

**INFORMATION AND
DATA PROTECTION
COMMISSIONER**

ANNUAL REPORT 2017



PRIVACY

TRANSPARENCY

INFORMATION

PROGRAMME



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1. OVERVIEW OF 2017

This report has been based on the institutional performance analysis of the Information and Data Protection Commissioner (IDP) for 2017, concerning the monitoring of the Law No. 119/2014 “On the right to information” and Law No. 9887/2008, “On protection of personal data”, as amended, as well as addressal of complaints concerning Law No. 146/2014 “On notification and public consultation”.

The activity of the Commissioner’s Office relies on proper implementation of Albanian legislation, recommendations of the Albanian Parliament resolution and the obligations deriving from international cooperation. Year 2017 was dynamic for the Commissioner’s Office, with an extended activity, tangible contributions, and new responsibilities and challenges.

Under the framework of the right to information, the Commissioner’s Office notices the progress on raising self-awareness of Public Authorities over their obligations related to transparency and provision of proactive public information. Access of citizens to required information and observance of legal deadlines remains a concern for public authorities. In addition, citizens continue showing trust in the implementation of their right to information, addressing many complaints to the Commissioner’s Office when they claim that such right has been denied.

Under the framework of the right to protection of personal data, the Commissioner’s Office is committed to monitor and process personal data, as well as observe safety measures during their processing from public and private controllers. As a result, the Commissioner’s Office has known a continuous increase in terms of the number of complaints. The complexity of complaints filed with the Commissioner’s Office and the numerous administrative inspections are a proof of positive daily development of the right to protection of personal data in Albania.

Despite the increase of citizens’ sensitivity on their right to information and protection of personal data, as well as the commitment of the Commissioner’s Office to effectively implement legislation into force and European standards, a challenging issue remains the balance between the right to public information and protection of privacy, particularly in cases when both these rights must find a balance with the freedom of expression.

The Commissioner’s Office is also committed to address complaints concerning the implementation of law “On notification and public consultation”, for which it has also issued some important decisions. A lot remains to be done, especially about raising citizens’

awareness to exercise their right to be informed and consulted on draft-laws, national and local strategic draft-documents, as well as policies on best public interest.

2. THE RIGHT TO INFORMATION

Access to information generated and held by public authorities is of essential importance for good governance and democracy. Rejecting access to public information infringes the rights of individuals to create the right perspective on state and society situation, as foreseen in Articles 1, paragraph 2 of Law No. 119/2014 “On the right to information”. Public administration transparency is a prerequisite for an open and democratic state, as well as for strengthening of the rule of law. Meanwhile, transparency goes hand in hand with the integrity and accountability of public sector bodies, as foreseen in Article 1, paragraph 3 of Law No. 119/2014 “On the right to information”.

2.1 Monitoring and overseeing of Law No. 119/2014 “On the right to information”

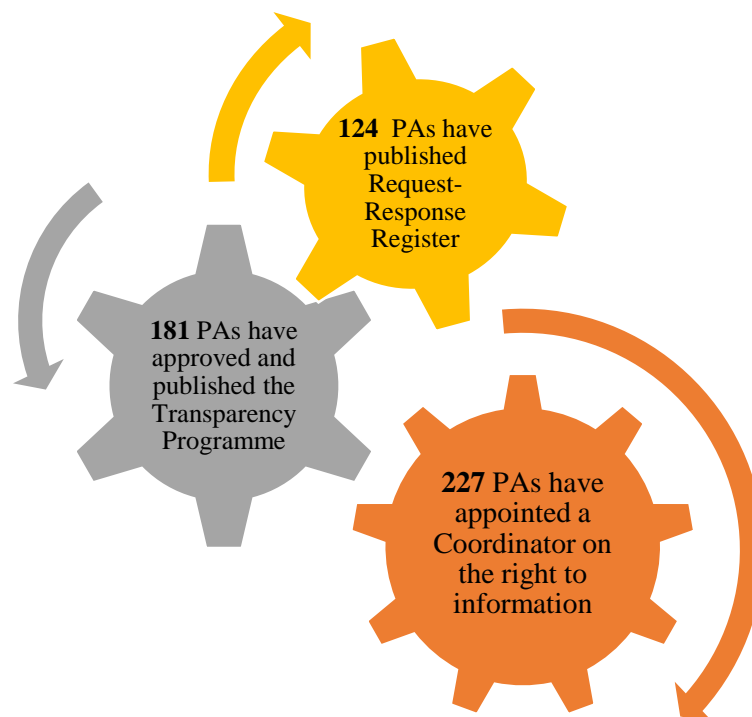
During 2017, the Commissioner’s Office has continued its work focused on implementation and monitoring of Law No. 119/2014 “On the right to information”. Overseeing of Law No. 119/2014 “On the right to information” is carried out by monitoring different components of law, such as the number of public authorities that have drafted transparency programmes, coordinators appointed by public authorities, update of request and response register, and number of addressed complaints, carried out investigations, organised hearings, as well as decisions rendered.

During 2017, the Commissioner’s Office has not only monitored the official websites of Public Authorities, but has also carried out on-site inspections, as well as has requested information on fulfilling the obligations deriving from Law No. 119/2014, as follows:

- publication of transparency programmes
- appointment of coordinator for the right to information;
- publication of requests and responses register.

Based on public authorities monitoring, it resulted that **181** public authorities have approved and published the transparency programme; **227** public authorities have appointed a

coordinator on the right to information, and **124** public authorities have published the request and response register.



Based on the monitoring of public authorities for 2017, it resulted that the institutions having a full and updated transparency programme were *independent institutions*. In addition, independent institutions have the same coordinators having been appointed since the entry into force of Law No. 119/2014 “On the right to information”. The number of requests for information addressed by these institutions during 2017 was **1303**, while the number of rejected requests was **98**.

Regarding local authorities, the Commissioner’s Office has noticed some improvement in the transparency level of *municipalities*. All the municipalities have already appointed coordinators on the right to information, and the number of requests for public information addressed by municipalities during 2017 was **9308**, whereas the number of rejected requests was **245**.

Some of the issues faced by *local authorities* are:

1. Some municipalities do not have a website, which makes difficult access to information;
2. Although they have a website, some municipalities have not published or updated the transparency programme and the request and response register. In addition, a part of materials published in the transparency programme do not have a link;

3. The transparency programme icon is not a primary icon inserted in the website;
4. Although all the municipalities have assigned coordinators on the right to information and have also notified the Commissioner's Office via an official letter, the information for coordinators published in websites is not complete.

The transparency situation has been more problematic at *central institutions*. Although considerable improvement took place during the first semi-annual of 2017, according to the monitoring all the ministries had assigned coordinators on the right to information and transparency programmes, this situation changed after June because of elections and the change of governing cabinet. These changes are related to the number of ministries and competency areas of each ministry. Therefore, a considerable failure to fulfil obligations deriving from law "On the right to information" was noticed. Some of ministries changed coordinators on the right to information, and the websites of the new ministries had a fictitious icon on transparency programme.

The identified issues concerning the *ministries*' transparency level are as follows:

1. Transparency programmes are not updated and a part of documents is missing, which should be published as set forth in Article 7 of Law "On the right to information";
2. The language used is not easily understandable for citizens, and materials in transparency programme do not have a link;
3. Transparency programme is not a primary icon in the website;
4. The coordinators on the right to information are in the function of the specialist and have limited access to other structures of ministries. This hardens availability of required documentation within 10 days. In addition, many cases when requests for information are not referred to the coordinator, but are rather delegated to other structures of the ministry are identified.

During 2017, ministries' coordinators of the right to information have addressed in total **417** requests for information, and only **3** of them were rejected.

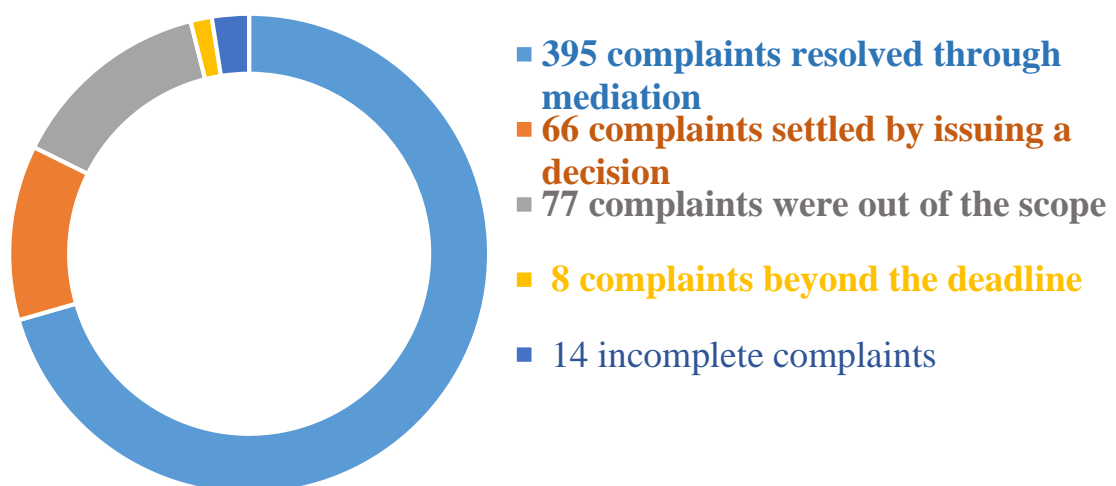
Public authorities should update transparency programmes. Coordinators of the right to information are not sufficiently knowledgeable on legal framework, which hardens proper implementation of this law. Language used in the published documents should be easily comprehensible for citizens.

In addition, the implementation of the best international standards needs well-trained and well-qualified coordinators, and financially incentivized. With reference to the above-mentioned, work is in progress to provide training on the proper implementation of law “On the right to information” and to raise awareness of public authorities to respond to citizens’ requests in line with the legal stipulations.

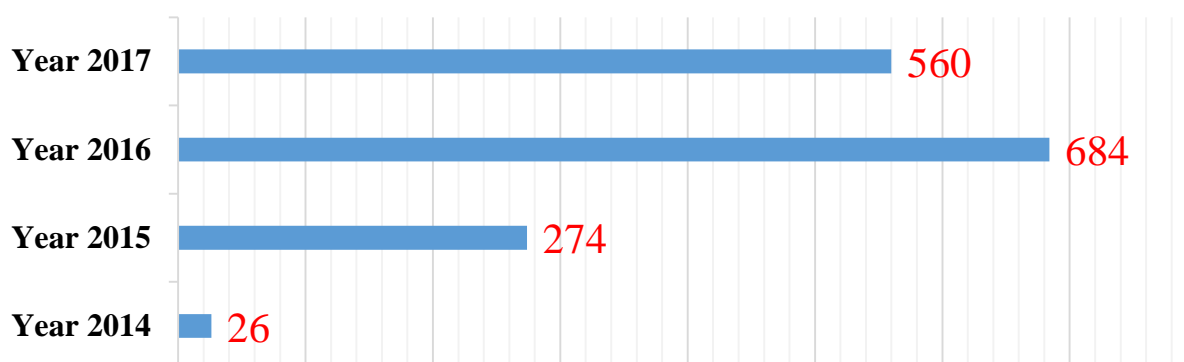
2.2 Addressing complaints

Pursuant to Law No. 119/2014 “On the right to information”, **560 complaints** have been filed to the Commissioner’s Office during 2017, out of which **395** are resolved through mediation. For **66** of these complaints, the Commissioner has issued a “Decision”. **77** complaints were out of the scope. **8** complaints were beyond the deadline and **14** complaints were incomplete. The fact that the majority of complaints have been resolved through mediation testifies the efficiency of the Commissioner’s Office intervention. The majority of complaints addressed by the Commissioner’s Office were filed by citizens. More specifically, **430** complaints were filed by citizens, whereas **130** complaints were filed by NGOs. The fact that the largest number of complaints has been filed by citizens is a good indicator of the citizens’ awareness-raising impact on the right to information.

