

**INFORMATION AND  
DATA PROTECTION  
COMMISSIONER  
OF ALBANIA**

---

# **ANNUAL REPORT 2020**

Information and Data Protection  
Commissioner

---

[www.idp.al](http://www.idp.al)


Personal Data Protection Day

28 January 2020



Instruction on the protection of personal medical data

2 March 2020




COVID-19 Lock Down

12 March 2020



3 personal data protection instructions regarding measures against COVID-19

March-May 2020



Reelection of the Commissioner to the GPA Executive Committee for a one year mandate

22 July 2020



Publication of the 41<sup>st</sup> International ICDPPC Conference Report

7 August 2020



Right to Information Day

28 September 2020



Start of Twinning Project Implementation

1 October 2020




Adoption of the draft law on open data and re-use of public sector information

12 October 2020



In principle adoption of Convention 108+ of the CoE

9 December 2020




Instruction on passenger data transfer

10 December 2020




Instruction for institutions receiving personal data from NRCV

10 December 2020




Reviewed Transparency Program and inquiries and answers Register

18 December 2020



In principle adoption of Convention 205 of the CoE

30 December 2020



## GLOSSARY

EU	European Union
Police Directive	Directive (EU) 2016/680 of the European Parliament and Council of 27 April 2016 “On the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data
Directive 2019/1024	Directive (EU) 2019/1024 “On open data and the re-use of public sector information”.
GDPR	Regulation (EU) 2016/679 “On the protection of natural persons with regard to the processing of personal data and on the free movement of such data”
GPA	Global Privacy Assembly
ICDPPC	International Conference of Data Protection and Privacy Commissioners
CoE	Council of Europe
Convention 108	Convention 108/1981 on the protection of individuals with regard to automatic processing of personal data of CoE
Convention 108+	Amending protocol No. 223/2018 amending the Convention on the protection of individuals with regard to automatic processing of personal data of CoE
Law on the protection of personal data	Law No. 9887, dated 10.03.2008 ,“On Personal Data Protection”, as amended
Convention 205	Council of Europe Convention 205/2009 on access to official documents

Law on civil status	Law No. 10129/2009 “On Civil Status” as amended
Law on state police	Law No. 108/2014 “On the State Police”
Law on right to information	Law No. 119/2014 “On the Right to Information”
Law on notification and public consultation	Law No. 146/2014 “On Notification and Public Consultation”
Law on preventing and fighting infections and infectious diseases	Law No. 15/2016 “On Preventing and Fighting Infections and Infectious Diseases”
Law on additional public safety measures	Law No. 19/2016 “On Additional Public Safety Measures”
Law on whistle-blowing and whistle-blowers protection	Law No. 60/2016 “On Whistle-blowing and Whistle-blowers Protection”
Law on border control	Law No. 71/2016 “On Border Control”;
Eurojust Agreement	Law No. 113/2018 “On the Ratification of the Cooperation Agreement between the Republic of Albania and EUROJUST”
Law on international restriction measures in the Republic of Albania	Law No. 72/2019 “On International Restriction Measures in the Republic of Albania”
COVID-19 pandemic	The pandemic caused by the SARS-CoV-2 coronavirus
Twinning Project	The “Institution-building for alignment with the Union acquis to meet economic criteria regarding the protection of personal data” Twinning Project
Transparency Program	The entirety of information and information disclosure by the public authority, pursuant to articles 4 and 7 of the law on the right to information
ERRRRI	Electronic register of requests and responses of the right to information
Assembly Resolution	Resolution on the assessment of the activity of the Information and Data Protection Commissioner for 2019, adopted on 21.05.2020

ISMS	Information Security Management Systems
Order No. 14/2015	Order No.14, dated 22.01.2015 “On the Adoption of the template Transparency Plan”
Order No. 211/2018	Order No. 211, dated 10.09.2018, "Template Transparency Program for Local Self-Governance Units"
Instruction No. 47/2018	Instruction No. 47, dated 14.09.2018 “On determining the rules on safeguarding personal data processed by large processing subjects”
Instruction No. 48/2018	Instruction No. 48, dated 14.09.2018 “On certification of information management systems, personal data and their protection”
Instruction No. 49/2020	Instruction No. 49, dated 02.03.2020 “On protection of health-related personal data”
Instruction No. 463/2020	Instruction of the Minister of Internal Affairs and the Commissioner No. 463, dated 10.12.2020 “On determination of institutions and bodies obtaining personal data from the Civil Status Service, and the method, type and amount of information they may obtain”
Instruction No. 464/2020	Instruction of the Minister of Internal Affairs and the Commissioner No. 464, dated 10.12.2020 “On the transfer of passenger data to the passenger information unit”.
DCM No. 145/2018	Decision of the Council of Ministers “On the establishment of the state “Electronic Register of Requests and Responses of the Right to Information” database”
Commissioner’s Office	The Office of Information and Data Protection Commissioner

## TABLE OF CONTENTS

MESSAGE OF THE OFFICE HOLDER.....	7
1. LEGAL REFERENCES UNDERPINNING THE INSTITUTION'S ACTIVITY .....	8
2. THE RIGHT TO INFORMATION .....	9
2.1 Monitoring and overseeing Transparency Programs of public authorities .....	9
2.1.1 Transparency in the state administration and local self-governance units .....	10
2.1.2 Recommendations and Decisions regarding the implementation of the Transparency Program .....	11
2.1.3 Review of the Transparency Program and the requests and responses Register ....	11
2.2 Electronic requests and responses register of the right to information .....	12
2.3 Complaint handling and administrative inquiry .....	13
2.4 Cross-Sector Strategies .....	15
3. PERSONAL DATA PROTECTION.....	16
3.1 Monitoring and supervision.....	17
3.1.1 Complaint handling .....	17
3.1.2 Administrative inquiries .....	18
3.1.3 Issues identified upon conclusion of the inquiries in the framework of the Assembly Resolution .....	19
3.1.4 Issues identified upon conclusion of the inquiries in other controllers.....	21
3.2 Decision Making.....	21
3.2.1 Recommendations and Orders .....	21
3.2.2 Unifying Recommendations .....	22
3.2.3 Administrative sanctions.....	23
3.3 Notices .....	23
3.4 International transfer.....	24
4. LEGAL ACTIVITY, ADMINISTRATIVE AND JUDICIAL PROCEEDINGS .....	24
4.1 Regulatory acts development .....	24
4.1.1 Approximation of the legislation on personal data protection with the GDPR and the Police Directive.....	24
4.1.2 In principle adoption of amending protocol of Convention 108 of the CoE.....	25
4.1.3 In principle adoption of the Convention on access to official documents of the CoE 25	
4.1.4 Approval of the draft law on open data and the re-use of public sector information 26	
4.1.5 Draft law on the establishment of the unsolicited commercial communications Register.....	26
4.2 Instructions .....	27
4.3 Providing input on draft acts .....	27
4.4 Judicial proceedings.....	28

5. COOPERATION, AWARENESS RAISING AND PROMOTION OF THE RIGHT TO INFORMATION AND PERSONAL DATA PROTECTION PROTECTION.....	29
5.1 International, inter-institutional and civil society cooperation .....	29
5.1.1 International cooperation .....	29
5.1.2 Relations with EUROJUST .....	30
5.1.3 Cooperation with civil society .....	30
5.2 Training organized by the Commissioner’s Office .....	31
5.3 Other awareness raising activities .....	32
6. BUDGET MANAGEMENT .....	34
6.1 Organizational structure .....	34
6.2 Development of human resources .....	34
6.3 Revenue and expenses .....	34
6.4 Revenue from sanctions .....	35
7. EUROPEAN COMMISSION PROGRESS REPORT FOR ALBANIA ON THE COMMISSIONER OFFICE .....	36
8. FULFILLMENT OF INTERNATIONAL OBLIGATIONS AND REPORTING .....	38
9. IMPLEMENTATION LEVEL OF THE 2020 PARLIAMENT RESOLUTION .....	39
10. THE VISION OF THE INSTITUTION.....	40

## MESSAGE OF THE OFFICE HOLDER

The Annual Report on the activity of the Commissioner's Office for 2020 was developed in different and specific circumstances.

The year we left behind was quite challenging for the entire world, because the spread of the SARS-CoV-2 virus obligated us all to adjust to a completely new reality. Economic and social relations were completely reshaped and Albania, like the rest of the globe, adapted norms and measures to fight the COVID-19 pandemic.

The technological development of the last decade tremendously picked up the pace in 2020. Digital services are now at the center of changing work and life modalities, and both professional and personal communication. Our country was no different in this approach, and made available both financial and human resources to achieve these new modes of activity.

In this unprecedented situation, the Commissioner's Office adapted its resources to adequately and effectively address the effects of the pandemic on the monitoring and oversight of the two activity areas. The main focus was to take measures to guarantee the continuity and functioning of the institutional activities, while at the same time rigorously meeting legal obligations in both the right to information and the personal data protection fields.

The 2020 statistics are a reflection of this fair approach of the authority in regard to the practical exercise of citizens' rights, with a total of 1023 complaints being administered in both areas of activity.

The *"Institution-building for alignment with the Union acquis to meet economic criteria on the protection of personal data"* Twinning Project started implementation on 1 October 2020. The goal of the Commissioner's Office and the partners is for Albania to have its new data protection regulatory framework aligned with the GDPR and the Law Enforcement Directive within next year. In addition, the Council of Ministers adopted in principle the very important act of the Council of Europe, Convention 108+.

On the other hand, efforts to achieve international standards in the field of personal data protection, and the engagement in completing the legal framework on the right to information, including the adoption in principle of the Council of Europe Convention 205/2009 and the transposition of Directive 2019/1024 "On open data and re-use of public sector information", have not ceased.

In addition to being part of the European integration of the country, these steps guarantee more advanced standards for Albanian citizens in practically exercising their constitutional rights.

