

ANALYSIS

TRANSPARENCY OF GOVERNMENT

INSTITUTIONS AT THE NATIONAL LEVEL AND ACCESS
TO PUBLIC INFORMATION LINKED TO THE PROFESSIONAL
WORK OF JOURNALISTS



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INTRODUCTION

The right to free access to public information is of fundamental significance for a country's democracy, contributing to a better informed and engaged society, promoting transparency and accountability, and ensuring public access to information held by public authorities. It contributes to combatting corruption and preventing the abuse of power, and enables citizens to demand accountability from the officials who manage the institutions.

The Law on Free Access to Public Information was adopted in February 2006. Since then, until today, it has been amended seven times, the last of which was in 2019¹.

On December 6, 2023, the Government of the Republic of North Macedonia adopted several conclusions tasking the state administration bodies to promptly provide free access to public information, in order to increase transparency and access to public information. They refer to the functionality of the communication between those requesting information and those holding the information, instructing, among other things, the electronic addresses and telephone numbers of the holders of information to be visible and accessible to the citizens².

The report of the Agency for the Protection of the Right to Free Access to Public Information about the work in 2023, published in March 2024, states that the previous amendments to the law do not substantially contribute to changing the approach i.e., the mindset of the applicants, nor of that of the holders of information.

The 2024 Rule of Law Report³ of the European Commission indicates that the Agency, despite its limited operating resources, acts on the complaints that it has received and monitors the institutions as holders of information. The report also states that the information seekers express concern because the holders refer to the protection of personal data as a reason for denying access to documents; the delay and exceedingly long wait-times for receiving information also pose a challenge, which in turn is a problem for journalists working with tight deadlines. A serious remark is that the public administration is not sufficiently responsive in giving access to information in practice.

1 Decree for the Promulgation of the Law on Free Access to Public Information https://www.mtsp.gov.mk/content/pdf/zakoni/2021_zakoni/2021_zakoni_alb/zakon_sloboden_pristap_101_2019_web.pdf

2 Good Governance Policy Plan 2023 https://vlada.mk/sites/default/files/dokumenti/plan_2023_public_final_mk.pdf

3 Report of the European Commission on the Rule of Law for 2024 - Chapter on the State of the Rule of Law in North Macedonia <https://aspi.mk/новости/извештај-на-европската-комисија-за-вл/>

This document will try to answer several questions: what does the law say and what does practice show when it comes to free access to public information, what is active transparency of public institutions, what challenges do information seekers face, and what are the experiences of the countries in the region.

At the end, the document offers recommendations for overcoming the identified problems and improving the situation, which would ensure smooth and timely access to public information.

1. LAW ON FREE ACCESS TO PUBLIC INFORMATION

The Law on Free Access to Public Information regulates the conditions, the method and the procedure for exercising the right of free access to the public information in the possession of the holders of information, i.e. state government bodies and other bodies and organizations as established by law, the bodies of the municipalities, the city of Skopje and the municipalities in the city of Skopje, institutions and public services, public enterprises, legal and natural persons exercising public powers established by law and activities of public interest and political parties (in the area of income and expenditure).

This law additionally regulates the exceptions from free access to information, the obligations for and of the officially appointed person in charge of providing the information, the duties of the holders of information, the procedures for exercising the right to free access to information, the costs for mediating information, the status and the competences of the Agency for the Protection of the Right to Free Access to Public Information, as well as criminal provisions for the holders of information for non-compliance with the law.

2. EXPERIENCES AND CHALLENGES OF JOURNALISTS AND CIVIL SOCIETY ORGANIZATIONS WHEN USING THE LAW ON FREE ACCESS TO INFORMATION

The implementation of the Law on Free Access to Public Information is subject to monitoring by civil society organizations, as well as journalists, who are statistically the most frequent requesters of public information.

One of the key observations in a report by the non-governmental sector, which has been monitoring state administration bodies and the Agency for the Protection of the Right to Free Access to Public Information for several years, is that the institutions do not respond to their submitted requests in the shortest possible time, but in principle, they receive the answers within the deadline provided by law.

The non-governmental organization “Metamorphosis” also pointed to the need to introduce internal procedures in institutions for providing faster responses to applicants. This means that the official who is in charge of receiving the requests in a given institution should send the request to the responsible persons in the institution who should prepare the answer and send it back to the official, in order to respond to the requester of the information in the shortest possible time.