560 complaints in 2017



Complaints during 2014-2017



By observing the chart above, we can notice a decrease in the number of complaints from 2016 to 2017.

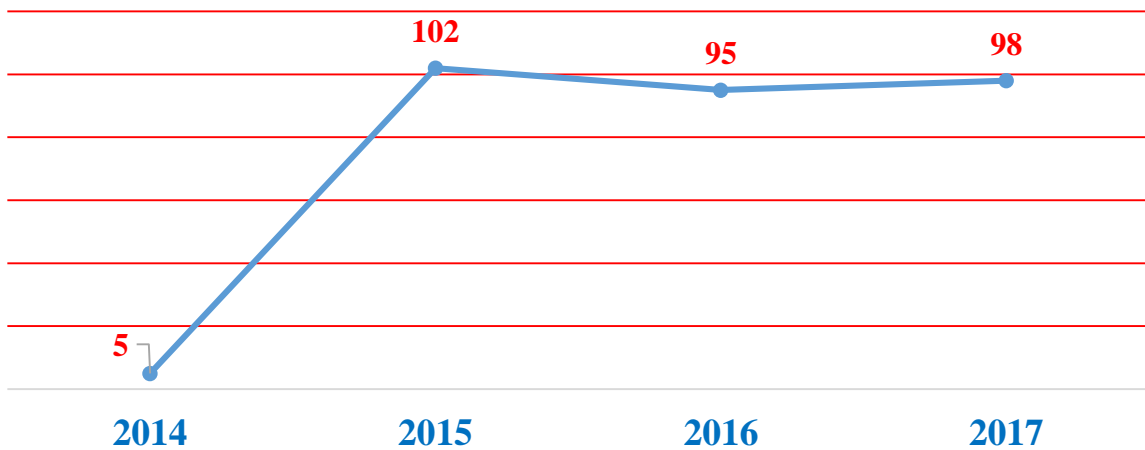
This is an indicator related to the increase of accountability from Public Authorities in providing the requested information, and as a result, there is a slight decrease in the number of complaints addressed to the Commissioner's Office. Another indicator that reinforces the idea of improvement in the transparency situation by public institutions is the low number of complaints rejected by public authorities, as reported in Chapter 2.1

2.3 Administrative investigations

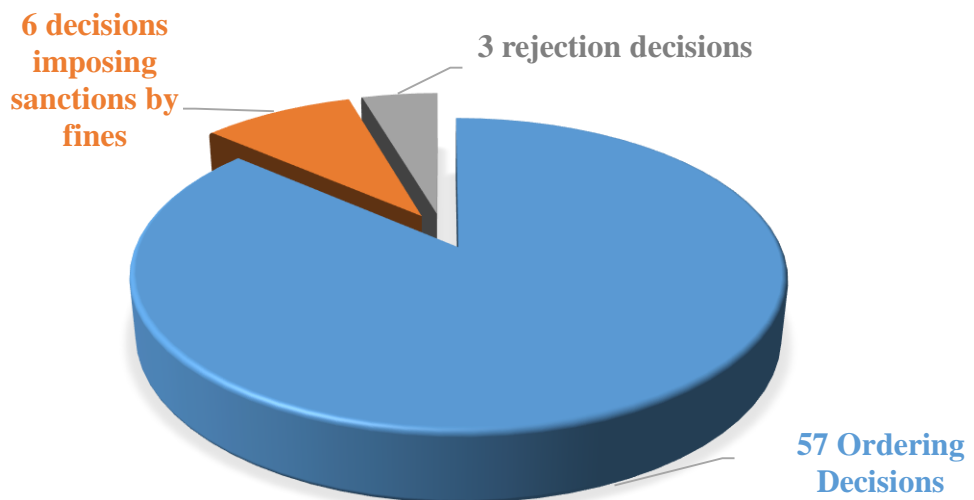
During this year, the Commissioner's Office has continued its work on fulfilling its main responsibility, supervising and guaranteeing the right of citizens to access in public information, based on balance and observance of proportionality principle.

The Commissioner's Office has carried out **98** administrative investigations in the field of the right to information aiming at verifying the filed complaints. **252 complaints** have been filed to Public Authorities to be addressed, whereas **24 complaints** are still in process. In addition, Public Authorities have issued **66** decisions, out of which **57** are ordering decisions, **3** decisions about rejection, as well as **6** decisions imposing sanctions by fines. **10** hearing sessions have been organised this year.

Inspections during 2014-2017



The Commissioner issued **66 decisions** in 2017



2.4 Strategies and indicators

2.4.1 Cross-cutting Public Administration Reform Strategy

The Commissioner's Office, as an institution whose focus is to strengthen public authorities' transparency and accountability, is part of the Cross-cutting Public Administration Reform Strategy 2015-2020 (CPARS). The objective for the Commissioner's Office to meet in this strategy is to increase control on public administration activity, and guarantee citizens' rights and access to information. This objective will be met through actions, such as the

implementation of institutional transparency programme by public authorities, with the aim at guaranteeing access to information for citizens and civil society. The Commissioner for the Right to Information and Protection of Personal Data is responsible for the monitoring this process implementation.

Under this framework, the Commissioner's Office has participated on regular basis in meetings organised by the Minister of State for Innovation and Public Administration, with the aim at monitoring this objective implementation. Based on the annual monitoring reports on the implementation of CPARS Action Plan, it results that all the activities the Commissioner's Office is responsible for are accomplished in line with this strategy indicators passport.

In cooperation with Public Administration Department representatives and with the assistance of SIGMA/OECD experts, the Commissioner's Office has drafted the measures to be included in CPARS Action Plan 2018-2020.

2.4.2 Sector Contract for Public Administration Reform Budgetary Support

The financial agreement between the Government of Albania and the European Commission, IPA 2015 for Albania Action Plan, was approved in principle by DCM No. 686, dated 29.09.2016.

One of the signed contracts is "*Sector Contract for Public Administration Reform Budgetary Support*", through which the Government of Albania is granted a budgetary support of 28 million Euros, which are targeted to the Public Administration Reform sector. The disbursement of these funds will cover four years and their allocation will be based on full or partial fulfilment of 10 (ten) indicators according to the objective set in this contract for each implementation year.

The Commissioner's Office is responsible for the implementation of one of 10 indicators set forth in this contract, and more specifically: *Improvement of law implementation on access to information* where the expected result is: *Increase of public administration accountability*.

Based on the assessment carried out by the European Commission on the execution of this contract for 2016, funds, which are allocated to state budget, are disbursed in line with the

full or partial fulfilment of indicators. One of the 5 (five) fully met indicators was the one falling under the Commissioner's Office responsibility.

In order to assess whether the indicator is met or not, and referring to the methodology agreed with the EU Delegation in Tirana, the Commissioner's Office has requested from 128 Public Authorities information on request and response register, as well as their self-declaration on meeting legal obligations deriving from Article 15 of Law No. 119/2014 "On the right to information". 108 Public Authorities have responded declaring that *12090 requests for information* have been addressed during 2017 and only *578 of them have been rejected*. Therefore, only 4.7% of requests have been rejected by Public Authorities.

The Information and Data Protection Commissioner as the institution responsible for meeting this indicator is committed to fulfil it for the following years in line with the requirements set forth in this contract.

2.4.3 Cross-cutting Anti-corruption Strategy

The Commissioner's Office is also part of Cross-cutting Anti-corruption Strategy. During this year, work has continued on fulfilling the measures foreseen in the Strategy Action Plan, which are almost fully met.

During this year, the Commissioner's Office in cooperation with a group of European Union experts has developed two indicators to be included in the strategy. These indicators will measure not only the institutions' transparency level as one of the main instruments in the fight against corruption, but will serve as indicators for the implementation of law on the right to information. In addition, measures the Commissioner's Office will include in the new Action Plan of Anti-corruption Strategy have been drafted. Part of the strategy's preventive approach will not be only the proposed measures, but another measure is proposed, which is part of punitive approach.

Throughout the year, the Commissioner's Office has successfully conducted a series of activities, stipulated under component no.6 of anti-corruption twinning project. In cooperation with the German experts of the above mentioned project, a training manual for high school teachers and students on the right to information has been drafted. Two manuals addressing restrictions of Article 17 of Law "On Right to Information", as well as a document analyzing all EU Directives regarding environmental information, spatial information, or reuse of public sector information have been drafted.

2.5 Cooperation

2.5.1 Cooperation with UNDP Star 2 Project

In the framework of Star 2 Project “Support to Territorial and Administrative Reform”, the Commissioner’s Office, in cooperation with UNDP representatives, has drafted the terms of references on designing the sample transparency programme for local self-government units, as well as on enhancing the capacities of municipal employees regarding the implementation of the law on right to information. This project component is expected to be implemented during 2018.

2.5.2 Cooperation with ASPA

Cooperation with the Albanian School of Public Administration has extended to this year as well. The right to information has been part of the mandatory programme training for civil servants on probation. Eighteen training courses were organized, which were attended by 555 civil servants.

3. THE RIGHT TO PROTECT PERSONAL DATA

3.1 Monitoring and overseeing the implementation of Law No.9887/2008 “On Protection of Personal Data”

In the framework of monitoring and overseeing Law No. 9887, dated 10.03.2008 “On Protection of Personal Data”, the Commissioner’s Office has taken qualitative and quantitative steps throughout this year aiming at guarantying the rights of data subjects and fulfilling the obligations of public and private controllers.

In this framework, several administrative investigations have been performed with public and private controllers, particularly focusing on areas having the greatest impact on privacy and reflecting technological innovations in the processing of personal data. Administrative investigations aim at raising the awareness of specific sectors on the importance of personal data protection and identifying the issues during the processing of personal data in several sectors, with the purpose of improving the framework of the legislation into force.

The inspection of the project “Identification and Population of the Address for Every Citizen”, during which several shortcomings regarding the project on-site implementation

were noticed, was given priority. Commissioner's Office appreciates the controllers' willingness in cooperating and fulfilling their legal obligations in this area.