Last, but not least, the Commissioner's Office has made concrete contribution in the framework of the international organizations and forums it is a member of. Its extended role is a recognition for an authority with limited resources, but with initiative and will to always develop and improve.



## **1. LEGAL REFERENCES UNDERPINNING THE INSTITUTION'S ACTIVITY**

The activity of the institution is based on meeting the obligations stemming from the international acts Albania is party to, the domestic legal framework on the right to information and personal data protection, and the recommendations of the Assembly Resolution. In addition, the Commissioner's Office obligations stem as well from other laws as follows:

- ✓ Law on notification and public consultation
- ✓ Law on whistle-blowing and whistle-blowers protection;
- ✓ Law on additional public safety measures;
- ✓ Law on border control;
- ✓ Law on the Ratification of the Cooperation Agreement between the Republic of Albania and EUROJUST;
- ✓ Law on international restriction measures in the Republic of Albania;
- ✓ Law on civil status;
- ✓ Law on state police;
- ✓ Law on preventing and fighting infections and infectious diseases.

The Commissioner's Office cooperated with the Ministry of Internal Affairs to adopt 2 secondary legislation acts, pursuant to the Law on border control and the Law on civil status.

The institution has closely monitored the implementation of the legislation on personal data protection in the framework of the obligations stemming from the Law on whistle-blowing and whistle-blower protection. No matters/cases were referred to the Commissioner's Office during this year, however the implementation of the legislation on personal data protection by the entities subject to this law was supervised during the *ex officio* inspections in various public and private controllers.

In fulfilling its duty regarding complaint review under the procedures provided for in the Law on notification and public consultation, the Commissioner's Office administered no complaints related to violations of the provisions of this law in 2020.

A more detailed description is provided in paragraph 5.1.2 of the Report regarding the fulfillment of obligations under the Agreement with EUROJUST.

In addition, the Commissioner's Office has fulfilled its obligations provided for in the Law on international restriction measures in the Republic of Albania.

## 2. THE RIGHT TO INFORMATION

The COVID-19 pandemic also impacted the citizens' right to information, regarding access to public information, as provided by the law on the right to information. Public authorities adapted to the situation created, in line with the measures imposed by health institutions. However, they met their obligations under this law, addressing requests for information.

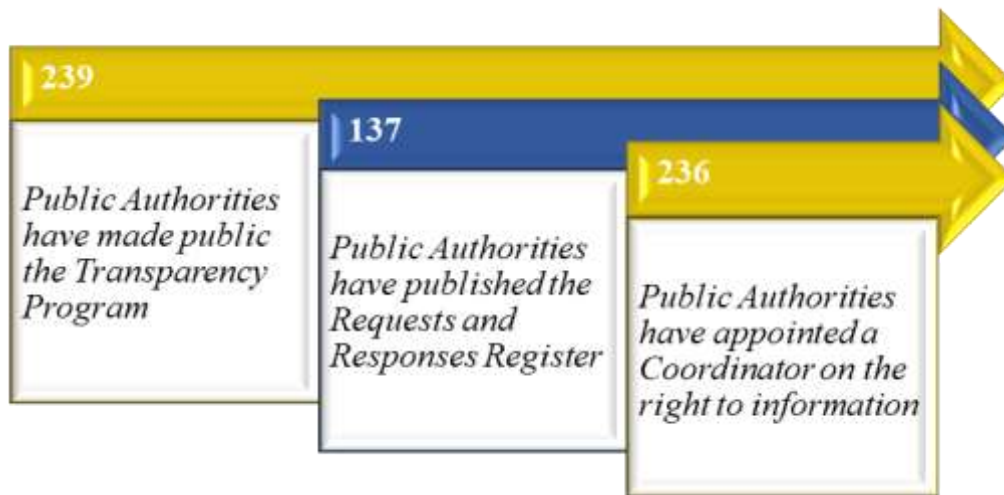
In contrast with the international practice, where a great number of countries restricted the upholding of this right, suspending its enforcement between 30 and 60 days, no such decision was made in our country. The Commissioner's Office continued its complaint review activity, despite these objective difficulties.

In the meantime, the institution undertook a series of actions and activities in the framework of awareness raising, focusing on:

- i) monitoring the obligation to implement and update the transparency programme and requests and responses register;*
- ii) installing the ERRRI in as many public authorities as possible;*
- iii) monitoring the fulfillment of public authorities obligation to appoint and continuously train right to information coordinators;*
- iv) making recommendations to public authorities regarding the transparency programme and the requests and responses register;*
- v) reviewing complaints related to the timeframes provided by the Law on the right to information, including undertaking inspections or holding hearings;*
- vi) achieving objectives set in the cross-sector strategies in which the Commissioner's Office is a party;*
- vii) organizing awareness raising activities on the right to information, in the context of the pandemic*

### 2.1 Monitoring and overseeing Transparency Programmes of public authorities

The Law on the right to information guarantees proactive transparency and stimulates public authority integrity, accountability and responsibility. One of the main instruments of this law is the Transparency Programme. However, there is continued lack of compliance with this obligation by some public authorities. The cause of this non-compliance are factors such as lack of official websites to publish this instrument, or the lack of human capacities to implement and update the instrument.



### 2.1.1 Transparency in the state administration and local self-governance units

With the aim of measuring proactive transparency, the Commissioner's Office organized two monitoring activities with public authorities in 2020. The findings were addressed in hearings with participation of chairpersons and managers and right to information coordinators of the monitored public authorities.

#### *a) Local Self-Governance Unit Monitoring Reports and Proactive Transparency Index*

The first monitoring exercise was related to the proactive transparency monitoring in the 61 local self-governance units in the country and the development of relevant Report. The measurement methodology was based on 4 main indicators: (a) publication of the transparency programme template, (b) requests and responses register updating for 2020, (c) publication of coordinator data, and (ç) ERRRI installation.

#### *b) Central Institutions and Subordinate Organizations Monitoring Reports and Proactive Transparency Index*

The second monitoring exercise was related to the proactive transparency measuring in 36 central level institutions (prime minister's office and ministries) and subordinate institutions thereof, and the development of the relevant Report. The methodology used was based on the following 5 main indicators: (a) publication of the transparency programme template, (b) requests and responses register updating for 2020, (c) publication of coordinator data, (ç) publication of 2020 budget and expenditures plan data, and (d) ERRRI installation.

Both monitoring Reports have been published on the Commissioner's Office official website at the following link <https://www.idp.al/?s=indeksi+i+transparences>.

## 2.1.2 Recommendations and Decisions regarding the implementation of the Transparency Programme

Based on the monitoring exercises, the Commissioner made 22 recommendations for those public authorities found to have gaps related to the information publication pursuant to “Order No. 14, dated 22.01.2015 *“On the Adoption of the template Transparency Plan”*” and Order No. 211, dated 10.09.2018 *“Template Transparency Program for Local Self-Governance Units”*”.

Based on the data of the Local Self-Governance Unit Proactive Transparency Monitoring Report, the Commissioner’s Office undertook 11 administrative inquiries by the end of 2020, focused on the transparency programme implementation monitoring. Upon conclusion of such inquiries, the Commissioner made 3 Decisions to impose administrative sanctions on the persons responsible.

## 2.1.3 Review of the Transparency Programme and the requests and responses Register

The Transparency Programme and Requests and Responses Register review was not only a task provided in the law on the right to information, but also a demand raised by citizens, the civil society and public authorities themselves. The Commissioner’s Office developed the new Transparency Programme and Requests and Responses Register Template. These documents specify all information and documents that should be disclosed for each category, while establishing user friendly models for online information access.

The new Transparency Programme was adopted with Commissioner’s Order No. 187, dated 18.12.2020 *“On adopting the Revised Transparency Program”*.



	Transparency Program Introduction	
About the Authority	Regulatory Legal Framework Full texts	The right to information and complaint

Control and monitoring mechanisms active on public authority	Information on the budget and public authority financial data	Information on procurement/competition procedures for concessions/public private partnerships
Services provided by the public authority	Procedures/mechanisms to provide input regarding the primary and secondary legislation and public policies development process, or regarding the exercise of functions by the public authority	Record keeping system, document types and formats
Requests and responses register	Social assistance/subsidies made by the public authority	Frequently requested information/documents and those the public authority considers useful for publication

In addition, the revised requests and responses Register template was adopted with Order No. 188, dated 18.12.2020. The innovation of this format lies in the obligation of the public authorities to provide detailed data regarding how they process requests for information.

### REGJISTRI I KËRKESAVE DHE PËRGJIGJEVE

Nr. Rendor <sup>1</sup>	Data e kërkesës <sup>2</sup>	Objekti i kërkesës <sup>3</sup>	Data e përgjigjes <sup>4</sup>	Përgjigje <sup>5</sup>	Mënyra e përfundimit të kërkesës <sup>6</sup>	Tarifa <sup>7</sup>

### REQUESTS AND RESPONSES REGISTER

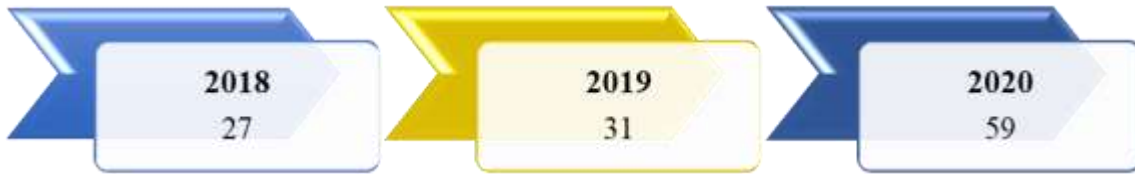
No. <sup>1</sup>	Request date <sup>2</sup>	Request subject <sup>3</sup>	Response date <sup>4</sup>	Response <sup>5</sup>	Request closing method <sup>6</sup>	Fee <sup>7</sup>

The revised Transparency Program and requests and responses Register must be put in place in all public authorities, except for local self-governance units, by 31 March 2021.

