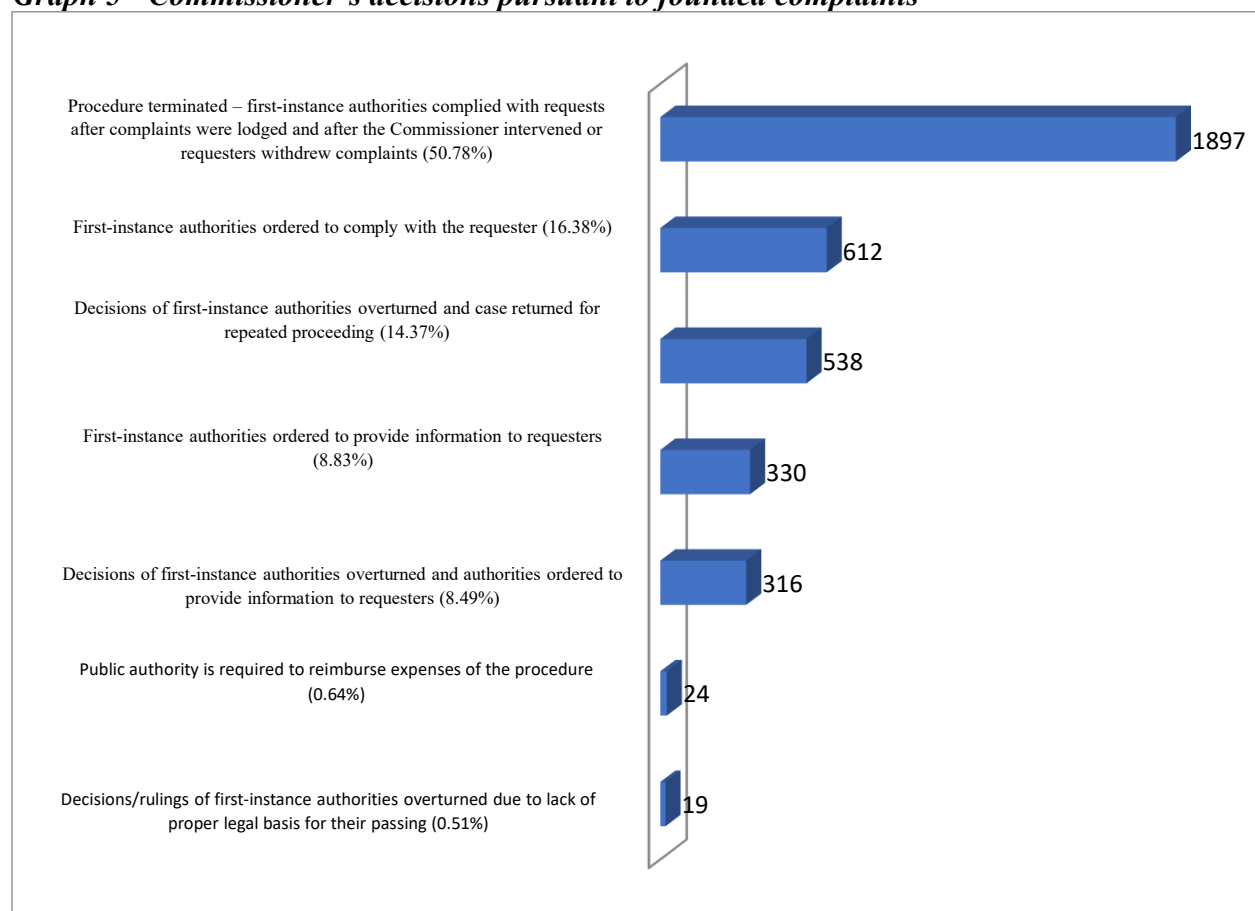
Almost one half of the authorities subject to the duty to submit annual reports to the Commissioner complied with this duty in 2022, i.e. 5,129 out of the total of 12,287 these authorities. This was the highest number of reports submitted so far, which was probably due to amendments to the Law on Free Access to Information of Public Importance and infringement liability for failure to submit information directories to the Commissioner. Since amendments to this Law specified ten categories of public authorities, including various categories of companies and other legal entities, it is impossible to identify the exact number of these entities. Criteria to determine whether a legal entity is included in the category of public authorities include whether it is vested with public powers, whether it performs an activity of general interest, and also the manner of its formation, ownership stakes, composition of managerial bodies and the manner of financing, which is why the scope of public authorities is very wide and variable.

The graphs below show to which information the requests and complaints filed by requesters related in 2022, who requested the information, against which authorities the complaints were lodged, what reasons public authorities invoked when they passed decisions rejecting information requests, rulings passed by the Commissioner in handling of complaints and how public authorities complied with the Commissioner's decisions.

Graph 4 - Decisions passed by the Commissioner pursuant to complaints



Graph 5 - Commissioner's decisions pursuant to founded complaints⁴⁰



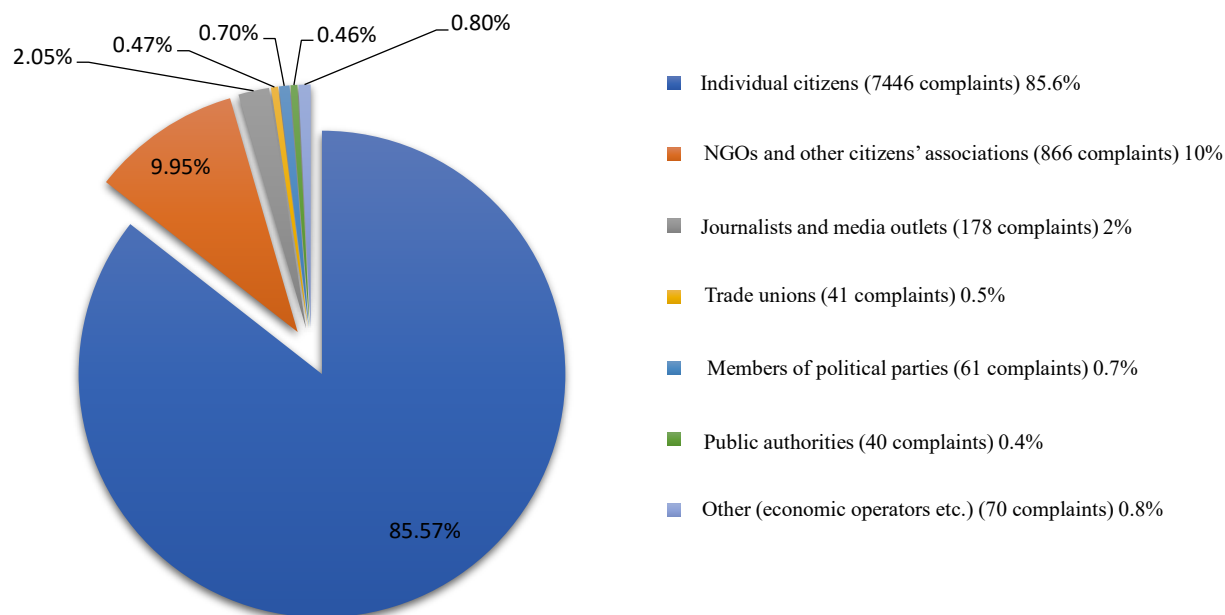
As in 2021, the majority of complainants, or information requesters, in 2022 were individual citizens and citizens' associations.

Journalists and media outlets lodged 221 complaints with the Commissioner in 2022 (or 2.4% of the total number of complaints lodged in 2022). The majority of these complaints, namely 98, were lodged against the so-called “administrative silence”. **In 2022, 178 complaints by journalists and media outlets were resolved (pending complaints carried forward from 2021 were also resolved).**

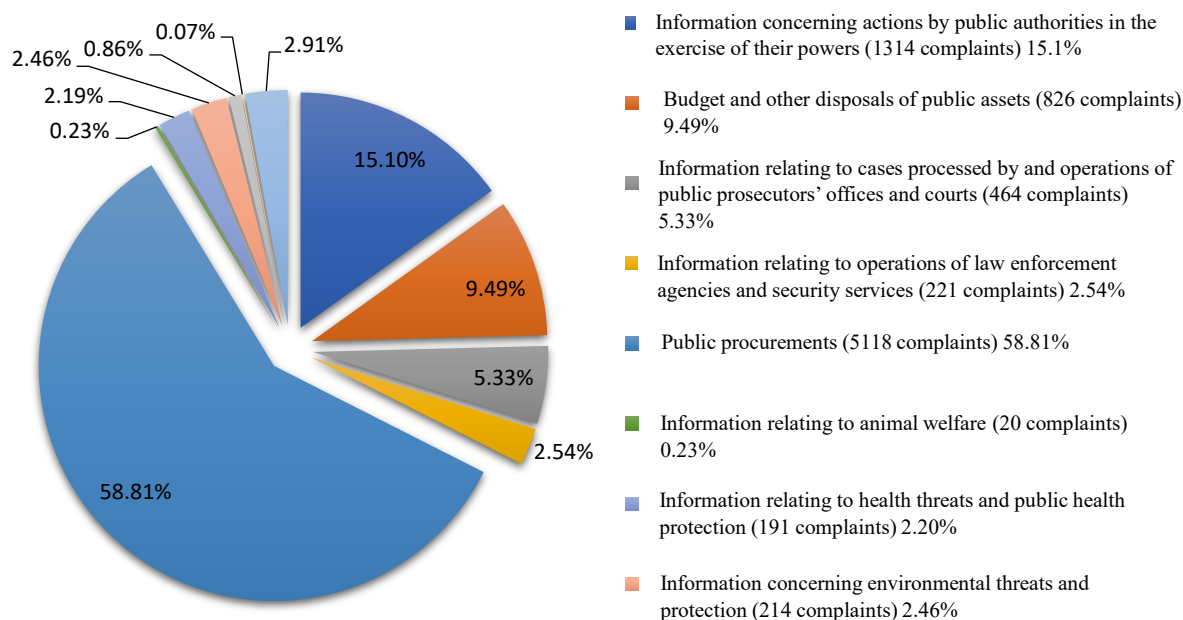
A high percentage of orders in the Commissioner's rulings passed pursuant to complaints by journalists and media outlets to make information available have not complied with. Out of 178 resolved complaints by journalists and media outlets, 37 were completed by orders to provide information to requesters, which have not been complied with by public authorities in 12 cases, or 32.4%, which is particularly worrying, bearing in mind the content of information they requested, i.e. the fact that journalists always report on topics of relevance for general public.

⁴⁰ In the total of 646 complaint, the Commissioner ordered first-instance public authorities to provide information to requesters, however, 547 decisions were passed in those cases, while 99 cases were joined when deciding.

Graph 6 - Complainants addressing the Commissioner (resolved complaints)



Graph 7 - Types of requested information in resolved complaints



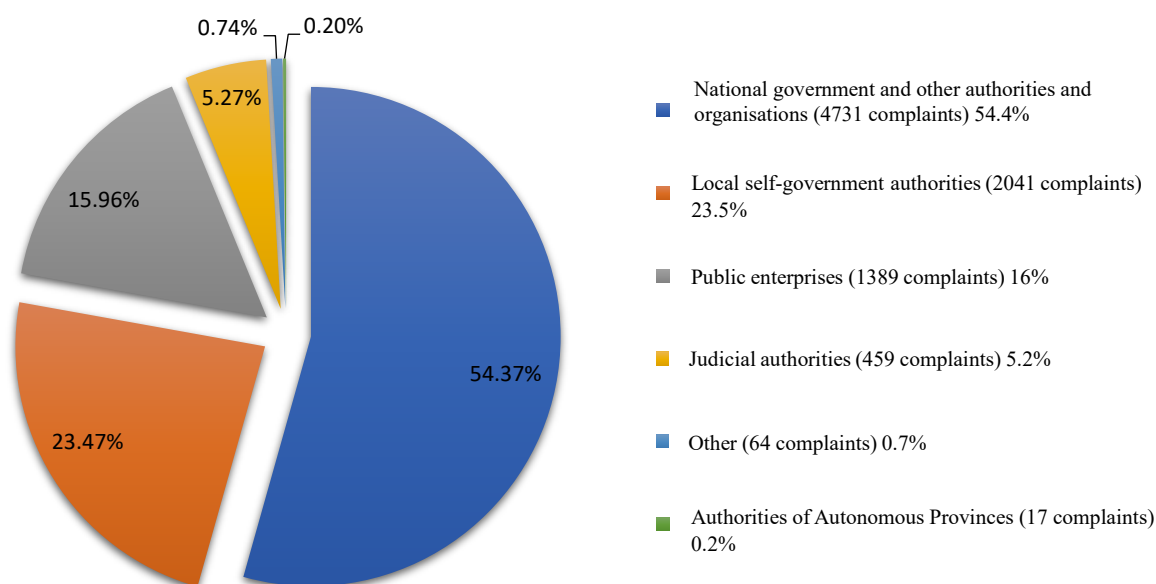
In the structure of complaints resolved in 2022, the majority were complaints against national government and other authorities and organisations. Namely, this number increased as

many as two and a half times compared with the previous year, 4,731 complaints or 54.4%, of which 800 complaints (16.9%) against ministries and bodies subordinated to them.

The number of complaints against local self-government authorities also increased, as many as two times higher than in 2021. Decrease in the number of complaints was observed in complaints against judicial authorities and public enterprises.

As an illustration, about 5,400 requests⁴¹ were submitted to judicial authorities in 2022, while the Commissioner resolved 459 complaints because of the violation of the rights against these authorities (*Graph No. 8*), i.e. one complaint for every eleven requests, which is indicative of a significantly better acting compared with the general trend in acting on freedom of information requests.⁴²

Graph 8 - Number of resolved complaints by types of authorities



⁴¹ Data by those judicial authorities who submitted their reports.

⁴² A total of 31,309 requests were submitted to public authorities in 2022, while 9,219 complaints were lodged with the Commissioner.

Table 5 - Overview of requests filed and complaints lodged with the Commissioner in 2022 against ministries⁴³ with bodies subordinated to them, as at 6 February 2023

No.	Ministry	No. of requests	No. of complaints
1.	Ministry of the Interior	1142	302
2.	Ministry of Finance	397	64
3.	Ministry of Agriculture, Forestry and Water Management	259	16
4.	Ministry of Justice	202	134
5.	Ministry Construction, Transport and Infrastructure	271	14
6.	Ministry Education (former Ministry Education, Science and Technological Development)	254	16
7.	Ministry of Defence	97	43
8.	Ministry of Health	159	35
9.	Ministry of Economy	93	9
10.	Ministry of Public Administration and Local Self-Government ⁴⁴	/	4
11.	Ministry of Labour, Employment, Veteran and Social Affairs	190	21
12.	Ministry Internal and External Trade (former Ministry of Trade, Tourism and Telecommunications)	59	8
13.	Ministry of Culture (former Ministry of Culture and Information)	60	2
14.	Ministry Sport (former Ministry of Youth and Sport)	24	2
15.	Ministry of Mining and Energy	176	22
16.	Ministry of Foreign Affairs	24	4
17.	Ministry of Environmental Protection	192	145
18.	Ministry of European Integration	10	/
19.	Ministry of Human and Minority Rights and Social Dialogue	24	/
20.	Ministry of Family Care and Demography	19	3

⁴³ Names of ministries were adjusted to the Law amending the of the Law on Ministries enacted on 22 October 2022, while former names were also indicated for certain ministries because complaints were also lodged against them with the Commissioner in 2022 and information requesters submitted freedom of information requests to them.

⁴⁴ This Ministry failed to submit its annual report for 2022 to the Commissioner;

21.	Ministry of Rural Welfare ⁴⁵	/	/
22.	Ministry of Information and Telecommunications	2	1
23.	Ministry for Public Investment ⁴⁶	/	/
24.	Ministry of Science, Technological Development and Innovation	1	/
25.	Ministry Tourism and Youth	3	/
TOTAL		3658	845

The Ministry of Public Administration and Local Self-Government, the Ministry of Rural Welfare and the Ministry for Public Investment failed to submit their annual report to the Commissioner. However, the report was submitted by the Administrative Inspectorate within the Ministry of Public Administration and Local Self-Government, which received 60 freedom of information requests in 2022 and against which 2 complaints were lodged with the Commissioner.

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

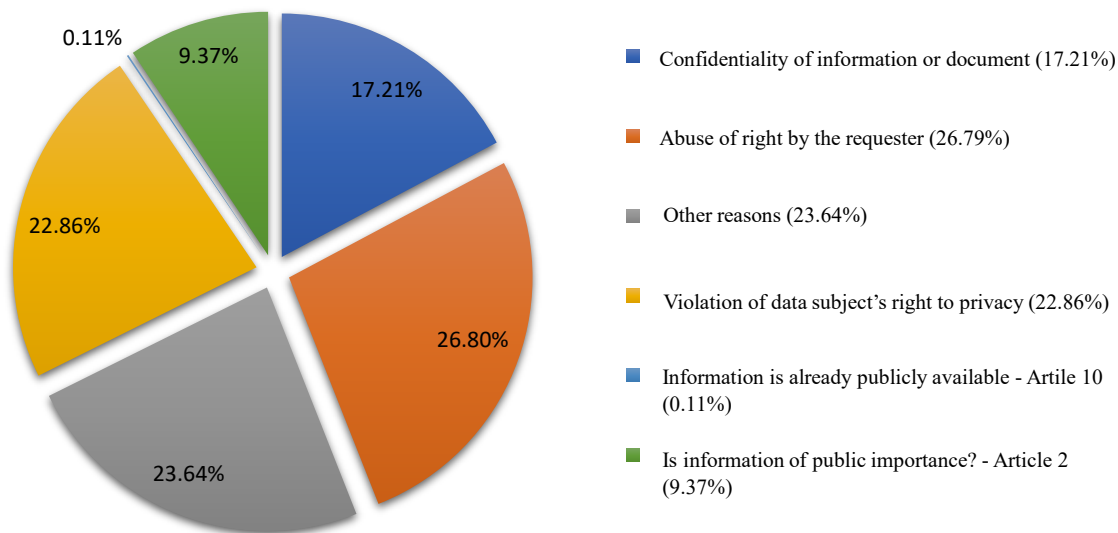
Data in the table above show that in 2022, for every 4.3 requests submitted to ministries, the information requester lodged one complaint with the Commissioner against denial of information, which is similar to 2021, when this ratio was 4.8. Such ratio was better in previous years. As an example, in 2016, one complaint was lodged for every 9.5 requests, in 2017, there was one complaint lodged for every 7.7 requests, while in 2018 there was one complaint for every 5.35 requests.

As regards the structure of national authorities and organisations, the highest number of freedom of information requests was submitted to the Ministry of the Interior (1,142) and the Republic Geodetic Authority (465), as in case of complaints lodged in 2022, namely 302 complaints were lodged against the Ministry of the Interior and 185 the Republic Geodetic Authority.

⁴⁵ This Ministry failed to submit its annual report for 2022 to the Commissioner;

⁴⁶ This Ministry failed to submit its annual report for 2022 to the Commissioner;

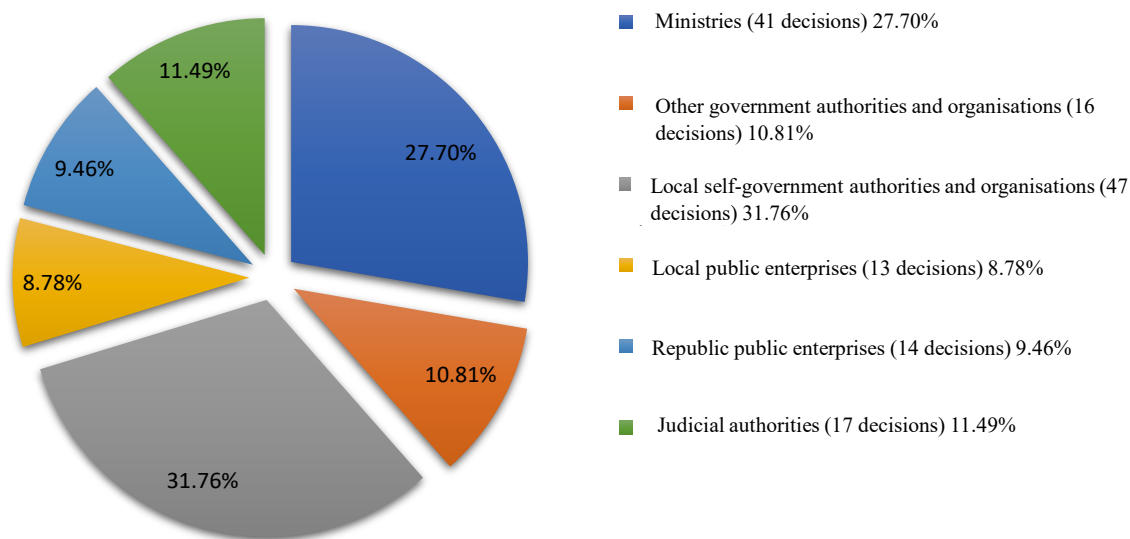
Graph 9 - Reasons for rejection of freedom of information requests in resolved complaints



In 2022, in cases when public authorities rejected information requests as unfounded by decisions (918 cases), they invoked abuse of the right by information requesters in 246 cases, or in 26.79% of complaints where decisions were passed rejecting the request. In 158 cases, or 17.21%, public authorities invoked confidentiality of information or documents (6.24% higher than in 2021), while they invoked violation of data subject's right to privacy in almost twice higher number of cases (210 cases, or 22.86%). Public authorities invoked Article 2 of the LFAIPI (is information of public importance?) in 86 cases, or 9.37%, while they invoked Article 10 of the LFAIPI (information is already publicly available) in only one case.

An analysis of the reasons for rejection of information requests reveals that abuse of the right by information requesters is the most frequent reason for rejection (26.79%). This is interesting, among other things for the following reasons: 1) amendments to the Law on Free Access to Information of Public Importance deleted the institute of the abuse of right; 2) in case of complaints lodged by malicious complainants in Vranje, public authorities did not invoke abuse of right; instead, they acted on requests and submitted the requested information because the requested information related to public procurements. In view of the foregoing, it can be concluded that public authorities still often unfoundedly invoke abuse of right, meaning that in addition to undisputable actual abuse of the right in numerous cases, we still have a significant number of cases of the "abuse of right" by public authorities. In addition, a significant number of rejected information requests can be observed with a statement of reason that the requested information is not information of public importance within the meaning of Articles 2 of the Law, although it complies with all statutory elements to be considered information of public importance.

Graph 10 - Number of Commissioner's rulings passed in 2022 that have not been complied (148 out of 547 passed rulings ordering to ensure access to information)⁴⁷



Out of 547⁴⁸ rulings passed by the Commissioner pursuant to complaints lodged by information requesters, by which the Commissioner ordered authorities to make information available, authorities failed to comply with them in 148 cases, or 27.06%, meaning that the percentage of compliance with the Commissioner's decisions was in 72.94% on the average.

