



KOMISIONERI PËR TË DREJTËN  
E INFORMIMIT DHE MBROJTJEN  
E TË DHËNAVE PERSONALE

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# ANNUAL REPORT

Information and Data  
Protection Commissioner

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## ACCRONYMS

## TERMINOLOGY

<b>AIP</b>	Information and Privacy Agency of Kosovo
<b>NISA</b>	National Information Society Agency
<b>PA</b>	Public Authorities
<b>AMS</b>	Application Management System
<b>ASPA</b>	Albanian School of Public Administration
<b>Normative Act No. 12/2022</b>	Normative act No. 12, dated 29.7.2022 “On some changes and additions to law No. 115/2021, ‘On budget 2022’”, as amended
<b>EU</b>	European Union
<b>Law Enforcement Directive</b>	Directive (EU) 2016/680 of the European Parliament and Council of April 27, 2016 “Protection of natural persons in relation to the processing of personal data by the competent authorities for the purpose of prevention, investigation, detection, prosecution of criminal offenses or the execution of criminal penalties and the free movement of these data”
<b>GTD</b>	General Tax Directorate
<b>GDRTS</b>	General Directorate of Road Transport Services
<b>GDPR</b>	Regulation (EU) No. 2016/679 “Protection of natural persons regarding the processing of personal data and the free movement of these data” (General Data Protection Regulation)
<b>GPA</b>	Global Privacy Assembly
<b>ICIC</b>	International Conference of Information Commissioners
<b>CoE</b>	Council of Europe
<b>Law on the Right to Information</b>	Law No. 119/2014, “On the right to information”
<b>Law on open data and reuse of public sector information</b>	Law No. 33/2022, “On open data and reuse of public sector information”
<b>Law on personal data protection</b>	Law No. 9887/2008 “On the protection of personal data”, as amended
<b>Law No. 49/2022</b>	Law No. 49/2022, dated 12.05.2022, “Ratification of the Protocol amending the Convention ‘On the protection of individuals in relation to the automatic processing of personal data’” (CoE Convention 108+)
<b>Law No. 45/2022</b>	Law No. 45/2022, dated 28.04.2022, “On the ratification of the Council of Europe Convention ‘Access to official documents’” (Convention 205)
<b>LSGU</b>	Local Self-Government Units
<b>CSO</b>	Civil Society Organisation

<b>TP</b>	Transparency Programme, the totality of information and the ways of making it public by the public authority, according to the provisions of articles 4 and 7 of the law on the right to information
<b>ERRRRI</b>	Electronic Register of Requests and Responses on the Right to Information
<b>RRR</b>	Register of Requests and Responses
<b>Assembly Resolution</b>	Resolution on the evaluation of the activity of the Commissioner for the Right to Information and Protection of Personal Data for the year 2022, approved on 28.04.2021
<b>ISMS</b>	Information Security Management System
<b>ICT</b>	Information and Communication Technology
<b>Order No. 14/2015</b>	Order No. 14, dated 22.01.2015, “On the approval of the Model Transparency Programme”
<b>Order No. 211/2018</b>	Order No. 211, dated 10.09.2018, “Model Transparency Programme for Local Self-Government Units”
<b>Order No. 187/2020</b>	Order No. 187, dated 18.12.2020, “On the approval of the Revised Transparency Programme”
<b>Order No. 188/2020</b>	Order No. 188, dated 18.12.2020 “On the approval of the revised Register of Requests and Responses”
<b>Instruction No. 47/2018</b>	Instruction No. 47, dated 14.09.2018, “On determining the rules for maintaining the security of personal data processed by large processing entities”
<b>Instruction No. 48/2018</b>	Instruction No. 48, dated 14.09.2018, “On the certification of information security management systems, personal data and their protection”
<b>DCM No. 145/2018</b>	Decision of the Council of Ministers No. 145/2018 “On the creation of the state database, ‘Electronic Register of Requests and Responses for the right to information””
<b>Decision of the Assembly No. 84/2020</b>	Decision of the Assembly of the Republic of Albania No. 84/2020, “On some additions and amendments to Decision No. 86/2018, ‘On the approval of the structure, organisation and salary classification of the Commissioner for the Right to Information and Protection of Personal Data”
<b>Office of the Commissioner</b>	Office of Information and Data Protection Commissioner

## INTRODUCTION

The right to the protection of personal data is a fundamental right, as sanctioned by Article 35 of the Constitution of the Republic of Albania, Article 8 of the European Convention on Human Rights and Article 8 of the Charter of Fundamental Rights of the European Union. The right of access to information that is produced or held by public authorities is an essential part of the fundamental right of freedom of expression, as recognised by the UN resolution 59, Article 19 of the Universal Declaration of Human Rights, Article 10 of the European Convention of Human Rights, Article 11 of the EU Charter of Fundamental Rights, as well as being sanctioned by Article 23 of the Constitution of the Republic of Albania. The activity of the Office of Information and Data Protection Commissioner is guided by its mission which, in turn, is underpinned by the essential values and principles enshrined in its vision

### OUR VISION

*To promote and support a society, with the core values of guaranteeing fundamental human rights and freedoms, together with the right to personal data protection and the right to information, in order to boost transparency, responsibility and accountability.*

### OUR MISSION

*To oversee the implementation of the legal framework on personal data protection and the right to information, while guaranteeing the effective enjoyment of these rights in the digital age and raising due awareness of public authorities and data controllers, in both the public and private sectors, in order to enhance society's outlook and culture in relation to the observance of fundamental human rights and freedoms.*

### OUR OBJECTIVES:

- To ensure the implementation of the highest regulatory standards in order to strengthen the protection of personal data and the right to information in the era of rapid digitalisation.
- To increase institutional capacities in line with legislative improvements, with special attention to technological developments.
- To actively raise awareness and promote the rights of citizens, giving priority to young people's education.
- To further cooperation with our international partners in order to exchange experiences on the implementation of modernised legislation in the Commissioner's two areas of responsibility.

## MESSAGE OF THE OFFICE HOLDER

The year we left behind was marked by events that impacted the Albanian citizens' privacy and personal data. The rapid digitisation of public services and private sector activities alike is inevitably fraught with the challenges which accompany technological development at every step.

These challenges necessitate continuous modernisation of the legislative framework, constant improvement of working practices, and the perpetual strengthening of cooperation among relevant stakeholders at both the national and international level.

The four main principles guiding our work in 2023 are:

- Impartiality
- Integrity
- Transparency
- Cooperation.

In respect to the aforementioned, we made substantial efforts to use our expertise, authority and power to benefit the public interest, assuring that public institutions observe and practice principles in accordance with the right to data protection and access to information, raise awareness of these rights, and focus attention to areas and sectors with the most risks to and greatest impact on citizens' rights.

Our proactive commitment is demonstrated by the high number of inspections conducted through our own initiative, although the number of complaints is ever increasing. Compared to reports from previous years, this year we focused on using our sanctions in a fashion that is both proportionate and correctional in order to attain our main objective of creating an ethos of ethical and responsible handling of personal data. The quality, importance and scope of our auditing and inspection activities, together with the concluding decisions, are significant indicators of the new approach to enforcing the law and building awareness.

The ratification of the CoE Convention 108+ coupled with relevant amendments to the legal framework on personal data protection currently pending adoption will require significant preparations in the run up to implementation. From the preliminary update of the sub-legal framework, to the reorganisation of the institutional structure, to the creation of the network of Data Protection Officers, to exchanges with counterpart authorities and cooperation platforms at EU level and beyond, each step we have taken has ensured compliance with modern legislation and is fully aligned with the EU *acquis*.

The right to information, the pending amendments to the law regarding the right to information, and the adoption of the law “*On open data and reuse of public sector information*” along with the ratification of the Council of Europe Convention on “*On access to official documents*”, are accompanied by our preparations in terms of designing by-laws, strengthen staff capacities, raise awareness of public authorities and enhance cooperation with stakeholders.

In addition, we actively cooperate with counterpart and multilateral organisations on the right to information. Apart from participating in several international working groups, in 2024 we will host the International Conference of Information Commissioners (ICIC) in Tirana, Albania.

Lastly, it is important to note that we have not been discouraged despite the difficulties caused by often insufficient resources and capacities, on the contrary, we have managed to overcome these hurdles owing to increased commitment of the staff and constant upgrade and improvement of work operations.

However, legislation reform in both pillars of our activity, enhancement of powers, rapid technological development and the role we will play in the coming years, require continuous and significant support for the Commissioner’s Office.



# 1. THE RIGHT TO INFORMATION

The right to information is one of the fundamental human rights and a prerequisite for an open government which guarantees transparency and accountability. Transparency is key to democracy as it provides the citizens, civil society and media with the opportunity to evaluate how state powers are discharged and resources used.

The right to information has been widely recognised and affirmed only recently, but its origin and concept dates back to the 18th century. This right was first guaranteed in the Swedish legislation of 1766, and from a historical point of view, Nordic countries are considered to be the forerunners of matters related to transparency and access to information. Finland adopted legislation on the right to information in 1961, while in 1990 this legislation was adopted by 13 other countries. Currently, approximately 120 countries have recognised the right to information.

*“Public information”* is any data recorded, in any form and format, in the course of serving a public function, regardless of whether or not it has been compiled by the public authority itself.

The right of access to information is sanctioned by international instruments, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention on Human Rights and Fundamental Freedoms. In Albania, access to information is guaranteed by the Constitution of the Republic of Albania. In 1999, Albania adopted the first Law No. 8503, dated 30.06.1999, “On the right to information on official documents”.

With the entry into force of Law No. 119/2014 “*On the right to information*”, the Commissioner's Office was entrusted with the duty of overseeing and monitoring the implementation of this law. Since the beginning of its implementation, we have cooperated closely with public authorities, civil society and various interest groups, with the aim of increasing awareness on the most efficient implementation of the right of access to public information. Currently, the Albanian legislation on the right to information reflects the highest international standards and is ranked among the best legislations in the world.

In the eighth year since the implementation of the law on the right to information, we notice significant developments in regard to both the spectrum of transparency obligations by public authorities, and awareness levels by civil society, journalists, citizens and various interest groups.

However, the application of the law in practice encounters various challenges. We have worked intensively to improve the law, relying also on the valuable contribution of civil society and interest groups, who have actively assisted in enhancing the accountability of public authorities.

As public authorities become more aware of their responsibility to publish information without request – i.e. proactive transparency - the amount of public information published on their online transparency programmes has increased considerably, thereby benefiting the public. However, a

lot remains to be done both in terms of proactive transparency and timely response to requests for information.

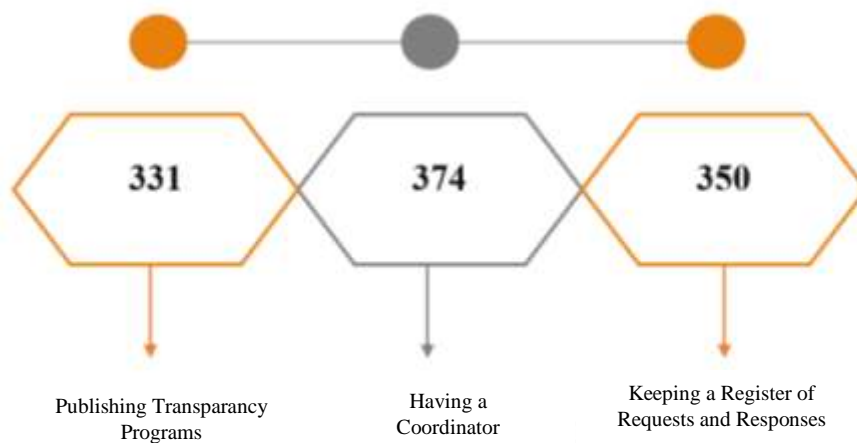
In order to improve the legal framework on the right to information, we shall continue making efforts to strengthen staff capacities, and increase awareness of the institutions to efficiently implement the relevant legal framework.