## 2.2 Electronic requests and responses register of the right to information

The establishment of the central requests and responses Register of the right to information was adopted with DCM No. 145/2018. Lacking the required funds to further expand the ERRRI installation, in 2020 the Commissioner's Office called on local self-governance units to take measures for its installation. The register was installed in 28 new public authorities, bringing the total number of institution with a operational register to 59.

## PUBLIC AUTHORITIES THAT HAVE INSTALLED THE ERRRI

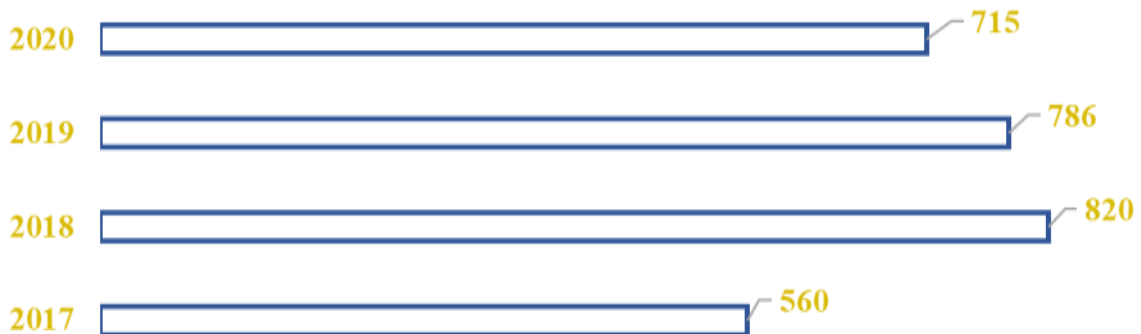


The total number of public information requests processed through this Register in the 59 public authorities is 430. Over the same period, the number of complaints handled by the Commissioner's Office, via this Register, was 112. The installation of the ERRRI in public authorities was coupled with the training of the right to information coordinators on using this Register.

### **2.3 Complaint handling and administrative inquiry**

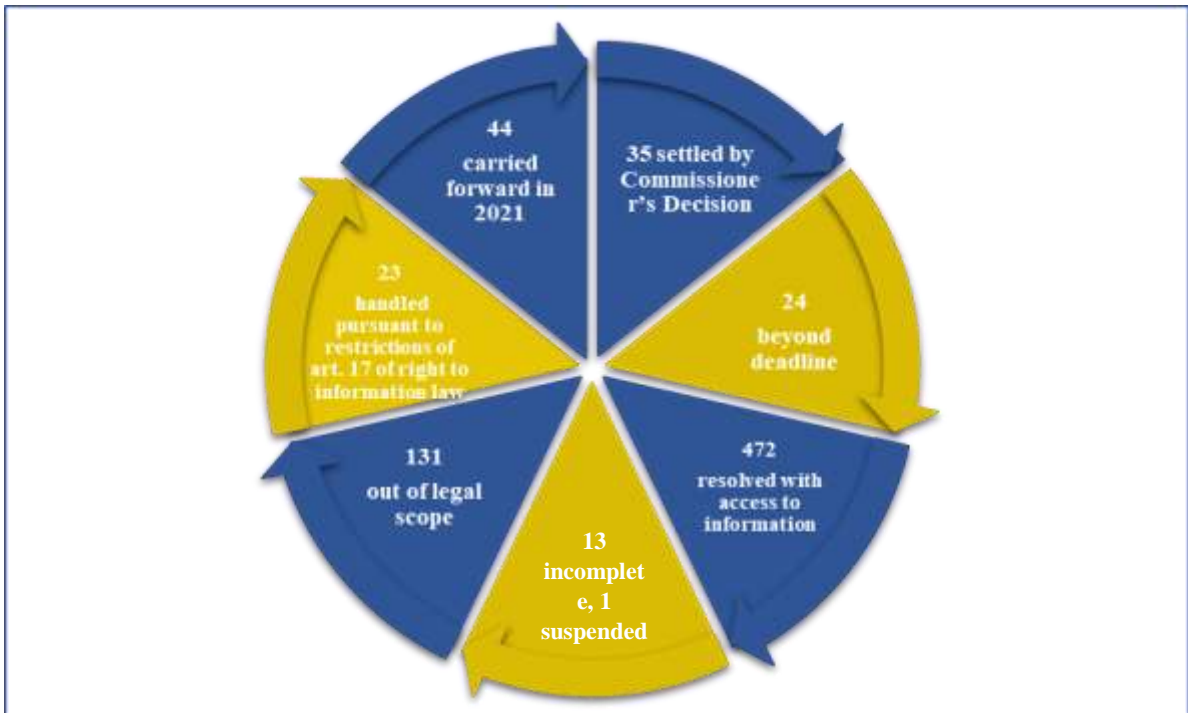
A total of 715 complaints from citizens, civil society representatives and investigative journalists were handled in 2020, while the handling of another 28 complaints was carried over from 2019.

## COMPLAINTS BETWEEN 2017 AND 2020



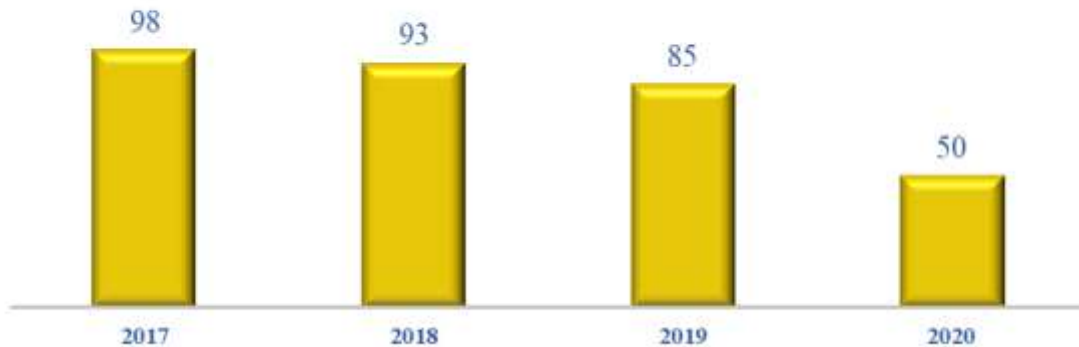
Out of all complaints filed, in 472 of them the applicant has been provided with the information/documentation requested, as a result of the administrative inquiry process. Out of all complaints handled, 24 were filed beyond the relevant deadlines, 13 were incomplete, 131 were out of scope, 23 were handled pursuant to the restrictions of Article 17 of the Law on right to information, 1 was suspended, and 44 were carried forward for review in 2021.

## COMPLAINTS IN 2020



With the aim of verifying complaints filed and to implement further administrative review procedures, a total of 19 hearings and 550 inspections were conducted with public authorities.

## INSPECTIONS 2017-2020



The Commissioner has made a Decision in 35 complaints, of which an order to provide information was issued in 30 cases, while 4 cases were rejected and 1 was not admitted.

Referring to data maintained by the Commissioner's Office and as far as identification is possible, complaints filed can be grouped into three categories: complaints filed by citizens, by civil society organizations, and by investigative journalists.



The COVID-19 pandemic situation understandably resulted in an increased number of information requests submitted to the Ministry of Health and Social Protection and its subordinate institutions, mainly by civil society organizations and journalists.

The Commissioner's Office identified the following main issues during its administrative review of complaints filed in 2020:

- i. *challenges in processing information requests in compliance with legal provisions in force, as a result of the COVID-19 pandemic situation;*
- ii. *turnover of the coordinators on the right to information, appointment at an implementing or low management level, and limited access to other structures of the public authority;*
- iii. *delegation of requests for information to other authority structures, avoiding the coordinator and legally provided procedures;*
- iv. *lack of clarity on the part of public authorities regarding the concept of confidentiality in public contracts, which is not handled in line with the provisions of article 17 of the Law on the right to information;*
- v. *applicant tendencies to use the provisions of the Law beyond its scope and purpose, such as:*
  - a) *development and/or processing of new statistics in the interest of the applicant;*
  - b) *lack of clarity in obtaining services because of the functional duties of the public authority in using the provisions of the Law on the right to information;*
  - c) *using the right to information to the benefit of personal financial and non-financial interests of the applicant.*

## **2.4 Cross-Sector Strategies**

The institution is part of and periodically reports on progress regarding the objectives and activities under the following strategies:

- ✓ 2015-2018 Cross-Sector Strategy on the Public Administration Reform and the new 2018-2022 Activities Plan

The Commissioner's Office is the institution responsible for achieving Objective 11 "Strengthening control over public administration activities guaranteeing citizens' rights and access to information". With the aim of achieving this objective eight of the



sub-measures defined in the annual Action Plan were completed during the reporting period, and the work continues for the completion of the ninth sub-measure in 2021.

✓ *Cross-Sector Strategy against Corruption and its Action Plan 2020-2023*

The Commissioner's Office is the institution responsible for achieving *Objective A.1 "Improving state activity transparency and citizen access to information"*. With the aim of achieving this objective the three measures provided in the annual Action Plan, for which the institution is responsible, were completed.

✓ *2019-2023 Public Legal Education Strategy and its 2019-2023 Action Plan*

The 2019-2023 Public Legal Education Strategy is the first strategic document with a specific focus on the legal education of citizens, adopted in Albania. The Strategy is coupled with the relevant Action Plan, under which the Commissioner's Office is responsible for the implementation of 5 activities under the fourth Objective *"Public awareness on the importance of knowing the law, their rights and obligations, based on specific needs and stimulation of civic activism to strengthen the rule of law"*. The activities defined in the Action Plan were completed in full in 2020.

✓ *Sector Budget Support Contract for the Public Administration Reform 2015-2020*

The self-declaration of 128 public authorities made under the Sector Budget Support Contract for the Public Administration Reform, shows that in 2020, 21,616 requests for information were handled, out of which 219 received no response. The rate of rejected requests for information comprises 1% of the total requests number.