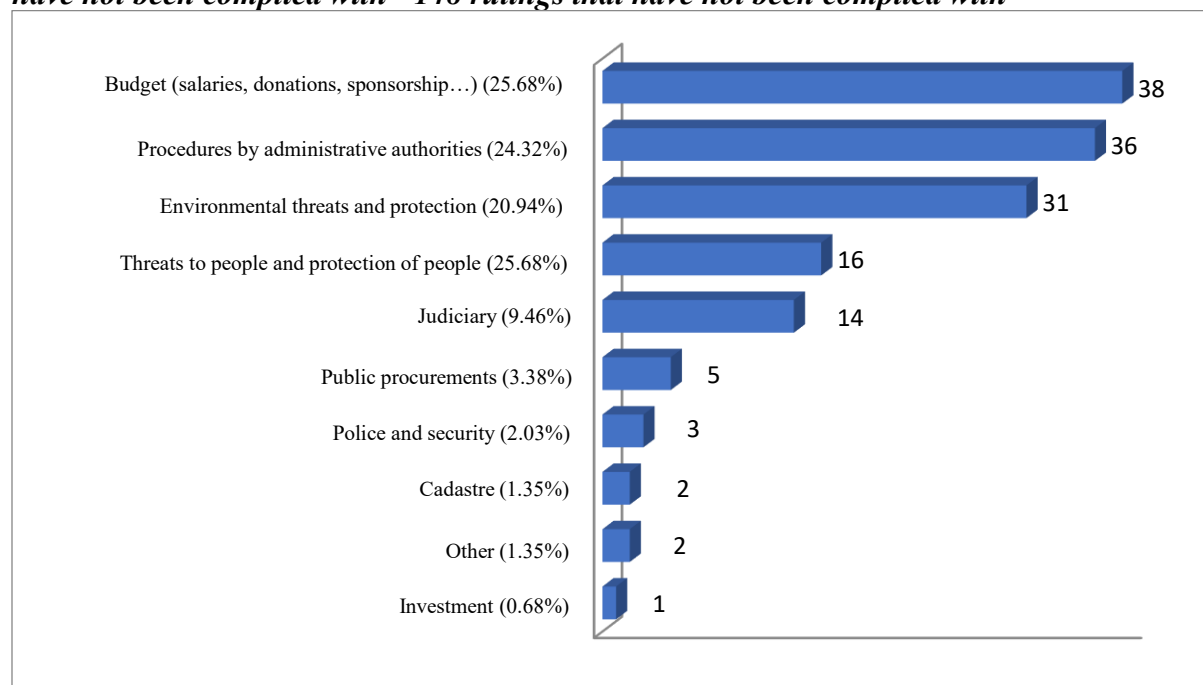
The percentage of compliance with of the Commissioner's rulings passed pursuant to complaints lodged by journalists and media outlets, by which the Commissioner ordered submission of requested information, is still unsatisfactory. Thus, out of 178 resolved complaints lodged by journalists and media outlets, 37 were completed by an order to submit information to information requesters. Public authorities failed to comply with ordered measures in journalists' complaints in 12 cases, or 32.4%, which is particularly worrying having in mind the content of requested information, i.e. the fact that that journalists always repost on topics of interest for the general public.

In addition, the percentage of decisions rulings to complaints lodged by journalists and media outlets that have not been complied with (32.4%) was higher that this percentage in case of other complainants (27.06%), which is unacceptable, since members of this profession requests information to write and report on topics of general public interest.

⁴⁷ An overview of the Commissioner's rulings passed in 2022 that have not been complied with, as at 28 February 2022, constitutes an integral part of the Report.

⁴⁸ In the total of 646 complaint, the Commissioner ordered first-instance public authorities to provide information to requesters, however, 547 rulings were passed in those cases, while 99 cases were joined when deciding.

Graph 11 - Type of requested information in the Commissioner's rulings passed in 2022 that have not been complied with - 148 rulings that have not been complied with



An analysis of the withheld information in the Commissioner's rulings that have not been complied with reveals that three most common categories of withheld information were: 1) information on the budget (25.68%); 2) information on procedures before administrative authorities (24.32%) and 3) information on environmental threats and protection (20.94%). These figures are particularly worrying, because the first two categories of information (budget and procedures before administrative authorities) constitute information of particular importance for transparency of the work of public authorities, lawfulness of their work and the fight against corruption, and as such must always in principle be available to the public. In addition, unusually high percentage of denied information in connection with environmental threats and protection is very worrying, since this is the information with the so-called privileged status in terms of shorter and urgent deadlines for acting on access requests, for deciding on complaints and which is of exceptional importance for public health and people's acting upon learning the content of such information.

3.2.1.2. Administrative Enforcement of Commissioner's Rulings

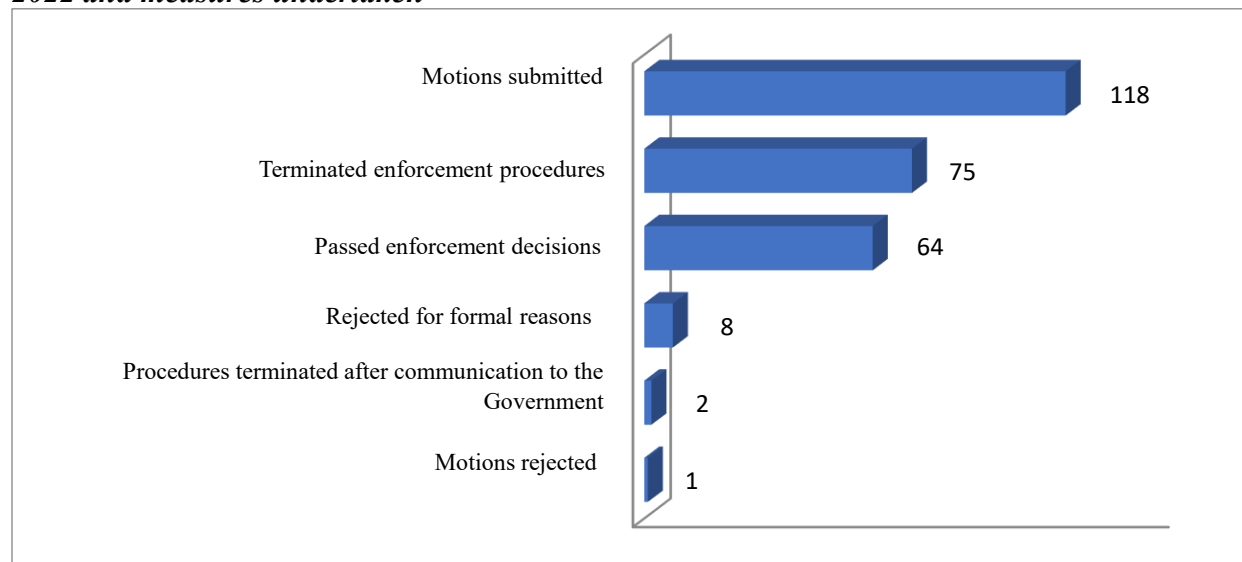
In 2022, the Commissioner initiated the procedures of administrative enforcement of his rulings pursuant to motions by parties/information requesters, however, as regards motions submitted under the law which was in force until 16 February 2022, the Commissioner could not implement them by imposing fines for reasons stated in the part of this Report on the situation in and obstacles to the exercise of the right. Based on reports by authorities and information received by parties, in only two cases the Commissioner's rulings were enforced after the Government was contacted. In such cases, parties withdrew motions for enforcement,

because first-instance public authorities complied with the Commissioner’s rulings in the meantime. However, the Government failed to inform the Commissioner that it provided assistance in the administrative enforcement procedure in those cases.

As regards motions for administrative enforcement of the Commissioner’s decisions pursuant to the law in effect since 17 February 2022, as explained in the part of this Report on the situation in and obstacles for exercise of the right, mechanisms for administrative enforcement of the Commissioner’s decisions were unblocked, but no ruling imposing a fine was passed in 2022 because statutory requirements have not been met, namely, the procedures are not at that stage, so the full effects of legislative amendments will be observable in the coming period.

Overview of measures undertaken is presented in the graph below.

Graph 12 - Motions for administrative enforcement of the Commissioner’s rulings filed in 2022 and measures undertaken



3.2.1.3. Infringement Liability

The amended LFAIPI made infringement liability for violation of the provisions of LFAIPI more stringent. Infringement liability for failure to comply with the duties under this Law was also laid down not only for authorised persons and managers of the authorities, but also for all employees in public authorities.

3.2.1.3.1. Infringement Warrant

When the Commissioner finds that a complaint against failure to act on a request (“administrative silence”) was founded, he will order by a ruling to a public authority to act on a request within a specified deadline (Article 24 paragraph 6 of the Law). In such situations, the Commissioner does not rule on the merits of the request. When the Commissioner passes such ruling, he issues infringement warrant under Article 47 of the Law (Article 24 paragraph

10 of the Law) in accordance with the law providing for the infringement proceedings, setting out that a fine in the amount of RSD 30,000 will be imposed on the person authorised to honour requests for an infringement (or the manager of an authority if an authorised person is not appointed), if he/she fails to act on the request in accordance with the deadlines referred to in Article 16 of the Law (“administrative silence”).

In 2022, the Commissioner issued 126 infringement warrants in accordance with Articles 47 of the Law (Article 24 paragraph 10 of the Law), including 95 warrants to persons authorised to act on freedom of information requests in public authorities and 31 warrants to managers of public authorities (because those authorities have not appointed a person authorised to act on freedom of information requests), because public authorities failed to act on freedom of requests within the statutory deadline, so the Commissioner passed rulings ordering those public authorities to act on freedom of information requests (Article 24 paragraphs 6 and 10 of the Law).

According to information available to the Commissioner, in 94 cases fines were paid pursuant to infringement warrants (78 in within the set deadline and 16 outside the set deadline), while other warrants have not been complied with.

In 6 cases, the Commissioner filed petitions to courts for enforcement of fines, while 1 enforcement decision was passed until the end of the reporting period. Also, in 19 cases persons authorised to act on freedom of information requests or managers of public authorities to whom infringement warrants were issued filed petitions for a court ruling, of which a court rejected one until the end of the reporting period.

Infringement warrants were issued to authorised or responsible persons in the following public authorities:

National authorities (51), of which 46 to ministries. The fact that as many as 42 infringement warrants were issued against the authorised person in the Ministry of Environmental Protection is particularly worrying;

Local self-government authorities (30), of which 11 to the City Administration of the City of Belgrade, and as many as 10 infringement warrants to the City Administration of the City of Valjevo;

National public enterprises (9);

Health care institutions (9);

Educational institutions (8);

Local public enterprises (7);

Judicial institutions (5);

Sport associations (4);

Cultural institutions (2);

Social welfare institutions (1).

In 4 cases, after submission of the case file of the Department for Complaints and Enforcement in the field of freedom of information for the purpose of issuing infringement warrant, on request of the party, infringement warrants were not filed, because it was found that there were no infringements sanctioned under LFAIPI.

3.2.1.3.2. Petitions for Institution of Infringement Proceedings

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

In 2022, the Commissioner filed 8 petitions for institution of infringement proceedings, including:

- 5 petitions for institution of infringement proceedings against authorised persons in public authorities:
 - 3 against submission of incomplete or false information (Article 16);
 - 1 against making demonstration of a justified or other interest a condition for access to information (Article 4);
 - 1 against preventing the exercise of freedom of information (Article 22 paragraph 1 item 6)
- 3 petitions for institution of infringement proceedings against managers of public authorities against failure to comply with and the Commissioner's rulings (Article 28 paragraph 1).

In 12 cases, after submission of the case file of the Department for Complaints and Enforcement in the field of freedom of information for the purpose of the party's petition for institution of infringement proceedings, the party was informed that the Commissioner is not authorised to institute infringement proceedings.

In 16 cases, after submission of the case file of the Department for Complaints and Enforcement in the field of freedom of information for the purpose of filing petitions for institution of infringement proceedings, on request of the party, petitions were not filed because it was found that there were no infringements sanctioned under LFAIPI.

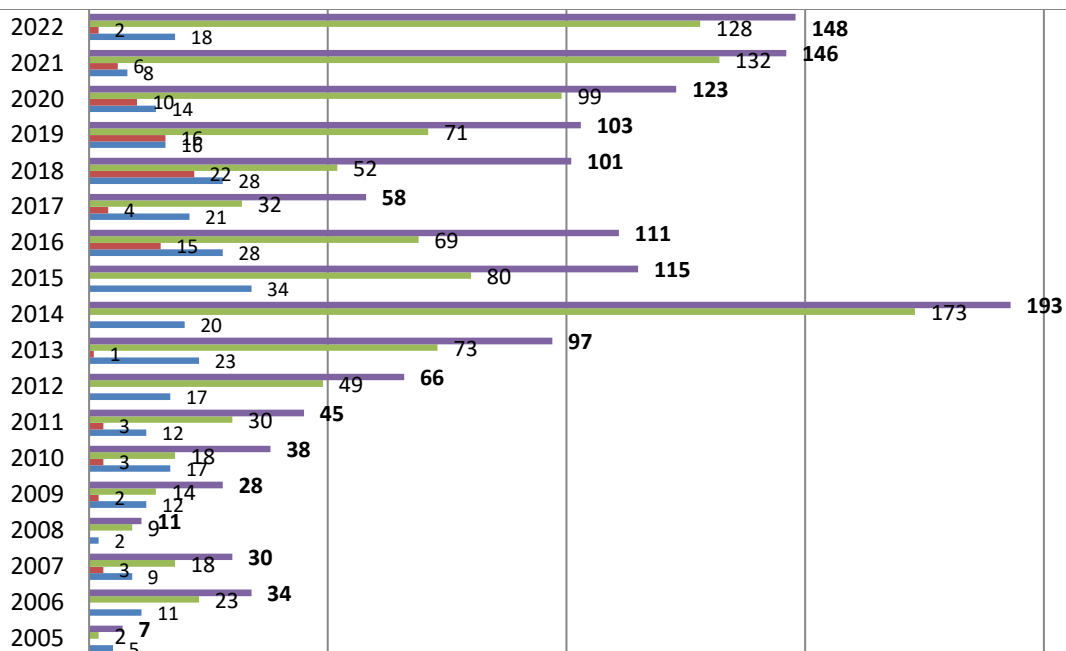
3.2.2. Protection of Rights Before Administrative Court and Other Courts

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

A party dissatisfied with a decision has the right to file a complaint with the Administrative Court, as does the Republic Public Prosecutor's Office, in cases where it believes a decision harms a public interest.

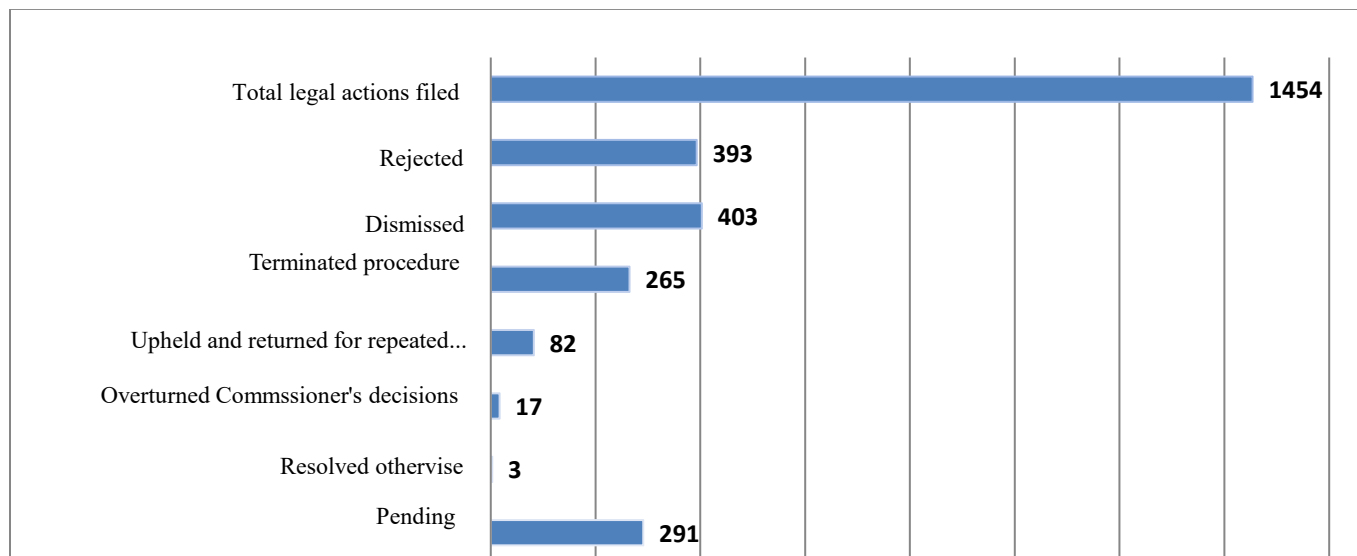
The party concerned and the competent Public Prosecutor's Office may file a petition with **the Supreme Court of Cassation to review a judicial decision, in cases where the Administrative Court ruled on a case with full jurisdiction**. According to the information available to the Commissioner, 1 petition for a review of a decision of the Administrative Court was filed with the Supreme Court of Cassation in 2022.

Graph 13 - Overview of legal actions by complainants brought before the Supreme Court of Serbia and the Administrative Court against the Commissioner's decisions from 2005 to 2022



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Total	7	34	30	11	28	38	45	66	97	193	115	111	58	101	103	123	146	148
Parties	2	23	18	9	14	18	30	49	73	173	80	69	32	52	71	99	132	128
Republic Public Prosecutor's Office	0	0	3	0	2	3	3	0	1	0	0	15	4	22	16	10	6	2
Public authorities (inadmissible legal actions)	5	11	9	2	12	17	12	17	23	20	34	28	21	28	16	14	8	18

Graph 14 – Legal actions against the Commissioner in the field of freedom of information from 2005 to 2022



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

These data show that since the Commissioner started operating, in court proceedings to review the legality of his decisions, in 1,164 resolved cases out of the total of 1,454 filed legal actions, **91.5% or 1,064 of the Commissioner's decisions were upheld by courts. The percentage of upheld Commissioner's decisions would be significantly higher if the Administrative Court had not suddenly changed its position, established on the 105th session of all judges held on 21 June 2022, on whether reimbursement of costs for representation of information requesters by lawyers in the procedure pursuant to legal actions before the Commissioner is founded, without any legal argument or explanation by the Court. This changed the Court's position after more than 13 years, which is addressed in more detail in section [2.A.2.](#) of this Report on the exercise of the right to know in 2022 and obstacles.**

According to the information available to the Commissioner, the Administrative Court⁴⁹ received 148 legal actions against the Commissioner in 2022, of which 114 were submitted to the Commissioner for a reply. Out of 148 filed legal actions, 124 were filed against the Commissioner's decisions, while 24 were filed because the Commissioner failed to decide on complaints within the statutory deadline.

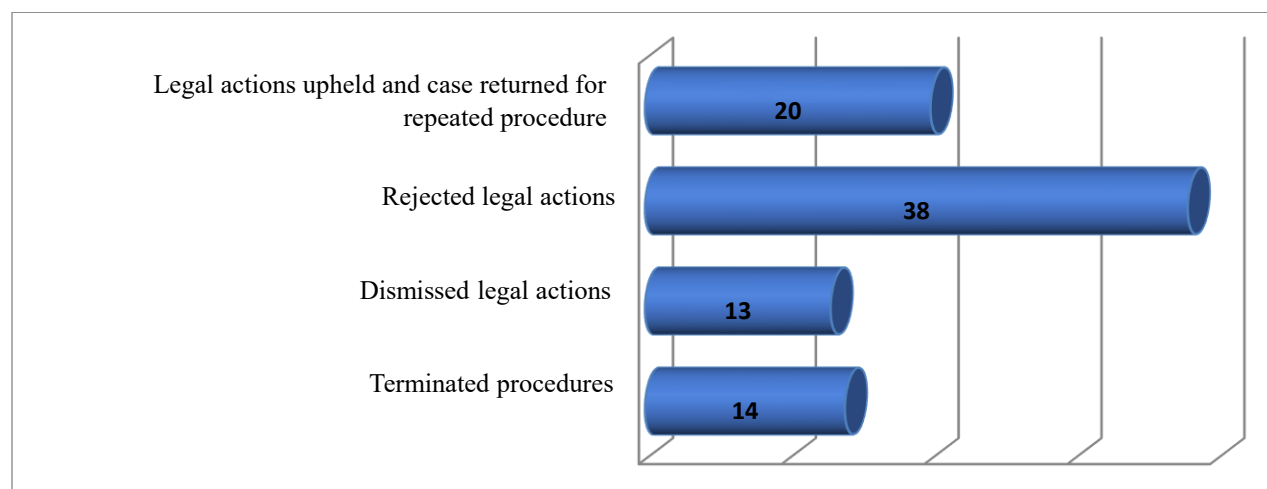
Plaintiffs in cases against the Commissioner in 2022 include: parties or information requesters (128), the Republic Public Prosecutor (2) and first-instance authority⁵⁰ (18).

⁴⁹ Communication by the Administrative Court Su III-19 2/22 of 13 January 2023

⁵⁰ 6 legal actions filed by first-instance authorities were rejected as inadmissible, while 12 legal actions are pending.

In 2022, the Administrative Court ruled on the total of 85 legal actions (24 of legal actions that were ruled on are from 2022, while 61 are carried forward from the previous period). Legal actions were ruled on as follows: 38 legal actions were rejected, 13 were dismissed, 14 procedures were terminated and 20 legal actions were upheld, i.e. of the Commissioner's ruling was overturned and the case was returned for repeated procedure. As regards upheld legal actions, those are mainly cases overturning the Commissioner's rulings by which he rejected requests for compensation of costs of representation pursuant to a legal action before the Commissioner or rejected complaints rejecting requests for reimbursement of these costs. This is a consequence of a sudden change of the position of the Administrative Court at the 105th session of all judges, without any legal argument for such change, which was already addressed above (see [section 2.A.2. of this report on the exercise of the right to know in 2022 and obstacles](#)).

Graph 15 - Overview of decisions of the Administrative Court passed in 2022 pursuant to legal actions against the Commissioner's decisions



Amendments to the Law on Free Access to Information of Public Importance included the National Bank of Serbia in public authorities against which complaints to the Commissioner are inadmissible (Article 22 paragraph 3).

The data show that from 2005 to 2022 the total of 390 legal actions were filed against seven highest national authorities exempted from the protection before the Commissioner, of which 219 were ruled on, including 146 rejected legal actions, 88 dismissed, 74 upheld, and 11 terminated procedures.

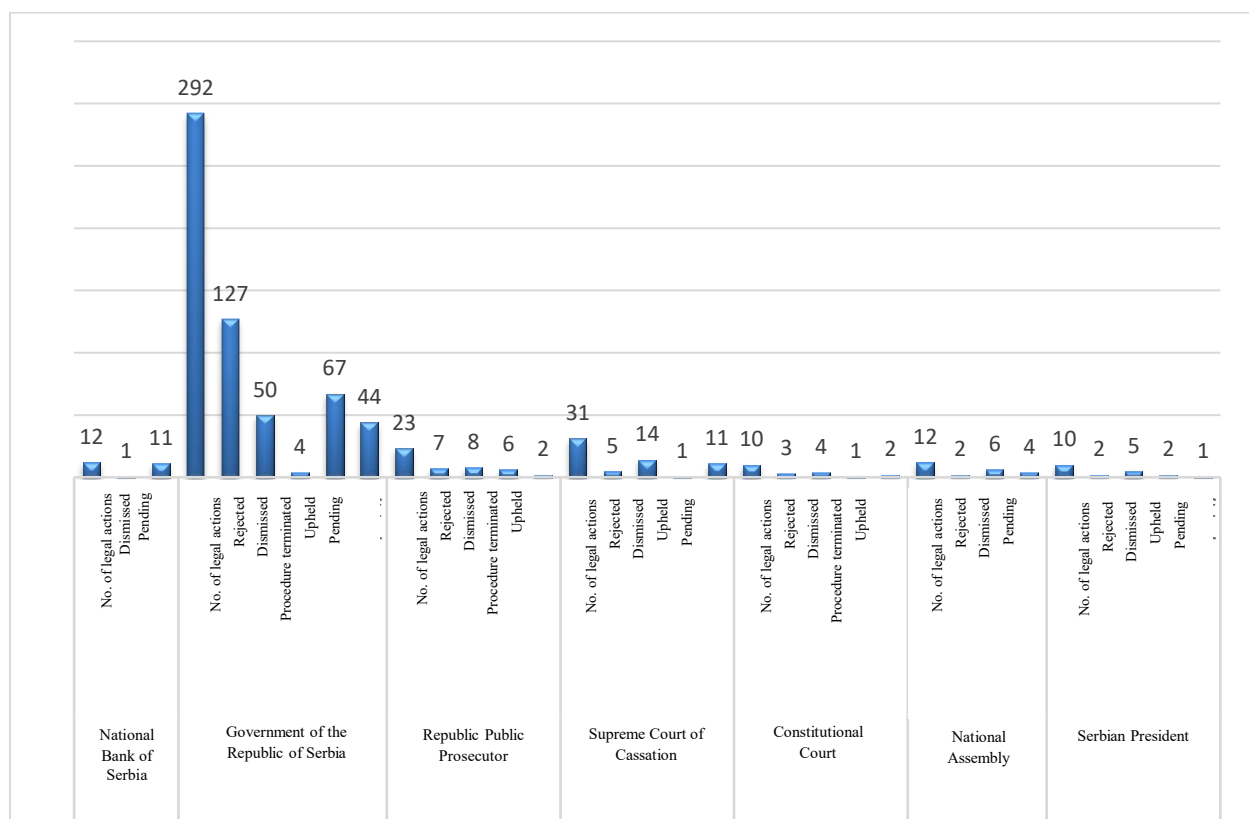
The majority of legal actions were filed against the Government of the Republic of Serbia, namely 292 legal actions, of which 248 were ruled on, including 127 rejected, 67 upheld and 50 dismissed legal actions, while 4 procedures were terminated.