Special attention will be paid to the training of coordinators for the right to information, especially in matters of handling requests for information, which requires balancing public interest with restrictions on access to information. Communications and exchanges with interest groups and citizens will continue to be the foundation of our activity, as well as efforts to enhance understanding of the legal framework on the right to information. Above all, we will continue to keep young people at the center of attention, making them aware of their rights and the importance of their active participation in decision-making. In respect of technological developments, we will insist on working closely with the necessary institutions to guarantee secure and stable systems underpinning proactive transparency and provide citizens' swift access to information without having to submit requests for access to public information.

### 1.1 MONITORING PROACTIVE TRANSPARENCY

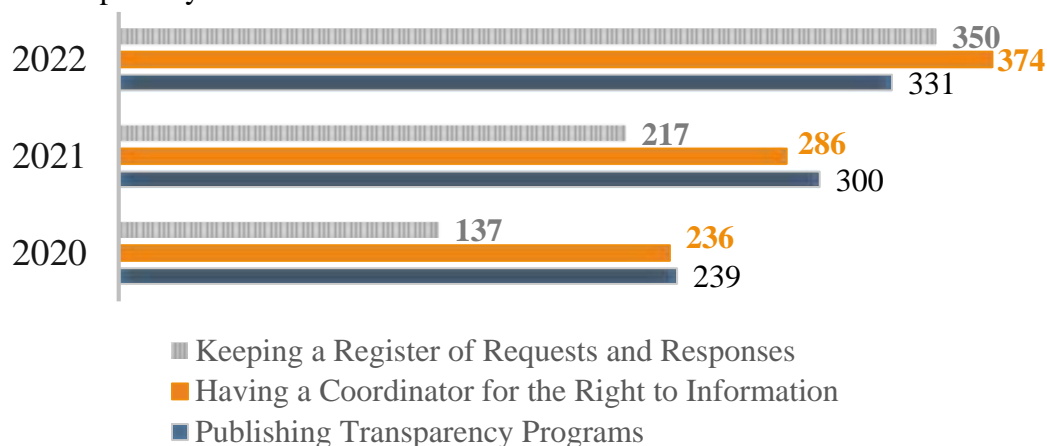
Proactive transparency is an obligation that public authorities fulfill through the creation and subsequent updating of the Transparency Programme and the Register of Requests and Responses (Articles 7 and 8 of Law No. 119/2014).

Our 2022 monitoring activity noted improvements by public authorities in terms of publishing and updating the TP and RRR in accordance with the models approved by Orders No. 211/2018, No. 187/2020 and No. 188/2020 of the Commissioner. The numbers in the table below show that 89% of public authorities publish their PTs, with an increase of 9%, and that 374 PAs have appointed a Coordinator for the Right to Information.



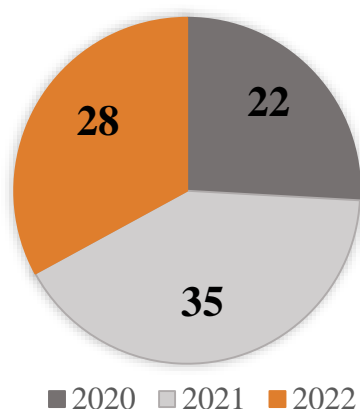
The statistical data in the table below show an upward curve for all three components from 2020-2022. An important factor contributing to this rising trend was made by the regular meetings that

the Commissioner had with the Pas, alerting them to the problems and suggest improvements based on the 2021 Transparency Indexes.



Furthermore, in 2022, the Commissioner focused on the monitoring of TPs published on the websites of the prosecutorial bodies. It was noted that the latter had placed the programme’s icon on their webpages but did not update/enrich the relevant sections with the excuse that their PTs were identical to those of the General Prosecutor's Office. At the end of the monitoring period, the Commissioner came up with 28 specific recommendations for entities at all levels, demanding that information in the respective rubric be harmonized with the applicable models/templates. Subsequently, these recommendations were implemented within the fixed deadlines, and the TPs are now updated continuously.

**RECOMMENDATIONS ON TRANSPARENCY PROGRAMMES OVER THE YEARS**



In addition, 50 inspections took place in 35 central/subordinate PAs and 15 LSGUs across the country’s territory, based on the shortcomings identified in the Transparency Index 2021. Five hearings were held for greater clarity. With the help of Commissioner's inspectors, at the end of the procedures the PAs fulfilled their obligations of proactive transparency, i.e., published/updated their TPs and RRR and appointed a coordinator for the right to information. The institution has maintained continuous communication with these coordinators, ICT specialists, or other employees responsible for designating and publishing the relevant information/documentation and keeping the Register.

The project “Transparency Days” is the most recent initiative of the Commissioner's Office covering 6 district centers: Lezhë, Berat, Elbasan, Kukës, Durrës and Dibër. The main objective is to survey the current situation and implement the obligations stated in the legislation on the right to information. Another objective is to raise awareness and involve as many actors as possible in this process, citizens, civil society organisations and the media, in order to exert positive pressure on the PAs, with the aim of strengthening proactive transparency and good governance. The realization of these activities helped in:

- *Improving proactive transparency on the part of local public authorities;*
- *Increasing the number of fulfilled requests for information/public documentation;*
- *Improving the communication of the local public administration with citizens and civil society organisations, to enhance understanding and use of this right.*

This initiative will continue to cover the other half of the country's regions in 2023. The result of the interaction of the Commissioner's Office with local self-government units is also reflected in the findings of the 2022 European Commission Report on Albania, notably that municipal transparency has improved and all LSGUs publish the decisions of their municipal councils.

## **1.2 TRANSPARENCY INDEX**

For the third year in a row, the Commissioner’s Office published the Transparency Index for Central Level Institutions and entities subordinated thereof, and the Local Self-Government Units in order to measure proactive transparency.

### **1.2.1 Index of Proactive Transparency of Central Institutions and their Subordinate Entities**

A hundred and fifty central level institutions underwent assessment regarding proactive transparency level, including: the prime ministry/ministries and relevant subordinated PAs, independent institutions, the judicial system entities, the prosecutorial system entities, universities and companies with public capital. The monitoring was carried out during November-December of 2022, the methodology was based on the following 8 indicators:

- *publication of the transparency programme;*
- *publication of information on the coordinator to the right to information;*
- *publication of the Register of Requests and Responses, as revised, for 2022;*
- *publication of budget data for the fiscal year of 2022;*
- *publication of audit and monitoring reports (e.g. Reports of the High State Control and/or internal audit reports);*
- *publication of the structure;*
- *publication of legislation;*
- *publication of the CV of the head of institution.*

Compared to the monitoring carried out in 2021, the public authorities performed better in respect to publishing information/documentation as part of the TPs on their official websites. Out of the 150 institutions monitored, the TP was published by 149, while all of them (100%) had appointed

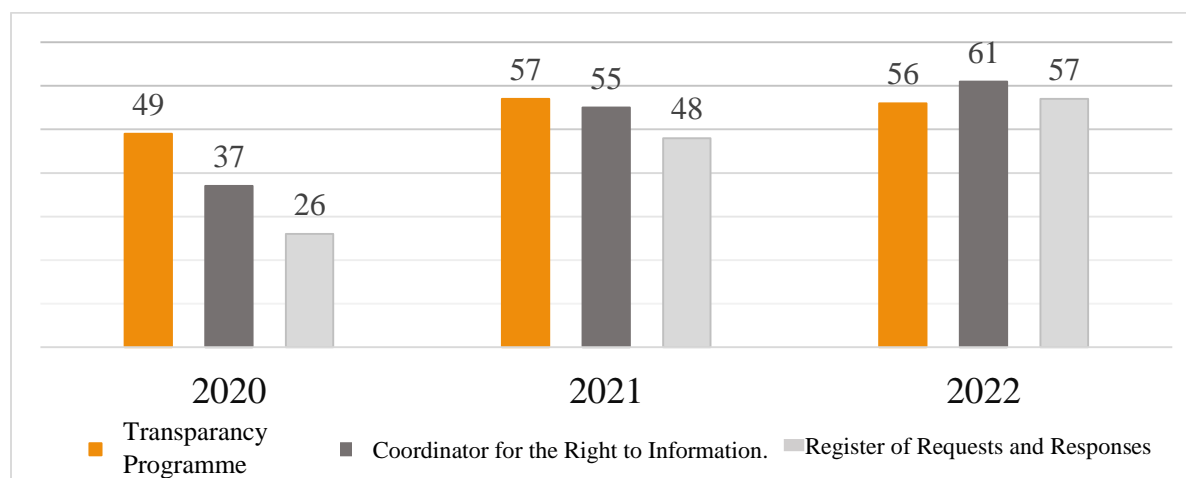
a coordinator for the right to information. However, proactive publication of other categories of information still remains a challenge.

### 1.2.2 Proactive Transparency Index of Local Self-Government Units

The monitoring of this category, from November-December 2022, used a measurement system of 9 main indicators as listed below:

- *publication of the transparency programme;*
- *publication of information on the coordinator to the right to information;*
- *publication of the Register of Requests and Responses, as revised, for 2022;*
- *publication of MTBF 2022-2024;*
- *publication of audit and monitoring reports (e.g. Reports of the High State Control and/or internal audit reports);*
- *publication of information, “On information of the coordinator for public notification and consultation”,*
- *publication of the structure;*
- *publication of legislation;*
- *publication of the CV of the head of institution.*

Compared to earlier monitoring, the level of transparency has increased as evidenced by the fact that additional types of information/documentation have been published. The positive trend, particularly regarding to TPs, RRRs and coordinator appointments is shown in the table below.

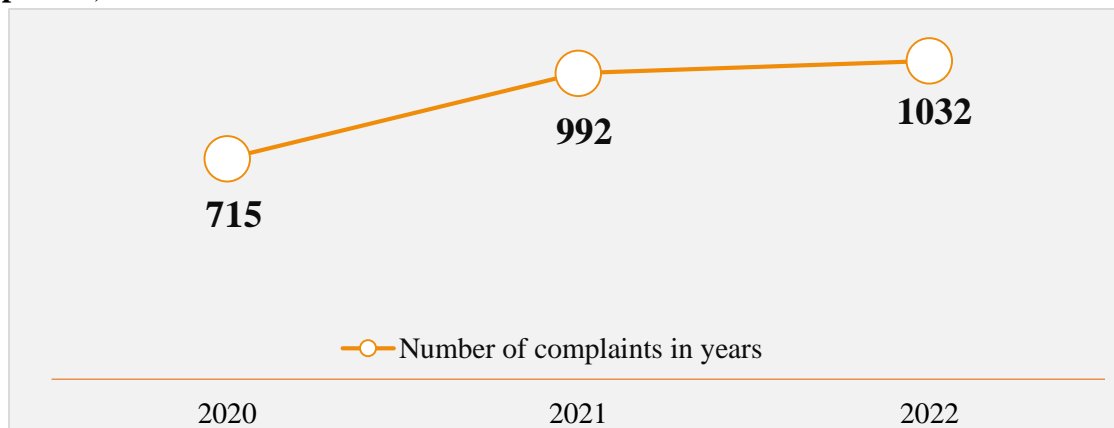


The central and local level Monitoring Reports are published on the Commissioner's official website and are available at: <https://www.idp.al/raporte-monitorimi-2022/>.