### **3. PERSONAL DATA PROTECTION**

In addition to monitoring and oversight commitments regarding the activities of controllers/processors in relation to their compliance with obligations under the Law on personal data protection, in 2020 the Commissioner's Office paid close attention to the healthcare sector. This focus was naturally dictated by the COVID-19 pandemic, which continues to restrict the normal way of life of citizens and along with that increasing their exposure to potential breaches of the right to personal data protection.

The Commissioner's Office is engaged in the following dimensions regarding its commitments in this sector:

- First, it has provided assistance and has supported law enforcement bodies working in the frontlines of the battle against COVID-19. This aspect has been especially important during the emergency situation declared during the first half of 2020.
- Second, regulatory work continued with the adoption of Instruction No. 49 of the Commissioner and the development and publication of 3 dedicated guidelines regarding personal data processing by the public and private controllers during the pandemic, namely:

- (i) The Guidelines on the protection of personal data in the framework of anti-COVID-19 measures;
- (ii) The Guidelines on personal data processing in specific sectors in the framework of anti-COVID-19 measures;
- (iii) The Guidelines on personal data protection in the framework of COVID-19 Hygiene and Sanitary Measures Protocols.

The main aim of these instruments was to adequately guide controllers/processor in relation to fair and legal personal data processing during the situation caused by the pandemic.

- Third, in the framework of its on-site supervision activities, the Office conducted inspections in public healthcare institutions and private healthcare entities. This commitment underpinned also the tasks assigned by the Assembly Resolution, regarding the implementation of which the Commissioner's Office has submitted a special report.

An important portion of the institutional activity is related to the supervision of public and private controllers operating in the information and communication technology sector. The supervision of compliance with technical and organizational measures during their processing activities was a focus of the activity. Special attention has been placed on the identification of measures taken regarding information security management systems deployed for the protection of personal data, pursuant to the provisions of Instructions No. 47 and No. 48 of the Commissioner.

The Commissioner's Office has addressed the tasks assigned under the Assembly Resolution on the supervision of public controllers using online platforms and the relevant findings were presented in the special Report submitted to the Assembly.

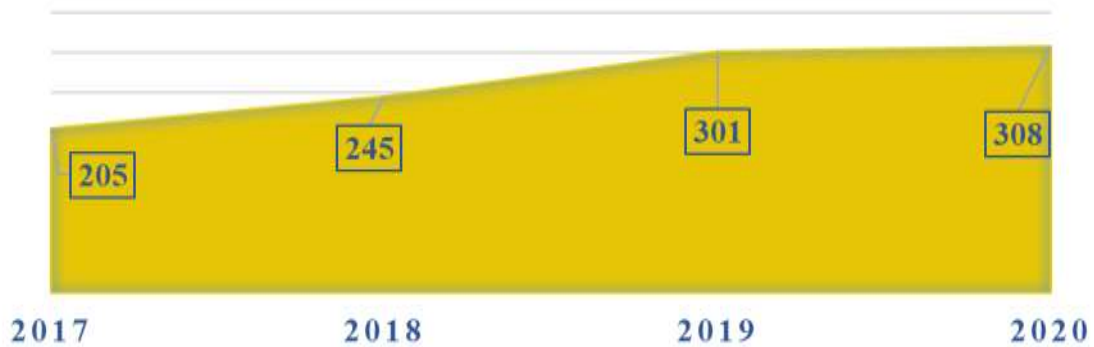
### **3.1 Monitoring and supervision**

#### **3.1.1 Complaint handling**

In 2020, the Commissioner's Office handled 208 complaints, which is slightly more than the previous year. In addressing these complaints, the main aim is the protection of the data subject/citizen rights, but also awareness raising among controllers/processors regarding the necessity to meet the obligations provided by law.

The subject of 60% of the complaints handled was a breach of the personal data subject right related to access, and complaints related to direct marketing. In addition, an increasing number of complaints were related to personal data processing through online platforms, especially during the pandemic period and onward.

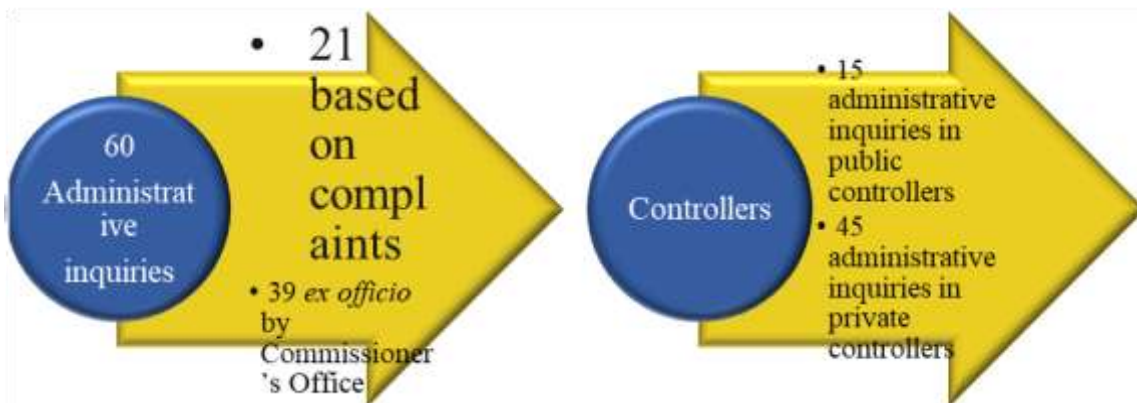
## COMPLAINTS BETWEEN 2017 AND 2020



### 3.1.2 Administrative inquiries

A total of 60 administrative inquiries were undertaken in 2020. Of these, 21 were initiated on the basis of complaints, while 39 were initiated ex officio, and among others based on the Assembly Resolution. 15 administrative inquiries involved public controllers and 45 involved private controllers.

### ADMINISTRATIVE INQUIRIES IN 2020



### ADMINISTRATIVE INQUIRY SECTORS



The situation created by the pandemic conditioned and restricted the on-site inspection activities compared to 2019. However, the Commissioner's Office completed the process of addressing and implementing the recommendations of the Assembly Resolution, especially in regard to the monitoring and oversight of controllers, focusing on online platforms, the information and communication technology sector, and sectors processing sensitive data.

More concretely, Order No. 91/2020 of the Commissioner established two working groups to coordinate and complete tasks based on relevant recommendations. In addition, information requests were sent to 82 public institutions, to identify and analyze online databases and platforms that they administer. 68 institutions replied to the request.

Upon concluding the preliminary verification process, administrative inquiries were conducted with 9 public institutions, prioritizing their field of responsibility and most relevant personal data processing operations, based on the relevance and frequency of the public services they provide. The inspections were focused on the implementation of the applicable legislation on personal data security measures to guarantee the security through the establishment of the Information Security Management System (ISMS).

In addition, administrative inspections were conducted with 3 public healthcare institutions and 3 private healthcare organizations, which among others, are engaged in the COVID-19 epidemiological surveillance and investigation process. The inspections were focused on the implementation of the obligations stemming from the applicable legislation and the 3 guidelines on (sensitive) personal data processing during the situation created by the pandemic.

### **3.1.3 Issues identified upon conclusion of the inquiries in the framework of the Assembly Resolution**

Some of the issues identified during the administrative inquiries conducted with controllers focusing on online platforms and information and communication technology are as follows:

- (i) For the majority of the public controllers, the regulatory aspect of personal data protection in the ICT based processing operations is separate from rules on other processing operations. State administration institutions providing services in this sector should adequately foresee all such processing operations in proper regulatory acts, to guarantee the rights of the data subject.
- (ii) Lack of legal and technical knowledge and lack of awareness regarding the obligations set forth by the legislation on personal data protection in general.
- (iii) Gaps in addressing legal elements, obligations and guarantees related to contractual relations that public institutions (in the quality of controllers) enter

into with third parties (in the quality of processors) regarding the delegation of various services, which comprise personal data processing.

- (iv) Internal regulatory acts containing only general provisions on personal data management and data subjects' confidentiality protection were identified. These acts result to be mainly lacking details regarding adequate technical and organizational measures which are applicable to guarantee the protection of personal and sensitive data, patient data processing legitimacy criteria, measures to guarantee the traceability and control of actions of individuals/staff that had and/or have access to such data, and their destruction, when the purpose of their processing has been achieved.
- (v) Lack of engagement in training the staff having access to personal data and who supervise data processing operations, and in consolidating specific practices and legislation regulating their activities. In addition, there is a continued fundamental need to modernize the infrastructure and regulatory acts related to systems and databases.
- (vi) The majority of controllers have not implemented the required mechanisms for ICT activity control and monitoring, which aim at their development, operation, management and maintenance. The control results have shown that challenges exist in managing information technology resources.
- (vii) There is no strategy or plan to implement an ISMS for personal data protection, which includes all the components of a complete system to manage information security pursuant to the applicable legislation. Continuous improvement is a key ISMS aspect, in achieving and sustaining information security confidentiality, integrity, availability, and reliability, and it should be an integral part of the public controllers' objectives.

On the other hand, the following issues were found in the healthcare sector:

- (i) Lack of clear rules on technical and organizational measures regarding the personal data processing.
- (ii) No elements of the required infrastructure to establish, maintain, and administer an ISMS for the protection of personal data are in place.
- (iii) No information is provided to the data subjects on their data processing timeframe, the right to request when appropriate, data access, correction, deletion, etc., and regarding any other information elements which the controller should obligatorily provide.
- (iv) Controllers do not have in place concrete regulations on personal data management and protection of the data subject's confidentiality when using their official website, and provide no information on the process and data subjects' rights and obligations in the framework of privacy protection.
- (v) Controllers fail to meet their obligation to notify and update personal data anytime various categories or amounts of data are processed, in the context of informing the data subject about any new data processing.