Journalists who work in investigative newsrooms and often use this tool talk about their negative experiences. They say that often in a race against time they decide to skip the long procedure and look for shorter ways to get the information - through their own sources in the institutions or whistleblowers. With that in consideration, there are indications and requests for legal amendments regarding the time limit for responding to requests: from 20 or 30 days for more extensive documentation, the deadline should be halved to 10 to 15 days.

2.1. EXAMPLES OF JOURNALISTIC PRACTICE

Case 1 - RFE / State Lottery

A journalist from Radio Free Europe submitted a request for free access to public information to the joint-stock company State Lottery, which is fully state-owned. The journalist was looking for information about the contract for the lease of a building, for which the institution previously had a public announcement, but did not publicly announce the outcome.

The institution instructed the journalist to send the questions related to the topic in the form of a request for free access to public information, and additionally in a separate request to submit the question of inspection of the lease agreement.

Guided by previous negative experiences with prompt responses from the institutions to his requests, he managed to get the contract through a source from another institution.

On the last day of the legal deadline, which is also the day the journalist was supposed to publish the story⁴, he received a notification from the institution that they were preparing to deliver the answers to him. The journalist did publish the story that same day, after which he did not receive a response to the request for free access to public information at all.

When checking the institution's annual report on submitted requests for free access, it says that out of a total of three submitted requests, only one was answered, while the other two are in the column of unanswered requests, which are actually the requests of the journalist.

Case 2 - 360 degrees / Public Enterprise for State Roads, "Bechtel and Enka"

Case background - The case referred to the request of the "360 Degrees" website to access the contract between the Public Enterprise for State Roads (JPDP) and the companies Bechtel and Enka for the construction of highway segments. The public enterprise refused them practically without explanation, although it "accepted" the request, but only replied that the contract was not public information. The media outlet lodged a complaint to the Agency for the Protection of the Right to Access to Public Information, which in turn tasked the Public Enterprise for State Roads to give them the contract for the construction of the highways from corridors 8 and 10-e. Despite the final decision of the second-instance authority, the holder of the information refused to provide the document under the pretext that there was a clause in the contract stating that it must not be published without the permission of all signed parties. This implies that the contract is above the law⁵.

Procedure and decision

- **Request:** The "360 Degrees" website submitted a request to JPDP to access the contract with Bechtel and Enka, including a full copy of the contract for the construction of the highways.
- **When:** The request was submitted in February 2024.
- **Deadline for response:** According to the Law, JPDP should have responded to the request within 15 days.

4 State lottery leased a former restaurant for weddings for 2.6 million euros <https://www.slobodnaevropa.mk/a/drzhavna-lotarija-zakupi-poraneshen-restoran-za-svadbi-za-2-6-milioni-evra/32642505.html>

5 (VIDEO) The corridors are going strong, despite journalists' warnings <https://360stepeni.mk/video-novinarite-laat-koridorite-si-vrvat/>

- **JPDP's first response:** JPDP responded to the request within 20 days, providing a partial response. The website was provided with a copy of the contract, leaving out some parts that were protected as commercially sensitive.
- **Weaknesses:** The initial response did not contain all the details and terms of the agreement, which limited the full understanding of the content of the agreement.
- **Steps taken by the "360 Degrees" website:** The "360 Degrees" website filed a complaint with the Agency for the Protection of the Right to Free Access to Public Information, demanding full insight into the contract without redacted segments.
- **Agency's reaction:** The Agency tasked the JPDP to review and correct the decision and provide all information from the contract without omissions.
- **JPDP's reaction and epilogue:** Despite the final decision of the second-instance authority, the holder of the information refused to provide the document under the pretext that there was a clause in the contract stating that it may not be published without the permission of all signed parties. JPDP started a review of the contract and after several additional interventions by the Agency, the full contract was published on JPDP's website in June 2024.

Case 3 - IRL - Power plants of North Macedonia

On March 16, 2022, the Investigative Reporting Lab (IRL) submitted four requests to access public information to the state company Power Plants of North Macedonia.

Two years after IRL journalists asked Power Plants of North Macedonia (ESM) to disclose the procurement contracts for coal and fuel oil for 2021 and part of 2022, ESM did not respond to the requests for access to public information, completely denying access, because the information contained business secrets that are not in the public interest to be shared with the media.

Instead of access, ESM even sued the Agency because it decided in favor of IRL and made a decision that Power Plants must provide all the requested information⁶.