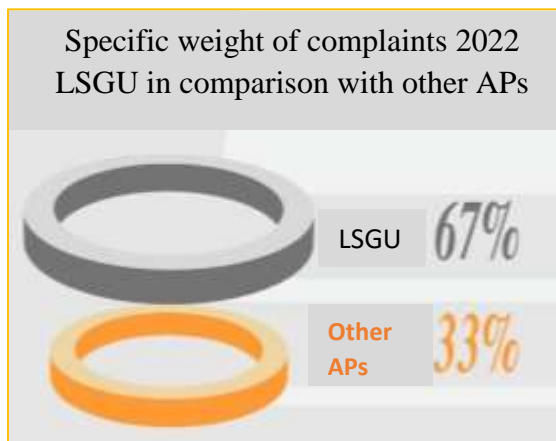
### 1.3 COMPLAINT HANDLING

The Commissioner's Office notes that in 2022 the number of complaints showed a constant increase compared to the previous year. In total, the Commissioner registered 1032 complaints,

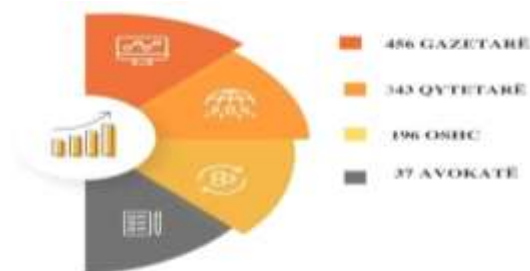
and completed the administrative review of 49 procedures carried over from 2021 (a total of **1081 complaints**).



The specific weight of complaints filed with the Commissioner against LSGUs for failure to provide information is greater by comparison with other APs, even though this percentage is lower compared to 2021. In absolute figures, in 2022, 288 complaints were filed against LSGUs, while 744 were filed against other PAs.



The complainants, as far as they could be identified, are grouped into four categories as shown below.

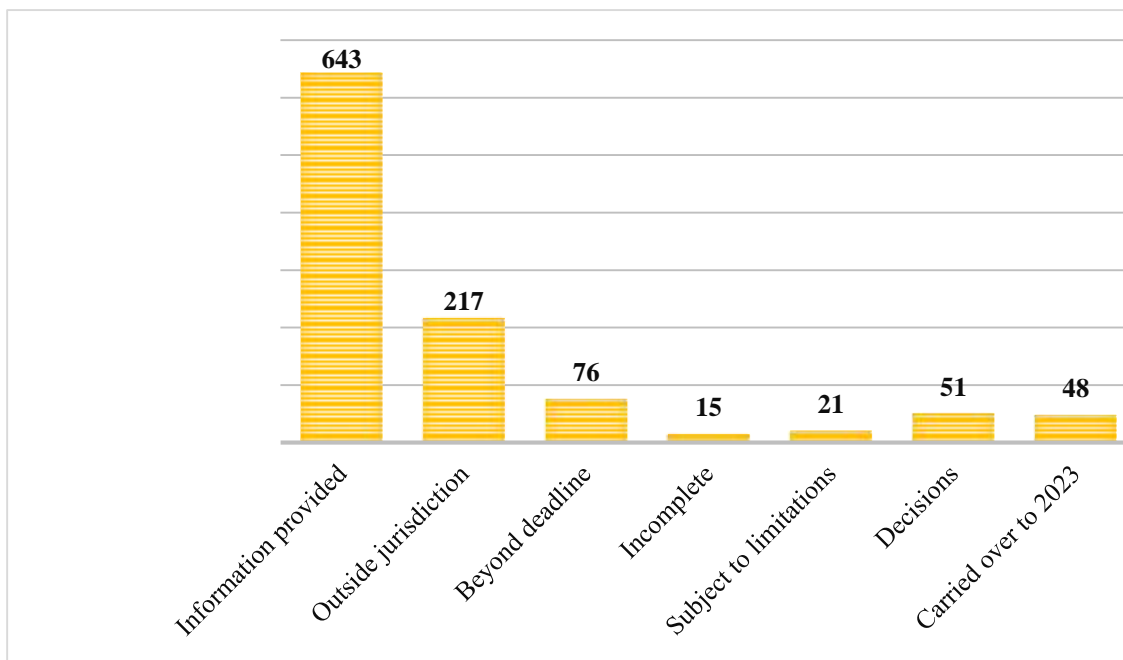


	2021	2022
Journalists	409	456
Citizens	322	343
CSO-s	231	196
Lawyers	30	37

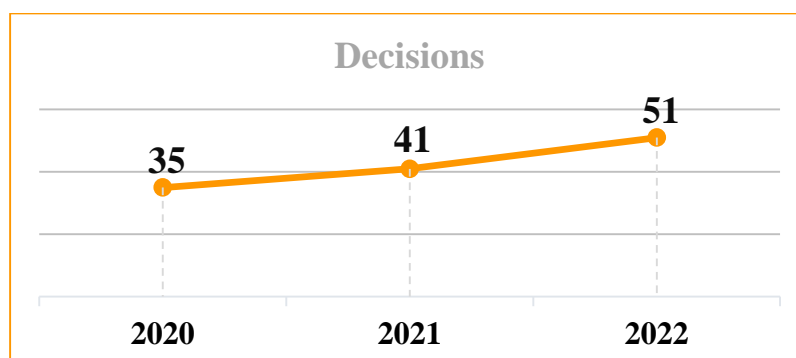
Out o

f the total of 1081 complaints, the requested information/documentation was made available to the complainants in 643 cases following the administrative investigations by the Commissioner's Office. Also, the Commissioner's Office issued 51 decisions for 61 complaints. Of these, 35 sustained the request for information, 9 decisions overturned the request, 4 decisions ruled on inadmissibility of request, and 3 decisions levied administrative sanctions.

Meanwhile, 217 complaints were found to be outside jurisdiction – quite a large number- due to focusing on individual issues or being subject to other specific laws. In order to reduce the number of such complaints, it is necessary to conduct constant awareness campaigns on the applicability of the provisions of the law on the right to information. Additionally, 21 complaints were subject to restrictions and rejected, 76 complaints did not observe the fixed deadline, 15 were incomplete, and 48 were carried over for review in 2023. For greater transparency to the public, the Commissioner's Office publishes on the portal [pyetshtetin.al](http://pyetshtetin.al) the list of registered complaints, which can be easily consulted by citizens and interest groups.



As part of the administrative review of complaints received, 32 inspections were conducted with the public authorities and 72 hearings were held with the presence of the parties.



Requests for information/documentation by citizens or interest groups mainly related to the reconstruction budget (rehabilitation/rebuilding costs after the earthquake), health system/pandemic expenditures, cases involving international arbitration, concessions, procurements, judicial decisions, statistical data on the activity of public authorities, etc. In reviewing the complaints, the Commissioner's Office identified several problems, of which the most important are:

- i. *The PAs encountered difficulties with observing deadlines for provision of information due to the cyber-attack on their official websites. While recognizing the problem, the Office of the Commissioner did not release the public authorities from their transparency obligations.*
- ii. *The PAs continued to display confusion over confidentiality issues in public contracts and commercial secrets which were not always handled in accordance with the provisions of Article 17 of the Law on the Right to Information (LRI). Public contracts often contain confidentiality clauses for certain information/documents, stating that if the PAs fail to observe them, they will be subject to sanctions. To avoid this problem, confidentiality clauses should specify the scope of information/documents they refer to. In any case, such clauses may not prevail over the provisions of the LRI, except as otherwise provided in specific legislation.*
- iii. *In some cases, PAs sends the request for information to another PA, even though they do possess the relevant information.*
- iv. *Applicants continue to use the LRI provisions beyond its object and purpose, in hopes to advance individual administrative issues/cases, such as: access to personal data, documentation related to building permits, the consequences of the 2019 earthquakes, ownership issues, recruitment procedures, etc.*
- v. *Lawyers have increased their requests for access to authenticated documentation which may be used as evidence in court proceedings, bypassing the Law on Legal Defense, or the Code of Administrative Procedures.*
- vi. *There are still petitions for requests of inquiries, interviews, or statements in the media outside the ambit of the LRI scope and purpose.*
- vii. *Coordinators are subject to continuous turnover, appointed by executives, even low-level management, with limited access to other structures of the PA. Due to the coordinator's role and responsibility in handling requests for information, the Commissioner's Office continuously instructs PAs to take measures to strengthen their position.*

Some of these issues are to be resolved by the proposed amendments to the LRI. However, the Commissioner's Office will continue training and building awareness with all the stakeholders/players in the transparency processes.

## **1.4 ELECTRONIC TOOLS**

### **1.4.1 Electronic Register of Requests and Responses on the Right to Information on the portal [pyetshtetin.al](http://pyetshtetin.al)**

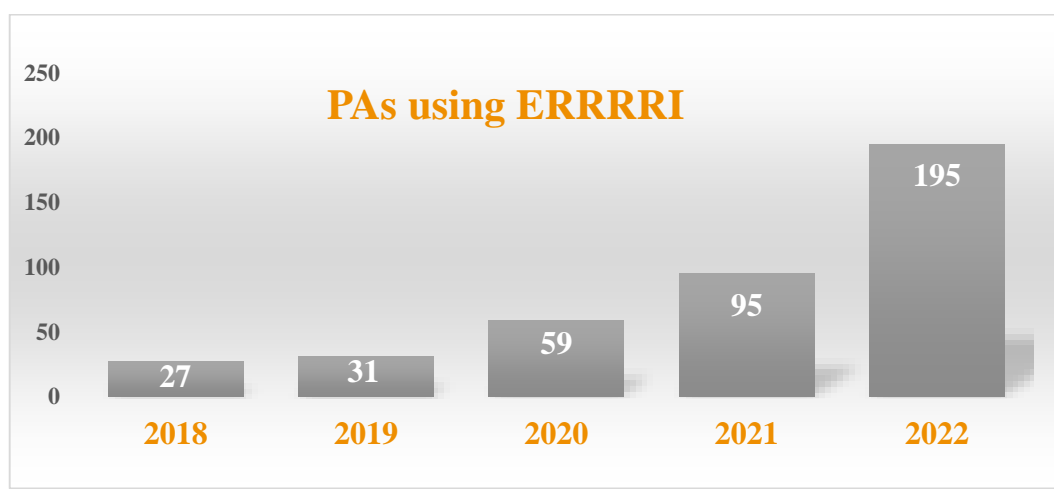
The portal [pyetshtetin.al](http://pyetshtetin.al) (ask the state) ensures a fast and simple way for citizens to obtain public information. During 2022, efforts focused on the technological upgrading of the system and improving/updating/correcting information relevant to public authorities, such as: names, contact information for coordinators, links with the official website, in particular the TP, etc. Since its



creation in 2018, the Commissioner's Office aimed at designing this portal as a central proactive transparency platform.

The Electronic Register of Requests and Responses on the Right to Information (ERRRRI), was embedded in this system based on DCM No. 145/2018. The Register allows citizens to use their right to information upon request and eventually to file a complaint with the Commissioner's Office. This approach ensures the direct involvement of the coordinator and guarantees traceability of the process, leaving no room for abuse and/or evasion of legal obligations.

In 2022, the number of PAs installing and using ERRRRI more than doubled from 95 at the end of 2021 to 195. Parallel with the increasing use of ERRRRI, coordinators were regularly trained to use the system. To date, citizens and interest groups have filed 324 requests for information via the system, while the Office of the Commissioner received 101 complaints.



#### 1.4.2 AMS system on the e-Albania portal

Pursuant to the Assembly Resolution 2022 and based on Article 14 of Law No. 119/2014, the Commissioner's Office, in cooperation with NISA, made substantial progress with the Application Management System. Alternatively, the AMS provides citizens with the opportunity to request information and use the right to appeal with the Commissioner's Office. This system has become functional for another 102 PAs, bringing the total number of beneficiary institutions to 163 at the end of 2022. Coordinators have been trained and are already familiar with the technical modalities of using this system; however, the citizens have only used it sporadically.