It is important to emphasize the cooperation with the Italian Personal Data Protection Authority (Garante) in the framework of a joint inspection conducted with two controllers operating in the call center sector in the territory of the Republic of Albania. The adopted procedure is a novelty to the Commissioner's Office due to the application of new techniques regarding the identification of processing procedures during telemarketing with Italian and Albanian clients throughout this inspection, which was assisted by Italian counterparts. The noticed issues are related to guaranteeing the rights of data subjects (consent and information), taking measures for ensuring the security and confidentiality of personal data processed via the telecommunications network, and guaranteeing the transfer of clients' data during international transfer. This cooperation may be viewed as a preliminary step regarding the concrete implementation of the provision of EU Regulation regarding international cooperation, which shall enter into force in May 2018.

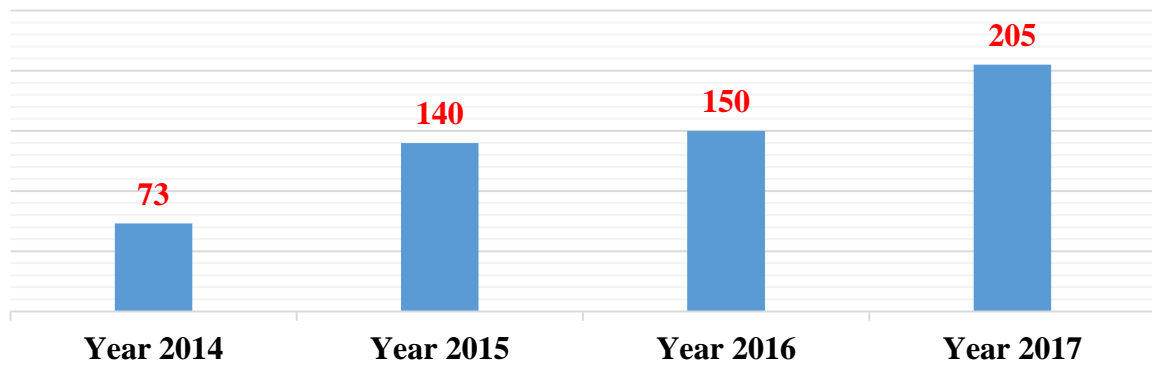
3.2 Complaints Processing

During 2017, **205** complaints on the right to personal data protection have been submitted to the Commissioner's Office, out of which 38 were out of scope, whereas the remaining **167** were processed according to the Law "On Protection of Personal Data". For the equitable and full processing of complaints, administrative inspections were conducted with various controllers and all the administrative procedural steps were performed until the closure of the case which was subject to complaint.

The scope of processed complaints is related mainly to:

- Violation of data subject rights (right to access, as a fundamental right of the data subject, allowing the latter to receive information by the controller regarding its data processing);
- Lack of personal data security (data processing in network and online security);
- Inequitable and illegal data processing (dissemination in the media and online portals)
- Installing cameras in public and private places;
- Direct marketing regarding unsolicited communications, via phone or email;
- Exceeding the deadline of personal data collection for a specific purpose.

Complaints for the period 2014-2017



The increase noticed in the number of complaints submitted this year compared to the previous year, as well as the cases and the complexity of administrative investigations conducted by the Commissioner’s Office serve as indicators of citizens awareness-raising and their recognition of rights granted by law on protection of personal data.

3.3 Administrative investigations

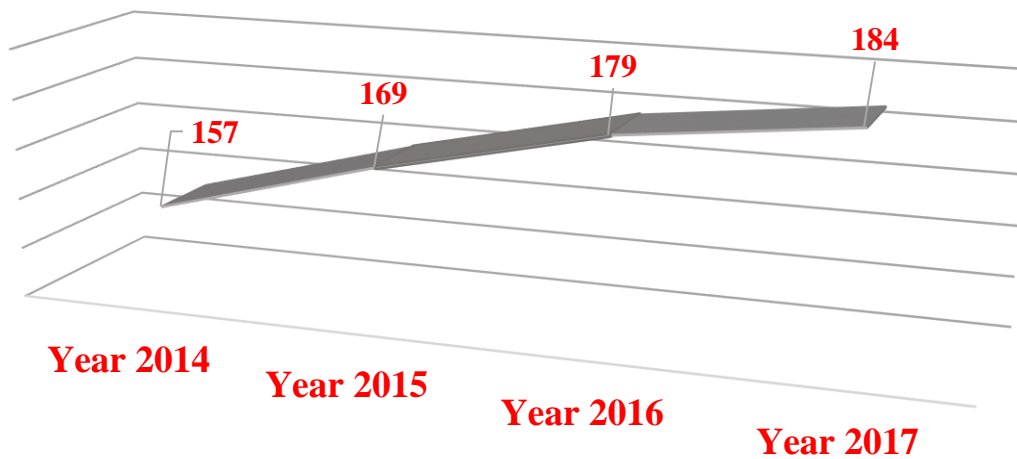
184 inspections were carried out during this year, out of which **153** were performed on-site and **31** online. The main administrative control sectors are:

- Health;
- Banking system;
- Telecommunications (process of personal data destruction);
- Direct marketing;
- Tourism agencies;
- Call centre;
- Public and non-public higher education;
- Public and non-public social care institutions;
- Private physical security companies
- Institutions for execution of criminal decisions

95 hearing sessions were held, following the controllers’ notification in advance, by observing the data subjects’ right to be heard pursuant Law No. 44/2015 “Code of Administrative Procedures of the Republic of Albania”.

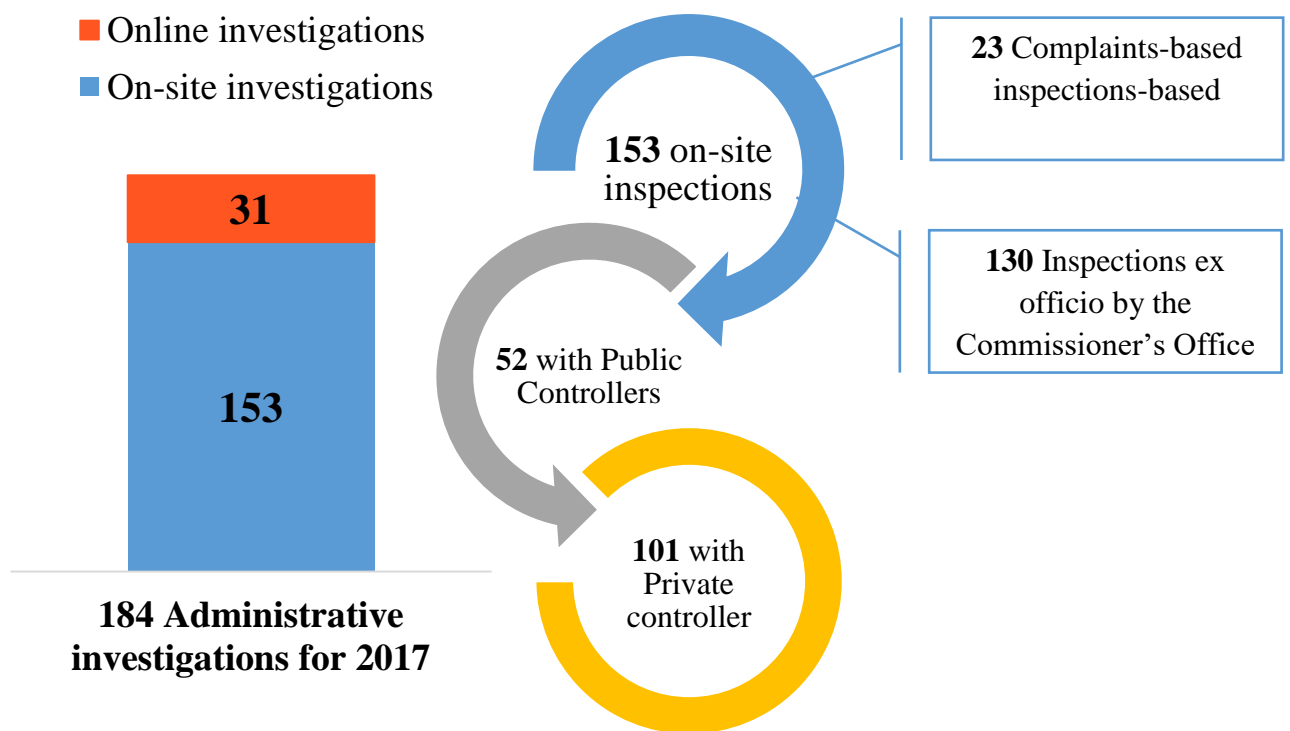
Following the completion of administrative procedure, the Commissioner’s Office has rendered the relevant acts.

Administrative enquiries for the period 2014-2017



Out of **153** on-site inspections conducted mainly in Tirana, but also in other districts, **52** were conducted with specific public controllers whereas the remaining **101** were conducted with private controllers. The Commissioner’s Office conducted **130** inspections ex officio, and **23** inspections based on the complaints submitted.

Online inspections were conducted mainly with tourism agencies websites, as well as banking system regarding services provided online.



3.4 Recommendations and Orders

Pursuant to competencies granted by Law No. 9887/2008 “On protection of personal data”, as amended, the Commissioner has made **64** Recommendations.

The Commissioner’s Office has issued **11** Orders “On prohibiting data processing and further collection, and destroying immediately those data which have been illegally collected” to public and private controllers.

Such recommendations and orders aim at raising the awareness of any data controller in performing equitable and lawful processing, by observing the individual’s privacy.

Based on the positive experience of the previous year, which was marked by the successful implementation of the Commissioner’s Unifying Recommendations, the Commissioner has continued to provide recommendations of such nature in the following sectors:

- **Recommendation in the Tourism Sector**

The Commissioner’s Office appreciates the importance of this sector, in the framework of its impact on the life of any citizen and the importance of their personal data and privacy protection, due to the increase of movement influxes at the local and international level of Albanian and alien citizens (in the capacity of data subjects), and electronic and manual processing of a large quantity of personal data by tourism agencies.

The Commissioner’s Office has identified several of the most frequently encountered issues in this area. The recommendation consisted mainly of:

1. Taking measures on publishing “Privacy Policies” as the basic element in exercising the right to information by any subject, and the obligation to update the notification form;
2. Taking measures regarding determination of a reasonable deadline for retaining clients’ personal data, which are manually and electronically processed.
3. Taking measures for placing signposts, in case CCTV systems are used, according to the standard approved by the Commissioner by Instruction No. 3, dated 05/03/2010 on “Processing personal data through video surveillance system in building and other premises”, as amended;
4. Special attention should be devoted to relations of tourism agencies with third parties (in the capacity of the processor), which aim at personal data processing (or access to data). Such relations are sanctioned by a written agreement between the parties, whereby

obligations in the framework of guaranteeing data security and confidentiality are stipulated.

- **Recommendation for Institutions for Execution of Criminal Decisions**

According to administrative investigation conducted with Institutions for Execution of Criminal Decisions, the Commissioner's Office has come up with a recommendation for such institutions, depending on the violations noticed, as well as a recommendation for the General Directorate of Prisons as the superior body regarding the noticed violations in I.E.C.D.