In 2022, the Administrative Court of the Republic of Serbia received 48 legal actions against the highest national authorities, of which only 3 were ruled on, namely they were dismissed. Among these legal actions, 31 were filed against the Government of the Republic of Serbia (21 against the “administrative silence”), 1 against the Supreme Court of Cassation

(against the “administrative silence”), 4 against the National Assembly (all against the “administrative silence”) and 12 against the National Bank of Serbia (9 against the “administrative silence”).

In 2022, the Administrative Court ruled on 21 legal actions filed against the highest state authorities (three submitted in 2022, while the remaining 18 were carried forward from the previous period) by upholding 5 legal actions (all 5 against the Government of the Republic of Serbia), rejecting 14 legal actions (9 against the Government, 2 against the National Assembly, 1 against the Republic Public Prosecutor and one against the National Bank of Serbia), while 2 legal actions were dismissed (against the Supreme Court of Cassation).

Graph 16 - Overview and outcome of legal actions brought before the Supreme Court and the Administrative Court against decisions or failure to act of six highest state authorities against which complaints with the Commissioner are not admissible, 2005 – 2022



According to the information available to the Commissioner, in 2022 the Constitutional Court⁵¹ received 55 constitutional appeals against the Commissioner’s decisions. Since the Constitutional Court of Serbia registers appeals according to the disputed instrument, instead according to the applicable law, it is impossible to determine the number of constitutional appeals in the field of freedom of information and in the field personal data protection.

⁵¹ Communication of the Administrative Court Su No. 17/66 of 30 December 2022

In 2022, the Constitutional Court passed 2 judgements pursuant to constitutional appeals in the field of freedom of information.

In both cases the Constitutional Court rejected constitutional appeals against or in connection with the Commissioner's decision passed pursuant to complaints lodged. Both constitutional appeals were filed by the Humanitarian Law Centre, against violation of the right to a trial within reasonable time and failure of public authorities to comply with the Commissioner's orders.

3.2.3. Compliance with Legal Duties by Public Authorities, Supervision and Accountability

The amendments to the Law on Free Access to Information of Public Importance overhauled the manner in which information directories on the work of public authorities are compiled, published and updated. They also increased the number of authorities required to produce such information directories. The most significant change concerns the manner in which such information directories are produced: they are now created on a platform kept and maintained by the Commissioner, namely the Single Information System of Information Directories (SIS). As of the time of writing of this Report, 6,459⁵² information directories by public authorities are available in the SIS, while the total number of public authorities registered in the system is 7,153. In addition, the Commissioner has prepared the Instructions on the Preparation and Publishing of Information Directories on the Work of Public Authorities in accordance with the Law (*Official Gazette of the Republic of Serbia* number 10/22).

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

Also, the number of public authorities required to submit annual reports to the Commissioner has increased significantly. This obligation now applies to all public authorities referred to in Article 3 of the LFAIPI – 12,287 of them as of the time of writing of this report. The number of reports submitted for 2022 is 5,129, while 5,582 public authorities were registered to access the Portal used for the submission of annual reports. More than half of the public authorities required under the Law to submit their reports to the Commissioner failed to do so.

According to the information provided in the reports submitted by public authorities in 2022 (5,129 reports), 4,595 public authorities published an Information Directory in the Single Information System and thus complied with their legal duty. Also, it would appear that compliance with the statutory duty to provide training to employees on proper application of the Law on Free Access to Information has improved from previous years, given that the number of public authorities that submitted their reports is much higher than in the past years (with 3,128 public authorities reporting they have complied with this duty).

⁵² Number of published information directories in the Single Information System as at 31 December 2022.

Although the Commissioner facilitated this procedure by development of the special Portal for electronic submission of reports, and the deadline for submission of reports was extended until 31 January under amendments to the Law, a high number of public authorities still fail to comply with this legal duty. The reason for failure to comply with this legal duty is the lack of liability for its disregard over the years. An analysis of data showed that many national authorities failed to submit their reports for 2022.

The number of reports submitted by authorities falling within the category of education institutions (schools, preschool facilities) is similar to last year, at 1,682, while the number of reports submitted by local self-government authorities has almost doubled. A mild increase has also been observed in the number of reports submitted by national-level authorities and organisations (agencies, directorates, institutes, funds, chambers etc.). Hunters' associations have mostly complied with this statutory duty, with 71 of them submitting reports, and as many as 912 local communities have also complied.

Table 6 - Figures in annual reports of public authorities on actions taken to implement LFAIPI in 2022⁵³

Public authority	No. of public authorities	Report submitted number and %	Information directory published in the Single Information System -number and %	Training implemented - number and %	Maintenance of data storage media - number and %
Authorities referred to in Article 22 of the Law (the National Assembly, the President, the Supreme Court of Cassation, the Constitutional Court, Government, the Republic Public Prosecutor and the National Bank of Serbia)	7	6 (85.7%)	5 (71.4%)	3 (42.9%)	6 (85.7%)
Ministries (without bodies subordinated to them)	25	22 (88%)	19 (76%)	19 (76%)	22 (88%)
National authorities and organisations (agencies, directorates, institutes, funds, chambers...)	564	304 (53.9%)	239 (42.4%)	217 (38.5%)	273 (48.4%)
Courts	156	137 (87.8%)	137 (87.8%)	113 (72.4%)	136 (87.2%)
Prosecutors' Offices	89	66 (74.2%)	65 (73.1%)	51 (57.3%)	65 (73.1%)
Other public authorities (Authorities of the Autonomous Province of Vojvodina, educational institutions, local self-government authorities, public enterprises, health care, cultural and information)	11,446	4594 (40.1%)	4130 (36.1%)	2725 (23.8%)	4465 (39.1%)

⁵³ Percentages in the table are presented in relation to the number public authorities required to submit annual reports to the Commissioner.

institutions etc.)					
Total	12,287 ⁵⁴	5,129 (41.8%)	4,595 (37.4%)	3,128 (25.5%)	4,967 (40.4%)

The report of the Administrative Inspectorate⁵⁵ states that “The Administrative Inspectorate acted on 216 rulings passed by the Commissioner for Information of Public Importance and Personal Data Protection in procedures pursuant to complaints filed by information requesters which had been forwarded to this authority. In 105 cases it was found that the public authority concerned had complied with the Commissioner’s ruling and made the requested information available to the requester, while in the remaining cases the procedure conducted by the Administrative Inspectorate is currently underway.

We acted pursuant to 125 applications concerning compliance with the freedom of information regulations.

According to the 2022 Annual Work Programme, administrative inspectors were not to conduct any scheduled inspections of compliance with the freedom of information regulations.

The 2023 Annual Work Programme of the Administrative Inspectorate provides for scheduled inspections of compliance with the freedom of information regulations, which will entail in particular supervision of compiling, publishing and updating the information directories, the authorised freedom of information officers, compliance with freedom of information requests, submission of annual reports to the Commissioner etc.”

⁵⁴ The number public authorities subject to the duty to submit their report at the time of writing of this Report, because this number is variable, and the Catalogue of public authorities is only for reference.

⁵⁵ Communication of the Administrative Directorate number 021-02-18/2022-01 of 30 January 2023.

Table 8 - Overview petitions for institution of infringement proceedings against infringements under the Law on Free Access to Information of Public Importance and outcomes before first-instance magistrates' courts 2022

Magistrates' court	Petitioner	Legal qualification	Number of submitted petitions	Convicting judgment	Warning	Termination	Rejected	Exonerating judgment	Termination due to expiry of statute of limitation	Resolved by other means (joined, lack of local competence etc.)
Belgrade	Injured party	Article 46	623	112 ⁵⁶	9	6		27	45	4
		Article 47	14							
		Article 48	1							
Niš	Injured party	Article 46	114	5 ⁵⁷	12	4	5	6	1	32
Novi Sad	Injured party	Article 46	67	2 ⁵⁸		4	5	5		1
Kragujevac	Injured party	Article 46	19	2 ⁵⁹	2		1	1	4	
Arandelovac	Injured party	Article 46	11	2 ⁶⁰		2		3		
Bačka Palanka	Injured party	Article 46	23			4	1	2		10
Bečej	Injured party	Article 46	25	4 ⁶¹	4		2	2		9
Valjevo	Injured party	Article 46	126	16 ⁶²	2	1	1	3		62
		Article 47	1							
Vranje	Injured party	Article 46	180	2 ⁶³	12		112	10	10	
Vršac	Injured party	Article 46	52		2	2	3	2	1	4
Gornji Milanovac	Injured party	Article 46	10	2 ⁶⁴				2	3	1
Zaječar	Injured party	Article 46	47	12 ⁶⁵	2	2		9	1	
Zrenjanin	Injured party	Article 46	35		1		1	5		11
Jagodina ⁶⁶	Injured party	Article 46	43	11 ⁶⁷	10	6	4	18		8

⁵⁶ 40 fines of RSD 5,000, 6 of RSD 6,000, 11 of RSD 7,000, 30 of RSD 10,000, 1 of RSD 12,000, 1 of RSD 15,000, 17 of RSD 20,000, 1 of RSD 25,000, 2 of RSD 30,000 and 3 of RSD 40,000

⁵⁷ 4 fines of RSD 5,000 and 1 of RSD 10,000

⁵⁸ 1 fine of RSD 5,000 and 1 of RSD 20,000

⁵⁹ 1 fine of RSD 5,000 and 1 of RSD 8,000

⁶⁰ 2 fines of RSD 5,000

⁶¹ 2 fines of RSD 5,000, 1 of RSD 6,000 and 1 of RSD 10,000

⁶² 10 fines of RSD 5,000, 1 of RSD 8,000 and 5 of RSD 10,000

⁶³ 2 fines of RSD 5,000

⁶⁴ 2 fines of RSD 5,000

⁶⁵ 12 fines of RSD 5,000

⁶⁶ Resolved petitions from the previous period are also presented

⁶⁷ 9 fines of RSD 5,000 and 2 of RSD 10,000

Magistrates' court	Petitioner	Legal qualification	Number of submitted petitions	Convicting judgment	Warning	Termination	Rejected	Exonerating judgment	Termination due to expiry of statute of limitation	Resolved by other means (joined, lack of local competence etc.)
Kikinda	Injured party	Article 46	25	3 ⁶⁸		1	2	5		12
Kraljevo	Injured party	Article 46	16			1				2
Kruševac	Injured party	Article 46	25	1 ⁶⁹	2	1		2		
		Article 48	1					1		
Lazrevac	Injured party	Article 46	7	1 ⁷⁰	1					
Leskovac	Injured party	Article 46	24		3	3	1	5		
Loznica	Injured party	Article 46	16	1 ⁷¹		1	1	9		
Mladenovac	Injured party	Article 46	11		1			2		2
Negotin	Injured party	Article 46	23	6 ⁷²	3		5	5		
Novi Pazar ⁷³	Injured party	Article 46	28	19 ⁷⁴		4		13	22	198
Obrenovac ⁷⁵	Injured party	Article 46	19	1 ⁷⁶	6		1	12		
Pančevo	Injured party	Article 46	121	6 ⁷⁷	8	1	1	2		42
Paraćin	Injured party	Article 46	/ ⁷⁸							
Pirot	Injured party	Article 46	18	1 ⁷⁹	8			9		
Požarevac	Injured party	Article 46	75	26 ⁸⁰	10		1	23		1
Požega	Injured party	Article 46	26	1 ⁸¹			6	6		2

⁶⁸ 1 fine of RSD 5,000, 1 of RSD 10,000 and 1 of RSD 20,000

⁶⁹ 1 fine of RSD 5,000

⁷⁰ 1 fine of RSD 5,000

⁷¹ 1 fine of RSD 5,000

⁷² 4 fines of RSD 5,000 and 2 of RSD 10,000

⁷³ Resolved petitions from the previous period are also presented

⁷⁴ 11 fines of RSD 5,000 and 9 of RSD 10,000.

⁷⁵ Resolved petitions from the previous period are also presented

⁷⁶ 1 fine of RSD 10,000

⁷⁷ 6 fines of RSD 5,000

⁷⁸ There were no petitions for institution of infringement proceedings

⁷⁹ 1 fine of RSD 5,000

⁸⁰ 7 fines of RSD 5,000, 14 fines of RSD 7,000 and 5 of RSD 10,000

⁸¹ 1 fine of RSD 5,000

Magistrates' court	Petitioner	Legal qualification	Number of submitted petitions	Convicting judgment	Warning	Termination	Rejected	Exonerating judgment	Termination due to expiry of statute of limitation	Resolved by other means (joined, lack of local competence etc.)
Prijepolje	Injured party	Article 46	57	2 ⁸²						
Preševo	Injured party	Article 46	/ ⁸³							
Prokuplje	Injured party	Article 46	14		3	1	2	6		
Raška ⁸⁴	Injured party	Article 46	5		3			1		
Ruma	Injured party	Article 46	74	7 ⁸⁵	1		3	42		
Senta	Injured party	Article 46	45	2 ⁸⁶	7	3		1		
		Article 47	1					1		
Sjenica	Injured party	Article 46	10	5 ⁸⁷						5
Smederevo	Injured party	Article 46	50	7 ⁸⁸	1	6	21	5		
Sremska Mitrovica ⁸⁹	Injured party	Article 46	79	1 ⁹⁰	5	1		12	2	24
Sombor	Injured party	Article 46	65	4 ⁹¹	1	3		3		
Subotica	Injured party	Article 46	34	1 ⁹²		6		12		
Trstenik	Injured party	Article 46	4		1	1		2		
Užice	Injured party	Article 46	18	1 ⁹³	1	2	1	1		
Čačak	Injured party	Article 46	7	1 ⁹⁴				3		
Šabac	Injured party	Article 46	121		2		7	7	1	54
Total Injured party		Article 46	2,392	267	123	56	187	283	90	484
		Article 47	16					1		

⁸² 2 fines of RSD 5,000

⁸³ There were no petitions for institution of infringement proceedings

⁸⁴ Resolved petitions from the previous period are also presented

⁸⁵ 4 fines of RSD 5,000 and 3 of RSD 10,000

⁸⁶ 2 fines of RSD 5,000

⁸⁷ 3 fines of RSD 5,000 and 2 of RSD 10,000

⁸⁸ 5 fines of RSD 5,000, 1 of RSD 10,000 and 1 of RSD 20,000

⁸⁹ Resolved petitions from the previous period are also presented

⁹⁰ 1 fine of RSD 5,000

⁹¹ 3 fines of RSD 5,000 and 1 of RSD 20,000

⁹² 1 fine of RSD 5,000

⁹³ 1 fine of RSD 10,000

⁹⁴ 1 fine of RSD 15,000

Magistrates' court	Petitioner	Legal qualification	Number of submitted petitions	Convicting judgment	Warning	Termination	Rejected	Exonerating judgment	Termination due to expiry of statute of limitation	Resolved by other means (joined, lack of local competence etc.)
		Article 48	2					1		

The data in the table show that the majority of fines imposed by magistrates' courts for infringements under the Law on Free Access to Information were in the amount of the legal minimum, or close to the lower limit of fines under the Law Free Access to Information, ranging between RSD 5,000 and 10,000.

Table 9 - Overview petitions for institution of infringement proceedings for infringements under the Law on Free Access to Information of Public Importance and outcomes before the Magistrates' Court of Appeals in Belgrade in 2022

Number of received cases	Convicting judgment (imposition of a fine and issuing of warning)	Termination	Rejection	Exonerating judgment	Termination due to expiry of statute of limitation	Decision overturned and returned for repeated procedure	Resolved by other means:
1,449	405: - 386 first-instance judgments upheld, - 19 reversed, including: fines reduced in 8 decisions and fines made more stringent in 4 decisions where first-instance judgments were convicting, fines made more stringent in 7 decisions where first-instance decisions were exonerating,	18: - 17 first-instance judgments upheld - 1 convicting judgment reversed	195: -177 first-instance judgments upheld - 18 reversed, including: exonerating (7), termination due to expiry of statute of limitation (2), rejection (4) convicting (4), termination (1)	198: - 172 first-instance judgments upheld - 26 convicting judgments reversed	209: - 134 first-instance judgments upheld - 75 reversed, including: 22 exonerating, 48 convicting, 3 terminations for other reasons, 2 rejections	389, including: - 49 rejections, - 120 exonerating judgments, - 152 convicting judgments, - 55 terminations due to expiry of statute of limitation - 13 terminations	17: - 7 decisions reversed in terms of legal qualification, 5 decisions reversed for other reasons where first-instance decisions were exonerating, 5 decisions reversed for other reasons where first-instance judgments were convicting
Total received 1,449 cases Total resolved 1,431 cases							

	405	18	195	198	209	389	17
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According to the data provided by Serbian magistrates' courts which provided such data to the Commissioner, in **2022 these courts received a total of 2,392 petitions for institution of infringement proceedings for breaches of freedom of information**, all of which were lodged by information requesters as the **injured parties**. The number petitions for institution of infringement proceedings for breaches of freedom of information lodged by information requesters as the injured parties was significantly reduced compared with the previous year, namely by about 50%. This is the result of the fact that the Law amending the Law on Free Access to Information of Public Importance entered into force on 17 February 2022, under which the injured party can no longer lodge petitions for institution of infringement proceedings directly to courts; instead, they must first contact the Commissioner, i.e. lodge complaints with the Commissioner, who now has the primary authorisation to issue infringement warrant in case of “silence” of public authorities on freedom of information requests, or to lodge petitions for institution of an infringement proceeding if in the procedure pursuant to a complaint he finds that an infringement occurred that is sanctioned under the Law on Free Access to Information of Public Importance. Only after the procedure pursuant to the complaint is completed and the Commissioner finds that no petition for institution of infringement proceedings should be lodged, the information requester as the injured party can lodge a petition for institution of infringement proceedings to the competent magistrates' court. Having in mind a significant increase in the number of complaints lodged with the Commissioner in 2022, it can be concluded that cases “spilled over” from magistrates' courts to the Commissioner.

According to the data provided by the Magistrates' Court of Appeals of Belgrade⁹⁵, this Court received a total of 1,449 cases of appeals against decisions of magistrates' courts in freedom of information matters in 2022, and it resolved 1,431 cases. The Court decided on appeals as follows: **886 decisions were upheld, including:** 172 exonerating judgements, 386 convicting judgments, 177 rejected petitions and 151 decisions on termination of procedure, of which 134 terminations due to expiry of statute of limitation, 11 terminations for other reasons and 1 termination because the petitioner withdrew the petition; **138 decisions were reversed:** 26 convicting reversed to exonerating decisions, in 4 cases sanctions were made less stringent where the first-instance decisions were convicting, in 4 cases sanctions were made more stringent where the first-instance decisions were convicting, in 4 cases sanctions were reduced where the first-instance decisions were convicting, in 7 cases sanctions were made more stringent where the first-instance decisions were exonerating, 7 in terms of legal qualification where the first-instance decisions were convicting, 5 for other reasons where the first-instance decisions were convicting, 5 for other reasons where the first-instance decisions were exonerating, 1 convicting decision reversed to termination, 22 exonerating decisions reversed to termination due to expiry of statute of limitation, 48 convicting decisions reversed to termination due to expiry of statute of limitation, 3 terminations for other reasons reversed to termination due to expiry of statute of limitation and 2 rejections reversed to termination due to expiry of statute of limitation; **389 overturned decisions** pursuant to appeals against decisions of magistrates' courts (49 rejections, 120 exonerating decisions, 152 convicting decisions and 68 terminations – of which 55 terminations due to expiry of statute of limitation, 12 terminations for other reasons and 1 termination because the petition was not lodged by the authorised person); **18 decisions were**

⁹⁵ The report of the Magistrates' Court of Appeals of Belgrade Su III-19 6/22 of 23 January 2023

rejected, including: 7 exonerating, 2 due to expiry of statute of limitation, 4 decisions rejecting petitions for institution of infringement proceedings, 4 convicting and 1 termination because the petitioner withdrew the petition.

An analysis of the provided data suggests that, in 2022, similarly as in 2021, the Magistrates' Court of Appeals upheld a much higher number of convictions by magistrates' courts than had been the case in earlier years.

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government, competent for supervision of the Law on Free Access to Information, notified⁹⁶ the Commissioner that the Administrative Inspectorate handled 216 rulings passed by the Commissioner in the procedure pursuant to complaints, as well as 125 petitions in connection with application of freedom of information regulations.

In 2022, the Administrative Inspectorate submitted no petitions for institution of infringement proceedings to magistrates' courts for breaches of rights or failure to comply with statutory duties of public authorities in connection with the application of the Law on Free Access to Information, which shows that there is still no liability for disregard of these statutory duties.

3.2.4. Commissioner's Activities in connection with Publishing of Information Directories

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

The Law amending the Law on Free Access to Information of Public Importance (*Official Gazette of the Republic of Serbia* No. 105 of 8 November 2021) entered into force on 16 November 2021, and took effect on 17 February 2022. Under this Law, information directories are created in an electronic and machine-readable format and published through the Single Information System of Information Directories, kept and maintained by the Commissioner, in accordance with the Instructions on the Preparation and Publishing of Information Directories on the Work of Public Authorities. In that regard, the Commissioner undertook activities necessary for timely passing of these Instructions and introduction of the said information system. Publishing of information directories on the joint digital platform should result in improved transparency, comparability and improved data usefulness, as well as facilitated monitoring of compliance with this legal duty. The scope of public authorities subject to this duty was significantly expanded, while public authorities were given a deadline

⁹⁶ The report of the Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government No. 021-02-18/2022-01 of 30 January 2023

of one year since the Law entered into force to prepare their information directories in the information system.

In 2022, the Commissioner found the following main shortcomings of information directories while he was controlling them:

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

To mark the International Right to Know Day, celebrated every year on 28 September, the Commission for awards for the improvement of freedom of information in 2022, the president of which is the Commissioner, presented the following awards:

- In the category of national-level authorities, the award was presented to the Ministry of Human and Minority Rights and Social Dialogue;
- In the category of judicial authorities, the award was presented to the Higher Court in Novi Sad;
- In the category of provincial authorities, the award was presented to the Directorate of Commodity Reserves of the Autonomous;
- The award for the best information directory was presented to the Ministry of Culture and Information;
- In the category of local public authorities, for the first time award-winners were two local self-government authorities, namely the city of Subotica and the city of Kruševac;
- The award was not presented in the category of the highest public authorities, nor was the special award for the highest contribution to the affirmation of freedom of information.

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

3.3.1. Commissioner's Actions in Supervision

In the course of 2022, the Commissioner **closed 416** supervision procedures in total, of which 308 were initiated in 2022, while 108 were carried forward from the previous period. Out of the total number of closed supervision procedure, 266 were scheduled and 150 were unscheduled supervisions.

Supervision procedures (416) were closed as follows: 38 cases were closed that the previously conducted supervision procedure was complied with, 373 cases were closed by official notes, or replies to complainants, because it was found upon inspection that no violations of the LPDP had been committed, 2 cases were closed by petitions for institution of infringement proceedings, 1 case was closed by filing criminal charges, while 2 cases were forwarded to the Ministry of the Interior.

In cases where the Commissioner found violations of LPDP (45), he:

- Filed 2 petitions for institution of infringement proceedings against violation of LPDP,
- Filed 1 criminal report,
- Issued 42 corrective measures, including 39 warnings to data controllers and/or processors and 3 measures imposing a temporary or permanent restriction on processing activities, including a ban on processing.

The Commissioner **initiated 354 supervisions** in the course of 2022, of which 214 scheduled and 140 unscheduled supervisions.

Out of 140 unscheduled supervisions, 106 were initiated pursuant to petitions, 21 pursuant to notifications to the Commissioner of violations of the right and 13 on other grounds.