The Commissioner's Office submitted a special Report to the Assembly on 08.02.2021 regarding these two inspection categories.

### 3.1.4 Issues identified upon conclusion of the inquiries with other controllers

Upon concluding administrative inquiries with other controllers, the institution found similar issues related to the general obligations of these entities in the framework of the personal data protection legislation, especially as regards technical and organizational measures aimed at guaranteeing personal data security. Some of the issues identified are:

- (i) failure to notify the Commissioner's Office regarding the initial data processing status and subsequent changes;
- (ii) processing in violation of the legal data processing principles and requirements;
- (iii) failure to uphold data subjects' rights;
- (iv) failure of the controller/processor to fulfil notification obligations;
- (v) failure to comply with and address the obligations stemming in the framework of processing delegation;
- (vi) the majority of controllers were found to have partial or no technical and organizational measures, resulting in lack of reliability regarding data security guarantee and confidentiality protection;

Of special note is the fact that the overwhelming majority of controllers have no ISMS in place for personal data protection, and do not comply with the obligations provided for in Instruction No. 47 of the Commissioner.

A total of 44 hearings were organized after the conclusion of the administrative inquiries.

## 3.2 Decision Making

### 3.2.1 Recommendations and Orders

With these acts, the Commissioner aimed at raising the awareness of every data controller/processor to conduct fair and lawful processing, without violating the privacy of individuals.

In 2020 the Commissioner has issued the following:

- 20 Recommendations:
  - 2 for 58 controllers in the public sector and
  - 18 for controllers in the private sector.
  
- 3 Orders for controllers in the private sector, relating to:
  - *immediate interruption of personal data processing through CCTV systems;*
  - *immediate destruction of illegally collected data;*
  - *immediate interruption of personal data processing by third parties;*

### 3.2.2 Unifying Recommendations

Considering the positive Commissioner experience with Unifying Recommendations, the institution continued the practice of issuing such recommendations in 2020 as well.

The recommendations rendered to State Administration Institutions consist in the:

- a. appointment of the contact person for personal data protection;
- b. publication of the “*privacy policy*” on their official websites.

#### Strengthening the role of the contact person

Considering the *legal aspect*, the Commissioner’s Office aims at regulating the role and duties of the contact person with relevant provisions in the new law on personal data protection, which will be the main deliverable of the Twinning Project with regard to the approximation of the GDPR and Police Directive.

The improvement of the contact person role, which will be regulated by secondary legislation based on provisions of the new law, provides this position with the features of an autonomous body/organization within the organizational structure of each controller. These attributes charge the contact person with concrete responsibilities to identify potential violations of the personal data protection legislation by the relevant controllers, and to warn the latter regarding the appropriate measures to be taken.

The contact person responsibilities will be fulfilled through the two forms of human resources engagement used currently, namely as employees or as service providers in any case, the provisions of the new law shall provide consolidated requirements for this position.

In a *practical aspect*, during the inspections conducted, the Commissioner’s Office has aimed at noting the relevance of the contact person role. The appointment and the functioning of the contact person is one of the first issues verified during the administrative inquiry process.

#### Publication of privacy policies

During its administrative inquiries in the abovementioned controllers the Commissioner’s Office found that part of them have not published their “*privacy policies*” on their official websites/portals, and based on this the Commissioner’s Office issued a Unifying Recommendation.

Each controller has the obligation to publish its “*privacy policy*”, because the preliminary contact of any data subject is achieved through the official website/portal, regardless of whether processing is performed electronically or manually and whether the entity collects or does not collect personal data. “*Privacy policies*” should provide information on the scope and purpose for processing personal data, the categories of

data processed, the rights of the data subjects, and the obligations of the controller in the framework of privacy protection. Failure to publish these policies deprives the data subject from enjoying their rights provided by the law.

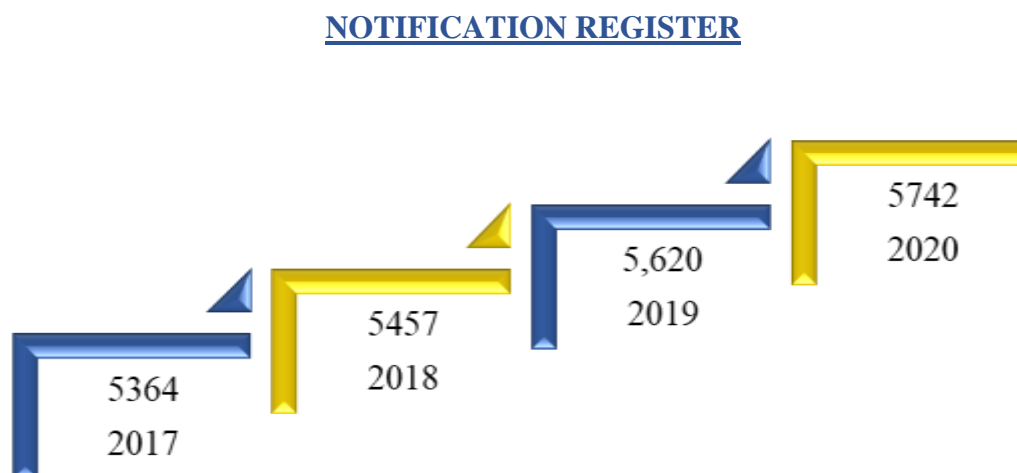
### 3.2.3 Administrative sanctions

The Commissioner's Office made 18 decisions, corresponding to 37 administrative sanctions.



### 3.3 Notices

Pursuant to the controller legal obligation to notify personal data processing, 65 new subjects were included in the relevant register in 2020. In addition, the statements of 28 controllers regarding changes to the previously notified processing status were reviewed and recorded. The total number of processing notifications by controllers in the territory of the Republic of Albania is 5,742.





### **3.4 International transfer**

The personal data protection level for a country is determined based on an assessment of all circumstances related to the processing, nature, purpose and length in the country of origin and final destination, legal acts and security standards in the receiving country. Pursuant to legal provisions, the Commissioner has made 1 Decision to allow international transfer in countries without adequate personal data protection level.

## **4. LEGAL ACTIVITY, ADMINISTRATIVE AND JUDICIAL PROCEEDINGS**

### **4.1 Regulatory acts development**

In the framework of the EU integration process and the obligations stemming from international acts, in 2020, the Commissioner's Office was intensively engaged in approximating the legislation in effect with the *acquis communautaire*. Primary and secondary legislation acts completing the regulatory framework in both areas of institutional activity were drafted and adopted.

#### **4.1.1 Approximation of the legislation on personal data protection with the GDPR and the Police Directive**

The new rules put in place by the GDPR consist in granting citizens more control over their personal data, improving the accountability of commercial companies and strengthening the role of the oversight authority. In addition, the reform includes its modernization package and the Directive on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, also known as the Police Directive.

The Commissioner's Office is the beneficiary of the Twinning Project entitled "Institution-building for alignment with the Union *acquis* on the protection of personal data". The project is funded by the EU IPA 2017 Program, the main objective of which is the new legislation framework in this field, strengthening the institutional capacities of the Commissioner's Office and raising the awareness of controllers/processors regarding upholding of citizen rights.

In 2020, the Commissioner's Office followed all the relevant procedures for the selection of the counterpart authority that would assist in this process. The winner of the process was the member state consortium from Italy and Austria, represented in the implementation of the Project by the Italian Personal Data Protection Authority (*Garante per la Protezione dei Dati Personali*), supported by the Human Rights Institute Ludwig Boltzmann Gesellschaft in Austria and CSI-Piemonte in Italy. The Project implementation start date was 01.10.2020 and it will be implemented over a 12 month period.

The conclusion of the Twinning Project implementation will also mark the adoption of the new legal framework approximated with the relevant EU acquis, in the personal data protection field.

#### **4.1.2 In principle adoption of amending protocol of Convention 108 of the CoE**

The Convention on the protection of individuals with regard to automatic processing of personal data of the Council of Europe has been serving as the international regulatory legislation framework in this field for some 40 years. Over 50 countries in Europe and beyond have adopted this instrument in their regulatory frameworks. The Republic of Albania has ratified Convention 108, and its additional Protocol No. 181, with Law No. 9287/2004 and Law No. 9288/2004 respectively.

Convention 108 was adopted on 28 January 1981, in anticipation of digitalization, the development of internet and global e-commerce. Technological developments, information globalization and the ever-increasing circulation of personal data in the digital space, results in new challenges for personal data protection. In light of these developments, and with the aim of complementing the GDPR, the modernization of Convention 108 was finalized with Protocol ETS No. 223 in May 2018, now known as Convention 108+.

With the aim of alignment with international standards in the field, the Commissioner's Office intensified steps for the development of the draft law *"On the ratification of the amending protocol to Convention 108 "On the protection of individuals with regard to automatic processing of personal data"*". The amending protocol to Convention 108 was approved in principle by Decision of the Council of Ministers No. 1001, dated 09.12.2020, while the further procedures for its signature and ratification will continue this year. The expected amendments to the national legislation Albanian citizens are guaranteed the highest global standards in the personal data protection field.

#### **4.1.3 In principle adoption of the Convention on access to official documents of the CoE**

Public authority transparency is a key feature of good governance. The right to access official documents is the path to citizen participation in the decision making process, which strengthens the accountability and integrity of the public administration. Convention 205/2009 of the CoE is the document setting standards for implementation when reviewing requests to access official documents.

Considering the need to complete and further develop the applicable legal framework on the right to information, the Commissioner's Office developed a draft law *"On the membership of the Republic of Albania to Convention 205/2009 of the Council of Europe "On access to official documents"*". The CoE Convention was approved in principle with Decision of the Council of Ministers No. 1123, dated 30.12.2020 *"On access to official documents"*, while the process will continue towards signature and ratification.