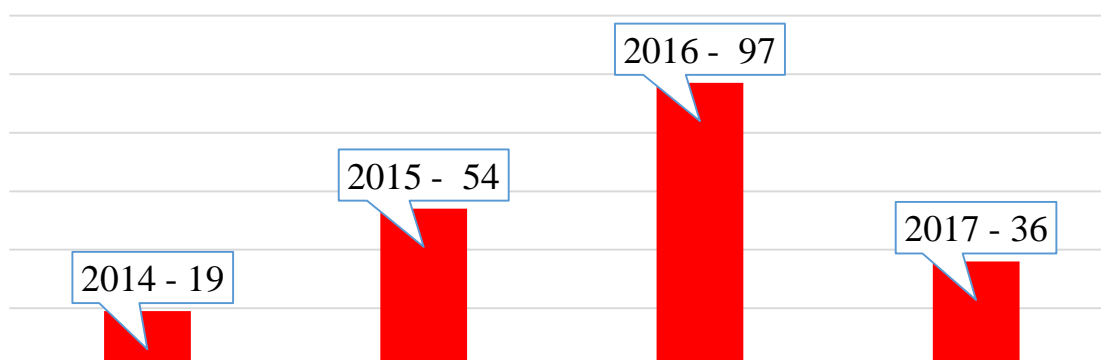
The main issues noticed in such institutions are generally violations related to the quantity of data collected on employee subjects, inadequate measures on guaranteeing security, integrity, and availability of electronic data, computer equipment, operative systems, video surveillance systems (CCTV), lack of regulation for personal data processing, and declaration of confidentiality.

3.5 Administrative sanctions

After conducting administrative investigations with various public and private controllers, the Commissioner's Office has imposed sanctions by fine in cases of serious and recurrent violations, or in case of failure to fulfil the Commissioner's recommendations/orders.

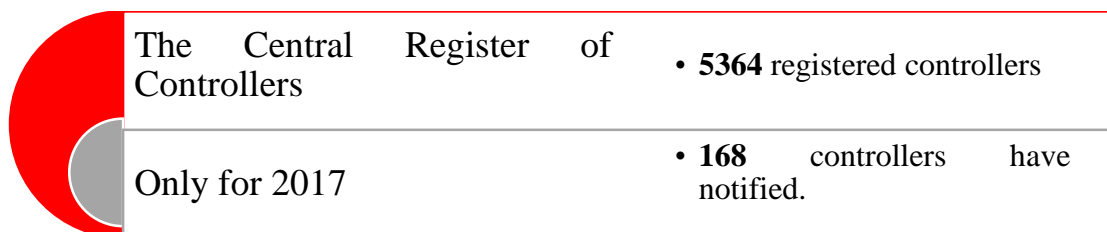
Upon the conclusion of investigation procedures, the Commissioner's Office has issued **22** decisions, which correspond to **36** administrative sanctions.

Administrative sanctions during the period 2014-2017



3.6 Notification

During 2017, **168** data controllers have notified personal data processing, hence fulfilling their legal obligation. The total number of data controllers registered in the Central Register of Controllers is **5364**.



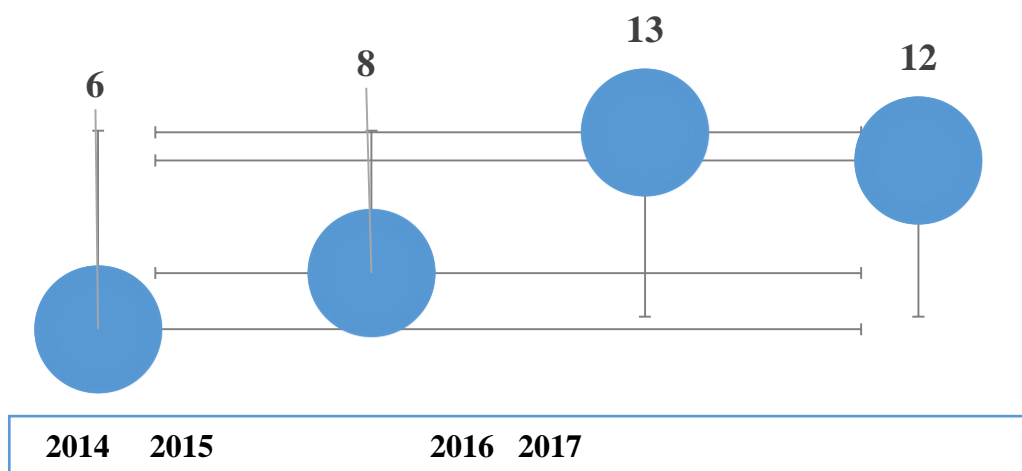
3.7 International Transfer

Priority was given to the follow-up of personal data international transfer monitoring mainly in strategic sectors such as banking system and pharmaceutical industry, aiming to ensure a better protection of citizens' personal data.

In addition, based on the data obtained by the filled out Notification Forms and upon finding out that the transfer is taking place in countries with insufficient level of protection, additional information has been solicited from the controllers and the respective practices of transfers were subsequently examined.

12 decisions on permitting international transfer have been issued.

DATA INTERNATIONAL TRANSFER DURING THE PERIOD 2014-2017



4. LEGAL ACTIVITY, JUDICIAL AND ADMINISTRATIVE PROCEDURES

In order to accomplish the obligations derived from the European Union integration process, a significant step should be made toward approximation of the existing legal framework on personal data protection with the *Acquis Communautaire*.

Regulation (EU) 2016/679 of The European Parliament and of the Council dated 27 April 2016 “*On the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC*” (General Data Protection Regulation or GDPR) was approved on 14 April 2016 by the European Parliament and shall enter into force on 25 May 2018.

The harmonization and approximation of the domestic legislation with this European legal act, and also with the Directive (EU) 2016/680 of the European Parliament and of the Council dated 27 April 2016 “*On the protection of natural persons with regard to the processing of personal data 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*” is one of the provisions set forth by The Commissioner’s Office specified in the acts planning tables in compliance with the *acquis*, thus accomplishing the National Plan of European Integration (NPEI). As result, the Commissioner Office has translated and studied the EU Regulation (GDPR), and also has started drafting the legal acts package of amendments related to personal data protection.

Accordingly, relying on opinion given by stakeholders and the civil society, as well as on complaints treatment the amendments of Law “On the right to information” have been prepared. The implementation has so far shown positive results in terms of the effectiveness concerning most of the provisions and rules, meanwhile some provisions need to be improved.

4.1 Regulatory acts drafting

In terms of implementation of the obligations deriving from other legal and sublegal acts for 2017, the following have been complete:

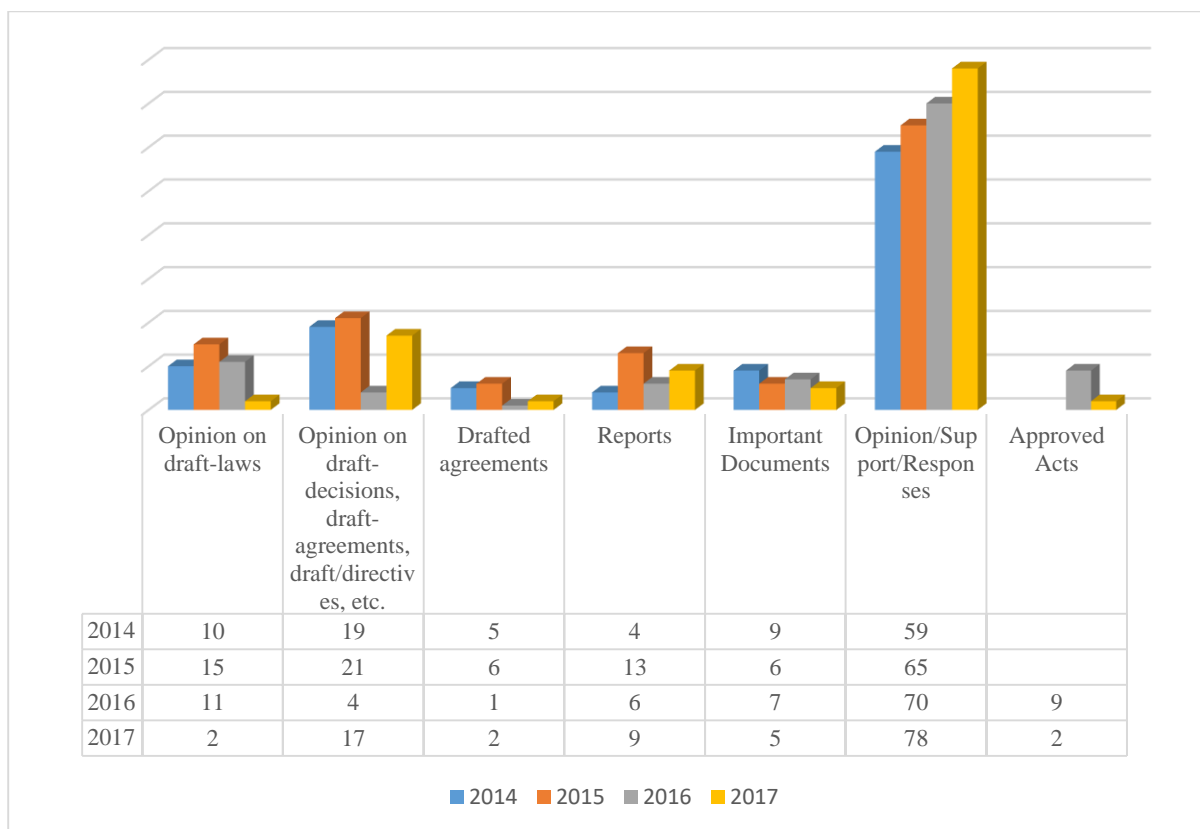
- Approved Instruction No. 46/2017 “*On security level of public and private subjects*” with regard to the Article 12/1 of Law No. 19/2016 “*On additional provisions of public security*”;
- Approved a joint Instruction No. 1181, dated 30 October 2017 “*On the establishment and the functioning of the electronic register for the subjects taking additional provisions for public security*”, by the Minister of Interior and the Commissioner for the Right to Information and Protection of Personal Data.
- Drafted the draft-law “*On the establishment of unsolicited commercial communication register*” and the explanatory report. This draft law is foreseen to be part of the amendments package that will bring about harmonization with the EU Regulation (GDPR).
- Drafted the draft-decision “*On the establishment of governmental electronic database register of requests and responses for the right to information*”, and the explanatory report, awaiting approval by the Council of Ministers;
- Drafted the draft-decision “*On the establishment of governmental electronic database register of the control subjects*” and the explanatory report awaiting approval by the Council of Ministers;
- Drafted the draft-strategy “*On the Right to Information and Protection of Personal Data 2018-2020*” wherein the vision and the institutional goals for the next few years are incorporated.