#### 1.5 INTERNATIONAL CONFERENCE OF INFORMATION COMMISSIONERS

With the members' unanimous vote in the proceedings of the Closed Session of the 13th edition of the International Conference of Information Commissioners (ICIC), the decision was made to hold the next Annual ICIC Conference in Albania, in the spring of 2024. The role of the organizing authority for the Annual ICIC Conference was granted to the Albanian Commissioner in recognition of our active participation in the international cooperation and the right to information in Albania. The International Conference of Information Commissioners is the worlds largest and

most important forum in the field of the right to information. The opportunity to host the Conference will contribute not only to Albania's promotion, but also in enhancing the PAs awareness of their obligations to respect the fundamental right to information and transparency.

## 2. PROTECTION OF PERSONAL DATA

The right to personal data protection is derived from the right of respect for private and family life, home and correspondence, which are firmly rooted in human dignity. It is protected by Article 8 of the European Convention on Human Rights (ECHR) and constitutes one of the fundamental pillars of human rights. Nowadays, with technological developments and the digitalisation of services, personal data protection has become crucial for preserving the activities of commercial companies and individuals alike. The irreversible process of extensive use of Internet and online platforms has made personal data protection a major concern.

In the Albanian legislation, protection of private life and personal data is one of the fundamental freedoms and human rights sanctioned in article 35 of the Constitution of the Republic of Albania, and provided for by law No. 9887, dated 10.03.2008 "On the protection of personal data" as amended, together with its implementing by-laws. The applicable normative framework guarantees this right, regulating at the same time personal data processing, both in the public and private spheres.

*"Personal data"* is any information relating to a natural person, identified or identifiable, directly or indirectly, in particular by reference to an identification number or one or more specific features of his physical, physiological, mental, economic, cultural or social identity.

In simpler terms, the data protection law determines the fair and legitimate ways of using any individual's personal data. It is binding for all public institutions and private enterprises, who should be the first with a vested interest in complying with the legal provisions and guaranteeing safe processing of personal data in order to gain the public's confidence in their service delivery.

Any organisation, enterprise or institution that collects, uses, exchanges or stores personal data must have a strategy for protecting them, which, if properly crafted and well-conceived, will help them to prevent loss, theft, or breach of such data, as well as reduce the damages and consequences of abuse or attacks against personal data.

As digitisation continues to extend to every sector and aspect of public and private sector activities, ever more providing services to citizens and business, in large part entirely electronically based, these digital platforms and services are not always paralleled by the requisite awareness of the obligations to secure and protect personal data.

Modern platforms and technologies providing digital solutions for citizens and businesses present serious challenges in the field of information security. In this sense, the many benefits they offer come with increased risks for data protection, or risks that may seriously interfere with the individuals' private domain. Therefore, such challenges and risks should be identified and managed proactively and ethically.

Just as personal data is essential for technological innovation and development, protecting it should be considered equally significant. In turn, this would facilitate data circulation, increase public trust and bring benefits for all those concerned.

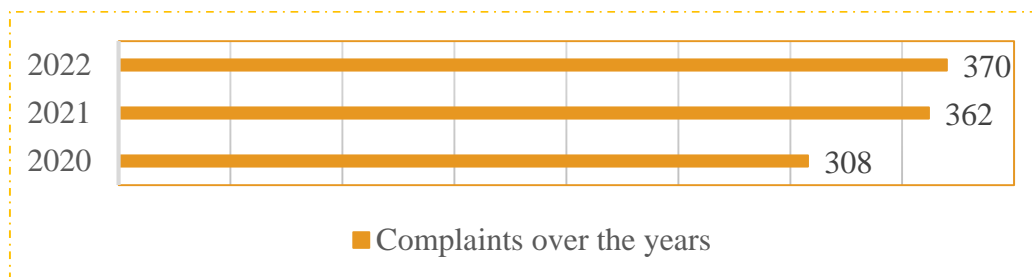
## 2.1 MONITORING AND OVERSIGHT

### 2.1.1 Complaint handling

In 2022, 370 complaints from citizens were received, their subject being as follows:

- failure to respect the right to access, as an important right of the data holder, which allows the latter to receive information from the controller regarding the processing of their data;
- publication of personal data in the media;
- illegal dissemination of personal data by public institutions;
- refusal of the holder's right to correct/delete personal data;
- direct marketing via unsolicited communications.

The increased user rate of this right is the result of citizens' greater awareness on one hand; on the other hand, it is an indication of insufficient understanding of the right, or inappropriate implementation of the law by controllers/processors. The rising trend of complaints in the last few years is indicative of the importance that individuals are increasingly paying to the control and protection of their personal data.

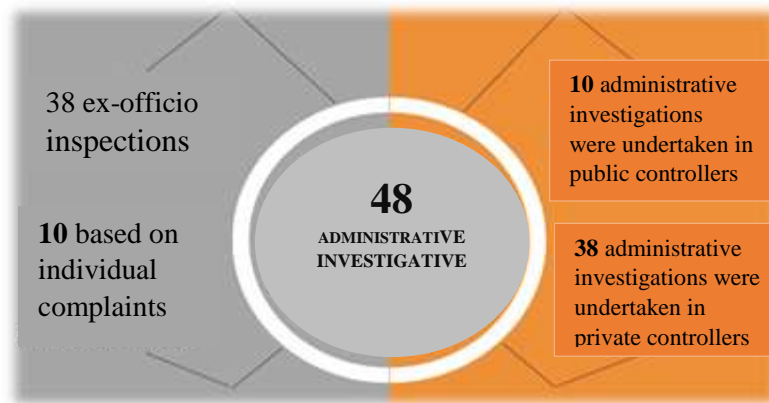


### 2.1.2 Administrative Investigations

Administrative investigations were conducted in 2022 in public and private controllers in order to check compliance with the personal data protection provisions in their processing activity.



In total, 48 administrative investigative procedures were conducted, of which 10 were based on individual complaints and 38 on the initiative of the Commissioner's Office (*ex-officio*). As regards to the public/private spheres, 10 administrative investigations were undertaken in public controllers and 38 in private controllers.



### 2.1.3 Administrative investigations pursuant to the Resolution of the Assembly

Pursuant to the Resolution of the Assembly for 2022, we conducted administrative investigation processes in three main directions:

- *illegal dissemination of personal data;*
- *failure to adopt technical-organisational measures for secure processing of personal data (ISMS);*
- *failure to implement previous recommendations.*

Investigations covered controllers that process sensitive categories and large amounts of personal data due to the nature of their functions or services. Thus, administrative investigation procedures have been complex and voluminous, particularly due to of the need to view them relative to and in harmony with other laws and/or bylaws.

## ▪ Administrative investigations of illegal dissemination of personal data

We conducted administrative investigations with the controllers possessing the database of citizens' salaries and the database of vehicle license plates, which leaked out in December 2021. In this respect, the following controllers were investigated: Directorate General of Taxation, General Directorate of Road Transport Services and National Agency of Information Society. In addition, administrative investigations were conducted with the private controllers providing maintenance engineering services on NISA account to ensure the smooth operations of the GTD and GDRTS databases.

At the end of investigations with GTD and GDRTS, the findings were:

- ✓ *controllers do not comply with the principles of least privilege and shortest duration of personal data storage;*
- ✓ *as a consequence of non-compliance with the principles of least privilege data, controllers do not clearly define the databases and relevant data categories they may legitimately access under the law;*
- ✓ *data subjects are not clearly informed about the purpose and method of personal data processing, the relevant responsible persons, the data retention period and security measures, and citizens' rights in this respect;*
- ✓ *in contracts with third parties, controllers do not establish mutual obligations in accordance with the relevant legal norms;*
- ✓ *controllers do not comply with notification and updating obligations whenever they process new categories or large quantities of personal data;*
- ✓ *controllers have not taken appropriate measures to formalize and document the policies and procedures for granting the right of access;*
- ✓ *there is a lack of technical and organisational measures to guarantee the security and confidentiality of personal data;*
- ✓ *controllers have not put in place concrete security measures to guarantee the security and integrity of their critical infrastructure systems;*
- ✓ *processing actions are not traced or continuously checked in the controllers electronic and online systems, as this is one of the main measures to guarantee the security of personal data and their confidentiality;*
- ✓ *necessary infrastructural elements are not in place to establish, administer and maintain ISMS, as required by the legislation in force;*
- ✓ *controllers are not committed to the continuous training of employees who have access to personal data and those who supervise the data processing. The Office of the Commissioner assesses that the work practices of the contact persons for personal data protection should be consolidated as indicated by the specific legislation on the activity of controllers;*
- ✓ *there is a lack of commitment to take measures to implement the recommendations and tasks of previous inspections by the Commissioner's institution.*

At the end of the administrative investigations, the Commissioner issued Decisions No. 51 and 52, dated 24.11.2022, on GDRTS and DPT controllers respectively. Due to the complexity of these inspections, administrative investigations are still ongoing in controllers and/or other processors. In addition, the administrative procedure has been extended as a result of the situation created after the cyber-attacks, with parallel investigations launched by law enforcement agencies as well as inquiries by national/international authorities in this field.

▪ **Administrative investigations with a focus on technical-organisational measures on the safe processing of personal data**

In the context of the serious events of the last 2-3 years with the massive data leakage, we have focused our attention on administrative investigations relevant to the operation of information security management systems (ISMSs).

- In the insurance sector, 4 *ex-officio* administrative investigations were conducted with private controllers regarding compliance with the legal obligations on technical-organisational measures for the processing of personal data, in particular the operation of ISMSs. At the same time, the investigations involved the implementation of earlier recommendations made by the Commissioner's Office. In conclusion, during the year 2022 the Commissioner made one Decision. Regarding additional controllers, the decision-making process ended in the following year with one Decision and two Recommendations.
- In the non-banking financial sector, 4 *ex-officio* administrative investigations were conducted with private controllers. The object of these processes was to check compliance with technical and organisational measures for personal data processing, especially the ISMS. In conclusion, the Commissioner came up with 4 Recommendations.
- In the direct marketing sector, 7 inspections were conducted with private controllers based on individual complaints, referencing unwanted/unsolicited advertising messages without an express consent to use personal data (phone number). In conclusion, the Commissioner issued 6 Decisions and 1 Recommendation. It is worth noting that this is a recurring problem, which will be addressed by adoption of the pending draft law "On the creation of the Register of unsolicited commercial communications".

Administrative investigations in these three sectors established the following findings:

- ✓ *processing of personal data against the legal rules and criteria is a recurrent problem;*
- ✓ *failure by controllers to clearly inform data subjects about the purpose and method of personal data processing, their legal rights, the data retention period, the person/s who will process such data and relevant security measures;*
- ✓ *controllers do not respect the obligation to notify the Commissioner's Office whenever different categories or quantities of data are processed in order to notify the data subject of any such new processing;*
- ✓ *there is no "Specific Regulation for the protection, processing, storage and security of personal data";*

- ✓ *controllers do not commit to training the employee/s with access to personal data and those who oversee data processing in order to consolidate the relevant practices and gain a thorough understanding of specific legislation on this activity;*
- ✓ *there is a lack of clear rules guaranteeing the protection, processing, storage and security of personal data, in a way which determines the organisational and technical measures to achieve this objective;*
- ✓ *there is a lack of necessary infrastructure for the establishment, administration and maintenance of ISMS for personal data protection as required by the applicable bylaws;*
- ✓ *the publication of photos/videos of students on social networks taken during classes or cultural and sports activities breaches the principles of personal data protection and the legal criteria for their processing;*
- ✓ *the direct trading sector has obtained personal data illicitly, in violation of requirements for informed consent.*

A data protection strategy is essential for any controller that collects and processes citizens' personal data to prevent data loss, theft or tampering. Nowadays, technology and personal data protection go hand in hand. The provisions of quality, safe and transparent services imply the use of resources to fortify systems with measures minimising or eliminating inherent risks. Compliance with good practice in the field of personal data protection helps gaining public trust.