#### **4.1.4 Approval of the draft law on open data and the re-use of public sector information**

Fast paced technological developments, the use of Artificial Intelligence (AI), Internet of Things (IoT), machine to machine communications, enable the development of new services and applications based on data collection, use, and combination, thus establishing the data economy. Since the volume of data in the world, including public data, has increased exponentially, the implementation of the open data concept has become a necessity for the Albanian legislation as well, in order to be in line with EU standards or the best international practice. This new approach will considerably impact and further drive ICT sector growth and the national economy overall. The initiative would complete the regulatory framework on the right to information, while the authority would gain a new competence, which would be protecting, supervising, guaranteeing and promoting the right to re-use public information.

The Commissioner's Office initiated the drafting process for the draft law "*On open data and re-use of public sector information*", which transposes Directive of the EU 2019/1024 "*On open data and the re-use of public sector information*". The act was developed in the framework of the institution participation in the Cross-Institution Working Group for Chapter 10 and European Integration "*Information Society and the Media*", in collaboration with the Ministry of Infrastructure and Energy in the quality of the leading institution for this chapter. The proposal for the draft law "*On open data and the re-use of public sector information*" was adopted with Decision of the Council of Ministers No. 796, dated 12.10.2020, allowing further procedures for its adoption.

#### **4.1.5 Draft law on the establishment of the unsolicited commercial communications Register**

One of the most concerning phenomena of personal data use in digital communications are unsolicited calls/communications. Various European practices provide ways for effective supervision of this issue, which has become present in Albania as well in recent years. One of the main complaint categories is related closely to various service providers using massive communication means (telephone, email, etc.) for advertising purposes.

The Commissioner's Office initiated the work for the development of the draft law "*On the establishment of the unsolicited commercial communications register*", considering this an appropriate protection mechanism for citizens. The establishment of this register will define clear rules for the legal access, administration, and processing of citizens' personal data. A working group with representatives of the Ministry of Infrastructure and Energy, the Electronic Communications and Post Authority, and the Consumer Protection Commission at the Ministry of Finance and Economy was established to consult this draft law with relevant stakeholders. Upon conclusion of this process, the draft law was submitted to the Assembly during the first quarter of 2021.

## 4.2 Instructions

The authority took the necessary steps to complete and improve the regulatory framework in the personal data protection field, pursuant to the applicable legal obligations.

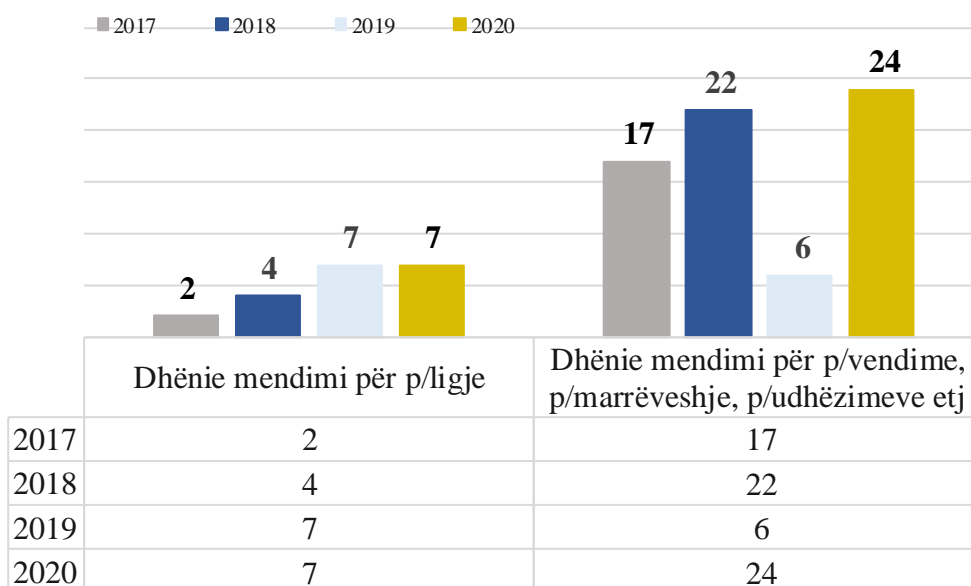
Instruction No. 463, dated 10.12.2020 “On determination of institutions and bodies obtaining personal data from the Civil Status Service, and the method, type and amount of information they may obtain” was adopted in cooperation with the Ministry of Internal Affairs as an obligation stemming from the law on civil status. The act addresses the developments in the use of new technologies to provide online state services. At the same time, the instruction adds the number of new or restructured institutions which require access to the NCSR to complete their functional duties.

Instruction No. 464, dated 10.12.2020 “On passenger data transfer to the Passenger Information Unit” was also adopted in cooperation with the Ministry of Internal Affairs as an obligation stemming from the law on border control. This act appoints the Commissioner’s Officer as the National Authority responsible, and defines standards to unify the personal passenger data collection/processing, distribution and exchange process supervision. The instruction defines the data transfer methods and how the Passenger Information Unit (PIU) at the State Police ensures the adequate level of personal data protection in case of a technical issue that makes system operation impossible.

## 4.3 Providing input on draft acts

The Commissioner’s Office is engaged in providing input on primary and secondary legislation acts related to the personal data protection legislation. Compared to last year, input has been requested for a higher number of acts. The institution has developed opinions on 31 draft laws, draft decisions and draft agreements. In addition, 120 legal opinions submitted for input by public and private controllers were also developed. Annex 3 of this Report provides a list of the primary and secondary legislation acts adopted in 2020, in regard to which the Commissioner’s Office considered it should provide an opinion.

### PROVIDING INPUT ON DRAFT ACTS FROM 2017 TO 2020



## 4.4 Judicial proceedings

### Chart text:

Input for draft laws                      Input for draft decisions, agreements, instructions, etc.

In 2020, the Commissioner's Office has been part of a total 35 judicial proceedings at the Tirana First Instance Administrative Court.

During the reporting period, 30 judicial proceedings concerned the law on the right to information, of which: 6 administrative cases concerned decisions made in 2020, 17 cases concerned administrative acts, 2 administrative cases concerned decisions made by the Commissioner in 2019, and 5 judicial proceedings were carried over. Of the 30 judicial proceedings, the court made a decision to uphold the Commissioner's decision in 6 cases, to accept the lawsuit in 3 cases, to partially accept the lawsuit in 7 cases, to stay proceedings for the Commissioner's Office based on the plaintiff request in 10 cases, with the argument that the institution has fulfilled its administrative functions, while 4 cases are still being tried.

### JUDICIAL PROCEEDINGS CONCERNING THE RIGHT TO INFORMATION

YEAR	2020
Judicial proceedings	30
Suits dismissed	6
Accepted lawsuits	3
Stay of proceedings for the CRIPDP	10
In progress	4
Partial acceptance of filing	7

In 2020, the Commissioner has issued 18 decisions in accordance with the provisions of the Law on data protection. Out of these decisions, controllers have voluntarily executed administrative sanctions of 13 decisions, while the Authority has requested mandatory execution in 3 decisions, while timeframe lapsing is expected for 2 decisions. On the other hand, 3 cases related to the law on the protection of personal data were considered by the Tirana First Instance Administrative Court, in which the court decided to uphold the decision of the Commissioner.

In addition, the institution has stated its position at the Shkodra First Instance Administrative Court on administrative cases concerning the law on notification and public consultation, where upon conclusion of the judicial proceedings, the court has upheld the position of the Commissioner in addressing the cases in question. Among the court cases in which the Commissioner was a party this year, was also a process related to employment relations in which the court decided to dismiss the lawsuit and uphold the decision of the Commissioner.

## **JUDICIAL PROCEEDINGS RELATED TO PERSONAL DATA PROTECTION**

<b>YEAR</b>	<b>2020</b>
<b>Judicial proceedings</b>	<b>3</b>
<b>Dismissed lawsuits</b>	<b>3</b>
<b>Accepted lawsuits</b>	<b>0</b>
<b>Voluntary executions</b>	<b>13</b>
<b>Mandatory executions</b>	<b>3</b>
<b>Under mandatory execution procedures</b>	<b>2</b>

In 2020, the Commissioner's Office followed judicial proceedings at the Tirana Administrative Court of Appeal as well. The total number of cases filed with this court is 37, of which 34 are still being tried. In 1 case the court has decided to dismiss the lawsuit and in 2 cases it decided to quash the decision and return the case to the Tirana First Instance Administrative Court for retrial.

## **5. COOPERATION, AWARENESS RAISING AND PROMOTION OF THE RIGHT TO INFORMATION AND PERSONAL DATA PROTECTION**

### **5.1 International, inter-institutional and civil society cooperation**

#### **5.1.1 International cooperation**

After the Commissioner's Office organized the 41st ICDPPC International Conference in October 2019 in Tirana, and after the concluding works of the conference, the activity Report was finalized. The document was developed in cooperation with the GPA Secretariat and was adopted by the Executive Committee, as the highest steering body of the organization.

The Information and Data Protection Commissioner was re-elected as a full rights member of the GPA Executive Committee for a 1-year mandate. In addition, the Commissioner was reconfirmed as a member of the GPA Strategic Leadership Sub-Committee. The high-level representation is recognition of the institution contribution and its interaction with counterpart authorities in the framework of the GPA.

The Commissioner's Office participated in the works of the virtual Closed Session of the GPA, organized from 13 to 15 October 2020. The event addressed sensitive privacy and personal data protection issues, such as: overcoming the COVID-19 global pandemic situation, using new technologies, facial recognition or artificial intelligence, protecting data in humanitarian activities, etc. The Closed Session adopted 5 resolutions, and the Commissioner's Office made its contribution in the quality of co-sponsor in a number of them, including:

- The Resolution on Facial Recognition Technology;

- The Resolution on the Role of Personal Data Protection in International Development Aid, International Humanitarian Aid and Crisis Management;
- Resolution on Accountability in the Development and Use of Artificial Intelligence
- Resolution on Joint Statements on Emerging Global Issues;
- Resolution on the Privacy and Data Protection Challenges Arising in the Context of the COVID-19 Pandemic.