6 ESM submitss a lawsuit to the Administrative Court to prevent the publication of information about coal and fuel oil <https://irl.mk/esm-so-tuzhba-do-upraven-sud-sprechuva-ob-ava-na-informacii-za-aglenot-i-mazutot/>

2.2. AGENCY FOR THE PROTECTION OF THE RIGHT TO FREE ACCESS TO PUBLIC INFORMATION - COMPLAINTS, SANCTIONS, EXPERIENCES AND EXAMPLES

The Agency for the Protection of the Right to Free Access to Public Information was established in accordance with the Law on Free Access to Public Information ("Official Gazette of RNM" No. 101/2019), and it started with its work once the Decision of the Assembly of Republic of North Macedonia to appoint the director of the Agency was issued on December 25, 2019.

The key task of the Agency is the continuous implementation, promotion and protection of the right to free access to public information, with the aim of increasing the transparency and accountability of institutions and facilitating access to public information.

According to the law, one of the Agency's competences is to ensure the implementation of the provisions of the law; to conduct administrative proceedings and to decide on appeals against decisions by which the holder of the information refused or rejected the request for access to information of the applicants; to lead misdemeanor proceedings through the Misdemeanor Commission, which decides on violations of the law, to develop policies and give opinions on proposals for laws regulating free access to information, as well as to prepare an annual report on its work and submit it to The Assembly of the Republic of North Macedonia.

According to the data from the latest annual report of the Agency, in 2023⁷, appeal procedures initiated against institutions that are non-compliant with the provisions on free access to public information led to 453 cases.

Of them, 235 appeals were submitted by natural persons, 190 non-governmental organizations and 28 appeals were from from legal entities.

Most of the submitted complaints were aimed at state institutions at the central level, municipalities and public enterprises and institutions.

The latest figures show that in the period from from January 1, 2024 to July 31, 2024, 216 complaints were submitted to the Agency for the Protection of the Right to Free Access to Public Information.

7 Annual report of the Agency for the Protection of the Right to Free Access to Public Information for 2023 <https://aspi.mk/wp-content/uploads/2024/04/godisen-izvestaj-2023-komplet.pdf>

Of these, 157 complaints were submitted due to the administrative silence, while the rest refer to dissatisfaction with the received answers in administrative acts passed by the first instance authority.

The Agency’s statistics show that the most numerous complaints are due to “administrative silence”, that is, when the holders of information do not act on submitted requests within the deadlines stipulated in the law - 20 days from the submitted request or an extended deadline of 30 days if extensive documentation is required.

Penalties and sanctions

In the past years, procedures were carried out against officials in charge of the exchange of public information for not acting on the Agency’s decision.

However, the procedures were completed without the imposition of fines because the officials showed evidence that they acted in accordance with their obligations under the law, that is, that they informed the managers of the institution that is the holder of the information, about the obligation to implement the Agency’s decision.

The Agency, during the trainings it conducts for officials appointed by the information holders, constantly reminds them that they have a legal obligation to respond to requests immediately. However, information holders use the maximum period of 20 days to respond to the request.

Examples from practice

Case 1:

Request:	In July 2023, a journalist from the “Reporter” website submitted a request to the Ministry of Finance for the Ministry’s financial statements for 2022. The request included details of the Ministry’s expenditures, salaries, and sponsorships. The Ministry was obliged to respond to the request within 15 days.
The first answer:	the Ministry gave the journalist an answer, but with significant omissions and shortcomings. According to the response, provided in October 2023, key information on specific expenditures and salaries was missing, and some of the data was non-functional or incomplete.
Correction of the answer:	After the journalist’s complaint and further intervention by the Agency, the Ministry tried to correct the answer, but significant deficiencies were still present.

Steps taken by the Agency:	The Agency reviewed the case and determined that the Ministry did not fulfill its legal obligations for full publication of the information. In November 2023, the Agency imposed sanctions on the Ministry for non-compliance with its legal obligations.
Penalty and measures:	The penalty included a financial sanction and an order for the Ministry to publish all necessary financial reports within 30 days of receiving the decision. The Ministry was also required to publish the corrected report on its website.
Ministry's reaction:	The Ministry complied with the Agency's order and published a full report on its website by the end of December 2023.

Case 2:

In November 2023, a journalist submitted a request to the Ministry of Health for reports and data on public tenders for medical equipment and medications during 2022. The Ministry had to respond within 15 days.