#### ▪ **Monitoring the rate of implementation of previous recommendations**

We conducted administrative investigations to check on the implementation status of 101 recommendations made over 2019-2021, in both public and private sectors. In general, a large number of controllers have complied with the legal obligations fully and within the deadlines established, indicating higher levels of awareness on personal data protection. On the other hand, administrative sanctions were imposed on 7 controllers for failure to implement previous recommendations, such as institutionalise measures to process data as required by law, guarantee the rights of data subjects, take the appropriate technical and organisational measures to ensure data security, etc.

#### **2.1.4 Investigation of other controllers**

We put great importance on the rigorous application of the principle of sufficiency in personal data collection. With this principle in mind, administrative investigations were conducted with the General Directorate of State Police, the General Directorate of Customs, the Special Appeal Chamber, the Albanian Security Bureau and the Financial Oversight Authority. The object of these investigations was the verification of processes implemented by the controllers to access the various state databases. Among the findings, the most notable problems were that:

- ✓ *there is still an insufficient level of knowledge and a clear lack of commitment to fulfill and respect the provisions of the legislation on personal data protection in the exercise of their functional duties;*

- ✓ *there are no specific timelines for the storage of personal data, both in the physical archive and the online system;*
- ✓ *the databases they may access and the data categories they may use in each of these databases are not clearly identified; in some cases, the principle of data sufficiency has been overstepped;*
- ✓ *all processes are not concretely identified, which does not allow for the provision of clear rules in the genuine regulatory documents;*
- ✓ *citizens are not clearly and accurately informed of the processing operations, as required by law;*
- ✓ *the delegation of different services from the controller to the processor is not documented in relevant acts, including where personal data protection is at the core the delegated services;*
- ✓ *the regulations of these authorities on personal data protection fall short of the content needed to correctly reflect the legal obligations on specific or sensitive categories of personal data;*
- ✓ *the appropriate technical-organisational measures for access to electronic systems is not documented as is necessary to prevent illegal and accidental destruction, or dissemination by unauthorized entities of personal data, particularly where the processing is done by these online systems. In relation to this aspect, there is a lack of coordination and cooperation between institutions, with the parties shifting their responsibilities onto each-other;*
- ✓ *the infrastructure lacks the elements necessary for the establishment, administration and maintenance of the ISMS, according to the provisions of the relevant bylaws;*
- ✓ *there is a lack of commitment to the continuous training of employees who have access to personal data and to those who oversee the processing thereof;*
- ✓ *the contact person for the protection of personal data should be appointed and the practices in this direction should be consolidated.*

In conclusion, the Commissioner issued two Recommendations and two Decisions, one procedure has been suspended due to the situation caused by cyber-attacks.

## 2.2 DECISIONMAKING

### 2.2.1 Orders and Recommendations

In compliance with the legal obligations, to clarify the circumstances and facts as they relate to all the administrative processes undertaken, 41 hearings were held with the participation of the parties.

The outcome of the decision-making was:

- 1 Order to delete personal data
- 8 specific recommendations
- 1 unifying recommendation

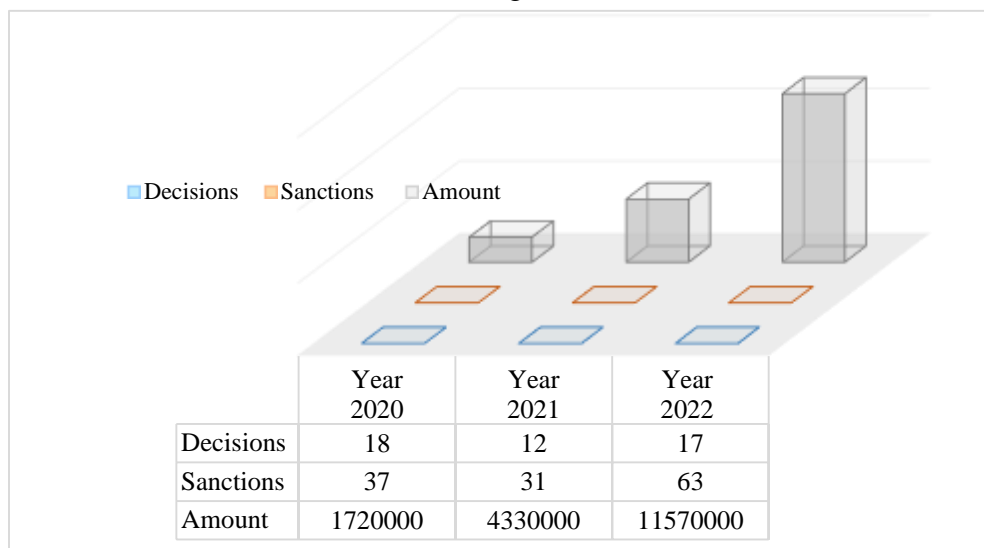


The unifying recommendation for the National Chamber of Notaries, issued after conducting several administrative investigations at several notary offices based on individual complaints, aims to regulate practices and actions implemented by this Service as indicated below:

- ✓ *state databases that may be accessed by the notaries are not clearly identified, neither are the categories of personal data they may use in each of these databases;*
- ✓ *access to data on the e-Albania portal has exceeded the principle of data sufficiency;*
- ✓ *employees of the notary service fail to fully inform data subjects of their data being processed on the e-Albania portal;*
- ✓ *the agreement between the National Chamber of Notaries and the National Association of Notaries lacks a clear definition of the rights and obligations of the parties under the applicable legislation on personal data protection;*
- ✓ *the notary service has not compiled and does not provide clients with the “consent statement” prior to processing their personal data;*
- ✓ *failure by the sector to comply with the first-time obligation to notify the Commissioner's Office, and failure to update it;*
- ✓ *lack of regulatory documentation describing concrete measures in each link of the process, such as protection, processing, storage and security of personal data.*

### 2.2.2 Decisions

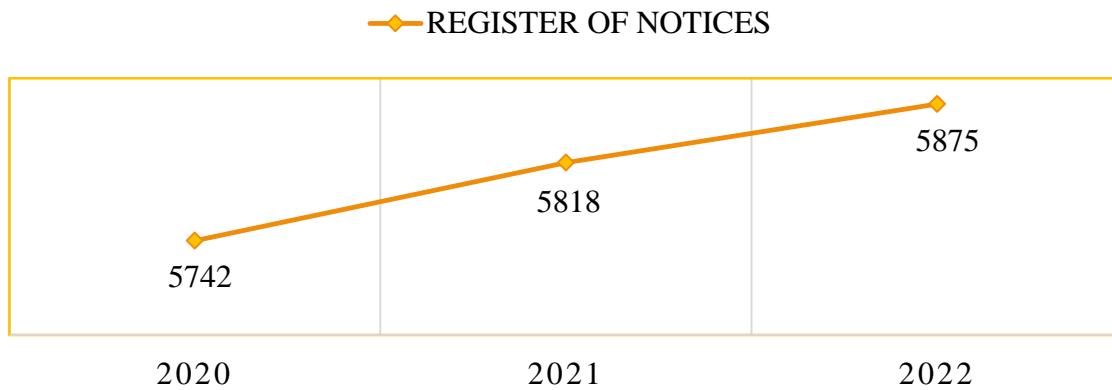
The Commissioner made 17 decisions on the findings, with a total of 63 administrative sanctions.



From an analytical assessment of decisions, it appears that the sanctioned violations have a high impact on the privacy of citizens and may eventually cause long-term damage to them. It is important to emphasize that the culture of respect for fundamental rights and freedoms is an added value for controller's functional activity, both in the public and private sectors. In view of the technological advances in digital service provision, the significance of the technical and organisational measures taken to fully guarantee these rights appears to be even greater.

### 2.3 REGISTER OF NOTICES

In 2022, 57 controlling entities provided notice of their processing of personal data, as required by the applicable legislation. Also, statements by 35 controllers were registered regarding change of the status of the previous notification. The total number of controlling entities registered in the Register of Controlling Entities is 5875.



### 2.4 INTERNATIONAL TRANSFERS

The international transfer process was monitored on a priority basis in order to better protect the citizens' personal data. At the same time, as indicated by the completed Notification Form, in cases of transfer to countries with inadequate safeguards, additional information has been requested from the controllers, subsequently resulting in examinations of the relevant international transfers. We reviewed 5 cases of transfer authorizations in several countries with inadequate personal data protection. Following a thorough legal assessment, it was concluded that these countries did not qualify for personal data transfer.

### 3. LEGAL ACTIVITY, ADMINISTRATIVE AND JUDICIAL PROCEDURES

The successful finalisation in 2022 of the adoption of 3 legal acts has a direct impact on the expansion of the role and functions of the Commissioner's Office. In addition, the enactment of these laws complies with the country's obligations in the European integration process. In this context, complementing the legal framework with other acts will mark a turning point in the institution's consolidation, its independence and the strengthening of its professional capacities.

#### 3.2 APPROVAL OF LEGAL ACTS

##### 3.2.1 Ratification of CoE Convention 108+

The Convention of the Council of Europe “On the protection of individuals with regard to automatic processing of personal data” (Convention 108), for more than 40 years now, serves as the basis of international legislation in this field. The Republic of Albania has already made this instrument part of its domestic legal framework as embodied in law No. 9288/2004.

In order to respond to the challenges created by economic and social development, in particular those in the technological field, and to comply with the recommendations over the years in international documents, the amending Protocol (CETS No. 223) of this Convention (otherwise known as Convention 108+) was signed on January 28, 2022, the Data Protection Day.

This step was followed by the conclusion of the approval process of Law No. 49/2022, dated 12.05.2022, “*On the ratification of the amending Protocol of the Convention, ‘On the protection of individuals with regard to automatic processing of personal data’*”. In July 2022, the instrument of ratification was deposited with the Council of Europe. The implementation of this act will start once the required number of ratifying countries has been reached (38). Convention 108+ establishes the highest standards of guaranteeing the rights of individuals in this field and was drafted in the same spirit as the General Data Protection Regulation (GDPR) of the European Union. As initiators of the ratification process, we highly appreciate the efforts of the Albanian State towards concluding the ratification process, ranking Albania in the group of countries with a contemporary regulatory framework to become complete upon the approval of the draft law “On personal data protection” as aligned with the EU *acquis*.

##### 3.2.2 Ratification of CoE Convention 205

The second act signed this year by Albania is the Council of Europe Convention “*On access to official documents*” (otherwise known as Convention 205). This instrument guarantees the implementation of the highest international standards for citizens' access to information/documentation produced/stored by public authorities. The convention upholds transparency as a pillar of good governance towards strengthening democracy and the rule of law.

Convention 205 was signed on 28.01.2022 and was followed by adoption of the law No. 45/2022,

dated 28.04.2022 “*On the ratification of the Convention of the Council of Europe, ‘Access to official documents’*”. The ratification instrument was deposited in July of the same year, and the Convention entered into force on November 1, 2022. Due to the specificity of this field, the Office of the Commissioner has been designated as the country's representative in the Council of the Parties to Convention 205. This document was signed in Tromsø, Norway in June 2009 and constitutes the first legally binding international instrument codifying this fundamental right and freedom of the individual with an impact on the strengthening of public trust in the authorities. The same cooperational approach was followed in the successful completion of the process of transposing Convention 205 in the domestic regulatory framework.