4.2 Opinion on draft-acts

Pursuant to Article 31 (letter a/1) of Law No. 9887/2008 “*On protection of personal data*”, as amended in 2017, the Commissioner’s Office provided legal opinion concerning 2 draft-laws, 12 draft-decisions, 4 governmental draft-agreements, 1 regulatory code (for AMA), also different public and private controllers provided some other legal opinion and responses. (Annex 2).

Furthermore, a significant support was given to many other public and private controllers in drafting specific regulations for personal data protection as a guarantee to security and confidentiality of personal data and consent forms by data subjects. Regarding the processing of personal data through the CCTV system (referring to Law No. 19/2016 “*On additional provisions for public security*” , and sublegal acts approved by Commissioner); regarding notifications and other obligations concerning the law on personal data protection; inclusion of privacy policies into websites; giving opinion on international transfers; regarding publication of personal data in the media; regarding removal of personal data published on media by different online portals, etc.

Legal activity in 2014-2017



4.3 Obligations deriving from other legal acts

The legal acts foreseeing some obligations for the Commissioner’s Office are:

a. Law No. 60/2016 “On whistleblowing and protection of whistleblowers”

Pursuant to Articles 16/3 and 24/3, of Law 60/2016 “On whistleblowing and protection of whistleblowers”, the Instruction 44/2016 “On the conditions, processing criteria and time of personal data retention” is approved. Failure to comply with the requirements of this Instruction is subject to sanctions by Law 9887/2008 “On Protection of Personal Data” as amended.

b. Law No.71 / 2016 “On border control”

In accordance with Articles 20/3 and 24/2 of the Law No.71 / 2016 “On Border Control” the Joint Instruction with the Minister of Interior No. 515, dated 27.09.2016, “On the processing of personal data by border guards” has been approved. According to this Instruction, the Information and Data Protection Commissioner shall periodically assess, on a case-by-case basis, the compliance of the data processed under the provisions of paragraphs 3, 4 and 5 for the purpose of this processing.

c. Law No. 19/2016 “On Additional Public Security Provisions”

To the enforcement of Law No. 19/2016 “On Additional Public Security provisions”, referring to:

–Paragraph 2 of Article 5, the Joint Instruction No. 1181, dated 30.10.2017 “*On the Establishment and Functioning of the Electronic Register of Subjects taking Additional Public Security provisions*”, of the Minister of Interior and the Commissioner for the Right to Information and Protection of Personal Data;

–Paragraphs 3 and 4 of Articles 12, 14 and 3, and 20 have been adopted, the Commissioner's Instruction No. 46/2017 “*On Determining the Security Level for Personal Data Processing through Security Systems*”. The purpose of this instruction is to determine the level of security to be guaranteed by public and private subjects when processing personal data by means of definitions in Article 8 of Law No. 19/2016 “On Additional Public Security Provisions”.

4.4 Monitoring of Official Journals

During this period, control of Official Journals has continued, aiming to identify the cases of the approval of draft-legal acts and regulations for which the opinion of the Commissioner’s Office was not received. The aim of this verification as we stated in the previous reports is to reflect the institutions in the approach of the legislation they seek to adopt, with the law on the protection of personal data. The monitoring of official journals have identified 8 laws and 3 DCMs related to personal data and that have been approved without being sent for review to the Commissioner’s Office.

4.5 Judicial Processes

Regarding the decisions of the Commissioner and their enforcement, and based on the number of court decisions left in force or based on voluntary execution, this year a very positive performance is noticed, as well.

For 2017, the Commissioner in respect with the Law No.119/2014 “On the right to information” has issued **66 decisions**, among which **22 decisions** have been appealed and for which the court has carried out proceedings, among which **11** have been rejected by the court (leaving the Commissioner’s decisions in force), and **4** have been accepted, following **5** lawsuits which have been dismissed as court processes, **1** was revoked, and **1** was partially accepted.

THE RIGHT TO INFORMATION

<i>Year</i>	2017
<i>Decisions</i>	66
<i>Sanctions</i>	6
<i>Judicial proceedings</i>	22
<i>Rejection of the lawsuit</i>	11
<i>Acceptance of the lawsuit</i>	4
<i>Partial acceptance of the lawsuit</i>	1
<i>Dismissal of the judicial process</i>	5
<i>Revocation of the lawsuit</i>	1

Pursuant to Law No. 9887/2008 “On protection of personal data”, as amended, For 2017 the Commissioner has issued **22 decisions**.

In addition, the relevant subjects have voluntarily executed the administrative sanctions for **11 decisions**. Following this, the Commissioner’s Office has requested a warrant of execution for **9 decisions** which were not appealed. Meanwhile, regarding **3 decisions** the relevant inspectors have filed administrative lawsuits at the court. At the end of these judicial processes, the court has decided to leave in force the Commissioner’s decisions and ordered the obligatory execution by the Bailiff’s Office.

PERSONAL DATA PROTECTION

<i>Year</i>	2017
<i>Decisions</i>	22

<i>Administrative Sanctions</i>	36
<i>Judicial proceedings</i>	3
<i>Voluntary executions</i>	11
<i>Requests for warrant of executions</i>	11

Considering the employment relationship as a result of the restructuring of the Commissioner’s Office in 2015, **6** decisions were appealed for which the respective procedures at first instances and administrative courts of appeal were applied. Furthermore, **5** court hearings left in force the decisions of the responsible subject, and **1** case is under review at the Administrative Court of Appeal. There are no financial consequences.

The execution of Commissioner’s decisions is still under process at the Administrative Court of Appeal for the appealed and retained court cases.

4.6 Reports

Considering the involvement of Commissioner’s Office and drafting of reports the following are prepared:

- Report to the Ministry of European Integration regarding IX Subcommittee in the frame of chapter 23 “Justice, Freedom and Security Issues”;
- Report to the Ministry of Justice regarding the National Plan and the Recommendations given by the State Report.
- Report to the Berlin Group meeting;
- Report on the “IX Meeting of the Subcommittee on Justice, Freedom and Security EU-Albania” held on 28 April 2017 in Brussels;
- Report to drafting the Action Plan for the fulfilment of membership criteria, in Chapter 23 - Cooperation in the Judiciary field and the Fundamental Rights, and followed by meetings at the Ministry of Justice, and periodically reporting on the work done to accomplish the objectives defined in the NPEI;
- Report to the 7th meeting of the Special Reform Group in Public Administration;

- Report to the Ministry of Justice on the Commissioner’s Office Activities for the period October, 1st – November 30th, 2017, for the European Commission Report on Albania for 2018;
- Report on the preparation of the first meeting of the mechanism for monitoring the implementation of the recommendations of independent institutions, reported to the Albanian Parliament regarding the level of implementation of the Recommendations.

5. COMPLAINTS PROCESSING AS PER LAW NO.146/2014 “ON PUBLIC NOTIFICATION AND CONSULTATION”

By fulfilling the duty of compliant review regarding procedures stipulated in Law No. 146/2014 “On Public Notification and Consultation” for 2017, the Commissioner has issued **5 decisions**, as follows:

1. Decision No.28, dated 13.02.2017; complaint was submitted by the Albanian Helsinki Committee against the Public Body/Ministry of Justice. Scope of complaint: Complaint regarding the violation of the right to information and public consultation on the *draft-law “On Granting Amnesty”*, whereby the Commissioner decided to review the complaint and to propose to the public body taking administrative measures according to Article 10 of Law No.146/2014;
2. Decision No. 54, dated 21.03.2017; complaint was submitted by “Young Intellectuals, Hope” Association, against the Public Body/Municipality of Shkodra. Scope of complaint: complaint regarding the violation of the right to information and public consultation *on 2017 budget and the medium-term budgeting plan 2018-2019 of the Municipality of Shkodra*”, whereby the Commissioner decided to review the complaint submitted against Municipality of Shkodra and to propose to the public body taking administrative measures according to Article 10 of Law No.146/2014;
3. Decision No. 80, dated 31.05.2017; complaint was submitted by the Albanian Helsinki Committee and the Environmental Center for Development, Education and Networking “EDEN” against the Public Body/National Territory Council. Scope of complaint: Complaint regarding the violation of the right to information and public consultation on *Decision no. 06.08.04.2014 “On approval of compound development permit for the construction of “Dragobia” hydropower plant, Margegaj Commune, Kukësi Region”* whereby the Commissioner decided to reject the complaint;

4. Decision No. 81, dated 16.06.2017; complaint was submitted by the Albanian Helsinki Committee against the Public Body/Ministry of Urban Development. Scope of complaint: Complaint regarding the violation of the right to information and public consultation on the draft law “*On Social Sheltering*”, whereby the Commissioner decided to review the complaint submitted against the public body, and noticed the non-performance of the procedure stipulated by Articles 6, 7/1, 11 and 15/1 of Law No.146/2014. This decision was appealed by the relevant ministry, for which the court decided to return the lawsuit due to defects noticed.
5. Decision No. 93, dated 11.10.2017, complaint was submitted by the Albanian Helsinki Committee against the Public Body/Municipality of Tirana. Scope of complaint: Complaint regarding the violation of the right to information and public consultation on *proposal of increasing water tariffs and its approval by the Municipal Council of Tirana*, whereby the Commissioner decided to declare his/her incompetency regarding the complaint filed by AHC against the Public Body Municipality of Tirana, as the draft act, which is the scope of complaint, has not been approved yet. This decision was already appealed, and the case is under review by Tirana First Instance Administrative Court.

6. AWARENESS-RAISING AND PROMOTING THE RIGHT TO INFORMATION AND PERSONAL DATA PROTECTION

The Commissioner’s Office has carried out a range of activities, aiming at raising the awareness and promoting the right to information and personal data protection.

- **28 January, European Data Protection Day, designing the “IDP Ankesa” application**

In the framework of January 28th, European Data Protection Day, the Commissioner’s Office has organized the “Privacy App” competition. This initiative was supported by students of “Harry Fultz” Institute of Tirana, who designed a smart phone application. The novelty enables individuals to file a complaint from their smart phones in case of any violation or misuse of personal data. “IDP Application” is already available to download by all citizens in Play Store (for Android operating system), whereas download to iOS system will be available at a second stage.

- **Schools and trainings “Information and Privacy” – cooperation with the University of Tirana, University of Vlora “Ismail Qemali” and Academy of Security**

In the framework of the cooperation agreement signed with the University of Tirana, the latter and the Commissioner’s Office co-organized “Information and Privacy” Winter School for the period 23-27 January. Sixty students, as well as academic and administrative staff from all faculties of University of Tirana were selected to participate in the first edition of the said school.

Another similar initiative, “Information and Privacy” Summer School for the period 30 May-2 June 2017, was undertaken in cooperation with the University of Vlora “Ismail Qemali”, with the support of OSCE Presence in Albania. One hundred students, as well as academic and administrative staff of the University of Vlora were selected to participate in this summer school.

In both activities, topics and concrete cases from Albanian and European practices regarding privacy and personal data protection, and the right to information were tackled.