The first answer	The Ministry sent a partial response in December 2023, which included only part of the tender data and did not contain all the requested medical equipment reports. Some important details, such as prices and terms of tenders, were not included.
Agency action	The Agency imposed a sanction on the Ministry due to untimely and incomplete response to the request.
Epilogue	The Ministry of Health corrected the answer and submitted all the requested information in January 2024. All data were published on the website of the Ministry.

Case 3:

In January 2024, an educational foundation submitted a request to the Ministry of Education and Science for reports on the distribution of funds for educational projects in the last two years. The ministry had to respond within 15 days.

The first answer	The Ministry sent a partial response in February 2024, which contained the basic sums of the allocated funds, but without details about specific projects and beneficiaries, thus limiting the insight into the method of distribution of the funds.
Steps taken by the Agency	The Agency imposed a sanction on the Ministry due to non-compliance with its legal obligations.
Epilogue	The Ministry corrected the answer and submitted all the detailed information in March 2024. The reports were published on the website of the Ministry.

The Agency revealed that for the first time in 2023 forced collection was carried out through the Public Revenue Office on three decisions of the Offenses Commission.

In one case, a fine of EUR 500 was imposed due to failure to appoint an official in charge of the provision of public information, and two of EUR 250 for failure to act on the Agency's decisions. The Agency has conducted a total of 50 settlement procedures for failure to comply with its decisions. No lawsuit has been filed before the Administrative Court against decisions made by the Misdemeanor Commission imposing a misdemeanor sanction.

During 2024, a total of 57 settlement procedures were carried out, for 33 of which misdemeanor proceedings were requested and once the Misdemeanor Commission has obtained the required data, it will make its decisions.

3. ACTIVE TRANSPARENCY OF INSTITUTIONS

The chapter "Active transparency" is the least implemented part of the Government's Strategy for greater transparency of institutions, that is, most of the planned measures for active transparency have not even started.

Given that websites are the main source of official information about the work of institutions, and are a tool for the fastest, easiest and safest access, most indicators of the Openness Index refer to websites as a source of information. This means that the institutions should publish the data even without using the mechanisms for accessing public information.

Despite the undertaken obligations, the institutions partially and unsystematically updated the documents on their websites, that is, no system was established for how often the various documents and information should be updated.

In recent years, although progress has been made, some institutions still do not provide enough information on their websites, despite the legal framework.

Information holders

In the list of holders of public information, the Agency has recorded a total of 1,457 holders.

At the beginning of 2023, the Agency prepared mandatory guidelines for public authorities to improve transparency in their work. This document contains a list of information that citizens most often request. The document obliges public authorities to publish, within 6 months, all the information they possess, systematized by area, as well as to publish all the answers they submit to requests for free access to information.

In the period from November 14 to December 14, 2023, the Agency conducted monitoring of 51 holders. This obligation has been respected by 37 institutions, while 12 holders have partially fulfilled it, due to the fact that the targets on some of the links on the web pages have been moved.

Most often, the institutions move the links to public information to targets such as: contact, public relations and similar sections of the web pages. The Agency believes that unsystematized information creates confusion among citizens, that is, information is more difficult to access.

With the election of the new government, certain ministries have been transformed, while on the other hand new ones were created⁸.

At the end of the 100 days, some of the ministries in the new government have not yet opened official websites for communication with the public, and therefore there is no online contact and information about the work of these institutions.

The control showed that among the institutions that are still invisible to the citizens are the new Ministry of Sports, and the Minister without portfolio in charge of integration and implementation of the Roma Inclusion Strategy 2022-2030.

8 Structure of the Government of the Republic of North Macedonia <https://vlada.mk/sostav-na-vladata>

Other ministries⁹, on the other hand, have published their annual reports on the implementation of the law, but not the individual requests of the applicants and the answers to their questions.

The Transparency Index of the Government, ministries and state bodies, which is measured by non-governmental organizations such as "Metamorphosis"¹⁰ and the Center for Civil Communications, points to inconsistencies in transparency between different institutions. No ministry in the country is rated highly transparent by anti-corruption standards, with over 80% performance.

Monitoring of 4 categories of holders, that is, of 224 institutions, was also carried out. By the given deadlines, completed questionnaires were submitted by 124 holders, or 55.36% of 224. The report is focused on the most relevant three questions:

1. Has the website published the mandatory information from Article 10 of the Law on Free Access to Public Information by placing a banner in a visible place which leads to the public information?

● **The banners were placed in 54.98% of cases on the websites of the institutions**

2. Are the anonymized requests for access to public information for 2020, 2021, 2022 and 2023, together with the answers that have already been submitted to the requester published on the website in order to be able to be used by other natural and legal persons without resubmitting a request with the same content?