### **3.2.3 Adoption of the law on open data and reuse of public sector information**

Open data is a means to support and promote innovation as well as increasing accountability and improving democracy. Many countries implement transparency programmes via the publication of “Open Data” on the Internet. In this spirit, DCM No. 147/2015 adopted the open-data policy document. Since then, the portal <http://opendata.gov.al/> has been up and running and its use is ever increasing.

As a follow up on this process, Albania adopted law No. 33/2022, dated 31.03.2022, “On open data and reuse of public sector information”, which transposes the European Union Directive 2019/1024 by the same name. This law enters into force in April 2023 and completes the regulatory framework on the right to information in respect of technological progress and the digitalisation of services.

This law aims to create the legal basis for promoting the use of open data and to promote innovation in the provision of high standard products and public services. The adoption of this law enables citizens and interest groups to reuse documents held by public bodies or public enterprises. Entry into force of this law adds yet another jurisdiction to the Commissioner's Office, designating it as the institution responsible for the protection, oversight and promotion of the right to reuse documents, as well as examining complaints on non-compliance with this law.

## **3.3 DRAFT LAWS RELATIVE TO AREAS OF RESPONSIBILITY**

### **✓ Protection of personal data**

The year 2022 was characterized by intense communication and interaction with all the actors involved in designing the draft law “On the protection of personal data”, as aligned with the GDPR and the EU Law Enforcement Directive. In this context, since the Commissioner’s Office is among the initiators of this measure, in cooperation with the Ministry of Justice, we organised consultation for the draft with representatives from the public and private sectors. On the other hand, due to the importance of the reform in this field, contributions by the European Commission and the EU

Delegation in Tirana have been helpful in making sure the future law is fully aligned with the EU *acquis*.

The work received positive comments at the EU-Albania bilateral meeting in the negotiations on Chapter 23 “*Judiciary and fundamental rights*” in the path to Albania’s membership in the European Union, with emphasis on need for swift approval of the draft law.

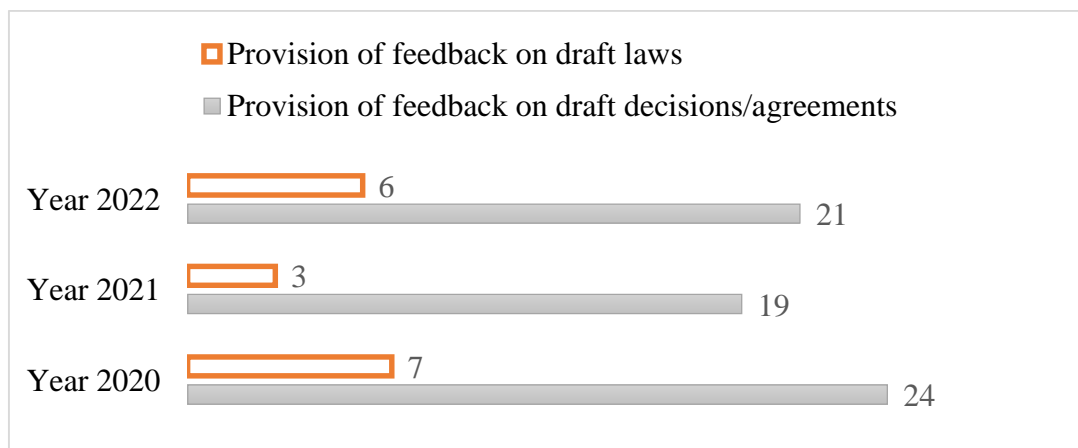
### ✓ **The Right to Information**

We followed the same interactive approach with the Ministry of Justice in proposing amendments to the law on the right to information. During this process, we encouraged citizens and interest groups to make concrete contributions to this initiative in the discussions and meetings held in 2022 to assess the progress of implementation of the regulatory framework in this field.

Given these acts’ interdependency on each-other, it is worth noting that their approval should take place at the same time.

### **3.4 PROVISION OF FEEDBACK ON DRAFT-ACTS**

In 2022, the Commissioner's Office provided comments on 27 draft regulatory acts, including 6 draft laws, 15 draft decisions and 6 draft agreements.



In our view, the figures show the growing awareness of institutions relating to the implementation of their obligation to consult the draft acts involving personal data processing. In this respect, 40 opinions were given on issues/projects presented by public or private controllers. Whereas, in Annex 3 of this Report there is a list of regulatory acts approved in 2022, on which the Commissioner’s Office was not consulted in advance; however, this number is low compared to previous years.

### **3.4 COURT PROCEEDINGS**

In 2022, the Commissioner's Office was party to 47 court proceedings before the First Instance Administrative Court in Tirana in cases related to the implementation of the law on the right to information. In particular, with reference to cases dismissed, it is worth noting that the court upheld the Commissioner's Decision in 14 cases.

### Litigations involving “The Right to Information”

	2022
Court cases	47
Complaint overruled	14
Complaint admission	3
Termination of proceedings against the Commissioner	4
Partial admission of the complaint	3
Case remanded to complement the lawsuit	1
Suspended cases	2
Cases underway	20

We were a party in 13 court proceedings before the First Instance Administrative Court of Tirana in cases related to the legislation on personal data protection. In 8 cases the court upheld our decisions.

### Cases involving the implementation of legislation on the protection of personal data

	2022
Court cases	13
Complaint overruled	8
Partial admission of the complaint	1
Cases underway	4

In addition, we are a party to 54 court proceedings pending with the Tirana Administrative Court of Appeal. In 2022, only one such case was reviewed.

## 4. STRATEGIC DOCUMENTS

To attain our mission and vision, the Commissioner’s Institutional Strategy and Integrity Plan documents determine concrete long-term objectives. On the other hand, given our role and activity, we take part in several cross-sectoral strategies.

### 4.1 INSTITUTIONAL STRATEGY 2022-2025

The Commissioner approved the Institutional Strategy 2022-2025, which sets the vision, mission, objectives and concrete measures to be implemented over this period. The strategy was designed based on the national/international documents assessing the institution's activity. In addition, the document was compiled with the assistance of experts from the Twinning Project, *“Support to the institution to align legislation on the protection of personal data with the EU acquis”*.

This document is accompanied by the Action Plan 2022-2025, which serves as an instrument for programming and monitoring activities towards the fulfillment of each objective contained in this Strategy. These objectives are aimed at increasing the practical enjoyment of the fundamental rights of the individual through the applicability of the highest regulatory standards in both areas of the Commissioner’s responsibility.



The Institutional Strategy 2022-2025 underwent public consultation roundtables and meetings. The concluding consultation was attended by the coordinators for the right to information, contact persons for personal data protection, representatives of business associations, civil society organisations and the media. The institution’s Strategy is available on the official website.

### 4.2 INTEGRITY PLAN 2022-2025

The Commissioner approved the institution's Integrity Plan for the period 2022-2025. This document was drafted as part of the project “Strengthening integrity for improving public service delivery”, implemented by the Institute for Democracy and Mediation, with the financial support of the Swedish Embassy in Tirana. Integrity of public institutions is one of the most important principles of good governance and one of the indicators of a functioning democracy. We are,

therefore, the first of independent institutions to implement an Integrity Plan. In addition to improving our activity, this document is a crucial tool to measure institutional responsibility, transparency and accountability for citizens.



The Integrity Plan is based on three main pillars: periodic strengthening of professional and administrative capacities; modernisation of primary and secondary legislations regulating the relevant areas of responsibility; and complete digitisation of the institution's archive. To ensure the attainment of objectives, this document is accompanied by an action plan with concrete steps, measures and deadlines. The Integrity Plan is published on our website.

#### 4.3 INTERSECTORAL STRATEGY

- **Crosscutting Public Administration Reform Strategy 2015-2022 (CPARS) and Activity Plan 2018-2022**

The Office of the Commissioner, as the institution responsible for **Objective 11**, “*To increase control over the public administration in order to guarantee citizens’ right and access to information*”, has fully implemented the three relevant measures.

- **Cross-sectoral Anti-Corruption Strategy and Action Plan 2020-2023**

The Commissioner's Office, as the responsible institution, carried out all 3 measures provided for in the Action Plan to attain **Objective A.1**, “*To increase transparency of state activity and improve citizens' access to information*”. Currently, the Office of the Commissioner is drafting the specific objective of “*Strengthening the transparency and accountability of public institutions in all sectors and levels*” under the Cross-sectoral Anti-Corruption Strategy and Action Plan 2023-2030.

- **Budgetary Support Contract for Good Governance 2020**

The Commissioner's Office is the institution responsible for the implementation of **Indicator No. 7** of the Budget Support Contract for Good Governance AIP 2020, “*Transparency of state activity and citizens’ access to information*”. The 2022 target, “*122 public authorities have installed*”



ERRRRI”, was fully achieved. At the end of 2022, the number of public authorities with operational ERRRRIIs was 195.

- **Public Legal Education Strategy (PLES) and Action Plan 2019–2023**

The Commissioner's Office, as the responsible institution, fulfilled the 5 measures designed to reach **Objective IV**, “*Create public awareness of the importance of understanding the law, citizens’ rights and obligations, based on specific needs, as well as promoting civic engagement in strengthening the rule of law*”.

- **National Agenda for Children's Rights (NACR) and Action Plan 2021-2026**

Under this document, the Office of the Commissioner is the institution responsible for 2 specific objectives: **Objective II.2**, “*Operation of a comprehensive and useful system for protection of children*” and **Objective IV.1**, “*Promotion of children's rights in the digital world*”. The institution has fully and punctually implemented the relevant measures under the Action Plan.

- **Intersectoral Juvenile Justice Strategy (ISJJS) and Action Plan 2022-2026**

The Office of the Commissioner is the institution responsible for the **Objective**: “*To inform/educate/create awareness on prevention of criminal offenses against children and committed by children as well as ensuring access to friendly justice at all times for all children*”, in the targeted districts through the implementation of the measure: *Conduct a national awareness campaign on protection of the child's personal data, especially child victims, children in contact/conflict with the law, including in the education system (teachers, pupils, students, academic/administrative staff)*. The Action Plan to the Strategy sets the implementation timeline over 2023-2026.

- **National Strategy for Development and Integration 2022-2030 (NSDI)**

The Commissioner's Office is involved in the drafting of the NSDI 2022-2030 and Action Plan, with concrete objectives for both areas of responsibility, notably to enhance citizens' trust in using their constitutional rights through the implementation of the highest regulatory standards in both areas of responsibility.

## 5. INTERNATIONAL COOPERATION

The Commissioner pays great attention to exchange of expertise and best practices with counterpart authorities in order to increase staff capacities.

### 5.1 COOPERATION WITH THE COUNTERPART AUTHORITY OF THE REPUBLIC OF KOSOVA

In April 2022, the Cooperation Agreement between the Commissioner's Office and the Information and Privacy Agency (AIP) of the Republic of Kosova was signed. This technical document is aimed at the consolidation and further development of bilateral cooperation and collaboration. The agreement is based on three main components: exchange of experience and best practices; support for the Kosova institution to gain membership in various organisations; and gain bilateral recognition as a country with adequate personal data protection for sustainable economic development and exchange between the two countries.



As part of implementing the Agreement, the first joint meeting was held in September 2022 to exchange professional and administrative experience between staff members. In the meeting, we delivered presentations on the duties and competencies of all business areas and introduced our counterparts to the process of modernising the legal framework in both areas of responsibility. Concrete cases and relevant decisions were also discussed, in the context of similar and specific provisions based on the laws of each country. A concrete outcome of the Agreement was our contribution for the AIP's membership to ICIC in December 2022.