During 21-22 November 2017, the Commissioner’s Office organized in cooperation with the Academy of Security the training “Information and Privacy”. Forty one individuals, both academic and administrative staff from the State Police education institution, were selected to participate in this activity. The training focused simultaneously on expanding knowledge on personal data protection and on the law on the right to information; as well as on Law No. 19/2016 “On Additional Public Safety Measures”, and Instructions No. 3 and No. 46 of the Commissioner, regarding the respect of citizens’ right to privacy in relation to “*data processing through video surveillance systems*” and “*the level of security of data processing from additional safety measures*”.

- **“3d National Conference on the Right to Information, Coordinator and Civil Society”, Regional Conferences on the Right to Information, 28 September - Right to Know Day**

In collaboration with the OSCE Presence in Albania, the Commissioner’s Office organized the “*3rd National Conference on the Right to Information, Coordinator and Civil Society*”. Two important documents were presented during this Conference on the proper functioning of Public Authorities in respecting the right to access to official documents: “*Guideline for*

the Coordinator on the Right to Information” - a manual for employees that are responsible for the administration of the process of providing information to citizens, drafted with the support of SIGMA/OECD; *“Self-evaluation Instrument of Public Authority”* - an instrument which determines the steps for every institution of the public administration to meet their obligations in compliance with the provisions of the Law “On the Right to Information”.

In 2017, the Commissioner’s Office carried out 4 Regional Conferences - “Right to Information, Public Authorities, Coordinator and Transparency Programmes”, in Durrës, Lezha, Peshkopi and Saranda. During these conferences trainings were conducted for representatives of the Prefecture, local self-government units, law bodies and State Police, central institutions at local level, etc., on the provisions of Law No. 119/2014 “On the Right to Information”, and the functions of the portal “*pyetshtetin.al*” as an integrated informative platform for the citizens were presented.

On 28 September, on the Day of the Right to Information, Commissioner’s Office introduced an awareness-raising poster, which symbolises the flower of good governance. Many central, local and justice system public authorities joined this initiative.

- **Cooperation Agreement**

In the course of this year, Commissioner’s Office signed two cooperation agreements:

- A cooperation agreement with the Authority for Information on Documents of the Former State Security. Among other things, the document foresees the provision of opinions on the compilation of various legal and sublegal acts, exchange of information concerning the respective activities of the institutions, organisation of joint activities, as well as preparation and exchange of publications;
- Cooperation Agreement with the National Chamber of Mediators. This document engages parties in the application of the highest standards for the protection of privacy and personal data of the citizens, and concurrently for respecting the right to information with official documents.

- **Study “Privacy and security of personal data when using social networks from 15-18 age group” and the awareness-raising campaign “Privacy and Security”**

In the activity organised on the Safer Internet Day, Commissioner’s Office in collaboration with the Minister for Innovation and Public Administration presented the study “Privacy and

security of personal data when using social networks from 15-18 age group” and the “Resolution for the Adoption of an International Competency Framework on Privacy Education”, approved during the 38th International Conference of Data Protection and Privacy Commissioner (awareness - raising campaign “Privacy and Security”).

This campaign started with the meeting held in the Commissioner’s Office with representatives of RED/EO from all over the country. Throughout the year, various meetings were held in the regions of Dibra, Kukës, Shkodra, Lezha, Elbasan, Korça, Durrës, Gjirokastra and the district of Saranda with teachers of civic education, ICT, as well as psychologists with the aim of discussing this document. The Commissioner’s Office is collaborating with the Ministry of Education, Sports and Youth aiming at incorporating “Teachers’ Competency Framework” in the 9-year basic compulsory education curriculum.

- Organisation of trainings for personal data protection

On 15 June 2017, in collaboration with OSCE Presence in Albania the Commissioner’s Office organised a training session on “*Video Surveillance and Personal Data Protection*”. The activity aimed at introducing rules and principles of privacy protection in relation to the process of video surveillance. Participants in the training were representatives of central institutions, courts, prosecutor’s office, police, local self-government bodies, education and health systems, numerous public services agencies, banking system, telecommunications and insurance companies, call centres, physical safety and security companies, various business companies, etc.

In the framework of the “Program of the Continuous Formation of the School of Magistrates”, on 27-28 February 2017, the 3rd training session titled: “*The Protection of the Personal Data, with Special Focus the Protection of the Susceptible Data Publicized in the Judicial Verdicts*” was carried out. Numerous judges from courts of all instances took part in this training session.

- Activities organised in collaboration with the Open Society Foundation for Albania (SOROS)

The Commissioner’s Office and the Open Society Foundation for Albania implemented the project “Measuring the Capacities of the Coordinators of the Right to Information and the Coordinators of Notification and Public Consultation”. In this frame, 3 roundtables were held

with judicial directorate representatives and coordinators of independent authorities, ministries and subordinate institutions, as well as local self-government bodies aiming at measuring capacities and strengthening the role of coordinators. In 2018 a report with relevant proposals will be drafted.

- **Commissioner's Office website and “Information and Privacy” magazine**

The Commissioner’s Office developed its website where every citizen can easily consult the legislation, which serves as the basis for the Authority and its decision-making. News and announcements on the daily activities of the Commissioner's Office are posted on real time, thus providing a complete and interactive space for the citizens and a transparency model for the Public Authorities.

In 2017, the Commissioner’s Office published issues 3 and 4 of the “Information and Privacy” magazine. These issues consist of the main activities organised by Commissioner’s Office.

7. INTERNATIONAL ACTIVITY

- **Commissioner’s Office to host the Conference of European Data Protection Authorities (CEDPA) on 3-4 May 2018, and the International Conference (ICDPPC) in 2019**

The Commissioner’s Office in the capacity of accredited member of the Conference of European Data Protection Authorities (CEDPA) officially applied at the Secretariat aiming at hosting its 28th edition in 2018 and this proposal was approved, hence automatically making the Commissioner’s Office a member of the Conference Support and Accreditation Committee, along with Hungary and Cyprus.

After the official application submitted on March 2017 aiming at organising the International Conference of Data Protection and Privacy Commissioners (ICDPPC) in 2019, the Executive Committee recommended the Commissioner’s Office as a candidate, and this recommendation was approved with no remarks and officially announced on 20 July 2017. The European Conference will be held for the first time in Albania, likewise the International Conference.

Additionally, during the 39th International Conference of Data Protection and Privacy Commissioners (ICDPPC) in 2017, elections were held for the new chairperson and members of the [Executive Committee](#). The Albanian Information and Data Protection Commissioner was elected member observer in this forum. After October 2018, the Commissioner will be a full member of the steering body in the organisation.

- **Commissioner's Office collaborates with the Technical Assistance and Information Exchange Instrument of the European Commission (TAIEX)**

On 14-15 November 2017, in collaboration with the Technical Assistance and Information Exchange Instrument of the European Commission (TAIEX) the Commissioner's Office organised a training session on the Impact of General Data Protection Regulation in Acceding Countries. The mission mainly focused on the innovations provided by the EU General Data Protection Regulation and EU Directive No. 680/2016 in relation to the European legislation into force and the relationships with third parties.

- **Cooperation with T-PD, WP29 and the Berlin Group**

In the context of international relations, the Commissioner's Office participated in the meetings of the Article 29 Working Party (WP29) and in T-PD (Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data No. 108). These meetings principally consisted of discussions related to opinions to be approved in the field of health, police, etc. The Commissioner also attended the second conference of intelligence oversight 2017 (*International Intelligence Oversight Forum 2017*) on "Dilemmas and Best Practices in Intelligence Oversight". Moreover, in November 2017 the Commissioner participated in the 62nd Meeting of International Working Group on Data Protection in Telecommunications (Berlin Group).

- **Cooperation with the Council of Europe**

On 5 December 2017 in collaboration with the Council of Europe, the Commissioner's Office organised a seminar on "Safeguarding Privacy in the Media" with experts in the field of personal data protection.

- **Participation in the European and International Conferences of Commissioners for the right to information**

Representatives of the Commissioner's Office have participated in the European and International Conference of Commissioners for the right to information. During both conferences representatives of the Office delivered presentations related to the progress of the right to information in Albania, and also discussed about specific cases and the practices created.

– **Participation in the International Conference “Data Protection and Right to Information - Opposing or Supporting One Another?”**

During the international conference, representatives of the Commissioner's Office delivered a presentation on “Data Protection and Right to Information - Opposing or Supporting One Another?”, organised by the State Commissioner for Data Protection and Access to Information of Brandenburg, Germany.

– **Cooperation with the Francophone Association**

In the frame of the 10th anniversary of the Francophone Association of Personal Data Protection Authorities (AFAPDP), whose member is also the Commissioner's Office, an article was prepared in French regarding some of the most important achievements of IDP during the period of membership in this body, which was also included in a publication that was presented during the activities organised for this anniversary.

- **The Handbook on European Data Protection Law**

Following the publications of the Commissioner's Office, the *Handbook on European Data Protection Law* was prepared and published into Albanian. This publication jointly prepared by the European Union Agency for Fundamental Rights (FRA) and the Council of Europe together with the Registry of the European Court of Human Rights, is the most complete summary of jurisprudence of the Council of Europe and European Union in the area of personal data protection, with the original document in English and French, later translated in 23 different languages.

8. BUDGET MANAGEMENT

- **Follow-up and application of practices on human resources management**

Implementation and execution of civil service legislation was one of the main aspects of management as a whole. Although requirements for increasing capacities have occurred yearly, during the compilation of budgeting requirements MTBP, the organizational structure

			compare d to the total	amount for 12 months	compared to the annual plan
1	Salary	36700	55.9 %	35,917	97.8%
2	Social insurance	6400	9.7 %	5,742	89.7%
3	Other commodities and services	19660	29.9%	19,206	97.6%
4	Investments	2500	3.8. %	2,380	95%
5	Transfers to family budgets	290	0.4%	290	100%
6	Membership fee	100	0.1%	83	83%
	Total	65,650	100%	63,618	96.9%

The structure of the Commissioner's Office did not have an internal audit unit. In 2017, we were not included in the plan of audit by the State Supreme Audit.

Incomes from sanctions/fines

Total of sanctions in 2017	1820 (in thousand ALL)
Violation of provisions of Law No. 9887/2008, amended	1120 (in thousand ALL)
Violation of provisions of Law No. 119/2014	700 (in thousand ALL)

Received
1000 (in thousand
ALL)

- In 2017, the imposed sanctions reach the amount to 1820 (in thousand ALL);

- As regards the imposed sanctions in 2017, the collected value reaches the amount of 1000 (in thousand ALL);
- In 2017, the amount 1590 (in thousand ALL) was received, imposed fines in 2016, but due in 2017;
- Total received amount in 2017 is 2590 (in thousand ALL).