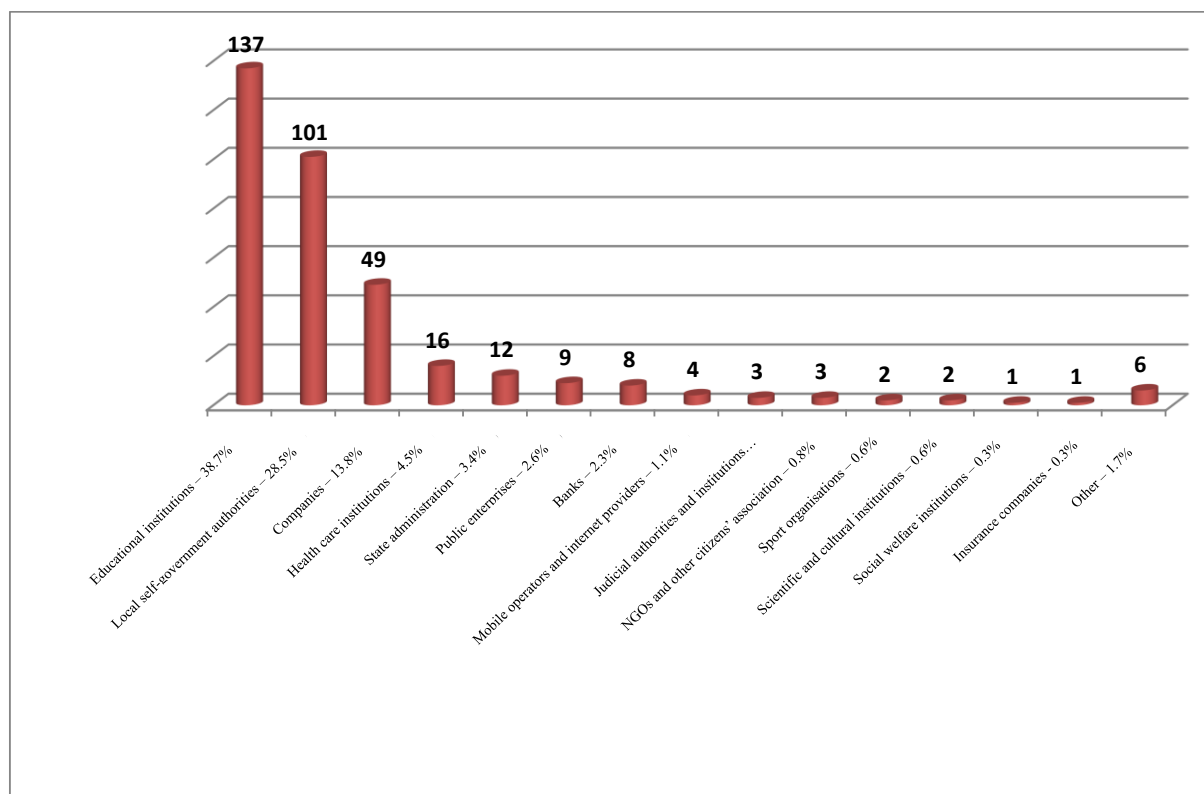
As regards the controllers subject to the Commissioner's supervision in 2022, their structure and reasons for supervision are significantly different than in the previous year. A significant number of supervision procedures were conducted in pre-school institutions and in local self-government authorities.

In terms of the reasons for supervision, the share of personal data safety increased as in the previous year, compared with all previous years, while the share of personal data and personal documents was reduced several times. In 2022, safety of personal data was at significant risk again, particularly because of introduction of new information systems, through which numerous delicate citizens' data are processed.

Thus, the controllers subject to the Commissioner's supervision in 354 procedures mainly included: educational institutions - 137 (38.7%), local self-government authorities 101 (28.5%), private companies and entrepreneurs – 49 (13.8%), health care institutions – 16 (4.5%), state administration – 12 (3.4%), public enterprises - 9 (2.6%), banks – 8 (2.3%), mobile operators and internet providers - 4 (1.1%), judicial authorities and institutions - 3

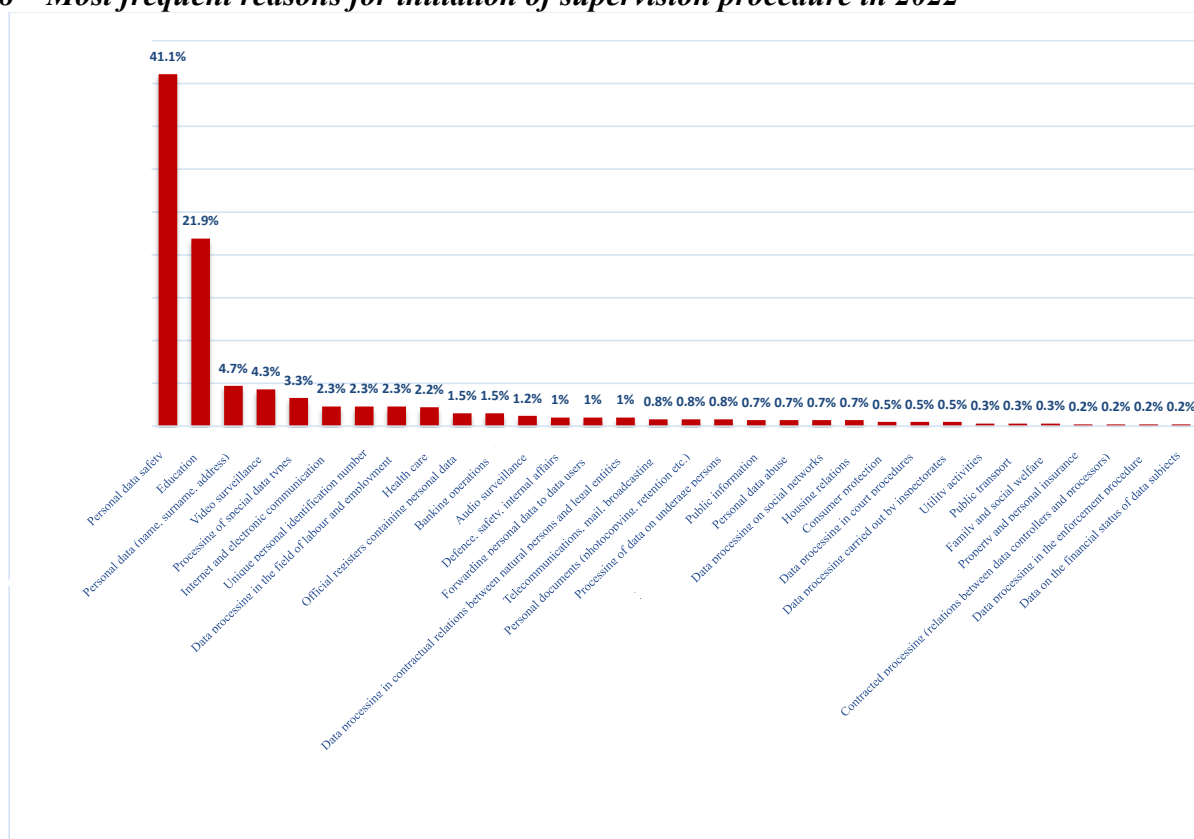
(0.8%), civil society organisations and other citizens' associations - 3 (0.8%), sport organisations – 2 (0.6%), scientific and cultural institutions y - 2 (0.6%), social welfare institutions – 1 (0.3%), insurance companies – 1 (0.3%) and other 6 - (1.7%).

Graph 17 - Structure of data controllers subject to supervision procedure in 2022



The most frequent reasons for initiation of supervision included: personal data safety (41.1%), education (21.9%), personal data (name, surname, address) (4.7%), video surveillance (4.3%), processing of special data types (3.3%), Internet and electronic communication (2.3%), unique personal identification number (2.3%), data processing in the field of labour and employment (2.3%), health care (2.2%), official registers containing personal data (1.5%), banking operations (1.5%), audio surveillance (1.2%), defence, safety, internal affairs (1%), forwarding personal data to data users (1%), data processing in contractual relations between natural persons and legal entities (1%), telecommunications, mail, broadcasting (0.8%), personal documents (photocopying, retention etc.) (0.8%), processing of data on underage persons (0.8%), public information (0.7%), personal data abuse (0.7%), data processing on social networks (0.7%), housing relations (0.7%), consumer protection (0.5%), data processing in court proceedings (0.5%), data processing carried out by inspectorates (0.5%), utility activities (0.3%), public transport (0.3%), family and social welfare (0.3%), property and personal insurance (0.2%), contracted processing (relations between data controllers and processors) (0.2%), data processing in the enforcement procedure (0.2%) and data on the financial status of data subjects (movable and immovable property) (0.2%).

Graph 18 – Most frequent reasons for initiation of supervision procedure in 2022



The Commissioner ordered **42 corrective measures**, including 39 warnings to data controllers (in 34 cases, data controllers complied with measures ordered by the Commissioner, while in 1 case the controller partially complied with the ordered measure, and in 4 cases the controllers have not informed the Commissioner on their acting); and 3 measures imposing a temporary or permanent restriction on processing activities, including a ban on processing (in all cases controllers complied with the ordered measures).

In cases where the Commissioner issued warnings (42), he found the following (irregularities) violations of the provisions of LPDP:

- Data are not processed lawfully, fairly and transparently in relation to the data subject – Article 5 paragraph 1 item 1 (23);
- Data are not collected for specific, explicit, justified and lawful purposes and are further processed in the manner contrary to those purposes – Article 5 paragraph 1 item 2 (5);
- Data are not adequate, relevant and limited to what is necessary for the purpose of processing – Articles 5 paragraph 1 item 3 (9);
- Data are not kept in the form that enables identification of data subjects only within the deadline necessary to achieve the purpose of processing – Article 5 paragraph 1 item 5 (1);
- Data are not processed in the manner which ensures appropriate personal data protection, including the protection against unauthorised or unlawful processing, as well as against unintentional loss, destruction or damage by applying appropriate technical, organisational and human resource measures – Article 5 paragraph 1 item 6 (2);

- The data controller processes personal data without the data subject's consent, or is unable to demonstrate that the data subject gave his/her consent for data processing – Articles 15 and 16. (2);
- The data controller processes special types of personal data contrary to Articles 17 and 18 (2);
- Information in accordance with Article 23 were not provided to the data subject whose data are collected (3);
- The data controller fails to undertake relevant technical, organisational and human resource measures when determining the manner of processing and during the processing – Article 42 (11);
- The data controller or the processor fails to keep statutory records of processing – Article 47 (3);
- The data controller or the processor failed to implement appropriate technical, organisational and human resource measures to achieve the appropriate safety level for the risk concerned – Article 50 (2);
- The data controller failed to perform the data safety protection impact according to Articles 54 (2);
- The data controller or the processor failed to publish contact data of personal data protection officers and failed to submit them to the Commissioner, contrary to Article 56 paragraph 11 (1).

3.3.1.1. Checklists

In 2022, the Commissioner **sent checklists** to the addresses of **2,067** data controllers data, and he performed risk assessment in 1,402 cases, where **1,399** data controllers submitted to the Commissioner completed checklists based on which the Commissioner assessed the personal data processing risk level, while **3** controllers submitted completed checklists to the Commissioner on their own initiative, based on which the Commissioner also assessed the personal data processing risk level. 38 data controllers failed to submit completed control lists even after of the Commissioner's intervention, while other procedures are pending.

The structure of data controllers to whom checklists were sent in 2022 is as follows:

- Primary and secondary education institutions (1,735), of which 2 failed to submit completed checklists to the Commissioner until the end of the reporting period, even after the Commissioner's intervention. Based on the checklists submitted until the end of the reporting period (1,106), the risk level for these data controllers was in 16 cases assessed as medium, in 688 cases as low and in 402 as negligent.
- Pre-school institutions (275), of which 35 failed to submit completed checklists to the Commissioner, even after the Commissioner's intervention. Based on the checklists submitted (240), of which 3 pre-school institutions submitted checklists to the Commissioner on their own initiative, the risk level of these data controllers was in 2 cases assessed as medium, in 181 cases as low and in 57 cases as negligent;

- Local self-government authorities (57), of which 1 failed to submit completed checklists to the Commissioner, even after the Commissioner's intervention. Based on the checklists submitted (56), the risk level of these data controllers was in 1 case assessed as high, in 8 cases as medium, in 45 cases as low and in 2 cases as negligent.

Based on all data received, the Commissioner passed the inspection plan for 2023.

From the effective date of the new LPDP to the end of the reporting period, the Commissioner sent checklists to the addresses of **4,633 data controllers**, of which risk assessment was performed in 3,680 cases, where 3,635 data controllers data controllers submitted to the Commissioner completed checklists based on which the Commissioner assessed the personal data processing risk level, while 45 data controllers submitted completed checklists to the Commissioner on their own initiative, based on which the Commissioner also assessed the personal data processing risk level. The total of 326 data controllers failed to submit completed checklists to the Commissioner.

3.3.1.2. Notifications to Commissioner of Data Breaches

Since the Law took effect on 31 December 2022, the Commissioner received **106** notifications from data controllers on personal data breaches which may result in risk for rights and freedoms of natural persons (in the period of significantly increased threats for the safety of computer networks by the so-called „crypto lockers“ and other types of ransomware), while the total of **40** of these notifications were submitted in 2022 (of which 38 were processed until the end of the reporting period), including:

- 23 companies;
- 7 banks;
- 3 mobile and internet operators;
- 3 health care institutions;
- 2 national-level public authorities;
- 1 higher education institution;
- 1 scientific and cultural institution,

which further shows that numerous controllers are still not aware of this legal duty, or more probably, they refrain from submitting notifications to the Commissioner to avoid being exposed to possible inspection and/or risk for their reputation which might affect their business and trust of clients or users of their products and/or services. This is the result of the fact that, according to the available reports, massive attacks on the ICT infrastructure of numerous data controllers occur daily in the so-called cyberspace, and the fact that 2022 will be remembered at the global level by numerous attacks by various types of ransomware that caused huge financial damage worldwide.

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

3.3.1.3. Information on Personal Data Protection Officers

In 2022, the Commissioner's Office registered **616 personal data protection officers**.

Since the effective date of the LPDP, a total of **4,378 data controllers** submitted information on their personal data protection officers to the Commissioner, of which 2,686 are public authorities, although slightly over 12,000 are subject to this legal duty.

Table 10 - Structure of data controllers that submitted information on personal data protection officers

Companies, banks and insurance companies	1,293
Educational institutions	1,293
Public authorities at the national, provincial and local level	351
Health care institutions	404
Judicial authorities and institutions	371
Social welfare institutions	172
Public enterprises	183
Scientific and cultural institutions	145
Civil society organisations and other citizens' associations, political parties and trade unions	116
Internet providers and mobile operators	22
Sport organisations and youth and sport institutions	10
The media	9
Agricultural institutions	2
Attorneys	3
Other	4

Having in mind the assumed number of entities subject to the duty to appoint personal data protection officers, publish their contact data and submit them to the Commissioner, the above number of data controllers or processors who complied with this duty until 31 December 2022 undoubtedly show the justifiability of the Commissioner's efforts to raise awareness of entities subject to LPDP by sending checklists to addresses of data controllers and through specialised trainings, and to regulate strategically the issue of personal data protection in the Republic of Serbia, which has not been done before.

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

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

3.3.1.4. Appointment of Representatives of Foreign Companies

In 2022, the Commissioner received written decisions on the appointment of representatives in accordance with LPDP from the following companies:

Table 11. – Representatives of controllers/processors headquartered outside the Republic of Serbia

Disney Plus Streaming Service (The Walt Disney Company Limited and Disney DTC EM Limited) headquartered in the UK, England and Wales	The representative of this company for the Republic of Serbia is law firm “Petrikić and Partners”, having its head office in Krunska 73, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Disney Plus Streaming Service company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
Aceville Pte. Limited headquartered in Singapore	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Aceville Pte. Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
First App Holdings Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the First App Holdings Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
High Morale Developments Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the High Morale Developments Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
Image Future Investment (HK) Limited	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in

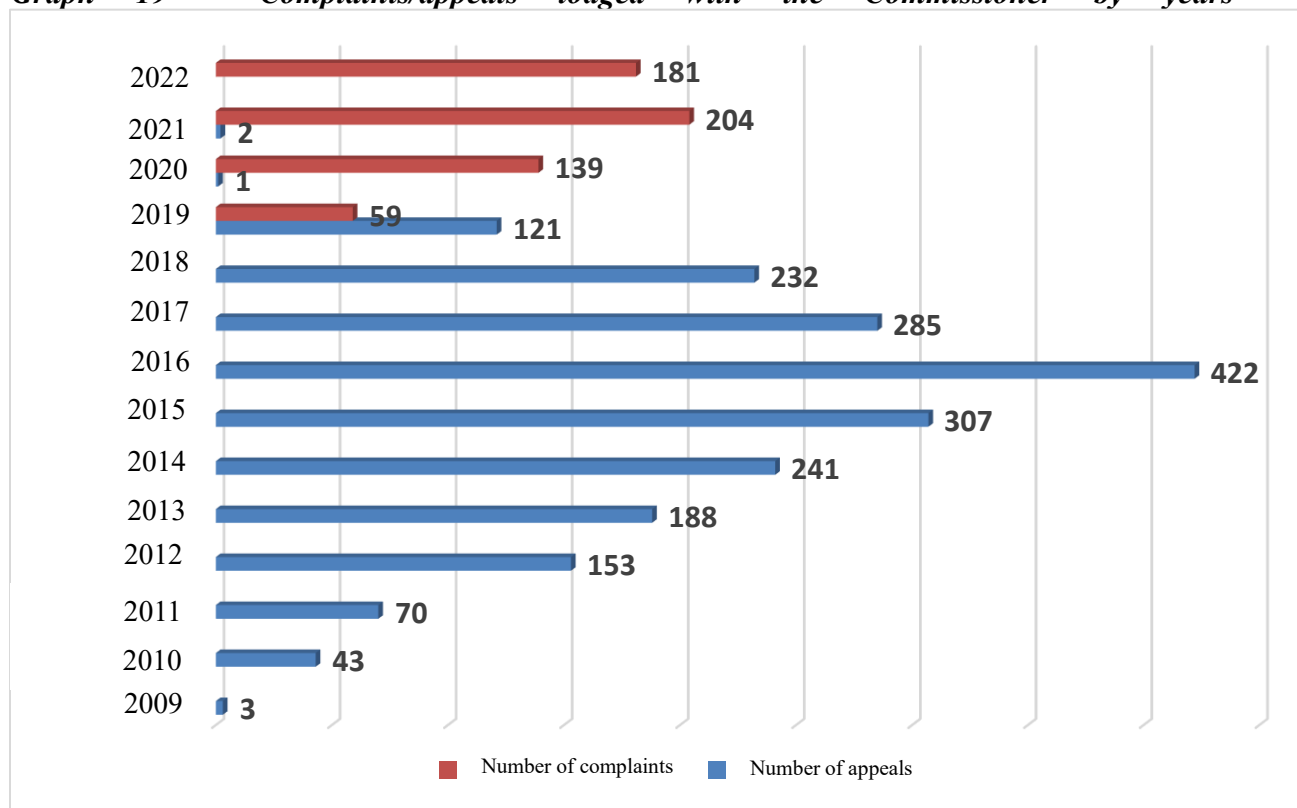
headquartered in Hong Kong	Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Image Future Investment (HK) Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
Oriental Power Holdings Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Oriental Power Holdings Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
NExT Initiatives Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the NExT Initiatives Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
Sixjoy Hong Kong Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Sixjoy Hong Kong Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
Hong Kong Gathering Media Limited headquartered in Hong Kong	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the Hong Kong Gathering Media Limited company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.
TLIVE PTE. LTD. headquartered in Singapore	The representative of this company for the Republic of Serbia is law firm “Karanović and Partners”, having its head office in Resavska 23, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the TLIVE PTE. LTD. company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.

<p>GM Europe LTD. headquartered in Malta</p>	<p>The representative of this company for the Republic of Serbia is Law Partnership “Janković, Popović and Mitić”, having its head office in Vladimira Popovića 8a, Belgrade. In accordance with the law, the Commissioner and other persons may contact this representative, in addition to the GM Europe LTD. company, or instead of it, in connection with all issues of personal data processing, with the aim of ensuring compliance with the provisions of this Law.</p>
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3.3.2. Commissioner’s Acting on Complaints

In the course of 2022, the Commissioner received **181 complaints**. In 2022, the Commissioner handled 218 complaints, of which 181 were received in 2022, while 37 were carried forward from 2021.

Graph 19 - Complaints/appeals lodged with the Commissioner by years

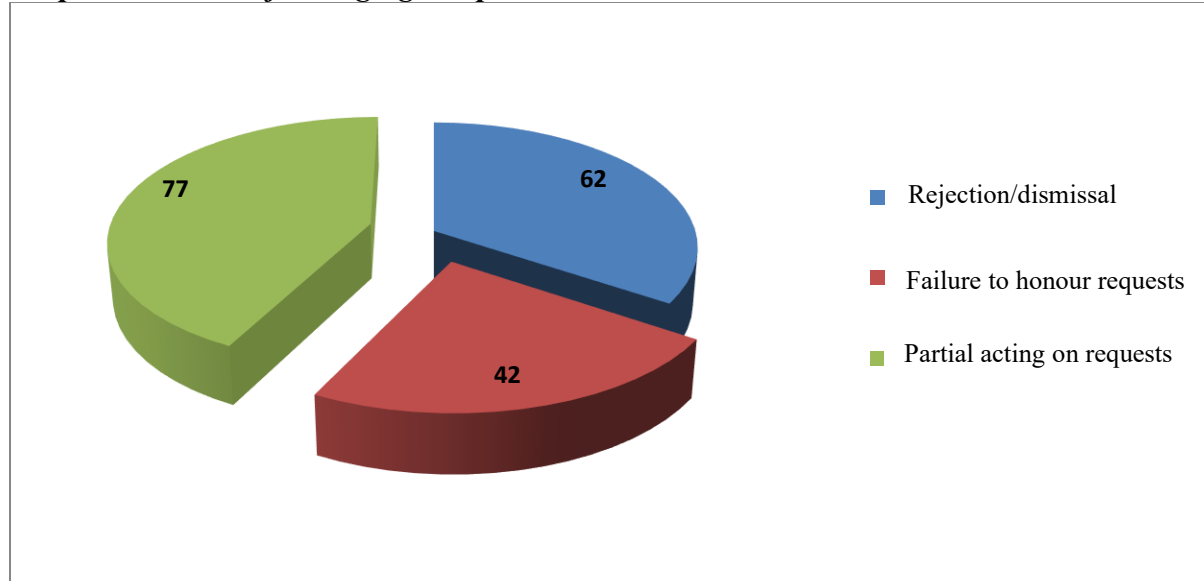


Complaints lodged with the Commissioner relate to data processed by courts and prosecutor’s offices, the Ministry of the Interior, national-level authorities, banks, centres for social work, mobile operators, educational institutions etc.

3.3.2.1. Causes for Lodging Complaints with the Commissioner

The most frequent causes for lodging complaints with the Commissioner were partial acting on requests by data controllers (77), rejection or dismissal of requests by data controllers (62) and failure to honour requests by data controllers (42).

Graph 20 – Causes for lodging complaints in 2022



1) Partial Acting on Requests

The most frequent cause for lodging complaints with the Commissioner was partial acting on requests by data controllers (77). Compared with 2021, when 18.1% of complaints were lodged on these grounds, this year the percentage was 42.5%.

The majority of complaints were lodged against partial acting on requests submitted to courts as data controllers in relation to data processed based on their judicial powers, although under Article 77 paragraph 3 of the LPDP the Commissioner is not competent for supervision over such processing.

2) Rejection/Dismissal of Requests

The next most frequent cause for lodging complaints with the Commissioner in 2022 was rejection or dismissal of requests by data controllers. Compared with 2021, when the share of complaints lodged on these grounds was 42.7%, in 2022 this share was 34.3% of the total complaints lodged with the Commissioner.