### 5.2 CO-OPERATION WITH THE COUNTERPART AUTHORITY OF MALTA

In September 2022, a Cooperation Agreement was signed with the counterpart Authority of the Republic of Malta on the Right to Information and Protection of Personal Data. The purpose of the Agreement is to strengthen and foster knowledge/experience on personal data protection laws, with particular attention to the modernisation of the Albanian legal framework in accordance with GDPR standards. This agreement provides for the expansion of international cooperation on personal data circulation, exchange of information, best practices and experiences in order to improve administrative capacities and organize joint activities/projects on education and awareness in this field. In addition, this Agreement focuses on cooperation under CoE Convention 108 and the provision of mutual assistance for continuous modernisation of legislation.



### 5.3 CO-OPERATION WITH THE GOVERNMENT OF UNITED KINGDOM

The Commissioner's Office and the embassy of the United Kingdom of Great Britain in Tirana are cooperating for the second year in the project “*Improving the openness and accountability of the governments of the Western Balkans through the development of effective strategic communications*”. This is a 3-year project implemented by the Government Communications Service International. With their support, a guide to the role of the coordinator for the right to information was drafted, published on the official website of the institution and distributed widely. The guide contains information and practical instructions that are helpful to coordinators in their job.



This project also supports the organisation of “Transparency Days” conducted jointly with the public authorities at the relevant regions mentioned in Chapter 1 of this Report.



## 5.4 PARTICIPATION IN INTERNATIONAL FORUMS AND NETWORKS

### 5.4.1 International Conference of Information Commissioners

On June 22-24, was held the 13<sup>th</sup> edition of the International Conference of Information Commissioners, organized by the Mexican Federal Authority for the Right to Information and Protection of Personal Data (INAI). This conference constitutes the world's central forum for dealing with issues related to the promotion of transparency, integrity and accountability of public authorities. The theme of the Conference was “*Access to information, participation and inclusion in the digital age*”, with the participation in a hybrid format (physical/online attendance) of representatives of member authorities, partner organisations, academia, civil society, media, etc.



The Open Session took place on June 22-23, in which a number of matters were addressed, with discussions focusing on the challenges of public information and transparency in relation to artificial intelligence, the cloud or blockchain. Of interest were also topics related to access to public documentation, disinformation and freedom of the press in the digital age, as well as proactive transparency, as an efficient tool in promoting and increasing the openness of institutions. A number of side events and seminars were held by UNESCO, international working groups and various regional networks.

ICIC closed session took place on June 24. The Activity of the past 12 months was discussed, and the Annual Report was approved. The working groups and regional groups presented their reports on developments in this field. The Commissioner's Office is a member of the “Transparency by Design Working Group” and ICIC Training Working Group.



As a member of the ICIC Executive Committee, the institution participated in its meetings and contributed to the decision-making processes and continuous perfection of organisation's operations.

#### 5.4.2 Global Privacy Assembly

On October 25-28, 2022, the Global Privacy Assembly held its 44th edition, with the theme, “*A matter of balance: privacy in the era of rapid technological advancement*”, hosted by the Turkish Personal Data Protection Authority.



In the Closed Session, the following documents were adopted with a purpose of upgrading the relevant regulatory standards:

- *Resolution on principles and expectations for the appropriate use of personal information in the facial recognition technology;*
- *Resolution on international cooperation capacity building for improving cybersecurity regulation and understanding cyber incidents harms;*
- *Resolution to amend the road map and the timeline for a funded GPA Secretariat.*

During the Closed Session, representatives from 163 members and observers expressed their will to promote international cooperation for harmonious implementation of legislation, enhancing capacities for carrying out joint proactive investigations and exchanging best practices. In addition, GPA Working Groups presented their annual reports, and a number of partner organisations had the opportunity to promote their activities.

The Open Session proceeded in 8 different panels, focusing on the challenges artificial intelligence poses to legislation, ethics and democracy, and issues related to the use of facial recognition technology. Attention was paid to the issue of the interplay among consumer rights, competition and privacy, the role of the private sector in the use of surveillance technologies, as well as the handling of massive data (big data) in terms of privacy. Discussions revolved about such topics as mass network surveillance, block chain and metaverse, trust relationship between digitisation and privacy, regulatory framework on cross-border data, risks to vulnerable groups, protection of children's personal data in the digital age, and cooperation on disaster/crisis management and humanitarian aid.

### **5.4.3 Participation in other forums**

As part of its international cooperation activity, the Office of the Commissioner participated in meetings, trainings and seminars organized by:

- Consultative Committee of CoE Convention 108 (T-PD);
- European Data Protection Board (EDPB);
- European Conference of Personal Data Protection Authorities (ECDPA);
- Case Handling Workshop of the European Conference;
- International Working Group for Data Protection in Technology (Berlin Group).

## **6. BUILDING AWARENESS OF AND COOPERATING WITH INTEREST GROUPS**

The Office of the Commissioner consider awareness building and cooperation with interest groups as one of the main components of its activity. To this end, the institution conducted a series of trainings for the younger generation, while cooperation with civil society actors took place through the implementation of concrete projects and initiatives.

### **6.1 INTERNATIONAL DAYS OF RIGHTS**

#### **▪ 28 January, Day of Personal Data Protection**

On January 28, the Commissioner's Office conducted a survey designed to measure the knowledge of public controllers' staff on personal data protection and the enjoyment of this fundamental right. The questionnaire was addressed specifically to those public controllers who continuously process significant amounts of personal data of both Albanian and foreign citizens. The results of the survey were presented in a special event that saw the participation of over 100 representatives and personal data protection officers from central, independent and local self-government institutions. The main finding of the survey is that the level of knowledge of relevant legislation is insufficient, thus increased attention shall be paid to continuous training for professional growth. The results of the questionnaire are published on the Commissioner's official website.

#### **▪ 28 September, Day of the Right to Information**

To commemorate September 28, an activity was organised with a group of over 30 students and teachers from high schools in Tirana, such as "Ismail Qemali", "Sami Frashëri", "Petro Nini Luarasi", "Qemal Stafa" and "Partizani". The meeting was intended to enhance understanding of the wide spectrum of access to information produced/held by public institutions and cultivate a culture of using the right to information. Young people received knowledge of the institution's functions and activities and the manner of using the right to information in order to acquire information about public affairs to the greatest extent possible. The meeting focused on issues and problems in the education sector, efforts to strengthen proactive transparency through the periodic update of the Transparency Programme, as well as learning about the role of the coordinator for the right to information.

### **6.2 ACTIVITIES WITH CIVIL SOCIETY ORGANISATIONS**

We continue attaching special importance to interaction with civil society organisations (CSOs) and the media, as partners in upholding public interest, striving for citizens' awareness of their right to information and participation in governance. In 2021, cooperation with interest groups involved the events and projects that follow:

- we organised a meeting with CSOs on the presentation of the AMS system on the e-Albania portal;

- LëvizAlbania organised discussion table, “*Local journalism in times of crisis*”, and the Commissioner’s Office made a presentation of amendments to the law “On the right to information”, inviting suggestions and concrete proposals for further improvements;
- The Albanian Helsinki Committee organised meeting covering the topic, “*The first national barometer for human rights and restrictions thereof during the pandemic*”;
- Faktoje organisation coordinated a conference with the theme, “*International Day of Fact checking in Albania*”;
- Mjaft Movement organised meetings with the themes “*Presentation of institutional opening of the executive power*”, “*Presentation of institutional opening of the judicial power*” and “*Presentation of institutional opening of local self-government units*”;
- LëvizAlbania organised the activity with the theme “*Practices of digital democracy at the local level*”;
- Institute for Democracy and Mediation organised an activity on education of trainers on the implementation of Integrity Plans in the Public Administration;
- The counterpart authority of North Macedonia organised the 3<sup>rd</sup> Regional conference under the “Initiative 2020”, with the theme “*Proactive Transparency and the Tromso Convention*” (Convention 205 of the Council of Europe). We presented the Albanian experience in promoting the right to information, in particular, the public authorities’ proactive transparency;
- ICIC and UNESCO organised the activity, “*Promotion of gender equality within the right to information*”;
- UNESCO and Access Info Europe organised the online activity with the theme, “*Artificial Intelligence, e-Governance and access to information*”;
- USAID and Balkan Trust for Democracy organised the activity, “*Reaction and adaptation of civil society organisations to the COVID-19 situation*”.

### 6.3 OTHER ACTIVITIES OF THE OFFICE OF THE COMMISSIONER

- An event was organised on the occasion of the creation of the “*Network of data protection officers*” as a platform for communication, cooperation and the sharing of good practices in order to guarantee citizens’ rights. It was attended by over 110 representatives from public and private controllers in various fields and sectors, such as telecommunications, banking and financial services, insurance, health, education, tourism, etc. The initiative is a follow up on the recommendation of Assembly Resolution 2022. For this purpose, the DPOs Register was also created, which undergoes continuous updating with data provided by controllers themselves via the completion of the Notice Form.
- In cooperation with the Training Center of Tax and Customs Administration, a 4-day training was conducted, with the participation of more than 60 tax employees of different levels/structures, both central and local. The focus of this activity was to enhance knowledge of the applicable legislation in both areas of responsibility, the roles and functions, as well as the implementation of the regulatory framework in relation to the activity of the tax and customs administration. Through specific case studies provided by the Commissioner,

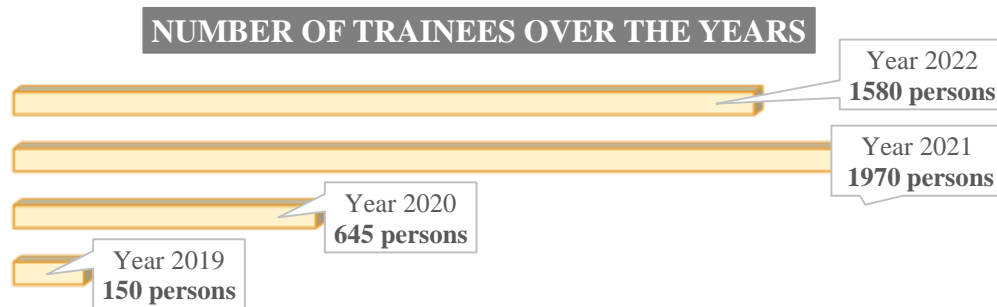


emphasis was placed on the strengthening of proactive transparency, striking a balance between the two rights, as well as technical and organisational measures to achieve a higher level of security in personal data processing.

- In cooperation with the German Association of Industry and Trade in Albania (DIHA), we hosted the seminar, *“The right to information and the protection of personal data in the business field”*. Participants in this activity were representatives from DIHA member entities/companies with activities in different fields and sectors of the economy. The attendees were introduced to the role, functions and powers of the Commissioner's Office, including an overview of the Commissioner’s oversight activity.
- A Cooperation Agreement with the Institute of Hearing-Impaired Students and Institute of Sight-Impaired Students to raise awareness about the practical exercise of rights, access to public information and personal data protection. The agreement will boost cooperation and collaboration on issues of common interest among the three parties, *inter alia*, in handling cases of individuals from communities vs. public administration bodies or private entities or working on/proposing regulatory amendments to enhance the quality of service deliver for these communities.
- Based on the results of Transparency Index 2021, we held 2 meetings with representatives of public authorities in order for the latter to implement best practices on updating information on their Transparency Programmes.
- We organised 3 trainings on the use of ERRRI with the participation of ICT coordinators and staff from 100 central/subordinate, independent public authorities, the justice system (courts/prosecutors) and local self-government units.
- In cooperation with NISA, 4 trainings were organised with coordinators of public authorities running the AMS system in order to provide practical know-how on system’s operation.
- On the Personal Data Protection Day, the Faculty of Law, Political Science and International Relations of the European University of Tirana organised the forum, *“Do we protect personal data?”* We contributed to the discussion with practical advice regarding citizens’ behavior on personal data protection.
- The Faculty of Law and International Relations of the Mediterranean University organised the open lecture, *“Strengthening the culture for citizens to exercise their rights”*. As a guest at this open lecture, the Commissioner discussed with students and academic staff the issues of personal data protection and the scope of the right to information.
- We organized 3 activities with students of the Faculties of Law and Economics of the University of Tirana, the Mediterranean University and members of the association Roma Versitas Albania. The training session focused on the regulatory framework and the

supervisory activity of the Commissioner’s Office.