In addition, the Commissioner's Office was reconfirmed as a full rights member of the International Conference of Information Commissioners (ICIC), upon the reorganization of this forum in 2020.

### **5.1.2 Relations with EUROJUST**

The Commissioner's Office has prioritized and completed the monitoring of the agreement with EUROJUST implementation.

In the context of the appointment and confirmation of contact persons for personal data protection process, the institution has been in consistent contact with the General Prosecution Office and district prosecution offices. However, field monitoring of the prosecution system obligation to protect personal data, was impossible because of the pandemic situation.

With the aim of training and enhancing staff capacities regarding the monitoring process pursuant to the standards of this agreement, the authority has been in contact with international partners. The authority has requested technical assistance from the new IPA 2019 "*Fight against serious crimes in the Western Balkans*" Project implemented by GIZ, which is a continuation of the previous Project that provided assistance for the finalization of the Agreement with Eurojust adoption. In this regard, the authority has also requested assistance from the Embassy of the Kingdom of the Netherlands.

### **5.1.3 Cooperation with civil society**

In the framework of the cooperation with civil society organizations, a series of events focused on strengthening the right to information were organized in 2020, including:

- meetings with representatives of the "*Together for Life*", "*Birn Albania*", "*Faktoje.al*", "*Qendresa Qytetare*", "*Institute for Democracy and Mediation*" organizations, which focused on issues related to transparency and the contribution of the civil society in this regard;
- cooperating with the "*Lëviz Albania*" organization to organize a webinar with civil society representatives entitled "*Transparency Programme: interconnection element between the Commissioner for the Right to Information and civil society actors to strengthen local democracy*";
- cooperating with the "*Institute for Democracy and Mediation*" to present the "*Transparency and Accountability Assessment in the Municipalities of Elbasan, Lezha, Durrës, Kukës, Fier, Gjirokastra, Tirana and Shkodra*" monitoring report to civil society representatives;

- becoming part of the focus group in the framework of the “*Strengthening cooperation between security institutions, monitoring mechanisms and the civil society*” project, organized by the Institute for Democracy and Mediation.

In addition, the Commissioner’s Office staff participated in various webinars/training session organized by international and civil society organizations, such as:

- the OSCE webinar on “*Monitoring, Analyzing, Using and Re-using Data to Strengthen Government Transparency and Decision Making Processes*”;
- the UNDP Albania webinar, to present the Report on the Local Governance Mapping in Albania, where one of the components considered was the “*Transparency of the Local Government Administration*”;
- the UNESCO Office webinar entitled “*Implementation of the access to information and crisis resolution during the COVID-19 spread*”;
- the webinar of the *Qendresa Qytetare* entitled “*Financial and performance analysis of the University Student Resistance No. 1 Tirana regarding the service fee and student rights relation*”;
- the training of the Together for Life with independent institution representatives entitled “*The media and the Albanian European Union integration process*”;
- conference of the Together for Life association entitled “*The Role of the Parliamentary Mechanism in Strengthening Independent Institutions*”.

The Commissioner’s Office had fruitful cooperation with civil society organizations this year as well, and consulted the recommendations of the civil society reflecting them in its activity.

## **5.2 Training organized by the Commissioner’s Office**

The situation created by the global pandemic led to difficulties regarding the organization of awareness raising training activities on legislation implementation in the two activity areas of the authority.

Online training sessions were organized in June with central institution, independent institution and local self-governance unit coordinators on the implementation of the law on the right to information during the pandemic. The meetings focused on the importance of updating the Transparency Programme and the Requests and Responses Register, as important instruments for improved public authority transparency and accountability.

Another online training session entitled “*The electronic register of requests and responses of the right to information*” was organized that month with municipality coordinators. The aim of this training was to raise awareness on the installation of the ERRRI in as many local self-governance institutions as possible.

The training entitled “*Personal data protection*” was organized in cooperation with the Albanian School of Public Administration. High level management civil servants from



various institutions participated in this training. The training focused on knowledge regarding the national and international legal framework, especially the GDPR.

The training entitled “*Right to information, transparency for good governance*” with the participation of coordinators from the prime minister’s office and ministries was organized in October. The training discussed issues of proactive transparency, the implementation of recommendations and Transparency Programme updates, the use of the ERRRI through the *pyetshtetinal* Portal and issues encountered during complaint handling.

### **5.3 Other awareness raising activities**

A number of activities were organized to raise awareness on the respect of citizens’ rights in both activity areas of the institution.

On 28 January 2020, the Personal Data Protection Day, the “*Youth and Privacy*” competition was organized in cooperation with the “*Hermann Gmeiner*” Vocational ICT High School. The event for this competition was held at the Protik Innovation Center. 10 student groups from the 11<sup>th</sup> and 12<sup>th</sup> grades of this school presented project applications, with “*privacy policies*” being at the core of the evaluation.

The Commissioner’s Office staff and the school staff organized a training cycle in January 2020 to inform participants on the main regulatory principles in guaranteeing privacy and personal data protection, in the framework of the preparation of the projects for the competition. The “*Student Guard*” application was declared the winner. This project was an attendance monitoring system that provided information to parents. Other applications presented in the competition covered areas such as personal or business finances management; health data management or adherence to diets, safe internet browsing, online shopping, email checking, etc.

The publication of the electronic “*Right to information*” newsletter on the official website started in July. This newsletter is a summary of the monthly activities of the institution regarding implementation oversight for the law on the right to information.

The Commissioner’s Office engaged in the publication of the “*Remote Transparency*” poster, which aimed at raising the awareness of public authorities in being as proactive as possible during the pandemic as well.

A video was shown in the “*Mother Tereza*” Square on the Right to Information Day on 28 September 2020. The event was organized in the framework of citizen awareness raising campaigns on the active exercise of the right to public information, through the implementation of the law on the right to information.

In cooperation with the General Preuniversity Education Directorate (GPUD), the Commissioner’s Office was set to launch the “*Digital education, play and learn - Happy Onlife*” National Campaign in March 2020. However, this project was postponed as a result of the pandemic situation and the first phase was implemented from October to December 2020, under which 22 meetings were organized in 9K schools in 21 cities across the country. During the discussions with the participating

students and teachers, information and practical advice on privacy and personal data protection, especially when using social networks, were shared. The “*Happy Onlife*” game, on which the project is based, aims at pushing youth to learn about safe use of personal data in the digital space by thinking critically. This game was developed by the European Joint Research Center (JRC). The project is scheduled to be completed during the first half of 2021.

The Commissioner’s Office also rescheduled activities with universities, which were organized in an online platform in November and December. Students and academic/administrative staff from the “*Ismail Qemali*” University in Vlora and the “*Aleksandër Moisiu*” University in Durrës participated in these trainings. A discussion on the right to information and personal data protection legislation, the role and functions of the institution, with the goal of improving the awareness on and knowledge of citizen rights, followed by consideration of practical cases.

## **6. BUDGET MANAGEMENT**

### **6.1 Organizational structure**

The expanded activity of the Commissioner's Office to guarantee the two citizen rights, fulfilment of duties and functions provided in other laws, but especially the new regulatory framework on personal data protection drove the submission of a more complete authority organizational structure in May 2020, for approval by relevant institutions and the Assembly.

Under Law No. 137, dated 16.11.2020 "On the 2021 Budget" a total number of 44 staff was approved for the Commissioner's Office, compared to the 37 staff it had in 2019. Pursuant to this law, the amended structure and organizational chart, which entered into effect on 1 January 2021, were adopted by Decision of the Assembly No. 84/2020 "*On some additions and amendments to Decision No. 86/2018 "On adopting the structure, organizational chart, and salary classification of the Information and Data Protection Commissioner"*". These improvements have allowed the institution to reformat the structural organization of its units and their names, salary levels and categories, job positions and allocation of employee numbers in each structure, with the goal of more efficient human resources administration for the activity of the institution.

### **6.2 Development of human resources**

Staff professional skills to complete assigned tasks in a timely manner with adequate quality are a fundamental element for an effective institution.

The situation created by the COVID-19 pandemic led the Commissioner's Office to adapt the internal network infrastructure to create adequate conditions for the organization of online meetings and trainings over various platforms. Pursuant to the Annual Training Plan 15 employees were certified in 10 various topics after the trainings organized by the Albanian School of Public Administration.

In the context of human resources development, of note is the cooperation with the Ministry of Education, Sports and Youth on the 5<sup>th</sup> call of the National Work Internship Program, providing 3-month internships for students, to build and develop their professional capacities and introduce them to the public administration system.

### **6.3 Revenue and expenses**

Under Law No. 88/2019 "*On the 2020 state budget*", and including changes made during the year, a total of ALL 66,826 (*in thousands*) were allocated for institutional activities and operation. Additional measures were taken to overcome the pandemic situation, leading to a priority revision and direction of budget expenses towards the main activities of the institution, pursuant to financial management principles and rules. 2020 funds were reduced to 3,000 (*in thousand ALL*), cutting the "*operational expenses*" line and transferring funds to the state budget to overcome the health emergency.

Including the changes during the year, a total of 65,965 (*in thousand ALL*) were spent from the general budgetary funds projected for 2020. When considering the annual 2020 plan, 98.7% of the budget was realized. The table shows the realization in both amount and percentage in each expense category against the allocated budget.