● **This is the weakest link and this information is the least shared with only 32%.**

3. Has the information holder published public information systematized by area, in accordance with Article 10 paragraph 1 item 22?

● **Only 60.85% of the institutions did so.**

9 Ministry of Local Self-Government <https://mls.gov.mk/mk/информации/слободен-пристап-до-информации-од-јавен-карактер>

10 Assessment of the good governance of the executive power in North Macedonia - "Metamorphosis" Foundation <https://metamorphosis.org.mk/wp-content/uploads/2024/06/mk-transparency-index-2024-policy-brief-finalna-logos-19.06.2024.pdf>

Ranking the ministries by their active transparency:				
Ranked 2024	Ranked 2023	Institution	Result 2023	Result 2024
1	1	Ministry of Defense	100%	100%
2	4	Ministry of Labour and Social Policy	97,8%	95,7%
3	10	Ministry of Interior	95,7%	87,5%
3	4	Ministry of Agriculture, Forestry and Water Economy	95,7%	95,7%
5	6	Ministry of Health	93,5%	91,3%
5	7	Ministry of Local Self-Government	93,5%	90,9%
7	8	Ministry of Environment and Physical Planning	91,7%	89,1%
7	8	Ministry of Information Society and Administration	91,7%	89,1%
9	3	Ministry of Finance	90,7%	98,1%
10	1	Government of RNM	87%	100%
11	11	Ministry of Economy	82,6%	87%
12	16	Ministry of Foreign Affairs	78,3%	67,4%
13	12	Ministry of Education and Science	76,1%	82,6%
14	13	Ministry of Transport and Communications	75%	80,4%
15	15	Ministry of Culture	73,9%	71,1%
15	14	Ministry of Justice	73,9%	79,2%
17	17	Ministry of Political System and Community Relations	60,9%	52,2%

4. BIGGEST PROBLEMS AND CHALLENGES OF JOURNALISTS WHEN USING THE LAW ON FREE ACCESS TO PUBLIC INFORMATION

Challenges related to full and free access to public information limit journalists in their ability to inform the public in a manner that is in the interest of transparency and accountability. In this section, we will look at the biggest problems that journalists face, along with examples and potential solutions.

Experience of the journalist from “Meta.mk” - Ministry of Interior

What they asked for: A journalist from “Meta.mk” submitted a request to the Ministry of Interior (MoI) in February 2024. He requested data on the total number of cases of corruption in the police, the number of police employees who were punished or fired due to corruption,

as well as detailed information on the internal procedures that the Ministry of Interior undertakes to deal with corruption.

After 30 working days, the journalist received a response that contained only general data on the number of corruption cases, without detailed information on the measures or procedures taken. Also, in the answer, data already published in the annual report of the Ministry of the Interior, which did not contain new information, were mentioned. The journalist noticed that the answer was incomplete and did not contain the required data.

Instead of the legal deadline of 20 working days, the journalist waited 30 working days for an answer, and even after receiving the answer, he had to submit a new request for additional information.

Experience of the journalist from “Fokus” - Topic: Awarding public tenders

What they asked for: In March 2023, a journalist from Fokus submitted a request to the Ministry of Transport and Communications, seeking information about the process of awarding public tenders for road construction during the previous two years.

The journalist asked for specific information about the winning companies, the value of the contracts, and the details of the tender procedures.

After almost two months, the journalist received a reply that contained only partial information about the tenders, without detailed information about the tender procedures or the criteria according to which the winning companies were selected. The Ministry cited the size of the work in response to the request as the reason for the partial response and suggested that the journalist specify the request.

The journalist waited 40 working days for a response, which is significantly longer than the legal deadline. This caused a delay in the publication of the text and reduced its relevance.

Experience of the journalist from “Portalb” – Topic: Management of public health institutions

What was requested: In April 2024, a journalist from “Portalb” submitted a request to the Ministry of Health, requesting information on the spending of public funds in public health institutions, including the number of contracts concluded with private companies for the supply of medical equipment and medications.

The response from the Ministry arrived after 25 working days, and contained only general data on the total spending of the health institutions, without specific details about the contracts or the companies with which the contracts were concluded. The journalist also noticed that the answer contained information that was already published in the Ministry's annual report, but did not present it in an understandable format. The journalist waited 25 working days for a response, and had to file a complaint due to the insufficiency of the provided information.

The appeals process took an additional 30 days, which significantly delayed the investigation.