Year	Total of fines in the period 2015-2017	
	Received	Not received
2015	4580 (in thousand ALL)	2070 (in thousand ALL)
2016	3148 (in thousand ALL)	1052 (in thousand ALL)
2017	2590 (in thousand ALL)	820 (in thousand ALL)
Total	10318 (in thousand ALL)	3942 (in thousand ALL)

9. ISSUES IN 2017

Last year's analysis based on the monitoring or supervision of the personal data protection, pursuant to Law on the Right to Information, and announcements and public consultation, as well as comparison of indicators in numbers, are fundamental elements for determining issues during this reporting period.

In order to fulfil public authorities obligations deriving from Law No.119/2014 "On the Right to Information", still needs improvement:

- Addressing complaints on time due to the lack of human resource capacities in the structure dealing with the right to information;
- The majority of public authorities do not have complete and updated transparency programmes;
- Coordinators do not have the necessary knowledge on the legal and regulatory framework of the public administration, which causes a low level of law implementation;

- It is concluded that coordinators of the right to information of the central power institutions, are at the level of specialists and as a result they have limited access to other structures;
- It is required that coordinators be trained, qualified and financially stimulated;
- Law revision is necessary;

As regards the area of personal data protection, based on the submitted complaints, administrative enquiries and the whole monitoring and overseeing process of Law No. 9887/2008 “On Protection of Personal Data”, amended, the following issues have been identified:

- Ensuring the rights of subjects on personal data, especially focusing on the right to access to personal data;
- Public controllers encounter difficulties in distinguishing the right to access from the right to information when addressing citizens complaints;
- Ensuring obligation to information by the controller related to the way of processing;
- Ensuring obligation to correction and deletion of data by the controller;
- Online services and personal data processing in the network do not always follow the rules of legal processing of data;
- Ensuring safety and confidentiality by the part of controllers.

In relation to the implementation of Law No. 146/2014 “On Notification and Public Consultation”, citizen sensitivity and engagement is still low based on the low number of complaints taking into consideration the number of legal and sublegal acts approved each year. The Commissioner assesses the importance of promoting transparency and implementation of the legal framework by following all the steps stipulated in Law No. 146/2014 “On Notification and Public Consultation”.

10. PRIORITIES FOR 2018

The priorities for 2018 are as follows:

- Approval and implementation of the Institutional Strategy for 2018-2020;

<ul style="list-style-type: none"> ▪ Improvement of Law No. 119/2014 “On the Right to Information”;
<ul style="list-style-type: none"> ▪ Drafting and approval of the model transparency programme for the local self-government bodies;
<ul style="list-style-type: none"> ▪ Designing of the national public authorities request and response register, the <i>pyetshtetin.al</i> portal;
<ul style="list-style-type: none"> ▪ Approximation of the legislation on the protection of personal data with EU Regulation 679/2016 and Directive 680/2016:
<ul style="list-style-type: none"> ▪ Monitoring and surveillance of the implementation of Law No. 9887/2008 “On the Protection of Personal Data” which is topic related and aims at unifying the practices in different sectors;
<ul style="list-style-type: none"> ▪ Addressing of international transferring of personal data according to GDPR practices;
<ul style="list-style-type: none"> ▪ Verification of the implementation of Recommendations/Orders given by the Commissioner’s Office
<ul style="list-style-type: none"> ▪ Capacity building through trainings and adding awareness raising activities with citizens, public authorities or public and private controllers;
<ul style="list-style-type: none"> ▪ Organising the European Conference, 3-4 May 2018.

ANNEX 1

For the purpose of enforcing Decision No. 49/2017 “*On Designing the Mechanisms for the Systematic Monitoring of the Follow-up and Implementation of the Recommendations of Independent Constitutional Institutions and those Established by Law*”, following are listed the requirements elaborated on as part of Annex 1 of the Annual report 2017 of the Commissioner’s Office.

A- Implementation of the previous Assembly of Albania’s resolution recommendations on the evaluation of institutional activity.

1. Intensifying the monitoring and overseeing of Law No. 119/2014 “On the Right to Information” and Law No. 9887/2008 “On Protection of Personal Data”.

On the enforcement of Law No. 119/2014 “On the Right to Information”, the Commissioner’s Office has carried out inspections at central, local government and independent institutions, be them due to complaints or on its own initiative. In addition, Public Authorities were monitored in order to verify whether the transparency programmes and the request and response registers were up to date. At the end of each monitoring, the Commissioner’s Office issued the respective act or gave access to its findings to the Public Authorities, with the purpose of improving its transparency level.

Throughout this year, the Commissioner’s Office has undertaken specific steps under the framework of guaranteeing the rights of data subjects, and implementing the obligations of public and private controllers. The monitoring was carried out mainly through internal mechanisms, but also through external indicators, specifically by citizens and the media. The topic of monitoring and overseeing the law on protection of personal data was more specific, and the sectors were selected based on the size of the controllers, but also on the current issues.

1. The frequency of administrative controls and enquiries has been intensified, thus referring to the observation of the right to information and protection of personal rights, specifically focusing on the topic related inspections and in different sectors.

The administrative inspections carried out on the right to information consisted on the verification of complaints submitted to the Commissioner’s Office and on other inspections carried out for the transparency programmes. The complaints submitted by natural and legal persons were mostly for non observance of the right to information within the legal term. During 2017, 98 administrative enquiries were carried out, 3 more than in 2016.

Regarding the administrative inspections carried out on the protection of personal data, throughout this year, the Commissioner’s Office has intensified the controls and administrative enquiries at private and public controllers, thus focusing on the sectors which process large amounts of personal data and that have great impact on individual’s lives. Specifically, the sectors in which the administrative controls are focused on are health, banking, telecommunication, direct marketing, travel agencies, call centres, Institutions for Execution of Criminal Decisions, higher public and non-public education, public and private social care institutions, as well as private physical security associations.

Under this framework and referring to the figures, it is noticed that throughout this year 184 inspections were carried out (from 179 that were carried out in 2016). This increase has come as a result of the increasing number of complaints submitted by citizens, which indicates that citizens are becoming more aware of the importance of protecting personal data.

2. The administrative measures on the legal violations identified, specifically focused on the lack of transparency programmes and the request and response register have been increased.

Regarding the administrative measures in the area of the right to information, it is worth mentioning that the Commissioner has issued 66 Decisions addressing Public Authorities, out of which 57 are ordering decisions, 3 rejecting decisions, and 6 sanctioning decisions (while in 2016, 36 decisions were issued, out of which 3 were sanctioning decisions).

3. The implementation of Cross-Cutting Strategies under the framework of the right to information, regarding the measurable indicators, has been followed-up.

- The Commissioner’s Office, as an institution which focuses on improving public authority transparency and accountability, is part of the Cross-Cutting Public Administration Reform Strategy 2015-2020 (CPARS). Based on the annual monitoring reports on the CPARS Action Plan, it results that the activities for which the Commissioner’s Office is responsible are fulfilled in accordance with this strategies’ indicators passport. In cooperation with the representatives of the Public Authorities Department and with the assistance of SIGMA/OECD experts, the Commissioner’s Office has drafted the measures the CPARS Action Plan for 2018-2020 will have;
- The Commissioner’s Office is responsible for the implementation of one of the 10 indicators foreseen in the “*Sector Contract for Public Administration Reform Budgetary Support*”. Out of the 5 (five) indicators fully met, one was the Commissioner’s Office;
- In addition, the Commissioner’s Office is part of the Cross-Cutting Strategy on War against Corruption. Throughout this year progress was made regarding the implementation of measures foreseen in the strategy action plan, which were almost fully met. In cooperation with a group of EU experts, the two indicators which the Commissioner’s Office will have in the strategy have been designed. These indicators will not only measure the level of institutional transparency, as one of the main instruments in the war against corruption, but will also serve as indicators of the implementation of the law on the right to information.

4. Continuous expertise on the improvement of the legal framework in the area of personal data, in compliance with the new EU General Data Protection Regulation (GDPR) has been provided.

The main objective of the Commissioner’s Office for the two following years in the field of protection of personal data is the adaption of local legislation with the GDPR, which comes into force in May of this year. This is also foreseen in the National Plan for European Integration (NPEI).

Since its approval, the Commissioner’s Office has been engaged by applying for a draft-consortium, Horizon 2020, and for 6 trainings.

5. The implementation of recommendations given to controllers is continuously verified.

A continuous task of the Commissioner's Office is the verification of recommendations given to the controllers. During this reporting period, the Commissioner's Office was focused on online services and verifying "Privacy Policies" on official websites of the public and private controllers.

The fulfilment of local government recommendations for 61 local self-government units given during 2016 (process in progress) has been verified.

Furthermore, verification of recommendations has been made possible through the selection of controllers in enquired sectors, mainly in the fields of education and call centres, or through the obligation the controllers have to notify on the fulfilment of recommendations.

6. Awareness raising campaigns in both activity fields with public and private institutions and civil societies have been increased.

During this year, the Commissioner's Office has carried out trainings of different target groups on the principles of the right to information and protection of personal data. Specifically, some training sessions for students and academic staff of the University of Tirana, Ismail Qemali University, Vlora, as well as the Police Academy have been carried out.

The coordinators on the right to information have been trained and the Third National Conference on the Right to Information has been organised, in which 2 important documents were presented for the first time, such as: the Public Authorities Self-Assessment Instrument on the implementation of the Law "On the right to information" and the Guideline for Coordinators.

In addition, some trainings focused on the processing of personal data through video surveillance in cooperation with OSCE presence in Albania, or the processing of personal data in media, in cooperation with the Council of Europe, have been carried out.

On the occasion of the 28th of January, European Data Protection Day, the application "IDP Complaints" was promoted, an application where citizens can quickly and safely submit complaints to the Commissioner's Office.

7. The education of students and teachers on the protection of privacy and personal data in digital environments has been continued.

On the day of the activity organised for "Safe Internet Day", the Commissioner's Office launched the "Privacy and Safety" campaign. During this activity, the Resolution on the "International Competency Framework on Privacy Education", approved in the 38th International Conference of Privacy and Data Protection Commissioners, was introduced. The Competency Framework is a document with 9 principles for compulsory education teachers on responsibly educating students on the protection of privacy in the digital era.

The "Privacy and Safety" campaign was launched during the meeting held in the premises of the Commissioner's Office with representatives from all RED/EOs. Meetings in the Dibra, Kukës, Shkodra, Lezha, Elbasan, Korça, Durrës, Gjirokastra regions and in the district of Saranda with teachers of social education, ICT and psychologists were held, in order to properly consult on this document. The Commissioner's Office cooperates with the Ministry

of Education, Sports and Youth, in order for the “Competency Framework for Teachers” to be included in the curricula of 9-year compulsory basic education.

8. The cooperation with international bodies has continued and different instruments for strengthening institutional capacities have been used.