3) Failure to Honour Requests

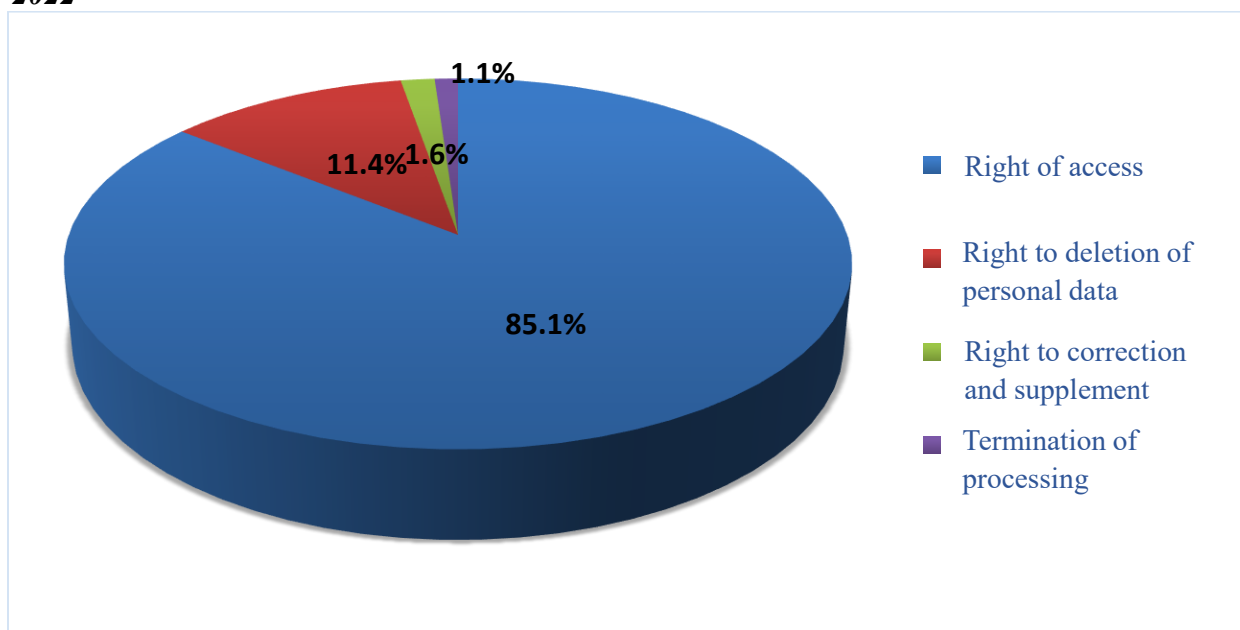
In 2022, to the Commissioner received 42 complaints against data controllers' failure to honour requests within the statutory deadline of 30 days (42). Compared with 2021, when the

share of complaints lodged on these grounds was 39.2%, the decline of the negative trend of data controllers' failure to honour requests continued and this share was 23.2% of the total complaints lodged with the Commissioner, which is a favourable indicator, however, there is still a high percentage of requests ignored by data controllers who process data.

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

The requests which resulted in the lodging of complaints with the Commissioner due to inadequate actions of data controllers included the exercise of: the right of access (85.9%), the right to deletion of personal data (11.4%), the right to correction and supplement (1.6%) and termination of data processing (1.1%).

Graph 21 – Requests which resulted in the lodging of complaints with the Commissioner in 2022



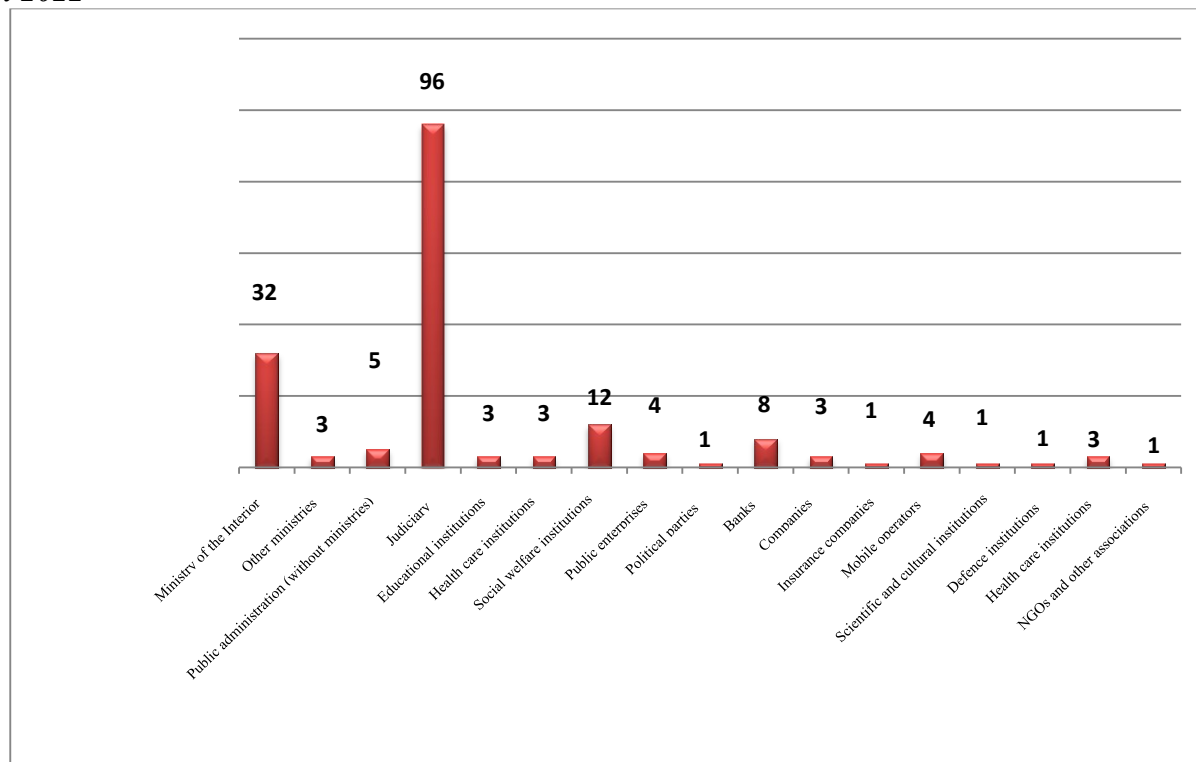
3.3.2.3. Structure of Data Controllers against Which Complaints Were Lodged with the Commissioner

The majority of complaints, as many as 164, were lodged against public authorities at all levels, i.e. authorities and organisations vested with public powers. The highest number (96) was submitted against judicial authorities and institutions as data controllers. 35 complaints were lodged against ministries, of which 32 against the Ministry of the Interior alone, and 3 against all other ministries together.

Among public authorities, the highest number of complains were lodged against courts in relation to data they process based on their judicial powers.

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

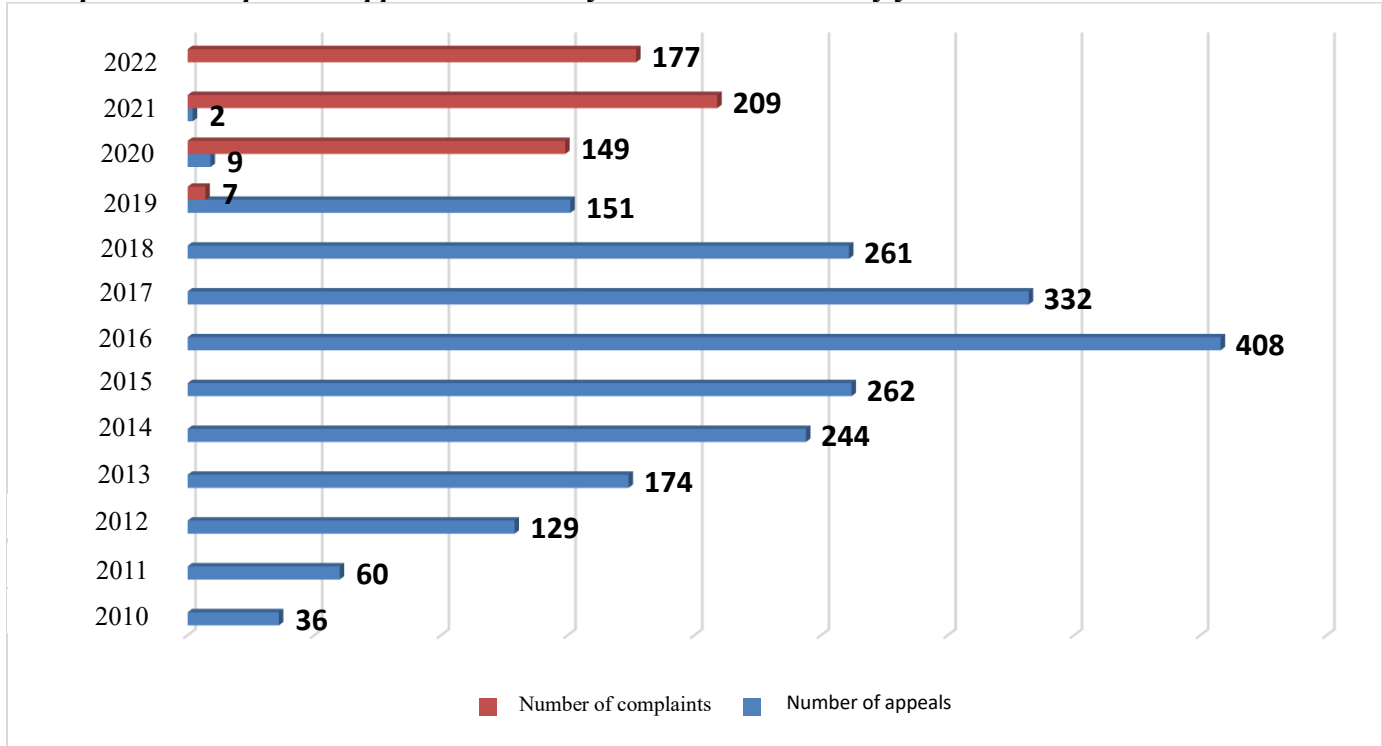
Graph 22 - Structure of data controllers against whose (in)action complaints were submitted in 2022



3.3.2.4. Complaints Resolved by the Commissioner

Out of **218 complaints** on which the Commissioner acted in 2022, **177 were resolved** (140 from 2022 and 37 carried forward from the previous year), while 41 complaints were card forward to 2023.

Graph 23 - Complaints/ appeals resolved by the Commissioner by years

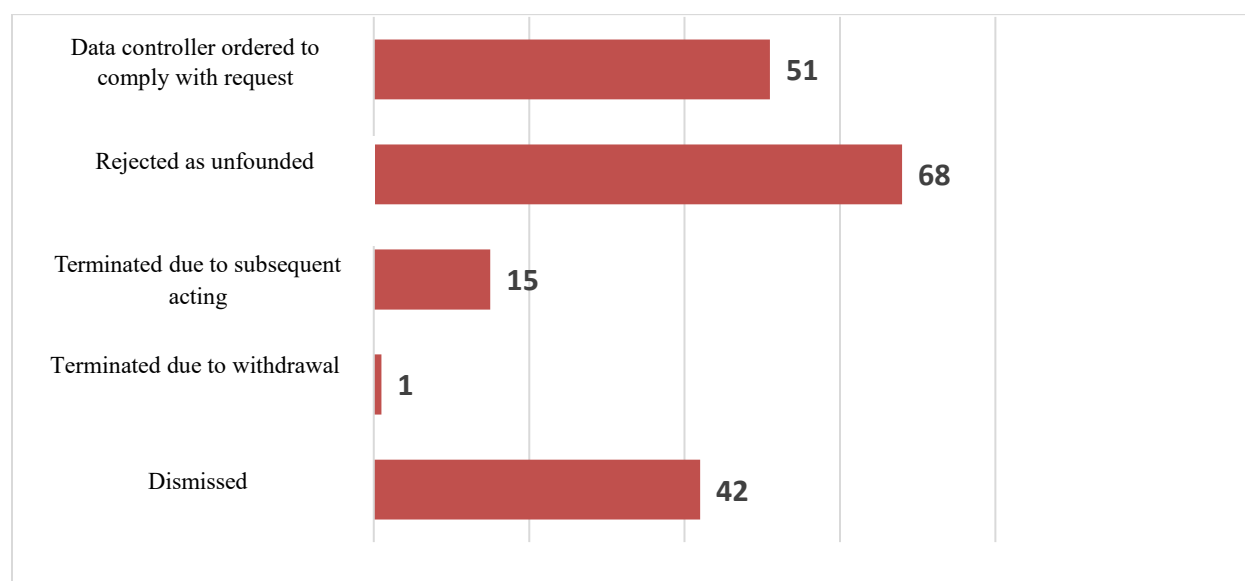


In the decisions passed pursuant to complaints lodged (177), the Commissioner found that complaints were founded in 51 cases, or 28.8%, and in all cases, rulings were passed ordering controllers to comply with requests. The Commissioner terminated the procedure by rulings in 16 cases, or 9.1%, because controllers complied with requests before the Commissioner passed decisions pursuant to complaints (15), or complainants withdrew their complaints (1). The Commissioner dismissed 42 complaints, or 23.7%, for formal reasons, while he rejected 68 complaints, or 38.4%, by rulings as unfounded.

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

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

Graph 24 - Commissioner's decisions passed pursuant to complaints in 2022



During the reporting period, the Commissioner issued the total of 51 binding and final rulings (pursuant to complaints lodged) ordering data controllers to honour the requests or to provide access to data to requesters and ordering data controllers to inform him about compliance with decisions. **47 data controllers, or 92.2%, fully complied with the Commissioner's rulings, and notified the Commissioner accordingly, while 4 data controllers, or 7.8%, failed to comply with the Commissioner's order.**

As regards orders (51) the Commissioner passed in 2022 pursuant to complaints lodged, in **41 cases, or 80.4%, the Commissioner ordered to provide access to data, in 9 cases, or 17.7%, ordered deletion of data, while in 1 case, or 1.9%, he ordered correction of data.**

Graph 25 – Measures imposed in the Commissioner's decisions in 2022



3.3.3. Transfer of Data to Other Countries or International Organisations

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

In 2022, the Commissioner acted pursuant to **3 requests** for approval of binding corporate rules. In 2 cases, requests were approved, while in 1 case the request was rejected.

In 2022, the Commissioner acted in 3 requests for transborder transfer of data, of which 1 request, namely for transborder transfer to the United States of America, was received in 2022. A total of 2 requests for transborder transfer of data were resolved, both carried forward from the previous period, by rejecting 1 request, while in 1 case the requester was informed that *the Commissioner's approval is not required for the contract in question, because* personal data would be transferred only to the territory of countries that are parties to the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, which are considered to provide an appropriate level of protecting.

3.3.4. Acting of Administrative Court on Legal Actions against the Commissioner's Decisions in Personal Data Protection

According to the information available to the Commissioner, in 2022, the Administrative Court received **13 legal actions against the Commissioner**, of which 11 were submitted to the Commissioner for reply at the moment of preparation of this Annual Report. Out of legal actions, one was filed by a complainant dissatisfied with the Commissioner's acting in the inspection procedure, while 12 were filed against decisions passed pursuant to complaints.

The majority of complaints were filed by the Ministry of the Interior (9) because of the Commissioner's order to delete from records maintained by the Ministry of the Interior the data relating to requesters or complainants.

Out of the total number of legal actions (13), 9 were filed by data controllers against rulings passed pursuant to complaints lodged. The remaining 4 legal actions were filed by petitioners dissatisfied with the Commissioner's acting in the inspection procedure (1), or complainants dissatisfied with the Commissioner's decisions (3) against rulings rejecting complaints as fully or partially unfounded.

In 2022, the Administrative Court **ruled on 14 legal actions** (all carried forward from the previous period) by rejecting legal actions as unfounded in 12 cases, dismissing one legal action and terminating the procedure pursuant to one legal action.

3.3.5. Acting of Prosecutor's Offices on Criminal Reports Filed by the Commissioner

In 2022, the Commissioner filed **one criminal report** against the criminal offence referred to in Article 146 of the Criminal Code (unauthorised collection of personal data).

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

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

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

3.3.6. Acting of Magistrates' Courts on Petitions for Institution of Infringement Proceedings Filed by the Commissioner

In 2022, the Commissioner filed **2 petitions for institution of infringement proceedings** for violations of provisions of the LPDP.

In 2022, the Commissioner filed 2 petitions for institution of infringement proceedings for violations of provisions of the LPDP against data controllers who process personal data contrary to the principles under Article 5 paragraph 1 of the LPDP-a.

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

- 216 against violations of the previous LPDP, including:
 - Failure to compile or update records (50)
 - Data processing without consent contrary to the requirements referred to in Article 12 (38)
 - Data processing contrary to the requirements referred to in Article 13 (13)
 - Personal data collecting from another person contrary to Article 14 (1)

- The data subject or other persons were not informed of the requirements referred to in Article 15 paragraph 1 before data collection (3)
- Processing of particularly sensitive data contrary to Articles 16-18 (18)
- Failure to provide the requested information, or access, or a copy of the data being processed– Article 26 paragraphs 1 and 2 and Article 27 (1)
- Failure to delete data from data collections in accordance with Article 36 (1)
- Failure to comply with the Commissioner’s ruling passed pursuant to the appeal– Article 41 paragraph 1 (4)
- Acting contrary to the duty to undertake measures referred to in Article 47 paragraph 2 (25)
- Failure to inform the Commissioner of the intention to establish a data collection within the statutory deadline – Article 49 paragraph 1 (20)
- Failure to submit to the Commissioner records or changes in a data collection within the statutory deadline – Article 51 paragraph 1 (62)
- Transborder transfer of data out of the Republic of Serbia contrary to Article 53 (2)
- Failure to ensure the Commissioner’s authorised officer to perform unobstructed supervision and failure to provide him/her access to necessary documentation and make such documentation available to him/her – Article 55 (46)
- Failure to comply with the Commissioner’s orders – Article 56 paragraph 2 (11)
- Infringements referred to in Article 57 paragraph 1 item 14 in connection with paragraph 3 (13)

and

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

- Personal data processing contrary to the processing principles referred to in Article 5 paragraph 1 (9)
- Personal data processing for other purposes contrary to Articles 6 and 7 (1)
- Failure to undertake appropriate technical, organisational and human resource measures in accordance with Article 42 when determining the manner of processing and during processing (4)
- Failure to regulate relations between joint data controllers in the manner specified in Article 43 paragraphs 2 to 4 (1)

In connection with all petitions for institution of infringement proceedings filed so far, the Commissioner received 12 decisions of magistrates’ courts **in 2022** (8 by first-instance and 4 by second-instance courts). First-instance courts passed the following decisions: 3 convicting judgments, 1 exonerating judgment, 1 petition dismissed because the statute of limitations had expired, while 3 procedures were terminated because the statute of limitations for the conduct of procedure had expired.

First-instance courts imposed the following sanctions in convicting judgments (3) to the accused: in 1 case a warning to the data controller, and in the remaining 2 fines in the total amount of RSD 50,000 for a legal entity and RSD 25,000 for responsible persons (1 fine of

RSD 20,000 and 1 fine of RSD 5,000). Having in mind the legal range of fines, it is clear that the amounts of fines is much closer to the statutory minimum than maximum.

Second-instance courts passed the following decisions: in 1 the convicting judgment was upheld and in 3 cases convicting judgments were reversed due to the expiration of the absolute statute of limitations applicable to the conduct of infringement proceedings.

The Commissioner has pointed out on several occasions, including in the process of drafting and enactment of the new Law on Misdemeanours, that the time limit of two years for expiration of the absolute statute of limitations applicable to infringement proceedings is too short.

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

During 2022, the Commissioner organised and held a number of trainings in the field of personal data protection and freedom of information. In accordance with available human and material capacities, the Commissioner organised trainings by target groups and by territorial distribution.

In addition to these trainings, as a form of continual education, in 2021/2022 the Commissioner organised a short study programme in the field of personal data protection and freedom of information with the Faculty of Security Studies of the University in Belgrade and the Faculty of Law of the University in Kragujevac.

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

Project “Strengthening the Rule of Law in Serbia”

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

After adoption of the operative plan of activities of all beneficiaries of the Project, including the Commissioner for Information of Public Importance and Personal Data Protection, a preparatory meeting between representatives of the Commissioner and the GIZ

was held on 25 November 2022, where the methodology was determined for implementation of activities **3.9.1.1. – Training in Implementation of the Law on Personal Data Protection and 3.9.1.6 - Monitoring the Implementation of the New Law on Personal Data Protection (Revised AP23)**, namely, implementation of 15 round tables and 15 panel discussions in various cities/towns in the Republic of Serbia was defined for the period from 2022 to 2025.

The first round table was held on 21 December 2022 in Novi Sad. The event was opened by the Commissioner, while the training was held by a local expert in personal data protection and a representative of the Commissioner's office, an accredited lecturer.

Trainings and lectures held by the Commissioner include the following:

- On 3, 10, 17 and 24 February 2022, acting Assistant Secretary General of the Commissioner held four trainings for the second generation of students at the Faculty of Security Studies in Belgrade who are in work placement arrangements at the Commissioner's Office as part of the programme **Training for Managers in Personal Data Protection**;
- On 22. February 2022, acting Assistant Secretary General held an online training on the implementation of the Law on Free Access to Information of Public Importance, which was organised by the National Academy of Public Administration;
- On 3 and 10 March 2022, acting Assistant Secretary General of the Commissioner held two trainings for the second generation of students at the Faculty of Security Studies in Belgrade who are in work placement arrangements at the Commissioner's Office as part of the programme **Training for Managers in Personal Data Protection**;
- During April 2022, the Commissioner and the Deputy Commissioner held a number of online lectures in the fields of access to information of public importance and personal data protection for participants in a short study programme at the Faculty of Law of the University in Kragujevac;
- A two-day work placement for students at the Faculty of Law of the University in Belgrade was organised from 11 to 22 April 2022 as part of the internship programme in public administration;
- Work placement for students at the Faculty of Law of the University in Belgrade was organised from 11 to 22 April as part of the cooperation programme with the Environmental Law Clinic;
- In early May 2022, the Commissioner and the Deputy Commissioner delivered closing lectures on the subjects of freedom of information and personal data protection to the participants of a short study programme at the Faculty of Law of the University of Kragujevac;
- On 13 May 2022, the Commissioner and the Deputy Commissioner delivered a lecture for third-year undergraduate students of the Faculty of Organisational Sciences of the University of Belgrade on the subject of personal data protection and the Commissioner's years-long practice in this area;

- On 18 May 2022, a representative of the Commissioner held a training on the application of the Law on Personal Data Protection for employees at the National Pension and Disability Insurance Fund;
- Acting Assistant Secretary General held lectures on freedom of information for members of local self-governments in Kragujevac on 5 May 2022, in Novi Sad on 16 May 2022 and in Veliko Gradište on 30 May 2022, which were organised by the Standing Conference of Towns and Municipalities;
- Acting Assistant Secretary General held on 2 June 2022 a training for employees at the Civil Aviation Directorate on application of the Law on Free Access to Information of Public Importance;
- Acting Assistant Secretary General held trainings in freedom of information for members of local self-governments in Šabac on 13 June 2022, in Vrnjačka banja on 20 June 2022 and in Niš on 27 June 2022, which were organised by the Standing Conference of Towns and Municipalities;
- Representatives of the Commissioner's Office held on 14 June 2022 a thematic training for employees at the Medicines and Medical Devices Agency to eliminate any doubts in application of the Law on Personal Data Protection and sectoral regulations. The focus was on processing of special types of personal data;
- Representatives of the Commissioner's Office held on 17 and 22 June 2022 trainings for employees at the Higher Prosecutor's Office and basic prosecutor's offices in Belgrade. This was the first thematic training held for members of competent authorities that process data for special purposes;
- Acting Assistant Secretary General held an online training in freedom of information for members of local self-governments in Belgrade on 8 July 2022, which was organised by the Standing Conference of Towns and Municipalities;
- Representatives of the Commissioner's Office held on 22 July 2022 *online* training on implementation of the Law on Personal Data Protection. Persons who expressed interest in this training included members of regulatory authorities, public enterprises, social welfare institutions, lawyers and other persons. The purpose of training was to provide information on the provisions of the Law and to eliminate any doubts in its implementation;
- On 30 September 2022, the Commissioner and his associate held a lecture on the amendments to the Law on Free Access to Information, as well as in connection with the duty to publish information directories and infringement liability of public authorities, which was organised by Paragraf Lex;
- On 18 October 2022, representatives of the Commissioner's Office, held a lecture on the process of preparation and publishing of information directories in the Single Information System kept and maintained by the Commissioner and on submission of annual reports to the Commissioner, which was organised by the Standing Conference of Towns and Municipalities;
- The Deputy Commissioner and acting Assistant Secretary General of the Commissioner held lectures as part of a short study programme on personal data protection at the Faculty of Law in Kragujevac on 18 and 25 October 2022;