If we try to categorize the problems that journalists are facing, we could divide them into the following categories.

1. Long response times or failure to comply with legal deadlines

One of the most common problems faced by journalists is the delay in responses from institutions. Although the law provides for a response within 20 working days, many institutions do not respect this deadline. Delays often prevent journalists from publishing information in a timely manner, especially when it is of significant public interest.

Example: According to research by the Center for Civil Communications, about 35% of requests filed in 2023 were answered after the legal deadline.

Example: Enforce tougher sanctions for institutions that do not comply with the legal response deadline, including fines or public disclosure of their failings.

2. Incomplete or irrelevant answers

Many journalists report that they receive incomplete or irrelevant information from institutions, which makes their reporting difficult. In some cases, institutions respond with general or already available data instead of the specific information that was requested. In several cases, journalists reported that the answers they received did not meet their needs, forcing them to submit additional requests or seek the information through other channels.

Example: In 2024, a journalist working on an investigative piece on the spending of public funds got a response from the Ministry of Finance with general statistical data instead of detailed information about specific contracts.

Solution: Training the officers for free access to information needs to be improved to ensure that they can recognize and deliver the correct information that journalists are looking for.

3. Rejection of requests without adequate justification

Some institutions refuse to provide information without giving a proper justification, which is against the law. This represents a serious obstacle for journalists, who then have to invest additional resources and time to obtain the necessary data through complaints.

Example: *In the case of a request submitted to the Agency for Energy, a journalist received a refusal on the grounds that the request was “too extensive”, without specifying which information cannot be provided.*

Example: *It is necessary to establish mechanisms for independent review of rejected requests, which will ensure that the institutions will provide adequate reasons for each rejection.*

Generalized formulations for rejecting requests:

1. “The information is not available at this time.”
2. “We publish only partial information that is of public interest, not full data.”
3. “We cannot provide detailed information due to privacy or commercial interests.”
4. “The data requested is not available in our documentation or archive.”
5. “The request cannot be fulfilled in full due to technical or administrative limitations.”

These examples and formulations illustrate how institutions sometimes refuse to provide complete information or use incomplete answers to avoid the demands of the media and civil society organizations.

4. Difficult access to officers for free access to information

Although the institutions have appointed officers for free access to information, access to them is often difficult. Contact information of these officers is not always publicly available or difficult to find on the institutions’ websites. Additionally, communicating with them can be ineffective, as many of them are busy with work.

Example: *A journalist working on an investigative piece on the health system has been trying to contact the Officer for free access to information at the Ministry of Health for more than a week, without success.*

Solution: *Greater visibility of officers’ contact information should be ensured and the possibility of appointing more officers in institutions with a large volume of requests should be considered.*

5. Lack of digital platforms for submitting requests

Although the law allows submission of claims via email, the absence of a unified digital platform for submission and tracking of claims creates additional obstacles. Journalists

are often unable to track the status of their request or have to submit the same request to different institutions individually, which is difficult from a time and a logistics perspective.

Example: A journalist from the “Nezavisen” website pointed out that he had to submit three different requests to three different institutions to get complete information about one case.

Solution: Introducing a national digital platform for submitting and monitoring requests for free access to information, which would improve the efficiency and transparency of the process.

6. Lack of capacities and resources in the institutions

Many institutions face a lack of capacity and resources to adequately process requests for free access to information. This often results in delayed responses or low-quality responses.

Solution: There is a need to increase resources and staffing in institutions, especially those with a high volume of claims, to ensure more efficient processing of claims. However, the efficiency in accessing information does not depend only on the number of officials in the institution.

Example: In the Ministry of Agriculture, Forestry and Water Economy, as many as 24 people are in charge of free access to information, and according to the Openness Index, this institution’s openness rank of 61.18% is below the average achieved by the Government and the ministries. On the other hand, the Ministry of Defense has only two officials, and they are the most open institution according to the regional Index with 89.72% fulfillment of the indicators.

7. Insufficient legal protection for journalists

Although the law provides for appeal procedures, journalists often face long and complicated processes when challenging the decisions of institutions. Insufficient legal protection and lengthy procedures discourage journalists from filing complaints, especially when it comes to information that is of critical importance to their work.

Example: A journalist from “Fokus” complained that the appeal process for a rejected request took more than six months, which made the publication of the information out of date.

Solution: It is necessary to speed up appeal procedures and introduce specialized judicial bodies that will deal with issues related to free access to information.