In the framework of international cooperation, the Commissioner’s Office will continue to contribute through experience exchanges and good practices, as well as at common initiative coordination level. The authority will continue to play an active role in the most important European and International forums, in which the following participate:

- a. In the capacity of the observer of the Article 29 Working Party (as of the 25th of May 2018, the European Board for Data Protection);
- b. In the capacity of member of the Consultative Committee of the Convention 108 (T-PD) and the *Ad Hoc* Committee for the Protection of Data CAHDATA of the Council of Europe;
- c. In the capacity of a full member of the International Conference of Privacy and Data Protection Commissioners and in the capacity of its Executive Committee member;
- d. In the capacity of a full member of Conference of European Data Protection Authorities and in the capacity of member of its Support and Accreditation Committee; In addition, under the framework of this forum, the contribution will be given also to the ad hoc working groups, and to the Working Group for Strategic Planning of the European Conference and to the Working Group for Data Protection in the humanitarian action;
- e. In the capacity of member of the International Working Group on Data Protection in Telecommunications (Berlin Group);
- f. In the capacity of a full member of the Francophone Association of Personal Data Protection Authorities (AFAPDP);
- g. In the capacity of a full member of the network of Central and Eastern European Data Protection Authorities (CEEDPA);
- h. In the capacity of member of Case Handling Workshop;
- i. In the capacity of member of the Global Privacy Enforcement Network (GPEN), etc.

Regarding the use of different instruments for institutional capacity building, the Commissioner’s Office continues its cooperation with EU’s TAIEX instrument and with CoE’s JUFREX project, under the framework of which during 2017, 1 expert mission and 1 seminar have been carried out.

9. The Controller’s data register has been improved and the National Request and Response Register for Public Authorities has been designed.

Pursuant to this recommendation, the following have been compiled:

- Draft-decision “*On Creating a State Database for the Electronic Request and Response Register on the Right to Information*” and an explanatory report, awaiting for approval by the Council of Ministers;
- Draft-decision “*On creating a state database for the Electronic Register of controlling subjects*” and an explanatory report, waiting for approval by the Council of Ministers.

Total	65,650	100%	63,618	96.9 %
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– **Court appeals’ status, criminal reports**

For 2017, pursuant to Law No. 119/2014 “On the Right to Information”, the Commissioner has rendered 66 Decisions, out of which 22 were appealed, 11 of which were rejected (the Commissioner’s decisions were left into force), 4 were accepted, 5 were for dismissing the trial, 1 for lawsuit revocation, and 1 for partial acceptance of lawsuit.

For 2017, in observance to Law No. 9887/2008 “On Protection of Personal Data”, the Commissioner has issued 22 decisions. 3 Decisions were appealed and the court has decided to leave them into force.

Due to the restructuring of the Commissioner’s Office on 2015, 6 Decisions were appealed, for which the respective procedures were followed in two administrative instances. For 5 cases, the decisions of the unit responsible are left in effect and for 1 case, the process is still being carried out in the Administrative Court of Appeal. There are no financial effects for any of the cases.

The execution of the Commissioner's decisions is still followed up and so are the judicial proceedings at the Administrative Court of Appeal for due cases.

– **Information pursuant to the law on civil services and the efficiency of strengthening human capacities for the institutions mission.**

The Commissioner’s Office has met the requirements set forth by Law No. 152/2013 “On civil servant” and the sublegal acts pursuant to and under the Code of Labour for support staff.

- **Recruitment in civil services**

Through the respective structure (Unit responsible), human resources have been supervised and managed by respecting the legislation’s main principles.

During 2017, 6 recruitment procedures were issued, out of which 2 were for lower management level, whilst the vacancies in the senior management level were partially filled in, within the law on civil services.

- **Assessment of the performance of civil servants**

The assessment of civil servants’ performance and the respective process is carried out every 6 months.

ANNEX 2

In relation to Chapter 4 “*Legal activity, administrative and judicial procedures*” of the annual report, during 2017 the Commissioner’s Office has provided their viewpoint for the following draft laws:

Draft-law “*On protection of the national minorities in the Republic of Albania*”, proposed by the Parliament of the Republic of Albania.

Draft-law “*On official statistics*”, proposed by the Prime Minister’s Office;

Draft decision “*On the creation of the state database for the national health electronic registry*”, proposed by the Minister of State for Relations with the Parliament;

Draft-decision “*On the creation of the state database the Digital Archive of the Central Technical Construction Archive*”, proposed by the Ministry of Urban Development;

Draft-decision “*On the definition of rules for the cooperation between the building administrators, local administrative units and the State Police*”, proposed by the Ministry of Interior;

Draft-decision “*On the creation of the database of the National Civil Status Registry*”, proposed by the Ministry of Interior;

Draft-decision “*On tariff setting to institutions or subjects for the fees of services provided by the Authority for Information on Documents of the Former State Security*” proposed by the Ministry of Finance and Economy;

Draft-decision “*On some additions and amendments to Law No. 824, dated 06.12.2006 of the Council of Ministers, “On the approval of authorized institutions for the electronic verification of the judicial status, and the declaration form, as amended;*”

Draft-decision “*On the organization of the National Agency for Information Society*”, proposed by Prime Minister’s Office;

Draft-decision “*On the approval of the regulation “On licensing private archives*”, proposed by the Prime Minister’s Office.

Draft-decision for approval in principle of the “*Cooperation Agreement between the Council of Ministers of the Republic of Albania and the International Commission on Missing Persons (ICMP)*”, proposed by the Ministry of Interior;

Draft-decision “*On the approval in principle of the Agreement between the Council of Ministers of the Republic of Albania and the Government of the Republic of Greece “On the setting-up and functioning of the common contact centre for the police and customs collaboration*”, proposed by the Ministry of Interior;

Draft-decision “*On the Memorandum of Understanding between the Ministry of Interior, the United Kingdom of Great Britain and Northern Ireland, and the Ministry of Justice*”, proposed by the Ministry of Interior;

Draft-decision “*On the approval in principle of the Cooperation Agreement between the Council of Ministers of the Republic of Albania and the Government of the United States of America “On the prevention of illicit trafficking of nuclear or other radioactive material*”, proposed by the Ministry of Interior;

Draft-agreements of the collaboration with Eurojust, proposed by the Ministry of Justice;

Memorandum of Understanding for Interaction on Criminal Customs Violations between the Customs and Tariffs of the United Kingdom, composed of the Great Britain and Northern Ireland, and the Albanian Customs Administration, proposed by the General Directorate of Customs;

Draft-agreement between the Council of Ministers of the Republic of Albania and the People's Republic of China "On customs collaboration and mutual assistance", proposed by the General Directorate of Customs;

Draft-agreement "On the dissemination of personal data of candidates for students with

HEIs for the academic year 2017-2018 by the Educational Services Centre to the Interuniversity Service Centre and Telematic Network" proposed by the Ministry of Education and Sports;

On improvement of the Broadcasting Code, approved by AMA's Decision No. 1, dated 27.01.2014, proposed by AMA.

Legal opinions have been provided for important documents submitted by various institutions, such as:

- Opinion on the project "*Transparency on political parties' funding as a mechanism for the reduction of corruption in Albania*", proposed to the Coalition of Domestic Observers;
- Opinion on "*Publication of the list of candidates applying for the positions of members of the transitional re-evaluation' institutions of judges and prosecutors*" proposed to the Ombudsperson;
- Opinion on "*Publishing recommendations of the International Monitoring Operation regarding the candidates for the re-evaluation institutions*", proposed to the Parliament of the Republic of Albania;
- Opinion "*Regarding the request on publishing the professional files of the institution's members for the transitional re-evaluation of judges and prosecutors from the Parliament of the Republic of Albania*";
- Opinion "*Regarding the publishing from the Parliament of Albania of the documents confirming the fulfilment of legal criteria from selected candidates as members of the High Judicial Council and High Prosecutorial Council.*";
- Opinion on the request for collaboration submitted by the "*Authority for Information on Documents of the Former State Security*";
- Opinion on publishing Reports of the State Supreme Audit and observance of requests of Law No. 9887/2008 "On protection of personal data", as amended, requested by the State Supreme Audit.
- Opinion on the project "*European Cystic Fibrosis Society Patient Registry (ECFSPR) which aims at gathering, processing and transferring personal and sensitive data of patients from the European Cystic Fibrosis Registry (ECFSPR) in Germany*", proposed by the Department of Paediatrics;
- Opinion "*On the project for the CCTV installation system in the civil status offices*", proposed by the Ministry of Interior;
- Request for opinion review "*On the insurance and reinsurance activity*", proposed by the Financial Supervisory Authority;

- Opinion on “*Execution of the regional plan for the digital integration following the Trieste Summit*”, proposed by the Minister of State for Innovation and Public Administration.

ANNEX 3

In relation to Chapter 4 “*Legal activity, administrative and judicial procedures*” of the annual report, passed laws and by-laws, which should have received prior judgment of the Commissioner Office.

Laws which have not been submitted for opinion:

1. Law No. 17/2017, dated 16.02.2017 “*On some additions and amendments to Law No. 9947, dated 07.07.2008 “On industrial property”*”, as amended (Official Journal No. 43/2017);
2. Law No. 18/2017, dated 23.02.2017 “*On child rights and protection*”, as amended (Official Journal No. 43/2017);
3. Law No. 42/2017, “*On some additions and amendments to Law No. 9049, dated 10.04.2003 “On the declaration and audit of assets, financial obligations of elected persons and certain public officials”*”, as amended (Official Journal No. 85/2017);
4. Law No. 40/2017, “*On some amendments to Law No. 8678, dated 14.05.2001 “On the organization and functioning of the Ministry of Justice”*”, as amended (Official Journal No. 85/2017);
5. Law No. 55/2017, “*On the ratification of the amendment no. 1 of the Loan Agreement for Export between the Council of Ministers of the Republic of Albania, represented by the Ministry of Finances, and Unicredit Bank Austria ag, regarding the funding of the project “Electronic health record in Albania - nationwide electronic health record”*”, as ratified with Law No. 69/2014 (Official Journal No. 43/2017);
6. Law No. 69/2017, dated 27.04.2017 “*On some additions and amendments to Law No. 9157, dated 04.12.2003 “On interception of electronic communication”*”, as amended (Official Journal No. 113/2017);
7. Law No. 90/2017, “*On some additions and amendments to Law No. 8580, dated 17.02.2000 “On political parties”*”, as amended (Official Journal No. 118/2017);
8. Law No. 58/2017, dated 20.04.2017 “*On some additions and amendments to Law No. 108/2014, “On State Police”*”, as amended (Official Journal No. 102/2017);

DCMs which have not been submitted for opinion:

1. DCM No. 108, dated 15.02.2017 “*On the approval of the regulation “On the protection of children at work”*” (Official Journal No. 33/2017);
2. DCM No. 495, dated 13.09.2017 “*On the approval of the rules to access electronic public services*” (Official Journal No. 166/2017);

3. DCM No. 534, dated 04.10.2017 *“On the approval of the ninth, tenth, eleventh periodic national report on the implementation of the UN international convention “On the elimination of all forms of racial discrimination” (Official Journal No. 180/2017);*

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**Address:
Rr. "Abdi Toptani", Nd. 5,
Kodi postar 1001, Tiranë
E-mail: info@idp.al
TEL: +35542237200
FAX: +35542233977
Nr. i Gjelbër: 08002050**

www.idp.al