- On 26 October 2022, representatives of the Commissioner's Office held in Bujanovac a professional training titled **Right of Access to Information of Public Importance and Personal Data Protection** for members of local self-governments and the media in Pčinjski and Jablanički districts. The event was organised in cooperation with the OSCE Mission in Serbia, the Office of the Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa and the Standing Conference of Towns and Municipalities;
- On 1 November 2022, a representative of the Commissioner's Office held a training for members of all categories of public authorities in preparation and publishing of information directories of public authorities, which was organised by Milveco Consulting;
- A training/round table (organised jointly by OSCE and SCTM) on implementation of the laws within the sphere of competences of the Commissioner was held on 2 November in Novi Pazar for public authorities and local media;
- On 4 November 2022, representatives of the Commissioner's Office held a lecture on the application of the Law on Free Access to Information of Public Importance for employees in the Belgrade Waterworks and Sewerage;
- On 7 November 2022, a representative of the Commissioner's Office held a training for members of all categories of public authorities in preparation and publishing of information directories of public authorities, which was organised by the Obrazovni Informator (Educational Bulletin) company;
- The Commissioner held a lecture on 8 November 2022 on the powers of the Commissioner for Information of Public Importance and Personal Data Protection in the field of personal data protection, at the first Privacy School implemented by the Partners-Serbia organisation;
- On 8 November 2022, a representative of the Commissioner's Office held a training in Novi Sad on the application of the Law on Free Access to Information of Public Importance for employees in the provincial administration;
- On 8 November 2022, a representative of the Commissioner's Office held an online training in the application of the Law on Free Access to Information of Public Importance for persons interested in acting on requests;
- On 9 November 2022, a training/round table (organised jointly by OSCE and SCTM) was held in Niš on the topic of application of the laws within the sphere of competences of the Commissioner for public authorities and local media;
- On 9 November 2022, a representative of the Commissioner's Office held three presentations on the work of the institution of the Commissioner at the online Fair of Student Work Placement in Public Administration organised by the MPALSG;
- Representatives of the Commissioner's Office held on 9 November 2022 in Niš a round table (jointly organised with OSCE and SCTM) on the topic of freedom of information and the right to personal data protection;
- The Commissioner held on 15 November 2022 a lecture on the role and importance of the institution of the Commissioner for Information of Public Importance and Personal Data Protection for the third-year students at the criminal investigation studies of the

University of Criminal Investigation and Police Studies. The lecture was organised as part of the course Community Police;

- On 18 November 2022, lecturers in the Commissioner's Office held a training in the application of the Law on Personal Data Protection for members of health care institutions in the territory of the city of Novi Sad and other municipalities in the Južnobački district;
- On 22 November 2022, acting Assistant Secretary General held an online training on the application of the Law on Free Access to Information of Public Importance, which was organised by the National Academy of Public Administration;
- On 23 November 2022, a representative of the Commissioner's Office held an online training for members of all categories of public authorities in preparation and publishing of information directories of public authorities, which was organised by in Milveco Consulting;
- During the course of November 2022, the Commissioner, the Deputy Commissioner and acting Assistant Secretary General of the Commissioner held a number of lectures in freedom of information and personal data protection for the second group of students at the short study programme at the Faculty of Law in Kragujevac;
- On 7 December 2022, the Commissioner and a representative of the Commissioner's Office held a lecture for members of public authorities in the city of Valjevo on amendments to the Law on Free Access to Information of Public Importance, as well as publishing of information directories of public authorities and submission of annual reports to the Commissioner on compliance with the Law on Free Access to Information of Public Importance;
- On 13 December 2022, the Commissioner and the Deputy Commissioner held a lecture for employees in German Agency for International Cooperation (GIZ) on the topic of the Law on Personal Data Protection and its implementation in the Republic of Serbia;
- On 21 December 2022, a training on application of the Law on Personal Data Protection was held in Novi Sad with support from German Agency for International Cooperation (GIZ) for members of various public authorities;
- On 23 December 2022, a training on application of the Law on Personal Data Protection was held for members of the National Organisation of Persons with Disabilities.

4. COMMISSIONER'S COOPERATION

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

4.1.1. Conferences

- The **Data Protection Day** was marked on 28 January 2022, and the Commissioner commented on the period since he took office in the institution and the development of the Commissioner and his Office in that period. The Commissioner pointed to the development and expansion of the capacities of the Office in the previous period, as well as the perspective of its further development in accordance with the expanded powers in both fields of human rights it protects. The Commissioner referred to cooperation with higher education institutions through short study programmes on various faculties. The Deputy Commissioner presented the latest publication titled **Personal Data Protection: Commissioner's Attitudes and Positions**. She commented on the current situation in the field of personal data protection, with a special focus on the work on adoption of the Personal Data Protection Strategy, undertaking initiatives and measures to raise awareness of school-age children and youth of personal data protection, particularly the Commissioner's initiative to introduce personal data protection in the curricula of primary and secondary schools. She particularly emphasized the importance of introduction of the legal opportunity to bring the Commissioner closer to citizens of Serbia living outside Belgrade by opening offices in Kragujevac, Novi Sad and Niš;
- The Council of Europe marked the Data Protection Day, 28 January, in 2022 by organising an online **Conference on the Convention 108+**. The Assistant Secretary General of the Commissioner's Office attended the conference on behalf of the Commissioner's Office.
- On 28 January 2022, a representative of the Commissioner's Office took part in an online conference where the Report on Monitoring the Situation in the Judiciary for 2021 was presented. The conference was organised by the Lawyers' Committee for Human Rights YUCOM and the European Policy Centre.
- On 9 March 2022, the Commissioner attended the Conference to mark the International Women's Day;
- On 23 March 2022, a representative of the Commissioner's Office attended the conference **Digitalisation of Green Data**, organised by the Environmental Protection Agency;
- On 25 March, 2022, acting Assistant Secretary General attended the online conference titled **"Fight against Torture and Other Forms of Abuse in Serbia"**, organised by the Belgrade Centre for Human Rights;
- On 25 March 2022, a representative of the Commissioner's Office attended a conference on the fight against femicide, international standards and jurisprudence in

Bosnia and Herzegovina, organised by the AIRE Centre and the Supreme Court of the Federation of Bosnia and Herzegovina with support from the U.K. Government;

- A representative of the Commissioner participated in the International Open Data Conference held on 18-20 May 2022 in Skopje, North Macedonia;
- On 19 and 20 May 2022, the Commissioner and the Deputy Commissioner took part in the jubilee **30th Conference of European Data Protection Authorities** in Cavtat, Croatia;
- The Advisor of the Commissioner attended the conference “**Awareness Rising of Women Who Are Victims of Violence - Statistics on Gender-Based Violence**” from 7 to 9 June 2022 on Zlatibor, which was organised by the Statistical Office of the Republic of Serbia as part of the Regional Programme IPA 2017 – Multi-Beneficiary Statistical Cooperation Programme;
- On 16 June 2022, representatives of the Commissioner’s Office attended the conference “**Digital Immunity - Media Culture in Digital Age**”;
- On 20 June 2022, a representative of the Commissioner’s Office attended the 28th **Conference of the Regional Association of the Blind of the Balkans**. The Conference was organised by the Serbian Blind Union in cooperation with the Ministry of Labour, Employment, Veteran and Social Affairs;
- On 27 June 2022, the Commissioner and a representative of the Commissioner’s Office took part in the conference “**Democracy, Minimum Consensus**” at the panel discussion titled “**Discussion Tables on the Parliament**”, organised by CRTA organisation. In his address, the Commissioner talked about previous cooperation with the National Assembly and certain committees, the presentation of annual reports, as well as correspondence in connection with some specific initiatives. On that occasion, the Commissioner proposed that the National Assembly in the future reviews separately and individually annual reports of independent state authorities by reviewing each authority’s report on a separate session of the National Assembly;
- A representative of the Commissioner’s Office attended on 30 June 2022 the National Conference organised as part of the project “**SMART Balkans – Civil Society for Shared Society in the Western Balkans**”;
- In the period from 5 to 8 September 2022, a representative of the Commissioner’s Office took part in the conference titled “**Personal Data Processing on the Internet**”, held in Ohrid, north Macedonia;
- On 22 September 2022, a representative of the Commissioner’s Office attended the conference titled “**Strengthening Intergenerational Relations**”;
- On 27 September 2022, the conference “**Information is Power – Strengthening the Role of Parliament in Improvement of Transparency in Work of Public Authorities**” was held, which was attended the Commissioner and a representative of the Commissioner’s Office;
- On 28 September 2022, the Commissioner and his associates marked the **International Right to Know Day**. The ceremony was attended by guests from international organisations, representatives of diplomatic corps, public authorities, local self-government authorities and the media. Awards were presented at the event to public authorities for contribution to the exercise of the right to know and for the best

information directory of public authorities. On this occasion, the 11th publication of the Commissioner's Office in the field of freedom of information "**Freedom of Information: Commissioner's Attitudes and Opinions**" was also presented. Awards were presented to authorities for the improvement of the right of free access to information for 2022. In the category of national-level authorities, the award was presented to the Ministry of Human and Minority Rights and Social Dialogue, in the category of judicial authorities the award was presented to the Higher Court in Novi Sad, in the category of provincial authorities to the Directorate of Commodity Reserves of the Autonomous Province of Vojvodina, and for the best information directory to the Ministry of Culture and Information. In the category of local public authorities, for the first time award-winners were two local self-government authorities, namely the city of Subotica and the city of Kruševac. The award was not presented in the category of the highest public authorities, nor was the special award for the highest contribution to the affirmation of freedom of information;

- The Commissioner, the Deputy Commissioner and acting Assistant Secretaries General of the Commissioner participated on 6 and 7 October 2022 in the third international conference "**Initiative 2020**" in Struga, North Macedonia, where they concluded with their colleagues engaged in the protection of freedom of information in the territory of former Yugoslavia that the future of the exercise of this right requires a proactive instead of restrictive approach and provision of more information on the work of public authorities through increased visibility of their work achieved by publishing of more pieces of information in that regard;
- The Commissioner and the Deputy Commissioner attended the conference held to mark the Serbian Inspectors' Day, organised in Čačak on 15 October 2022 by the Serbian Inspectors' Network (MINS) under the working title "**Inspectorates in Serbia – A Century in Service of the Protection of Lawfulness**";
- On 27 and 28 October 2022, representatives of the Commissioner's Office participated in the international scientific expert conference on the protection of human rights "**From Childhood to the Right to Dignified Old Age - Human Rights and Institutions**" organised by the Provincial Ombudsman. The conference was attended by Ombudsmen in the region and local Ombudsmen, as well as exhibitors/authors, representatives of academic, research and development, independent and other relevant institutions and organisations from more than 10 countries;
- On 31 October 2022 a representative of the Commissioner took part in the national cyber conference "**2022 Let's Be Cyber Aware**";
- The Commissioner attended on 8 November 2022 the conference titled "**New Judicial Laws in the Interest of All Citizens – Challenges and Solutions**" organised by the Judges and Prosecutors' Association of Serbia, in cooperation with the Judicial Academy and the Magistrates' Court Judges' Association;
- On 10 November 2022, acting Assistant Secretary General of the Commissioner participates as a panellist in the conference "**3rd JPM International Data Protection Conference – Artificial Intelligence in Healthcare and Pharmacy - Data Management in Cloud Systems**" organised by the law office Janković, Popović, Mitić.

- On 16 November 2022, a representative of the Commissioner's Office attended a conference to mark the International Day for Tolerance;
- On 24 and 25 November 2022, representatives of the Commissioner's Office attended the conference titled "**Designed Society – Artificial Intelligence and Freedom of Expression**" organised by the Ministry of Information and Telecommunications with OSCE;
- On 8. December 2022, representatives of the Commissioner's Office participated in the conference "**Implementation of Anti-Money Laundering and Counter-Financing of Terrorism Mechanisms – Achievements and Challenges**" organised by ABA ROLI;
- On 13 December 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner participated in the conference titled "**10th Lap Time**" organised by the US Chamber of Commerce in Serbia (AmCham Serbia);
- Дана 14. December 2022, the Commissioner's Advisor attended the Final Conference of the project "**Glass Waste Management in the Western Balkans**" entitled "**The Bell Calls, Recycle Glass**";
- On 15. December 2022, a representative of the Commissioner attended the **#3Erste Security & Fraud Conference**;
- On 20 December, the Commissioner # took part in the conference "**EU for the Rule of Law in Serbia**", which presented and promoted the programme funded by the European Union and implemented in partnership between EU Member States, Council of Europe, OSCE and the United Nations Office for Project Services (UNOPS);
- On 22 December 2022, representatives of the Commissioner attended the conference "**Corruption Risks in Legislation and Lobbying in Serbia**", in which Transparency Serbia presented its analysis to the public.
- On 28. December 2022, representatives of the Commissioner's Office participated in the conference "**Institutional Response to Femicide in the Republic of Serbia**";

4.1.2. Meetings

- Representatives of the Commissioner's Office participated in the Working Group for preparation of the Personal Data Protection Strategy for the period 2023-2030;
- Representatives of the Commissioner's Office participated in the Working Group for preparation of the Working Draft Law on Registries, Records and Data Processing in Judiciary, organised by the Ministry of Justice;
- On 12 January 2022, the Commissioner held a meeting with representatives of the Association of Students with Disabilities;
- On 1 February 2022, a representative of the Commissioner participated in the 8th online meeting of the Special Group for Public Administration Reform;
- On 2 February 2022, the Commissioner and the Assistant Secretary General of the Commissioner held a meeting with representatives of the Ministry of Health in connection with the Bylaw on Forms in Health Care System;
- On 9 February 2022, representatives of the Commissioner's Office had a meeting with representatives of the National Council of the Roma national minority and talked about

the application of amendments to the Law on Free Access to Information of Public Importance;

- A representative of the Commissioner attended on 25 February 2022 a meeting of the Coordination Body for implementation of the Action Plan for Chapter 23: Judiciary and Fundamental Rights;
- On 7 March 2022, the Commissioner and his associates met with representatives of the Ministry of the Interior in connection with an initiative of that Ministry for amendments to the Bylaw on Forms in Health Care System;
- On 11 March 2022, a representative of the Commissioner's Office attended the first meeting of the Special Working Group on preparation of the Proposal of the Action Plan for Implementation of the Strategy for Creating a Stimulating Environment for the Development of Civil Society in the Republic of Serbia for the period from 2022 to 2023, organised by the Ministry for Human and Minority Rights;
- On 11 April 2022, the Commissioner and his associates held a meeting with representatives of the Ministry of Labour, Employment, Veteran and Social Affairs, where they exchanged opinions and the Commissioner provided a number of recommendations regarding the implementation of new provisions of the Law on Free Access to Information of Public Importance, which took effect on 17 February 2022;
- On 21 April 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office participated in a meeting held at the Ministry of European Integration. The topic of the meeting was the initial meeting on planning of project activities and the use of EU and development assistance funds;
- On 5 May 2022, a representative of the Commissioner's Office took part in a meeting on donor support in the field of public reform;
- On 6 May 2022, a representative of the Commissioner's Office attended a meeting of the Special Working Group on Preparation of the Fourth and Fifth Periodic Reports of the Republic of Serbia on Implementation of the UN Convention on the Rights of the Child. The aim of the meeting was to analyse civil society reports so the national report could incorporate them and formulate a unified reply, together with a potential proposal for addressing issues in the coming period and ensuring the best possible reporting;
- On 13 May 2022, a representative of the Commissioner's Office took part in a meeting with representatives of the Ministry of the Interior on the impact assessment of biometric data processing by a video surveillance system on citizens' rights and freedoms in the context of the Draft Law on Internal Affairs;
- On 19 May 2022, acting Assistant Secretary General of the Commissioner attended the 5th meeting of members of the Coordination Body for implementation of the Action Plan for Chapter 23: Judiciary and Fundamental Rights;
- On 24 May 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office took part in a meeting of the Sectoral Working Group on (IPA);
- On 25 May 2022, the Commissioner and associates had a meeting with representatives of the Ministry of Culture and Information, with whom he exchanged opinions and provided a number of explanations and recommendations concerning the application of

the new provisions of the Law on Free Access to Information of Public Importance, which took effect on 17 February 2022;

- On 25 May 2022, acting Assistant Secretary General of the Commissioner and her associates had a meeting with representatives of the “Propulsion” foundation where they considered previous and future partner activities;
- On 20 June 2022, the Commissioner, the Deputy Commissioner and their associates held a meeting with representatives of the Ministry of Trade, Tourism and Telecommunications in connection with the application of the Law on Personal Data Protection in the fields within the sphere of competences of that Ministry;
- On 21 June 2022, a representative of the Commissioner’s Office attended the third meeting of the Special Working Group on preparation of the Proposal of the Action Plan for Implementation of the Strategy for Creating a Stimulating Environment for the Development of Civil Society in the Republic of Serbia, where the final text of the Action Plan was prepared;
- Representatives of the Commissioner’s Office attended on 22 June 2022 the first meeting of the Steering Committee of the project for Chapter 23 **Strengthening the Rule of Law in Serbia** (EU for the fight against corruption and for fundamental human rights). The implementing agency of the project is the Ministry of Justice. The meeting was attended by representatives of the EU Delegation, representatives of the consortium (GIZ, ADA, CMPA and OEBS) and institutions of the Republic of Serbia as main beneficiaries of the project. The project is financed by the EU, and co-financed by the German Federal Ministry of Economic Cooperation and Development and the Austrian Development Cooperation;
- On 23 June 2022, a meeting was held with representatives of the Business Registers Agency in connection with the Agency’s dilemmas regarding the application of regulations providing for free access to information of public importance due to increasingly frequent requests for access to data and documentation in the Central Records, referencing to the Law on Free Access to Information of Public Importance;
- On 4 July 2022, representatives of the Commissioner’s Office took part in the fourth meeting of the Working Group on preparation of the Working Draft Law on Registries, Records and Data Processing in Judiciary, organised by the Ministry of Justice;
- On 6 July 2022, a representative of the Commissioner’s Office participated in a meeting of the Stabilisation and Association Committee;
- On 12 July 2022, the Commissioner had a meeting with the Dean of the Faculty of Law of the University in Belgrade and a professor at the Public Law Department, where they addressed the conclusion of a cooperation agreement between these two higher education institutions and the Commissioner, as well as introduction of a short study programme in the fields within the sphere of competences of the Commissioner;
- On 12 July 2022, representatives of the Commissioner’s Office participated in the first meeting of the Intersectoral Working Group for preparation of the Action Plan for Serbia’s Entry in the Schengen area, organised by the Ministry of the Interior;
- On 14 July 2022, the Commissioner and his associates held a meeting with representatives of the Union of Associations for Assistance to Persons with Autism in connection with personal data protection issues;

- On 22 July 2022, the Commissioner, the Deputy Commissioner and the Commissioner's Advisor held a meeting at the City Administration building in Novi Sad with Mayor of Novi Sad and his deputy in connection with opening of the Commissioner's office in Novi Sad;
- On 26 July 2022, acting Assistant Secretary General of the Commissioner participated in a meeting of the Coordination Body for implementation of the Action Plan for Chapter 23: Judiciary and Fundamental Rights. Participants in the meeting reviewed and adopted the Report on Implementation of the Revised AP23 for Chapter 23: Judiciary and Fundamental Rights for the second quarter of 2022, and they also reviewed the Report on Early Warning Mechanism for Chapter 23 and the first Draft Report on Self-Evaluation of Compliance with Interim Criteria of Chapter 23 based on impact indicators in the Action Plan for Chapter 23;
- The Commissioner and the Deputy Commissioner held on 11 August 2022 a meeting with the Director of the State Archives of Serbia at the Commissioner's Office premises;
- On 25 August 2022, the Commissioner and the Deputy Commissioner held a meeting with representatives of the City Council of Novi Sad in connection with the application of the Law on Personal Data Protection in the fields within their sphere of competences;
- The Commissioner held on 8 September 2022 a meeting with the Higher Public Prosecutor in Belgrade, when the Commissioner informed the prosecutor about serious abuse of the right of access to information of public importance faced by this institution in August and September. In addition, the Commissioner commended efforts of the Higher Public Prosecutor's Office on improvement of transparency of the work of that authority, which significantly reduced the number of requests for access to information of public importance by establishing the Public Relations Service;
- On 20, September 2022, the Commissioner's Advisor and representatives of the Commissioner's Office participated in the second meeting of the Steering Committee of the project for Chapter 23 **Strengthening the Rule of Law in Serbia (EU for the fight against corruption and for fundamental human rights)**;
- On 24 October 2022, a representative of the Commissioner participated in an online meeting organised by the Ministry of Public Administration and Local Self-Government in connection with technical preparations for the Fair of Student Work Placement in Public Administration;
- On 28 October 2022, acting Assistant Secretary General of the Commissioner took part in a meeting of the Coordination Body for Implementation of AP23: Judiciary and Fundamental Rights which addressed the implementation of recommendations of the Coordination Body made at the previous meeting, significant delays in implementation of AP23 and overview of activities due in the fourth quarter of 2022 and in the first quarter of 2023;
- The Commissioner and the Deputy Commissioner held on 6 December 2022 a meeting with the Director of the State Archives of Serbia and his associates. The parties discussed relevant aspects of application of the Law on Personal Data Protection in the field of archival science;

- On 16 December 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office held a meeting with representatives of the "Zdravo pravo" association;
- Representatives of the Commissioner's Office took part in a working meeting on the subject "Protocol of Cooperation between Civil Society Organisations and Economic Operators in Early Public Consultations". This initiative of the Renewables and Environmental Regulatory Institute (RERI), implemented within the framework of the project "**Improving Cross-Departmental Dialogue and Public Cooperation Models in Environmental Impact Assessment Processes**", was held on 21 December 2022.

4.1.3. Events

- On 24 January 2022, the Commissioner participated in an event relating to the project "**Reclaiming Privacy: A Tool to Fight Oppression**" organised by Partners-Serbia. The project provides support to human rights defenders, civil society organisations and vulnerable groups in defence of the right to privacy;
- On 25 January 2022, the Commissioner attended an event where the best athletes with disabilities for 2021 were selected. The project provides support to human rights defenders, civil society organisations and vulnerable groups in defence of the right to privacy;
- On 11 February 2022, the Commissioner and the Dean of the Faculty of Law in Novi Sad signed the Agreement on Educational, Scientific and Business Cooperation. On that occasion, the Commissioner held a lecture on the topic "**Preparing for Application of the Amended Law on Free Access to Information of Public Importance**";
- On 25 February 2022, a representative of the Commissioner's Office attended an online meeting at the Faculty of Law of the UNION University in Belgrade on the position of local ombudsmen in municipalities and cities/towns of Serbia;
- On 28 February 2022, the Commissioner ceremonially opened a short online study programme at the Faculty of Law in Kragujevac. On that occasion, he talked about the beginning of implementation of amendments to the Law on Free Access to Information of Public Importance, which introduced important novelties and changes in this field, as well as about the application of the Law on Personal Data Protection;
- On 1 March 2022, a representative of the Commissioner attended the *online* presentation of the Annual Report on Human Rights in Serbia by the Belgrade Centre for Human Rights;
- On 16 March 2022, the Commissioner attended a ceremony at the City Assembly of Belgrade organised by the Belgrade Student Association to mark the 85th anniversary of the "Student" magazine. The Commissioner received a certificate of appreciation for years-long cooperation and selfless contribution to student activism;
- On 16 March 2022, a representative of the Commissioner's Office attended a session of the Council for Monitoring the Implementation of the Recommendations of the UN Human Rights Mechanism organised by the Ministry of Human and Minority Rights.