- Strengthening the cooperation between the personal data protection authorities of Albania, Kosova, North Macedonia and Montenegro, was the purpose of the meeting held Pristina hosted by AIP. We contributed to discussions on the exchange of best experiences in the field of personal data protection and the handling of concrete cases in the security, health, education or telecommunications sectors. The meeting explored the possibilities for deepening regional cooperation to address common problems in respect of this right.



- We issued edition 13 and 14 of the magazine “Information and Privacy”, providing a summary of our activities in the first and second half of 2022.
- We published 12 Newsletters “The right to information”, with monthly informational summaries of Commissioner’s activities and oversight of the implementation of the law on the right to information.

## 7. MANAGEMENT OF HUMAN AND FINANCIAL RESOURCES

### 7.1 ORGANISATIONAL STRUCTURE AND DEVELOPMENT OF HUMAN RESOURCES

The institution conducts its activity in accordance with its organisational structure, staffed with 44 employees, as approved by Decision of the Assembly No. 84/2020 “*On some additions and amendments to Decision No. 86/2018 ‘On the approval of the structure, organisation and salary classification of the Commissioner for the Right to Information and of Personal Data Protection’*”.

The modernised legal framework of both areas of responsibility increased the powers and oversight functions, necessarily leading to an increase of administrative capacities to discharge such powers in both quantitative and qualitative terms. In this context, a complete and efficient structure proposing an addition of 16 employees, adding up to 60 staff members, was appealed to the relevant institutions. The request was only partially granted by Normative Act No. 12/2022 and Budget Law 2023, which added only 8 staff members, to be reflected in the relevant decision-making of the Assembly during 2023. However, a staff of 52 members is not sufficient to efficiently and comprehensively discharge the powers provided for in both the organic laws and other acts.

This concern has been constantly highlighted in the European Commission Country Reports over the years. The 2022 Report on Albania stated:

*“Additional human and financial resources will need to be allocated to the Office of the Information and Data Protection Commissioner for the effective performance of its duties and the exercise of its powers in order to fulfill its expanded role.”*

In 2022, 17 recruitment procedures were conducted, including re-announcements, to fill the vacancies; however, some vacancies are still empty. The Commissioner's Office assesses the difficulty to fill these vacancies as related to the lack of suitable expertise. Another factor is the higher salaries paid by the private sector for similar positions (particularly in the area of data protection).

We consider that in order to provide a long-term solution to this issue, it is necessary to revise law No. 9584/2006 “On salaries, rewards and structures of independent constitutional institutions and other independent institutions established by law”. In this spirit, the structure and organigram of independent institutions created by special law, similar to the bodies established by the constitution, should be assigned to the institution itself. The change will boost independence, effectiveness and flexibility of the institution’s operations.

To enhance our professional capacities, we attended the periodic trainings provided by ASPA and foreign partners in line with areas of responsibility. On the other hand, the approval of the 2022-2025 Integrity Plan will promote a culture of institutional ethos and ethics among staff at all levels.

## 7.2 BUDGET MANAGEMENT

Pursuant to law No. 115/2021 “On budget 2022” the allocation to the Commissioner’s Office, in total, amounted to 78,340 (thousand ALL). With the changes during the year, the final budget amounted to 79,252 (thousand ALL). The actual budget accounts for 78,282 (thousand ALL) or 98.7% of the total budget allocation.

### PLANNED AND ACTUAL BUDGET

000/ALL

No.	Item line	Annual plan 2022 (modified)	% to total	Actual 2022	% of actual to plan per category
1	Salaries	47.402	60%	47.017	99%
2	Social insurance	8.092	10.3%	7.785	96%
3	Other goods and services	18.128	23%	18.084	99.7%
4	Investment	4.500	5.7%	4.412	98%
5	Transfers to family budgets	240	0.3%	240	100%
6	Membership fees	100	0.01%	74	74%
7	Special fund	790	0.3%	670	85%
	<b>TOTAL</b>	<b>79.252</b>		<b>78.282</b>	<b>98.7%</b>

The greatest part of expenditures is made up of salaries in the amount of 47,017 (thousand ALL) or 99% of the allocated item-line and contributions for social/health insurance in the amount of 7,785 (thousand ALL) or 96% of the allocated item-line. Current expenses and investments were affected in the amount of 22,810 (thousand ALL) or 99% of the item-line allocation. The Special Fund of 790 (thousand ALL) was used for staff support in the amount of 670 (thousand ALL) or about 85% of the total figure.

Part of the awareness-raising activities and provision of the necessary infrastructure were funded by donors.

### 7.3 INCOME FROM SANCTIONS

In 2022, administrative sanctions were imposed in the amount of ALL 12,020,000. The sanctioned money is placed in the government budget 100% and collected either voluntarily or through bailiff services.

<b>Total of sanctions in 2022</b>	<b>12.020.000</b>
Violation of the legislation on personal data protection	11.570.000
Violation of the provisions of the legislation on the right to information	450.000

The total amount of administrative sanctions collected is 710,000, of which 150,000 from sanctions imposed in 2022 and 560,000 from sanctions imposed in 2021.

## 8. EU INTEGRATION PROCESS

In the EU accession negotiations, our responsibilities fall in the ambit of the *Political Chapter*, *Public Administration Reform*, Chapter 10 “*Information Society and Media*”, Chapter 23 “*Judiciary and Fundamental Rights*” and Chapter 24 “*Justice, Freedom and Security*”. In the context of opening accession negotiations, the institution has been part of the negotiating groups on the above chapters, making an important contribution to the exchange of general negotiating positions between Albania and the EU. With the launch of the screening process of legislation in alignment with the *acquis*, the institution has had an active role in the explanatory meetings of the European Commission on the Union legislation, as well as in the bilateral meetings for the presentation of the level of alignment of Albanian national legislation with the EU *acquis*.

The institution's commitment to the level of implementation of the applicable regulatory framework and alignment thereof was presented along the following lines:

- *EU Acquis;*
- *strategic framework;*
- *national legislation;*
- *powers stemming from other domestic laws;*
- *administrative capacities;*
- *activities of the institution over 2017-2021;*
- *cooperation with other national institutions;*
- *awareness building;*
- *international relations;*
- *budget;*
- *foreign technical assistance;*
- *future priorities.*

As part of the obligations arising from these commitments, and beyond, the institution participated in:

- the EU Peer Mission Review, under which the Commissioner's Office was among the Albanian institutions selected for auditing, which is now complete and its report pending;
- designing information in the context of the Country Report 2022, including on the implementation rate of recommendations 2021;
- programming institutional objectives/measures in the National Plan for European Integration 2023-2025;
- in 4 Interinstitutional Working Groups for European Integration on the above-mentioned chapters;
- the preparation of information on the implementation of the relevant indicator of the Commissioner's Office in the Budget Support Contract for Good Governance 2020.

The EU Report 2021 issued 1 recommendation for the Commissioner's Office specifically, “*Improving security and limited access to the use of personal data in databases under state control*”, which was fulfilled, as it concerns the responsibility of the institution, through the implementation of the following measures:

- Active role in finalising the approval procedures of the draft law “*On the protection of personal data,*” as aligned with the GDPR and the Law Enforcement Directive.
- Carrying out *ex-officio* sectoral investigations for public controllers on the implementation of obligations under the legislation on personal data protection.
- Monitoring the implementation of the recommendations made earlier by the Commissioner's Office.

## 9. IMPLEMENTATION OF THE ASSEMBLY RESOLUTION

In 2022, the Assembly, through its Resolution, requested the Commissioner's Office to fulfill the following recommendations:

- *Finalise administrative investigations on the disclosure of the database of citizens' salaries in the public and private sector, and the database of vehicle license plates, within the year 2022 (Subchapter 2.1.3, page 20).*
- *Actively participate in concluding the procedures for the modernisation of the legal framework (Chapter 3, p. 27).*
- *Continue with the proactive monitoring and oversight of public authorities and check on the updating of the Transparency Programme and the Register of Requests and Responses in order to increase transparency and accountability of their operations (Subchapter 1.1 and 1.2, pages 10-12).*
- *Support public authorities in clarifying issues of public interest and cases of restriction of information provision, as well as promoting the strengthening of the role of the coordinator for the right to information (Subchapter 6.3, page 40).*
- *Continue with the installation of AMS and ERRRI electronic systems in as many public authorities as possible (Subchapter 1.4.1, page 16-17).*
- *Monitor and supervise the implementation of legislation on personal data protection with a focus on technical and organisational measures for safe processing, in particular the Information Security Management Systems (ISMS), in additional sectors, such as insurance, financial, non-banking, direct marketing (Subchapter 2.1.3, pages 20-22).*
- *Engage in continuous monitoring to ensure the implementation of the measures from previous recommendations to public and private controllers (Subchapter 2.1.3, page 23).*
- *Engage in the creation of a network of officials on personal data protection as warranted by improvement of relevant national legislation (Subchapter 6.3, page 40).*
- *Ensure active participation as a member of the Executive Committee of the International Conference of Information Commissioners (ICIC) and carry on with the active engagement in other international organisations where the Office of the Commissioner is a party to (Subchapter 5.4.1, pages 36-37).*
- *Engage with citizens and interest groups to impart knowledge of the modernised legal framework in both areas of responsibility and promote implementation progress (Chapter 6, pages 39-42).*

As reflected in this Report and the Annexes thereof, the Commissioner's Office has fully implemented these 10 recommendations.



## 10. VISION

The 2022-2025 Institutional Strategy document determines the major objectives of the Commissioner's Office in the mid-term. These objectives may be attained through the harmonisation of efforts and activities with public authorities and with public/private controllers to create an enabling environment for citizens to enjoy their fundamental rights and freedoms. Given that the process of modernisation of the regulatory framework for both areas of responsibility is nearing completion, the institution's focus for 2023, as determined in the Annual Work Programme, will be to recognise innovations by all parties/actors subject to its implementation. In concrete terms, these objectives are reflected in the following actions:

- ✓ approval of the draft law “On the protection of personal data” and amendments to the law “On the right to information”;
- ✓ approval of by-laws implementing the new legislation;
- ✓ increasing human and financial resources for strengthening administrative capacities in the framework of integral harmonization of legislation in both areas of responsibility;
- ✓ improving staff members’ professional capacities, in particular as regards advanced knowledge in information and communication technology (ICT), as specific obligations stemming from improved legislation;
- ✓ cooperation with citizens and interest groups to ensure awareness of innovations in both areas of the Commissioner’s activity in order to boost citizens’ compliance;
- ✓ proactive communication with public authorities to consolidate the culture of transparency;
- ✓ periodic training of coordinators for the right to information, especially, to deal with issues of public interest while striking a balance with information restriction provisions;
- ✓ promoting the new approach of controllers/processors in terms of effective guaranteeing security of information (ISMS) during processing;
- ✓ public controllers turning to the Commissioner's Office for feedback on draft law/bylaws dealing with personal data processing;
- ✓ the network of employees for personal data protection and their increased professional capacities in fulfilling legal obligations;
- ✓ measures to host the 15th edition of the International Conference of Information Commissioners in Tirana in 2024;
- ✓ active engagement of the Office of the Commissioner with the international organisations which it is a member of, as well as with counterpart authorities in both areas of its responsibility;
- ✓ applications for projects under the EU IPA programmes or other sources in order to upgrade staff capacities and raise awareness among interest groups.