### BUDGET REALIZATION FOR 2020

000/ALL

000/ALL

No	ITEM	PLAN	PERCENTAGE OF THE TOTAL	ACTUAL AMOUNT FOR 12 MONTHS	PERCENTAGE OF EXECUTION COMPARED TO ANNUAL PLAN
1	Salaries	43,926	66%	43,758	99.6%
2	Social Insurance	7,250	11%	7,171	98.9%
3	Other goods and services	14,110	21%	13,691	97%
4	Investments	1,000	1.4%	999	99.9%
5	Transfers and special fund	440	0.5%	270	61%
6	Membership fees	100	0.1%	76	76%
	<b>Total</b>	<b>66,826</b>	<b>100%</b>	<b>65,965</b>	<b>98.7%</b>

The main share of expenses is made up of staff salaries and social and health insurance contributions. The general salaries fund has been executed for the actual number of employees in the amount of ALL 43,758 (*in thousands*) or 99.6% and in the amount of ALL 7,171 (*in thousands*) or 98.9% of the plan for social and health insurance contributions. Other recurrent expenses and investments planned and approved from internal funding were executed in the amount of ALL 15,036 (*in thousands*) or 96% of the plan. Failure to realize expenses completely was a result of the lower bids in procurement procedures and the use of the special fund at a level of 15%.

#### **6.4 Revenue from sanctions**

In 2020, a total of ALL 2,629 (*in thousands*) were collected as revenue from administrative sanctions for violations of applicable legislation provisions, which were paid 100% into the state budget. Sanctions imposed amounted to ALL 1,860 (*in thousands*), of which ALL 1,590 (*in thousands*) or 85% of the total were collected. On the other hand, an amount of ALL 1,039 (*in thousands*) was collected for administrative sanctions from previous periods.

Sanctions are paid off voluntarily or collected through bailiff's services. In 2020, 86% of the amount collected was paid voluntarily by offenders, which shows awareness in immediately complying with the Commissioner decisions.

## **7. EUROPEAN COMMISSION PROGRESS REPORT FOR ALBANIA ON THE COMMISSIONER OFFICE**

The Commissioner's Office has fully addressed the recommendations made in the European Commission (EC) Progress Report for 2019. In addition, after the publication of the European Commission Progress Report for 2020, in coordination with the Ministry of Justice in the quality of the leader institution for the "Political Criterion" Chapter and Chapter 23, the institution has developed a plan of measures regarding the implementation and monitoring of the recommendation the CE has identified for the Commissioner's Office.

- 1. The Information and Data Protection Commissioner should have broader oversight competences. A central register for information requests is in place, but its coverage should be expanded*

In regard to the first part of the recommendation, it is of note that its implementation is beyond the capacities and competences of the Commissioner's Office. The legal changes foreseen for the law on the right to information and the new law on personal data protection will address the issue of broadening oversight competences.

In regard to the second part of the recommendation, awareness raising with public authorities on making the ERRRI operational has continued in 2020. Lacking the funds to install this register in a centralized manner, the Commissioner's Office requested independent authorities and local self-governance units to install the register with their own budget funds. 28 new authorities installed the register, bringing the total number of institutions with an operational register to 59, compared to 31 at the end of 2019.

- 2. With regard to personal data protection, further efforts are required to align the personal data protection legislation with the General Data Protection Regulation 2016/679 and the Police Directive 2016/680.*

Measures have been taken to fully implement this recommendation within 2021. More detailed information on these measures is provided in paragraph 4.1.1 of this Report.

- 3. Albanian has yet to become a signatory of the 2018 Protocol, which changes the Convention for the protection of individuals with regard to the automatic processing of personal data.*

The Commissioner's Office has fully addressed this recommendation. More detailed information on the measures taken in this framework is provided in paragraph 4.1.2 of this Report.

4. *The Office of the Information and Data Protection Commissioner capacities should be further enhanced to allow it to fulfil its duties in a more effective manner.*

This recommendation is fully addressed with the adoption of Decision No. 84/2020 of the Assembly.

5. *Access to information regarding procurement contracts, audits and salaries for officials should also be enhanced. Decisions of the Commissioner for the Right to Information are not binding for public administration officials.*

In regard to the first part of this recommendation, access to public information is provided proactively and actively. The first method refers to the information/documents in the Transparency Programme, while the second refers to requests filed. In both cases, it is the public authority that retains this information, which should be published on the official website or made available to those lodging requests.

In regard to the second part, the recommendation is addressed in the draft act developed to amend the law on the right to information, which will make the Commissioner's decision an executive title. The project has proposed that the draft act for amendments to the law on the right to information, which also provides for the Commissioner's competences in this area, be proposed at the same time as the new law on personal data protection.

## **8. FULFILLMENT OF INTERNATIONAL OBLIGATIONS AND REPORTING**

The Commissioner's Office is part of the "*Political Criterion*" Chapter, Chapter 10 "*Information Society and Media*" and Chapter 23 "*Judiciary and fundamental rights*" of the European integration process. In the framework of these chapters, the legal gaps Analysis and an update of the institutional and administrative capacities Table have been developed over this year in the context of the screening process.

Under these obligations stemming in the framework of international cooperation, contribution has been made in developing:

- four reports pursuant to Decision of the Assembly No. 134/2018, among which a report on the Resolution implementation and three reports on the implementation of Commissioner recommendations by the relevant institutions;
- the report for Ministry for Europe and Foreign Affairs on the activity of the Commissioner's Office in 2019 and the first 3 months of 2020, in the framework of the 12<sup>th</sup> meeting of the European Union - Albania Subcommittee on "Justice, Freedom and Security";
- the report on the institution activity in developing and submitting the third and fourth contribution of the Albanian Government for the European Commission Report on Albania for 2020, regarding the "Political Criterion" Chapter and Chapters 10 and 23;
- the report on the development of legal acts and strategic documents aimed at approximating EU legislation in the framework of the 2021-2023 National European Integration Plan development regarding the "Political Criterion" Chapter and Chapters 10 and 23.
- the authority measures plan for the implementation of recommendations made in the European Commission Progress Report for 2020.
- reporting on the GRECO recommendations regarding the fifth evaluation round.
- the periodic report in the framework of participation in the Berlin Group.

## **9. IMPLEMENTATION LEVEL OF THE 2020 PARLIAMENT RESOLUTION**

In the Resolution adopted on 21.05.2020, the Assembly recommended that the Commissioner's Office complete the following:

- 1. Improve the template transparency model and the requests and responses register template for public authorities.*
- 2. Strengthen the role of the contact person in ensuring data processing security.*
- 3. Monitor provision of support to public authorities, and take measures for the establishment and operation of the electronic register of requests and responses of the right to information within 2020.*
- 4. Supervise controllers focusing on online platforms, the information and communication technology sector, or other sectors processing sensitive data, and to submit a special report to the Albanian Assembly, which reflect the personal data protection situation.*
- 5. Continue to make a contribution in the approximation of personal data protection legislation with the relevant EU legislation, namely the General Data Protection Regulation 2016/2019 (GDPR) and the Police Directive 2016/680.*
- 6. Play an active role in the discussion and adoption process for the ratification of the Protocol amending the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data”.*
- 7. Assist in providing a contribution for the development of the draft law “On open data and re-use of public sector information” in the framework of the transposition of Directive 2019/1024 EU, with the aim of completing the legal framework on the right to information,*
- 8. Assist in the development of the necessary legal framework on consumer/personal data subject protection from unsolicited calls or email messages.*
- 9. Continue to monitor the fulfilment of obligations related to the cooperation agreement with Eurojust, and develop, in cooperation with the Personal Data Protection Officer at Eurojust, the annual report for the European Commission.*
- 10. Continue awareness raising and training activities organized by the Commissioner on information and awareness of rights and obligations within the areas of activity.*

The Commissioner's Office has fully implemented these 10 recommendations in 2020. Considering that the authority supports annual institutional objectives, including these recommendations among others, this Report identifies all steps taken to achieve them. More detailed information was electronically submitted to the Assembly.



## 10. THE VISION OF THE INSTITUTION

In 2020, the entire activity of the Commissioner's Office was re-dimensioned as a result of the period characterized by the work in the context of the unknown and sudden issues imposed by the global COVID-19 pandemic. However, sound foundations for the quality steps in the work of the institution are in place and this implies the start of a new, more dynamic phase in ensuring modern rights and fundamental freedom standards for Albanian citizens. The contribution of the institution for the modernization of the regulatory framework as part of the EU integration process is especially significant and has been recognized domestically and internationally. This contribution will continue in 2021, based on the following main objectives:

- ✓ *Adoption on new legislation in the personal data protection field, which is approximated with the GDPR and the Police Directive, through the successful implementation of the "Institutional building for the approximation of legislation on personal data protection with European Union acquis" Twinning Project;*
- ✓ *Capacity building for the implementation of the new personal data protection regulatory framework, and for awareness raising among stakeholders to ensure respect for citizen rights;*
- ✓ *Playing an active role in the conclusion of the Convention 108+ and Convention 205 of the CoE ratification process;*
- ✓ *Playing an active role in the adoption of the draft law "On the establishment of the unsolicited commercial communications register";*
- ✓ *Adoption of the amendments to the Law on the right to information;*
- ✓ *Playing an active role in the adoption of the draft law "On open data and the re-use of public sector information";*
- ✓ *Systematic monitoring of specific public authority categories regarding the publication/update of the Transparency Programme and the requests and responses Register, to improve accountability and awareness raising as related to citizen interests;*
- ✓ *Driving public authorities to maximize public information provision quality, in less time and at lower cost, expanding the use of the pyetshtetin.al portal functions, and strengthening the coordinator role in their internal structures;*
- ✓ *Monitoring and oversight of the personal data protection legislation implementation, focusing among others, on the verification of processing principles and requirements compliance and on technical and organization measures related to ensuring data security and confidentiality;*
- ✓ *Establishment of a comprehensive privacy and personal data protection culture in the digital space, focusing on the young generation, as one of the realities which the Commissioner's Office will be facing most frequently in the coming years.*

Current standards for the respect of fundamental human rights and freedoms cannot be understood without an institution with trained, motivated and active staff. Complete legal oversight requires and demands knowledge from a variety of fields, and as a consequence new cooperation bridge-building in both the public and the private sectors of the society. In this way, experience exchange will lead to improved institution activity efficiency, for a more dynamic performance in resolving citizen issues in a practical manner.