- On 22 March 2022, the Commissioner attended an event organised by the joint project of the European Union and the Council of Europe titled “**Strengthening Effective Legal Remedies to Human Rights Violations in Serbia**” with Partners for Democratic Change Serbia. On that occasion, the Guidelines for Standards of the Use of Biometric Data Based on Automated Facial Recognition resulting for the case law of the European Court of Human Rights were presented;
- The Ministry of European Integration, in cooperation with the French Embassy, organised on 23 March 2022 an online lecture titled “**Processing of Personal Data for Special Purposes according to Directive 2016/680**” for employees in the Commissioner’s Office;
- On 30 March 2022, the Commissioner and a representative of the Commissioner’s Office took part in an expert meeting titled “**Introduction of Video Surveillance in Local Self-Governments and Personal Data Protection**”, where the Commissioner talked about the legal framework and the duties of local self-governments in introduction and use of video surveillance. He also emphasized the need to regulate this field systematically;
- On 9 May 2022, as part of the Environmental School Law, the Commissioner participated in the panel discussion titled “**Power of Environmental Information and Environment Protection in Practice of Independent Bodies**”, which was organised by the Faculty of Law of the University of Belgrade;
- On 11 May 2022, the Commissioner participated in the scientific and expert meeting titled “**Alternative Sanctions and Measures in Criminal Law**”, organised by the Faculty of Law of the “Union” University and the Institute of Criminological and Sociological Research;
- On 16 May 2022 a representative of the Commissioner’s Office attended a meeting of the Council for Monitoring the Implementation of UN Human Rights Mechanisms Recommendations. The Ministry of Human and Minority Rights and Social Dialogue held a thematic session of the Council for Monitoring the Implementation of UN Human Rights Mechanisms Recommendations. The Fourth and Fifth Periodic Reports of the Republic of Serbia on Implementation of the UN Convention on the Rights of the Child were presented at the session;
- On 17 May 2022, the Commissioner and his associates took part in the commemoration of the **Open Government Partnership Week** by delivering a speech on the topic Access to Information of Public Importance – New Solutions;
- Representatives of the Commissioner’s Office attended a ceremony hosted by the Bar Association of Vojvodina in Novi Sad on 20 May 2022 to mark the Serbian Lawyers’ Day;
- the Commissioner and his associate participated on 24 May 2022 in the meeting **Ambassadors of Responsible Business in the Digital Age**;
- Representatives of the Commissioner’s Office took part in a discussion on the impact of new technologies, artificial intelligence and surveillance technology on the freedom of expression and media freedom, held in Belgrade on 24 May 2022 by BIRN Serbia in cooperation with the OSCE Mission to Serbia;

- On 27 May 2022, the Commissioner and his associates took part in the discussion “**Jurisdiction and Status of Magistrates’ Courts in the Republic of Serbia**”, organised by the Faculty of Law of Union University in Belgrade and the Association of Magistrates’ Courts of the Republic of Serbia. The Commissioner was the keynote speaker and panellist on the subject of novel arrangements in the Law on Free Access to Information of Public;
- On 6 June 2022, a representative of the Commissioner’s Office attended the presentation of key conclusions and recommendation of the **Analysis of International Standards, Comparable Practice and Regulations of the Republic of Serbia of Relevance for Personal Data Processing through Video Surveillance**. As part of the PLAC III project of the Ministry of European Integration, an analysis was implemented of legal arrangements and recommendations in connection with personal data processing through surveillance;
- On 9 June 2022, a representative of the Commissioner’s Office attended an event organised by the Lawyers' Committee for Human Rights YUCOM in cooperation with the Higher Court in Belgrade, as part of the Open Doors of Judiciary programme, by supported the United States Agency for International Development (USAID), on the topic **Media Disputes**;
- The Deputy Commissioner and acting Assistant Secretary General of the Commissioner attended on 11 June 2022 a ceremonial presentation of completion certificates for the short study programme **Legal Data Protection and Access to Information** at the Faculty of Law in Kragujevac. This is the first generation of students who acquired the titles of managers in both rights within the sphere of competences of the Commissioner;
- On 28 June 2022, the Commissioner attended the ceremony of presentation of Vidovdan decorations;
- On 5 August 2022, representatives of the Commissioner’s Office took part in the panel discussion titled “**Application of Digital Agenda in the Republic of Serbia**”, held at the Human Rights House and organised by Partners-Serbia;
- On 26 August 2022, acting Assistant Secretary General of the Commissioner, as a member of the Special Working Group on formulation of the proposal for optimisation and improvement of the content of planning documents for prevention of corruption in local self-government (a duty under the Operational Plan for Prevention of Corruption in Fileds at Particular Risk), prepared and submitted the Commissioner’s contribution for activities 3.2.1.5. under the Operational Plan on Detected Cass of Violation of Preventative Anti-Corruption Regulations at the Level of Local Self-Government Units for the period from 1 January 2017 to 31 July 2022;
- On 8 September 2022, a representative of the Commissioner’s Office was a guest at the traditional September Gathering by NALED, which was this year attended by more than 1000 guests, representatives of public authorities and local self-government, businesses, as well as representatives of the international community and diplomatic corps;
- On 9 September 2022, the Commissioner and his associates participated in the Counselling of Magistrates’ Courts Judges, where, among other things, a judge of the Magistrates’ Appellate Court mad an address on the topic of new legal arrangements

for the prosecution of infringements laid down by amendments to the Law on Free Access to Information of Public Importance and the power of the Commissioner to issue infringement warrants and file petitions for institution of infringement proceedings;

- On 21 September 2022, the Commissioner attended a ceremony to mark the **Constitution Day of the Republic of Slovakia**;
- On 27. September 2022, the Commissioner participated in the round table titled **“Information is Power – Strengthening the Role Parliament in Improvement of Transparency of Public Authorities”** organised by Partners-Serbia non-governmental organisation in cooperation with the Freedom of Information Coalition, the Centre for Research, Transparency and Accountability and Slavko Ćuruvija Foundation. In addition to his keynote address, the Commissioner also provided a significant contribution to a debate on the control role of the Parliament in information management;
- On 7 October 2022, acting Assistant Secretary General of the Commissioner attended an event in Kragujevac to mark the 50th anniversary of the Faculty of Law in Kragujevac;
- On 18 October 2022, the Commissioner held a keynote address at the 24th counselling of the Obrazovni informator (Educational Bulletin) on Zlatibor on the topic of the current situation in the fields of freedom of information and personal data protection, with a special focus on the duty of public authorities to prepare and publish their information directories until 16 November 2022;
- On 21 October 2022, the Commissioner attended the admission of the eighth generation of students at the Environmental Law Clinic of the Faculty of Law at the University in Belgrade as one of keynote speakers, when he emphasized the importance of availability of information of public importance regarding threats to and protection of the environment;
- On 25 October 2022, a representative of the Commissioner’s Office attended the part of the online presentation of the alternative report on implementation of the revised Action Plan for Chapter 23 relating to the protection of journalists and the media legislation;
- On 26 October 2022, the Commissioner attended a ceremonial session of the Assembly of the Autonomous Province of Vojvodina to mark the 20th anniversary of the institution of the Provincial Ombudsman, and in the evening on the same day he attended taking the oath of office by the Prime Minister and ministers of the Government at the Serbian National Assembly;
- A representative of the Commissioner’s Office attended on 2 November 2022 the organisation of the round table titled **“Freedom of Information and Personal Data Protection”** in Novi Pazar;
- On 4 November 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner’s Office attended the event titled **Lawyers’ Night**, with a focus on the topic of personal data protection in Niš, organised by KEC Grupa;
- On 9 November 2022, the Commissioner attended a commemorative ceremonial event to mark the **International Day against Fascism and Antisemitism**, held Belgrade, which was organised by the Government of the Republic of Serbia;

- On 15 November 2022, representatives of the Commissioner's Office attended the opening of the new Penal and Correctional Facility in Kragujevac, one of the most advanced and safest facilities of this kind in Europe. The Facility was opened by the Minister of Justice, and the event was attended by numerous political and public figures;
- On 17 November 2022, a representative of the Commissioner's Office attended an event to mark launching of the Bodyright campaign organised by the United Nations Population Fund and the Commissioner for the Protection of Equality;
- On 24 November 2022, representatives of the Commissioner's Office attended the presentation of the independent semi-annual Serbia progress report organised by the prEUgovor Coalition;
- On 25 November 2022, a representative of the Commissioner participated in the debate titled "**New Forms of Invasion of Privacy and Necessary Measures**" organised by the Serbian IT Association and Chamber of Commerce and Industry of Serbia;
- On 26 November 2022, the Commissioner attended a ceremony to mark the 10th anniversary of the Judges and Prosecutors' Association of Serbia and the Association of Judicial and Prosecutorial Assistants of Serbia, held at the Central House of Serbian Army in Belgrade. On that occasion, the Commissioner received an award for a special contribution to the improvement of the rule of law and the improvement of judicial professions;
- On 29 November 2022, the Commissioner and the Deputy Commissioner visited the site where works are performed on adaptation of the Commissioner's Office in Novi Sad;
- On 29 November 2022, a representative of the Commissioner's Office attended the National Dialogue on Protection of Children against Sexual Exploitation and Abuse – "**Coming Out of the Shadow**", organised by the Protector of Citizens and the Network of Organizations for Children of Serbia;
- The Commissioner, the Deputy Commissioner and representatives of the Commissioner's Office made on 7 December 2022 an official visit to the city of Valjevo, where they had a meeting with the mayor and his associates. As part of the visit, the Commissioner held a lecture for representatives of public authorities on the topic "**Amendments to the Law on Free Access to Information of Public Importance**" in the stateroom of the Valjevo Secondary General School, while a representative of the Commissioner's Office held a lecture on the topic "**Publishing of Information Directories of Public Authorities and Submission of Annual Reports on Compliance with the Law on Free Access to Information of Public Importance**";
- Representatives of the Commissioner's Office attended the event titled "**Implementation of Anti-Money Laundering and Counter-Financing of Terrorism Mechanisms – Achievements and Challenges**" held on 8 December 2022. It was the final event of the project "**Anti-Money Laundering Initiative in the Republic of Serbia**", implemented by the Partners-Serbia organisation with support from and in cooperation with the Rule of Law Initiative of the American Bar Association. The objective of the project was to strengthen the capacities of civil and private sectors for establishing of efficient anti-money laundering mechanisms, as well as provision of

support to strengthen cooperation between the competent sectors and institutions relevant for this topic;

- On 9 December 2022, the Commissioner and the Deputy Commissioner attended a gala reception to mark the **International Human Rights Day**, to which they were invited by the Prime Minister of the Provincial Government;
- On 10 December 2022 a representative of the Commissioner's Office attended the event held to mark the **International Human Rights Day** at the House of the National Assembly of the Republic of Serbia;
- On 14 December 2022, representatives of the Commissioner's Office attended an event on the subject "**Presentation of Guidelines on EU Support to Civil Society in the Enlargement Region in 2021-2027**", organised by the Ministry of Human and Minority Rights and Social Dialogue in cooperation with the EU Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey;
- On 14 December 2022, the Commissioner, the Deputy Commissioner and the Commissioner's Advisor made an official visit to the mayor of Niš in connection with the activities involved in opening the Commissioner's office in that city;
- From 14 to 16 December 2022, a representative of the Commissioner took part in the ON-CAMERA seminar organised by the Government of Serbia;
- On 20 December 2022, acting Assistant Secretary General of the Commissioner and the Commissioner's Advisor took part in the online Open Government Partnership Info Day. The event presented the Open Government Partnership Initiative and some of the results achieved to date through the implementation of national action plans, as well as experiences with implementing the open government principles at the local level, cooperation with the civil society and the forthcoming activities involved in the drafting on the new Action Plan, with a particular focus on stakeholder engagement;
- On 21 December 2022, acting Assistant Secretary General of the Commissioner, participated as a judge in the MOOT COURT trial simulation competition in the field of anti-discrimination, intended for undergraduate and graduate law students in Serbia and organised by the Commissioner for Protection of Equality;
- On 21 December 2022, the National EU Convent held its regular plenary session in a hybrid format, which was attended by representatives of the Commissioner's Office. The plenary session aimed to discuss the priorities of Serbia's Government in the context of European Integration, as well as the roles and ability of all stakeholders in the negotiation process to expedite the process of Serbia's EU accession;
- The Commissioner and the Deputy Commissioner attended on 22 December 2022 attended the ceremonial opening event of the exhibition "**The Kingdom of Serbia and Japan**", which marked the 140th anniversary of the establishment of diplomatic relations between the two countries. The exhibition was opened the First Deputy Prime Minister and Minister of External Affairs of the Republic of Serbia, while the ceremony was attended by numerous cultural and public figures;
- On 22 December 2022, a representative of the Commissioner's Office attended the public dialogue "**Towards a Strategically Unambiguous Europe**";
- On 22 December 2022, a representative of the Commissioner's Office attended a reception at the Union of the Blind of Serbia;

- On 30 December 2022, **the Commissioner officially opened the Commissioner's office in Novi Sad**, at number 21 Vojvode Šupljikca street. This is the first office of the Commissioner for Information of Public Importance and Personal Data Protection to be opened outside of this authority's head office and will be followed by two more offices, in Niš and Kragujevac, in an effort to facilitate the exercise of the rights enshrined in the Law on Free Access to Information of Public Importance and the Law on Personal Data Protection for the citizens in these parts of Serbia. The inaugural ceremony for the Commissioner's first regional office was attended by members of the local self-government, the president of the Misdemeanours' Court of Novi Sad and members of the press.

4.2. INTERNATIONAL AND REGIONAL COOPERATION

In 2022, the Commissioner continued successful cooperation with international organisations and forums (the Council of Europe, primarily the Convention 108 Consultative Committee, the International Conference of Information Commissioners (ICIC)⁹⁷ the Global Privacy Assembly (GPA)⁹⁸, the European Data Protection Board (EDPB)⁹⁹, Eurojust, the International Working Groups on Personal Data Protection, known as the "Berlin Group", UNESCO, as well as representatives of international organisations in Serbia (OSCE, German Agency for International Cooperation - GIZ, the Austrian Development Agency – ADA, the Delegation of the European Union to the Republic of Serbia, Council of Europe Office in Belgrade, USAID Global and USAID Serbia).

The Commissioner also cooperated with competent institutions in the region and in the territory of former Yugoslavia, in the field of personal data protection and in the field of freedom of information, such as Initiative 2017 and Initiative 2020¹⁰⁰.

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

- On 18 January 2022, Assistant Secretary General of the Commissioner attended the 59th *online* plenary session of the European Data Protection Board;
- On 19 January 2022, the Commissioner attended an online meeting held to mark the completion of the USAID responsible government project;
- On 4 February 2022, the Commissioner had a meeting with a member of the European Parliament, with whom he talked about the current situation in personal data protection in the Republic of Serbia. On that occasion, the Commissioner explained that the institution of the Commissioner advocates for the adoption of a special law providing

⁹⁷ International Conference of Information Commissioners

⁹⁸ Global Privacy Assembly

⁹⁹ European Data Protection Board

¹⁰⁰ The Regional Conference of Initiative 2017 gathers independent authorities in countries in the region engaged in personal data protection, while the Regional Conference of Initiative 2020 gathers independent authorities in countries in the region engaged in freedom of information

for the field of video surveillance and this should be regulated by the Personal Data Protection Strategy, the preparation of which is underway;

- On 22 February 2022, Assistant Secretary General of the Commissioner attended the 61st *online* plenary session of the European Data Protection Board;
- On 9 March 2022, a representative of the Commissioner attended the *online* seminar titled “**Promoting Gender Equality in Exercise of Freedom of Information**” organised by UNESCO and ICIC;
- On 14 March 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner’s Office attended the 62nd *online* plenary session of the European Data Protection Board;
- On 14 March 2022, the Commissioner and acting Assistant Secretary General of the Commissioner had a meeting with an analyst for financing of the campaign for the ODIHR election observation mission. The Commissioner presented her the situation in the field of personal data protection during the electoral campaign, with a special emphasis on personal data processing through social networks, as well as the functioning of the Commissioner’s Office;
- From 15 to 16 March 2022, on initiation of the Council of Europe Secretariat, acting Assistant Secretary General of the Commissioner attended the 1st meeting Committee of Experts on the Integrity of Online Information (MSI-INF);
- From 23 to 25 March 2022, acting Assistant Secretary General of the Commissioner attended the 55th *online* meeting of the Bureau of the Committee of Convention 108, held through a video conference. Participants in the meeting reviewed and revised numerous documents, including: the Elements of Draft Rules of Procedure for the Evaluation and Review Mechanism under Convention 108+; the Draft Guidelines on Digital Identity; the Draft Document on standard contractual clauses for transborder data flows;
- On 30 March 2022, the Commissioner had a meeting with representatives of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), with whom he talked about the adopted amendments to the Law on Free Access to Information of Public Importance, cooperation of the institution of the Commissioner with the media, as well as the forthcoming election process in the Republic of Serbia from the aspect of personal data protection;
- On 6 April 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner’s Office attended the 63rd *online* plenary session of the European Data Protection Board;
- A representative of the Commissioner took part in the third workshop on personal data protection, as part of the regional project titled “**Countering Serious Crime in the Western Balkans IPA 2019**”, from 7 to 8 April 2022. The workshop was organised by EUROJUST and was held in Budva, Montenegro;
- On 14 April 2022, the Commissioner held a meeting with a representative of German Agency for International Cooperation (GIZ), where they talked about cooperation on a new project of this organisation, focused on the improvement of the capacity and reform of administrative judiciary and gathering of all actors engaged, whether directly or indirectly, in administrative law;

- On 4 May 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 64th *online* plenary session of the European Data Protection Board;
- On 5 May 2022, the Commissioner attended a reception marking the **Europe Day**, hosted by the Council of Europe Office in Belgrade;
- On 9 May 2022, the Commissioner attended a ceremony to mark the **Europe Day** in Novi Sad, hosted by the European Union Delegation to the Republic of Serbia;
- On 12 May 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 65th *online* plenary session of the European Data Protection Board;
- On 12 May 2022, the Commissioner had a meeting with members of the European Union Delegation to the Republic of Serbia, the Ministry of Justice and German Agency for International Development (GIZ) to review the Commissioner's participation in project **Strengthening the Rule of Law in Serbia**;
- On 16 May 2022, the Commissioner and his associates, supported by the OSCE Mission to Serbia, officially marked the launch of the personal data protection campaign **Keep it Personal**;
- On 18 May 2022, acting Assistant Secretary General of the Commissioner and representative the Commissioner's Office held a meeting with representatives of the Embassy of the Kingdom of the Netherlands on the topic of affirmation of the proactive transparency principle and strategic planning of future activities of the Commissioner's Office;
- On 19 May 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office held a meeting with representatives of UNDP to address the topics of cooperation and achievement of joint objectives related to the environment;
- On 20 May 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office took part in a meeting with representatives of the OSCE Mission in Belgrade to address the organisation of training for members of the media in freedom of information and personal data protection;
- On 23 May 2022, the Commissioner and his associates had a meeting with representatives of USAID Serbia to review joint activities and USAID support to the institution and other issues of relevance for the institution of the Commissioner and USAID Serbia;
- On 27 May 2022, a representative of the Commissioner's Office took part in an online meeting of the Regional School of Public Administration (ReSPA), which addressed the rules for participation in the prize-winning competition for public administration in the region of the Western Balkans "**Improved Services for Improved Citizens' Life**" for 2022;
- Representatives of the Commissioner's Office took part in the International Working Group on Personal Data Protection, known as the "**Berlin Group**" on 1 and 2 June 2022 in Tel Aviv, Israel. This was the 69th meeting of the independent expert group, aimed at the improvement of personal data protection in the field of technology and voice control devices, as well as in "smart city" systems;

- On 8 June 2022, representatives of the Commissioner's Office held a meeting with a representative of SIGMA (a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the European Union for improvement in government and management) and representatives of the Ministry of Public Administration and Local Self-Government on the current and future support in application of the amended Law on Free Access to Information of Public Importance, which took effect on 17 February this year;
- On 14 June 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 66th *online* plenary session of the European Data Protection Board;
- On 22 June 2022, the Commissioner attended a ceremonial reception to mark the **Slovenia Statehood Day** and the beginning of Slovenia's presidency of the Council of the European Union;
- Representatives of the Commissioner's Office attended the Annual Privacy Forum 2022 held on 23 and 24 June 2022 at Kozminski Univeristy in Warsaw. In three panel discussions, the Annual Privacy Forum covered the following: artificial intelligence and privacy challenges, personal data sharing, Privacy by Design and cookies.
- On 30 June 2022, the Commissioner attended a ceremonial reception to mark the **USA Independence Day**.
- On 30 June 2022, a representative of the Commissioner took part in the Discussion on Artificial Intelligence and Freedom of Expression hosted by OSCE;
- On 12 July, 2022 acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 67th *online* plenary session of the European Data Protection Board;
- On 14 July 2022, the Commissioner attended a reception at the French Embassy in Belgrade to mark French national holiday;
- On 14 July 2022, a representative of the Commissioner's Office attended the event that addressed human rights during and after the Covid-19 pandemic in the context of freedom of information, hosted by USAID, under the title "**Freedom of Information as a Human Right, Pandemic Perspective**";
- On 21 July 2022, the Commissioner attended a reception to mark the Belgian National Day;
- On 25 July 2022, representatives of the Commissioner's Office held a meeting with a representative of the French Embassy in Belgrade. The meeting is continuation of successful cooperation after previously organised training, held by members of the French Ministry of the Interior for the Commissioner's Office on 23 March 2022, in connection with the implementation of the so-called **Police Directive**;
- On 26 July 2022, representatives of the Commissioner's Office held a meeting with a representative of the EU Delegation to the Republic of Serbia in connection with the PLAC III project that provided legal support to the Government of the Republic of Serbia in harmonisation of the national legislation with *acquis Communautaire* through amendments to the existing and preparation of new laws;

- On 28 July 2022 acting, Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 68th *online* plenary session of the European Data Protection Board;
- On 2 August 2022, the Commissioner and his associates held a meeting with representatives of USAID. The topic of the meeting was the initiative for democratic renewal, where as part of the pillar 5, namely Expanding Technology for Democracy, USAID intends to expand its digital programming as support to open, safe and inclusive digital ecosystems that improve democracy, combat digital authoritarianism, promote digital literacy and ensure equal access for all communities;
- From 12 to 13 September 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 69th *online* plenary session of the European Data Protection Board;
- On 23 September 2022, the Commissioner and his associates and representatives of the Ministry of Public Administration and Local Self-Government held an online meeting with a representative of the joint initiative of OECD and the European Union to provide support to strengthening and improvement of the public administration system, where they exchanged their positions, suggestions and comments in connection with the working version of the analysis of Article 3 of the Law on Free Access to Information of Public Importance which defines public authorities subject to the duties under this Law;
- From 5 to 6 October 2022, acting Assistant Secretary General of the Commissioner attended the second *online* meeting of the Committee of Experts on the Integrity of Online Information (MSI-INF) of the Council of Europe;
- On 7 October 2022, acting Assistant Secretary General of the Commissioner and her associates took part in an online meeting with the Director of Greater Internet Freedom (GIF Serbia) project dedicated to joint activities of the GIF project and the Commissioner;
- On 10 October 2022, a representative of the Commissioner's Office attended the 70th *online* plenary session of the European Data Protection Board. EDPB adopted the following documents on the session: the List of Aspects in National Procedural Law which EDPB expects to be harmonised at the EU level to facilitate the implementation of GDPR; the Opinion of EDPB in connection with Europrivacy certification criteria submitted by the personal data protection supervisory authority in Luxembourg; the Announcement of EDPB in connection with digital euro design selection;
- On 10 October 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 70th *online* plenary session of the European Data Protection Board;
- The Deputy Commissioner and acting Assistant Secretary General of the Commissioner took part in the 44th Global Privacy Assembly (GPA) held from 25 to 28 October 2022 in Istanbul. The main topic of the Assembly was **A Matter of Balance: Privacy in the Era of Rapid Technological Advancement**;
- On 7 November 2022, acting Assistant Secretary General of the Commissioner and her associates and a representative of the OSCE Mission to Serbia held a preparatory

meeting that addressed the implementation of the **project for application of the Aarhus Convention in the Republic of Serbia**;

- On 10 November 2022, acting Assistant Secretary General of the Commissioner and representatives of the Commissioner's Office held a meeting with representatives of the European External Action Service and the EU Delegation and talked about support to independent institutions through the EU Delegation project mechanisms for negotiating chapters 23 and 24;
- On 14 November 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 71st online plenary session of the European Data Protection Board;
- The European Union mission titled **Overview of Independent or Regulatory Authorities Based on Cases/Files** was held from 14 to 18 November 2022. The aim of this expert mission was the overview of the institutional framework of independent or regulatory institutions in the Western Balkans to evaluate their independence and effective functioning. Experts evaluated the legal and institutional frameworks and reviewed results of relevant institutions by examining a certain number of cases;
- Representatives of the Commissioner's Office held on 16 November 2022 a meeting with a representative of German Agency for International Cooperation (GIZ) for technical elaboration of project activities of the **"Strengthening the Rule of Law in Serbia"** project;
- The 43rd plenary session of the Convention 108 Consultative Committee was held from 16 to 18 November 2022. Participants in the session adopted amendments to the Rules of Procedure of the Consultative Committee on connection with participation of the Russian Federation in its work and the Instructions on Digital National Identity. Also, new management of the Consultative Committee was appointed, as well as new members of the Bureau;
- On 17 November 2022, a representative of the Commissioner attended a meeting with representatives of the Council of Europe, where they talked about the possibilities of support to the Anti-Corruption Agency in the improvement of cooperation with banks in the Republic of Serbia, procedures regarding processing of public officials' personal data (property checking) and cases of violation of public officials' personal data in the Republic of Serbia;
- On 22 November 2022, acting Assistant Secretary General of the Commissioner attended the online conference titled **"Public Media Service for Democracy"** organised on 22 November 2022 by the Council of Europe, the European Broadcasting Union and National Radio and Television of Lithuania. The event was focused on the importance of reliable information, particularly during wars and pandemics when independence and sustainability of media outlets face complex challenges;
- As part of the multi-sectoral project **"Strengthening the Rule of Law in Serbia"** aimed at contributing to compliance with the duties arising from the AP for Chapter 23 – Judiciary and Fundamental Rights in accordance with *acquis Communautaire*, a preparatory meeting (training of trainers) between representatives of the Commissioner and German Agency for International Cooperation (GIZ) that implements the project was held on 25 November 2022;

- Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office participated in the 70th meeting of the Berlin Group in London from 29 to 30 November 2022;
- On 5 December 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 72nd *online* plenary session of the European Data Protection Board;
- On 8 December 2022, the Commissioner and his associates took part in the international conference "**Corruption Risk Assessment**" organised by the Anti-Corruption Agency to mark the International Anti-Corruption Day;
- A representative of the Commissioner's Office took part in the international discussion event "**Silence is Also a Crime**" held in Belgrade;
- From 13 to 14 December 2022, acting Assistant Secretary General of the Commissioner and a representative of the Commissioner's Office attended the 73rd *online* plenary session of the European Data Protection Board;

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

During the course of 2022, as in previous years, the Commissioner cooperated intensively with the media and journalists' associations.