5. EXPERIENCES, LEGAL FRAMEWORK AND THEIR IMPLEMENTATION IN THE COUNTRIES OF THE REGION

This section illustrates the basic legal framework and some specifics for the implementation of the Law on Free Access to Public Information in the countries of the region, as well as a comparison showing where Macedonia is in relation to these countries.

An interesting example for comparison is Serbia as a candidate for membership in the European Union, and Croatia which is already part of the Union.

Serbia:

Serbia introduced the Law on Free Access to Public Information in 2004. The law stipulates that everyone has the right to submit a request for information, and the institutions are obliged to respond within 15 days.

Law enforcement in Serbia is subject to criticism due to the weak transparency of the institutions. Although the law is well structured, many public institutions avoid publishing the information requested of them. According to the reports of civil society organizations, the institutions often abuse the allowed extensions of the response deadlines and rarely provide complete and comprehensible answers. One example is the case of journalists from the organization BIRN (Balkan Investigative Reporting Network), which were rejected several times when requesting information on state tenders. Although they filed complaints, the responses were either partial or delivered too late to be useful.

Serbia has a similar legal framework to ours, but it faces greater problems in implementation, especially due to the inconsistency of the institutions and the frequent abuses of extending the response deadlines. Macedonia is in a better position in terms of transparency, because in Serbia there are more examples of institutions that completely refuse to share information, which is not so common in Macedonia.

Croatia:

Croatia adopted the Law on the Right of Access to Information in 2013 as part of its commitment to the European Union. The law stipulates that all public institutions must provide access to information and that requests must be processed within 15 days. The law is in accordance with European standards and includes provisions for sanctioning institutions that do not comply with it.

Croatia has demonstrated a high level of transparency regarding law enforcement. Institutions generally respect deadlines and provide information in a clear and accessible manner. According to the reports of the European Commission, Croatia is among the most transparent countries in the region.

The main challenges are related to the complexity of the requirements and the limited capacities of some institutions, especially at the local level. Although the law is well implemented at the national level, there is room for improvement at the local level. Journalists in Croatia generally have a positive experience with the law.

Croatia is an example of successful law enforcement, with a high level of transparency and quick responses to requests. Macedonia lags behind in this aspect, especially in terms of the quality of responses and the consistency of implementation. Macedonia has more developed support from the civil society sector for monitoring the law, which is less pronounced in Croatia.

Bosnia and Herzegovina:

The country has major problems in enforcing the law, with a low level of transparency and frequent denials of requests. Macedonia is in a better position, especially at the national level. Similar to Macedonia, Bosnia and Herzegovina has problems with implementation at the local level and with the quality of responses.

Albania:

Albania has a simplified legal framework, but enforcement is very limited. Macedonia is better in terms of transparency and availability of information. Similar to Macedonia, Albania has problems with consistency in law enforcement, but with weaker monitoring by the civil sector.

Ranking of the countries of the region by transparency and enforcement of the law on free access to information

1. Croatia

Best law enforcement, high level of transparency, and fast, complete responses to requests.

2. Serbia

A solid legal framework, but with many problems in implementation, especially in terms of delay and denial of claims.

3. Bosnia and Herzegovina

Low level of transparency and frequent problems in implementation, with limited access to information at the local level.

4. Albania

The weakest in terms of implementing the law, with very limited access to information and few resources for monitoring.

Macedonia is in the middle of the ranking of countries in the region according to transparency and implementation of the law on free access to information. Although there is a good legal framework and an active civil society, the implementation of the law and the transparency of institutions still face significant challenges.

Compared to Croatia, Macedonia lags behind in terms of consistency and quality of responses, while in relation to Serbia, it is in a better position due to a lower frequency of complete rejections of requests.

6. CONCLUSIONS AND RECOMMENDATIONS

To improve the situation, concrete measures are needed that will enable a faster and more accurate response from the institutions, better trained officers for free access to information, and more efficient complaint mechanisms. Only with such changes, journalists will be able to more easily perform their role as controllers of the government and defenders of public interest.

The period of almost five years, since the last amendments of the Law on Free Access to Public Information, is a sufficient period to make an analysis, to perceive the positive aspects, as well as to determine certain ambiguities or gaps in the legal provisions.

For this purpose, the Agency submitted a proposal for amendments of the Law on Free Access to Public Information to the Ministry of Justice as the competent ministry.

The amendments refer to the section with exceptions, misdemeanor provisions, changes to the Annual Report template, as well as shortening the deadlines for processing requests for public information.

The Agency provides the proposed amendments to the Law in order to more effectively implement the public interest and the protection of the right to free access to public information, as one of the basic characteristics of a modern democratic society and as one of the basic anti-corruption tools.

Other recommendations mentioned by journalists and civil society organizations are:

- **There is a need for a campaign and education** of all citizens about the importance and purpose of the Law on Free Access to Public Information.
 - **The budget of the Agency for the Protection of the Right to Free Access to Public Information should be increased**, so as to raise awareness and public opinion and knowledge about the Law on Free Access to Public Information.
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- **Training of the officials appointed** by the holders of information and constant updating of the web pages of the institutions when they change.
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- **Holders of information should provide updated information** to ensure the right to free access to public information, they should also publish the answered requests on a special section they've created on their website with all the data pertaining to this right.
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- **Increasing the current misdemeanor penalties** for the information holder's official who fails to fully respond or refuses to respond to a request.
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- **Holders of information should not prolong and abuse the maximum legal period of 20 days for responding to requests.** The agency believes that there is space to shorten the deadline for responding, especially for requests that refer to environmental protection.
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- **Legal amendments to reduce the duration for responding** to requests for free access to public information and their reduction from 20 to 10 days, and for requests for more extensive documentation from 30 to 15 days,
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- **The Administrative Court and the Higher Administrative Court should discontinue the practice of dealing with lawsuits from public authorities and rejecting them as impermissible,** in order to protect the role of the Agency as a second-instance authority in handling and exercising the right to free access to public information.
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- **As far as proactive transparency is concerned¹², the problem is the non-unification of the websites of GRNM and the ministries.** Namely, the analysis carried out for the preparation of the GRNM Transparency Strategy (2019-2021) led to the conclusion that almost every one of them has a different design, which in itself would represent a challenge for citizens, citizens' associations and the media. The second challenge is related to non-compliance with Article 10 of the LFAPL and not publishing information on its websites of all ministries.
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- **Data on both ownership and beneficial ownership of the companies should be made fully publicly** available to enable their wider use (eg linking to property data, judgments, etc.). There are successful examples of such use of data in France, the United Kingdom, Kenya, Malaysia, Ukraine, etc.
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- **Whether something should be given as public information should be decided by the officials employed by the authority, not high-level management.** When a request for free access to public information is submitted, the decision (whether access will be allowed or not) should not be made by the manager (minister, director, etc.), but by the administrative officer who is designated as the official person concerning free access to information. However, field analyzes indicate that
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11 The Sixth National Open Government Partnership Action Plan for the period 2024-2026 (NAP 6) <https://ovp.gov.mk/wp-content/uploads/2024/02/6.-HOBO-Предnor-HAП-ПOB-2024-2026-за-Влада.pdf>

the principle of delegation of decision-making authority is still not respected enough. This should be a priority in the new Transparency Strategy December 2023 - December 2026, that is, it is expected that in the future high-level management will not approve requests for access to public information, nor will they sign decisions, thus reducing the possibility of abuse of decision-making power, but also the risks of errors.

Recommendations for journalists

- **Formulation of requirements:**

Sometimes, the requests are too general or vague, allowing institutions to respond in an unhelpful way.

Well-formulated requests, which are specific and targeted, could improve the effectiveness of access to information. It also gives authorities less room to reject it on the basis of vagueness.

The request must contain the form in which you want to get to know the requested information (inspection, transcript, photocopy or electronic record). But you should also indicate how you want the information delivered to you, by mail, by phone, by fax, by e- mail, etc.

With this in mind, it is necessary for journalists to pay attention to the way they submit requests, in order to increase the possibility of obtaining useful information.

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- **Journalists need to convince editors and bosses that filing a request to access information and following up is not a waste of time**, but is actually a useful part of journalistic work. The urgency of publishing a story while it is still current should not prevail over the need to obtain accurate and precise information and data.
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- **If they are uncertain about the way and the place to submit the request, there is a possibility to submit several requests to two** , three or more institutions at the same time.
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- **Journalists should document (archive) the requests.** In that way, it will be possible to show that the request was sent, in case a complaint needs to be submitted.
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- **To publicly disclose that a request has been submitted by the journalist:** If a story is written or broadcast saying that the request was submitted, in that way, pressure can be exerted on the public institution to consider it and respond to the request. The refusal to provide information following a request submitted by a journalist is often a story in itself. That way, the story will be kept alive without waiting for answers.
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