The Commissioner gave statements to journalists of the Tanjug, Beta and Fonet agencies, "Danas", "Politika", "Kurir", "Večernje novosti", "Nova ekonomija" and "Informer" dailies, and other numerous media, such as: RTS, CINS, KRIK, BIRN, "Insider" production company, TV N1, Newsmax Adria, TV Nova S, TV Prva, TV K1, TV Kurir, TV Pink, TV Studio B, TV Koreni, Al Jazeera, RTV Vojvodina, TV Happy, TV *Euronews*, TV Vesti, Telegraf, Radio Beograd 1 and 2, Radio Vojvodina, Radio Novi Sad, Radio 021, Radio Free Europe and Deutschlandradio in Bremen, as well as other portals. The Commissioner appeared on the following TV channels with national TV licences: RTS, TV Pink, TV Prva, TV Happy.

Numerous media covered marking of the Data Protection Day on 28 January 2022 and the International Right to Know Day on 28 September 2022. The Commissioner's cooperation with journalists' associations is reaffirmed by traditional participation of representatives of the Association of Journalists of Serbia (UNS) and the Independent Association of Journalists of Serbia (NUNS) in the Commission presenting the awards for the improvement of freedom of information, which are presented on 28 September.

During the year, the Commissioner published 77 public announcements on his official website, thus contributing to open and transparent work. He also ensures the public reach the information regarding the Commissioner's work faster and easier through the Single Information System of Information Directories, the Open Data Portal and the Commissioner's official Twitter and YouTube accounts.

- On 25 January 2022, the Commissioner appeared on TV Koreni on the occasion of the Data Protection Day (28 January 2022);
- On 26 January 2022, the Commissioner appeared on a “TV News” programme on TV Pink on the occasion of the Data Protection Day;
- On 27 January 2022, the Commissioner appeared on the following TV channels: *Euronews* TV, TV Nova S on TV show “Među nama” (Between Us) and TV Prva on TV show “150 minuta” (150 minutes) on the occasion of marking and commendation of the Data Protection Day, when he answered the following questions: what marked data protection in the previous year, what are the hazards of the use of social networks for children, to whom we must present our personal identity documents, will the institution continue engaging in education in the field of personal data protection and other issues;
- On 28 January 2022, the Commissioner appeared on the following media: TV Studio B, RTS and RTV Vojvodina on TV show “Jutarnji program”, Radio Belgrade 1 on the programme “U središtu pažnje” (In the Focus), Telegraf, RTS news programme, Nova ekonomija, Informer, *Al Jazeera* and N1, on the occasion of marking the Data Protection Day
- On 1 February 2022, the Commissioner appeared on Radio Belgrade 1, where he talked about traditional marking of the Data Protection Day, the preparation of the new Personal Data Protection Strategy and implemented trainings in data protection, with a special focus on hazards of the use of social networks for children etc.;
- On 2 February 2022, the Commissioner appeared on TV K1 on TV show “Mi danas” (Us Today), where he talked about personal data protection at the age of fast technological development, digitalisation and the development of artificial intelligence;
- On 7 February 2022, the Commissioner appeared on Kurir TV channel, where he talked about personal data protection in at the age of fast technological development, digitalisation and the development of artificial intelligence;
- On 7 February 2022, the Commissioner appeared on TV N1, where he talked about the traditional marking of the Data Protection Day, the preparation of the new Personal Data Protection Strategy, implemented trainings in the field of personal data protection, as well as whether the Office will continue education and about the hazards of the use of social networks, particularly for children. The Commissioner talked about taking effect of the Law amending the Law on Free Access to Information of Public Importance; amendments introduced a number of new duties and expanded the coverage of authorities subject to this Law. The main novelty is an application for publishing of information directories of public authorities, namely the Single Information System of Information Directories;
- On 17 February 2022, the Commissioner talked on *Euronews* about taking effect of the Law amending the Law on Free Access to Information of Public Importance, which introduced significant novelties and changes in the exercise of this fundamental human right;
- On 22 February 2022, the Commissioner responded to the text published in “Danas” daily No. 8909-8910 On 19-20 February 2022, on page 11, under the heading “The Police Unlawfully Uses Facial Recognition Cameras” and informed the public that

parts of the announcement, published on the official website of the Commissioner for Information of Public Importance and Personal Data Protection on 18 February 2022 in connection with supervision carried out by the Commissioner's authorised officers at the Ministry of the Interior to inspect the alleged use of facial recognition technology by members of the Ministry of the Interior during protest which were held on 27 November and 4 December 2021, were presented mainly correctly and in accordance with the announcement, however, the heading is contrary to the actual facts found during the supervision. The Commissioner emphasized that his authorised officers who performed supervision did not find that facial recognition technology was used by the police during the said events;

- On 16 March 2022, the Commissioner appeared on TV N1 in news programme "Dnevnik" (News) and talked about information presented by researchers of Demostat, relating to personal data mismanagement when signatures were collected for electoral lists;
- On 24 March 2022, the Commissioner gave an interview to the Balkan Investigative Reporting Network (BIRN) on the topic of facial recognition technology and domestic legislation in that field;
- The Commissioner gave an interview to "Paragraf" portal on the role of the Commissioner, the most frequent violations of the right to personal data protection, protection mechanism and other current issues;
- On 8 March 2022, a representative of the Commissioner appeared on TV Prva in the TV show "150 minuta" (150 minutes) and talked about internet frauds;
- On 9 March 2022, a representative of the Commissioner talked on "*Insider*" production company about what is inadmissible in door-to-door canvassing in electoral campaigns;
- On 15 April 2022, the Commissioner was interviewed by journalist Slobodan Šorak, and the interview was broadcast on 18 April in the programme "S povodom" (On Topic) on Radio Vojvodina. The interview included current issues of personal data protection in the field of video surveillance and possible use of facial recognition software;
- On 26 April 2022, the Commissioner was interviewed by Mr. Christoph Kersting, a journalist of the Deutschlandradio in Bremen, where he talked about various aspects of personal data protection in the field of video surveillance and facial recognition technology;
- On 12 April 2022, a representative of the Commissioner spoke for channel TV PRVA in the programme "150 minuta" (150 minutes) about Internet fraud;
- On 18 April 2022, a representative of the Commissioner spoke for RTS channel 1 in the programme "Beogradska hronika" (Belgrade Report) about the provision of patients' medical data by phone;
- During May 2022, the Commissioner appeared on news programmes of numerous television and radio channels, replying to journalists' questions concerning the current state of personal data protection in the Republic of Serbia as part of the campaign "Keep it Personal";

- During June 2022, the Commissioner and his associates appeared on news programmes of numerous television and radio channels, including TV Prva, TV Vesti and K1, where they talked about the current topics in the field of personal data protection and freedom of information;
- During July 2022, the Commissioner and his associates appeared on news programmes of numerous television and radio channels (including RTS, RTV Vojvodina, TV Prva, TV Happy, TV Vesti, Nova S, K1, TV Newsmax Adria, Radio Novi Sad, Radio 021), as part of the campaign to remind public authorities of their duty to prepare their information directories until 16 November and publish them in the Single Information System of Information Directories until mid-November 2022. In their media appearances, they also talked about the current issues regarding personal data protection;
- During August 2022, the Commissioner appeared on news programmes of numerous television and radio channels, including TV Pink, TV *Euronews*, TV Kurir, RTS, Radio Belgrade and Tanjug, where he talked about the current topics in the field of personal data protection and freedom of information;
- A representative of the Commissioner's Office, the Head of Division at the Personal Data Supervision Department, appeared on TV channel Nova S, where she talked about the current issues in personal data protection;
- During September 2022, the Commissioner and his associates gave a number of interviews and appeared on news programmes of numerous television and radio channels (including RTS, RTV Vojvodina, Radio Free Europe, TV Prva, TV Happy, TV Vesti, Nova S, K1, TV Newsmax Adria, Radio Novi Sad, Radio 021), as part of the promotion of the Right to Know Day, and the campaign to remind public authorities of their duty to prepare their information directories until 16 November and publish them in the Single Information System of Information Directories. In their media appearances and interviews, they also talked about the current issues regarding personal data protection and freedom of information;
- During October 2022, the Commissioner and his associates appeared on news programmes of numerous television channels (including RTS, Kurir TV, N1, Euronews, TV Nova S). In their media appearances, they talked about current issues regarding personal data protection and freedom of information;
- During November 2022, the Commissioner and his representatives appeared on news programmes of several television channels (including RTS, Kurir TV, TV K1, "Insider" production company, TV Nova S etc.). In their media appearances, they talked about current issues regarding personal data protection and freedom of information;
- During December 2022, the Commissioner and his associates appeared on news programmes of several TV and radio stations (including Radio Belgrade 1, RTS, Kurir TV) and gave a number of statements for printed and electronic media on the current issues concerning personal data protection and freedom of information;
- On 20 December, a representative of the Commissioner gave a statement to the "Insider" production company on the subject of unethical reporting by the media and protection of personal data in such situations.

5. COMMISSIONER'S OFFICE AND ASSETS

5.1. NUMBER OF EMPLOYEES IN COMMISSIONER'S OFFICE

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

Under the Proposal of the Human Resources Plan for 2022 No. 119-04-4/2021-04/6 of 15 March 2022, the Commissioner found that powers of the Commissioner require 3 elected officials, 8 appointed civil servants and 2 advisors of the Commissioner, a total of 124 employees, including: 121 employees on employee posts and 3 general service employees, and submitted the Proposal to the Ministry of Finance for approval.

The Ministry of Finance approved the Commissioner's Human Resources Plan for 2022 by the document number 119-01-00078/2022-03 of 29 March 2022, under which the Commissioner's Office should in 2022, in addition to 3 elected officials (the Commissioner and 2 Deputy Commissioners) employ by the end of the year 8 appointed civil servants and 2 Commissioner's Advisors, the total of 124 employees, including: 121 employees on employee posts and 3 general service.

As soon as formal requirements were met, namely, when members were appointed of working bodies in the newly formed National Assembly, pursuant to Article 27k paragraph 9a in connection with paragraph 1 of the Law on Budget System (*Official Gazette of the Republic of Serbia* Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 - corrigendum, 108/13, 142/14, 68/15 - new Law, 103/15, 99/16, 113/17, 95/18, 31/19, 72/19 149/20 and 118/21), the Commissioner contacted the Committee on Administrative, Budgetary, Mandate and Immunity Issues by the communication number 112-08-47/2022-04 of 10 August 2022 to require approval for employment for an indefinite period for 21 employees - new employees in the Commissioner's Office on posts with the following titles: seven employees – senior advisors;

one employee – independent advisor; ten employees - advisors; two employees – junior advisors and one employee - clerk.

The Committee on Administrative, Budgetary, Mandate and Immunity Issues has not considered the Commissioner's request for hiring of new persons in his Office due to the parliamentary elections and the time required to form the National Assembly and its committees.

During the course of 2022, 15 (fifteen) persons were employed for an indefinite period in, including 4 (four) persons reassigned from other authorities and 11 (eleven) persons who were employed in January and February 2022, after public call announced in October and November 2021.

Five (5) employees left the Commissioner's Office, including 2 (two) civil servants based on reassignment to other public authorities, one (1) after his employment was terminated by mutual consent, one (1) based on a decision on termination of employment and one (1) due to retirement.

During the year, several persons were hired for a definite period and to perform temporary and occasional tasks at the Commissioner's Office in various periods and on various bases (for a definite period passed on the increased workload and to replace absent civil servants; on temporary and occasional tasks and by hiring through student associations). As at 31 December 2022, the Commissioner's Office had 105 persons employed for an indefinite period, 8 persons employed for a definite period (of whom 5 based on the increased workload, 2 as replacements for absent civil servants and 1 person in the Commissioner's Cabinet). In addition, six (6) persons were hired based on contracts on temporary and occasional tasks.

5.2. DEVELOPMENT OF COMMISSIONER'S OFFICE

Throughout 2022, the Commissioner organised numerous activities aimed at improving the work of his Office and knowledge and skills of employees.

In February 2022, the Commissioner successfully underwent the supervisory procedure according to the requirements of SRPS ISO/IEC 27001:2013 and SRPS ISO/IEC 27701:2019 (PIMS) standards, which is the logical next step in maintaining the achieved level of his information security, particularly protection of personal data he processes in the exercise of his powers.

Having in mind the requirements imposed on public authorities by new legislation regarding electronic business and public administration digitalisation, the Commissioner continued activities on the strengthening of the infrastructure of his computer network in 2022.

A large contribution to affirmation of freedom of information and the right to personal data protection was achieved by creating new and maintenance and improvement of the existing software.

In the first quarter of 2022, the Commissioner released into production the new internet portal "Single Information System of Information Directories" at the address <https://informator.poverenik.rs/>. This single software platform enables public authorities to

prepare their information directories in electronic and machine-readable form, and thus not only comply with their legal duty, but also ensure each Internet user to read at one place information directories of all public authorities, from the highest state authorities, through provincial and local self-government authorities, public enterprises, institutions, companies founded by other public authorities or where majority members are other public authorities, to local communities. In addition, as part of the project “Open Data for Sustainable Development” implemented by the Office for Information Technologies and eGovernment and the United Nations Development Programme with support from the U.K. Government, the Commissioner prepared and published video instructions, which explain step by step and in the user-friendly manner the procedure of filling in the information directory within this web application.

In the course of 2022, the Commissioner continued supporting the Open Data Portal at <https://data.poverenik.rs>, through which he makes numerous data created in his work available to the general public, in a machine-readable format and in the form of visualisations.

The Commissioner also continued maintaining the Portal for submission of annual reports of public authorities to facilitate submission of these reports which were submitted in hard copy before purchase of this software.

During 2022, licences were renewed for the use of software aimed at adjusting the use of the Commissioner’s official website, namely, aimed at making it available for blind and visually impaired persons.

5.3. ALLOCATED FUNDS AND INCURRED EXPENSES FOR THE WORK OF THE COMMISSIONER'S OFFICE

The work of the Commissioner and his Office is funded from the budget of the Republic of Serbia.

The Law on Budget of the Republic of Serbia for 2022¹⁰¹ granted to the Commissioner funds for finance source 01 – budget revenue in the amount of RSD 296,713,000.00.

Table 12– The Commissioner's approved budget for 2022

Chapter	Programme	Function	Programme activity/ project	Economic classification	DESCRIPTION	Total funds
11					Commissioner for Information of Public Importance and Personal Data Protection	296,713,000
				01	Sources of financing for chapter 11	
					Budget revenue	296,713,000
	1001				Improvement and protection human and minority rights and freedoms	296,713,000
		160			General public services not classified elsewhere	296,713,000
			0011		Availability of information of public importance and personal data protection	296,713,000
				411	Salaries, allowances and compensations for employees (wages)	208,876,000
				412	Social contributions payable by the employer	33,731,000
				413	Compensations in kind	400,000
				414	Social benefits to employees	1,500,000
				415	Compensation for employees	3,610,000
				416	Rewards to employees and other special expenses	1,360,000
				421	Recurrent expenses	6,900,000
				422	Travel expenses	2,800,000
				423	Contracted services	20,986,000
				425	Current repairs and maintenance	2,700,000
				426	Material	4,980,000
				482	Taxes, statutory charges and penalties	1,370,000
				512	Machines and equipment	5,500,000
				515	Intangible assets	2,000,000

The Law on Budget of the Republic of Serbia for 2022 (*Official Gazette of the Republic of Serbia* No. 110/2021) granted to the Commissioner funds for finance source 01 – budget revenue in the amount of RSD 288,958,000.00. The missing funds necessary for salaries of employees in the Commissioner's service were ensured by the Law amending the Law on

¹⁰¹ Law on Budget of the Republic of Serbia for 2022 (*Official Gazette of the Republic of Serbia* Nos. 110/2021 and 125/2022) and the Decision on Use of Funds from Current Budget Reserve 05 number 401-10626/2022 (*Official Gazette of the Republic of Serbia* No. 139/22).

Budget of the Republic of Serbia for 2022 (*Official Gazette of the Republic of Serbia* No. 125/2022) and funds from the current budget reserve, and the total Commissioner's budget for 2022 was RSD 296,713,000.00.

In 2022, RSD 286,990,843.18, or 96.72% of the approved budget funds, was spent for the work of the Commissioner's Office, subject to the principles of responsible fiscal management, cost-effectiveness, functionality and effectiveness.

Table 13 - Execution of the Commissioner's budget for 2022

Function	Source of financing	Programme	Project	Economic classification	Description of account	Funds approved under the Law on the Budget of RS (Official Gazette of RS Nos. 110/2021 and 125/2022)	Executed	% of execution
160	01	1001	0011	411	Salaries and fringe benefits	208,876,000.00	208,431,377.01	99.79
				412	Social contributions payable by employer	33,731,000.00	33,661,667.46	99.79
				413	Compensations in kind	400,000.00	390,000.00	97.50
				414	Social benefits to employees	1,500,000.00	399,657.71	26.64
				415	Compensation for employees	3,610,000.00	3,562,592.42	98.69
				416	Rewards and bonuses	1,360,000.00	1,027,663.88	75.56
				421	Recurrent expenses	6,900,000.00	5,583,637.46	80.92
				422	Travel expenses	2,800,000.00	2,631,474.76	93.98
				423	Contracted services	20,986,000.00	20,504,196.33	97.70
				425	Repairs and maintenance	2,700,000.00	1,274,161.85	47.19
				426	Material	4,980,000.00	4,458,346.56	89.53
				482	Taxes, statutory charges and penalties	1,370,000.00	667,516.00	48.72
				512	Machines and equipment	5,500,000.00	2,651,600.34	48.21
				515	Intangible assets	2,000,000.00	1,746,951.40	87.35
TOTAL 01:						296,713,000.00	286,990,843.18	96.72
TOTAL FOR FUNCTION 160:						296,713,000.00	286,990,843.18	96.72

Apart from staff salaries, contributions and fringe benefits, the largest share of the Commissioner's expenses in 2022 for the source of financing 01 – budget revenue was attributable to computer services (computer and software maintenance services), expert services, administrative services (temporary and occasional jobs and translation service), communication services (mail, phone and Internet), transport material, administrative equipment (computer and electronic equipment), as well as renewal of licences necessary for the work of the Commissioner's Office.

To ensure optimum conditions for the work on implementation of both laws within the Commissioner's sphere of competence, in 2022 the Commissioner's Office purchased administrative equipment, mainly computer equipment and printers, electronic equipment and landline phones necessary for the work of the Commissioner's Office, as well as intangible assets, mainly renewal of licences to improve security of the Commissioner's computer network in accordance with ISO/IEC 27001 standard, renewal of licences for software to adjust the Commissioner's website for blind and visually impaired persons and procurement of other software to improve the work of the Commissioner's Office.

Table 14 – Purchased equipment and intangible assets

Economic classification	Account	Description of account	Source of financing	Executed
512	512221	Computer equipment	01	2,084,712.00
	512222	Printers	01	178,800.00
	512232	Phones	01	102,440.34
	512241	Electronic equipment	01	285,648.00
Total 512:		Machines and equipment	01	2,651,600.34
515	515192	Licences	01	1,746,951.40
Total 515:		Intangible assets	01	1,746,951.40

6. COMMISSIONER'S PROPOSALS

With the aim of improving the current situation in the field of freedom of information and of personal data protection in Serbia, based on and in compliance with statements in this Report, the Commissioner hereby proposes the following to the National Assembly of the Republic of Serbia and the Government of the Republic of Serbia.

6.1. COMMISSIONER'S PROPOSALS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

1. The competent Committees of the National Assembly should review the Commissioner's Report for 2022 and, on the basis of the recommendations contained herein, adopt draft rulings with recommendations and measures aimed at improving the situation, which would then be forwarded to the National Assembly for the review;

2. The National Assembly should enact amendments to the Law on Personal Data Protection to ensure its efficient application and improved personal data protection;

3. The National Assembly should ensure continual supervision of compliance with its rulings by making use of the available mechanisms to control the work of the Government, with particular focus on accountability for omissions in the work of public authorities;

4. The competent committees and technical services of the National Assembly, when enacting laws, should give due consideration to the Commissioner's opinions and position in terms of possible effects of such laws on the exercise of freedom of information and the right to personal data protection;

5. The National Assembly should adopt laws the provisions of which, that relate to personal data processing, were brought in compliance with the Law on Personal Data Protection until the end of 2023;

6. The National Assembly should provide timely and full support for the Commissioner's independence in the exercise of his powers;

7. The National Assembly should adopt the Law on Ratification of the Council of Europe Convention on Access to Official Documents, which entered into force on 1 December 2020.

6.2. COMMISSIONER'S PROPOSALS TO THE GOVERNMENT OF THE REPUBLIC OF SERBIA

1. The Government should pass a new Personal Data Protection Strategy, compliant with the current situation in the field of personal data protection, as well as an Action Plan for its implementation, in cooperation with the Commissioner and in accordance with the Commissioner's suggestions;

2. The Government should prepare a proposal of amendments to the Law on Personal Data Protection;

3. The Government should timely adopt bills amending the laws the provisions of which, that relate to personal data processing, were brought in compliance with the Law on Personal Data Protection, so the National Assembly could enact these laws until the end of 2023;

4. The Government, when adopting bills and other regulations, should give due consideration to the Commissioner's opinions and position in terms of possible effects of such laws on the exercise of freedom of information and the right to personal data protection;

5. The Government should, in accordance with its own duties under the Law on Free Access to Information of Public Importance, establish an appropriate mechanism to enforce final, enforceable and binding Commissioner's decisions;

6. The Government should ensure appropriate conditions and funds for unobstructed work of the Commissioner as an autonomous state authority, independent in the exercise of its powers, particularly in terms of: expansion of the Commissioner's sphere of competences set under the new Law on Personal Data Protection and amendments to the Law on Free Access to Information of Public Importance; carrying out of supervision; conducting the second-instance procedure, as well as the increasing workload that result in costs of court proceedings payable from the budget if not completed timely;

7. The Government should undertake measures to establish the liability of competent entities, in particular officials, who failed to comply with the law;

8. The Government should, in cooperation with the Commissioner, ensure that competent ministries, as well as other public authorities, improve their knowledge in the fields of freedom of information and the right to personal data protection, to improve the level of exercise of these rights in the Republic of Serbia;

9. The Government should prepare the Bill on Ratification of the Council of Europe Convention on Access to Official Documents, which entered into force on 1 December 2020.

COMMISSIONER

Milan Marinović

Done in Belgrade, on 21 March 2023

Number: 073-10-4497/2022-08