

# WALL OF SILENCE

## A YEAR LATER: A Report on the Implementation of the Law on Free Access to Public Information

Skopje  
November 2007



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**About the Foundation Open Society Institute – Macedonia**

The Foundation Open Society Institute – Macedonia (FOSIM) was founded in October 1992, by George Soros, as a foreign legal entity representation, with a mission whose core has remained unchanged to this day – to promote the concept of open society in Macedonia. The Foundation’s priority is to contribute to Macedonia’s internal integration, as a precondition for EU integration. Through its programs, FOSIM works on: mapping and scanning state institutions, the analysis and promotion of good governance; Roma integration; decentralization and the development of local self-government; affirmation of European values and standards; strengthening the role of the civil sector as a watchdog for the transparency and accountability of the Government.

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The Law Program of the Foundation for Open Society Institute – Macedonia is dedicated to promoting the rule of law and supporting judiciary reforms in the Republic of Macedonia. The program’s priority is to encourage public participation in these processes. Freedom of information, anti-corruption, human rights protection and the harmonization of the legislation in line with EU acquis are the program’s key areas of operation. The Law Program implements its activities in cooperation with the Soros network of foundations, as well as with foreign and domestic partner organizations.

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All comments on the report are welcome. With this in mind, the authors would like to address the readers of this report with a quotation by Horace: “Farewell! If you can mend these precepts, do: If not, what serves for me may serve for you.”<sup>1</sup>

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<sup>1</sup> “Vive, vale. Si quid novosti rectius istis, candidus imperti; si non, his utere mecum. The authors would like to note here that this was inspired by Professor Svetomir Skaric.

# FOREWORD

The Law on Free Access to Public Information<sup>2</sup> was adopted in January 2006, and was put into force on September 1<sup>st</sup> 2006. With the adoption of the Law on Free Access to Public Information, the Republic of Macedonia entered the community of over 75 countries worldwide that have laws guaranteeing the right to access information<sup>3</sup>. The citizens' right and opportunity to demand and receive information on the activities of their government and public administration (taken in a wider context) is a feature of all democratic and open societies. One of the goals of the Foundation Open Society Institute – Macedonia is therefore the promotion of the right to access information and the support of the process of adopting solid laws on access to information, as well as allowing these laws to be efficiently enforced.

This report details the outcome of monitoring the enforcement of the Law on Free Access to Public Information in the first year of its application (September 2006 – September 2007). The goal of the report is to see how the information holders (hereinafter: public bodies<sup>4</sup>) implement the Free Access Law, i.e. how they respond to certain requests for access to information.<sup>5</sup> In addition, the authors tried, where possible, to give recommendations for overcoming the observed shortcomings.

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2 Official Gazette, No. 8/06. The full text can be accessed at [www.spininfo.org.mk](http://www.spininfo.org.mk).

3. Unfortunately, we have to point out that the Republic of Macedonia was the last country in Europe to adopt such a law.

4 According to the Free Access Law “holders of information are the bodies of the state authorities and other organizations and institutions, determined by law; bodies of the municipalities, bodies of the city of Skopje, bodies of the municipalities of the city of Skopje, public institutions and services, public enterprises, legal and physical entities who perform public jurisdictions and services of public interest, established by law.” For the remainder of the text, the authors will use the term “public body” in the place of “information holder” – for clarity, on the one hand and to make it easier for the readers on the other.

5 FOSIM, in cooperation the Justice Initiative, Budapest, designed a methodology that would give valid statistic results. For more on the methodology, as well as the complete results from the monitoring, see Appendix 1 of this report.



In the timeframe of a single year (September 2006 – September 2007), the participants in the monitoring submitted a total of 629 requests for public information, to 73 institutions on the central level and to 31 municipalities in Macedonia.<sup>6</sup> In our monitoring, we evaluated the manner in which the requesting citizens were treated, as well as the conduct on part of the services. We also monitored the form and quality of the given answers.

The aim of this report is to point out the conditions and the shortcomings in the application of the right to access information in the Republic of Macedonia. And while this is by no means a full evaluation of the public bodies' transparency, it nevertheless paints a significant portion of the picture of their openness. It also reveals much about the nature and efficiency of the mechanisms determined by the Free Access Law. Some of our readers might feel that the report is overly critical, but we did not want to keep the truth to ourselves.

The Report contains chapters that deal with and present: Establishing a system for the protection of the right; Submitting requests; Monitoring results; Appeal procedure; Penal provisions and the Public Interest Test. Additionally, the report's appendices elaborate on the monitoring methodology and present the lists of monitored institutions and requests submitted.

In the first chapter, we present the process of adopting the Macedonian law and briefly cover the new instruments:

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<sup>6</sup> The full list of monitored public bodies can be found in Appendix 1.



(1) the Commission for the Protection of the Right to Free Access to Public Information, (2) the Information Mediating Official, (3) the List of Public Information, (4) the Request Form, and (5) the Pricelist. These new instruments are created with the purpose to assist citizens in exercising their right to free access to public information.

The second chapter covers the first step in the procedure in which the citizens request information, as well as the problems they are faced with. Detailed examples illustrate the three main problems: the inability to submit the request at all, the inability to locate the official that is responsible for accepting requests, and the insistence by some of the officials on the elaboration of the reasons for needing the requested information.

The third chapter, aside from a statistical illustration of the results, includes the irregularities in the public bodies' communication with the citizens. Special emphasis is placed on the inconsistencies of the results,



# Acta, non verba!

i.e. the cases where, with identical questions, different public bodies treated citizens differently, and based on that also provided different access. A special place in this chapter is given to administrative silence as a wall of silence that citizens are faced with.

The fourth chapter explains the reasons for the inclusion of the Public Interest Test in the Free Access Law and provides a list of factors that public bodies should keep in mind in its application. While we recognize the risk of overlooking something in listing these factors, we nevertheless made an attempt at doing so in order to encourage the public bodies to start applying the test.

The fifth chapter separately analyzes the legal deadlines for filing and deciding on an appeal, since the implementation showed that they create a debate front of dilemmas on which deadline should be observed. Furthermore, an assessment was made of the Commission's work so far, based on examples from the monitoring. In addition, its jurisdictions are analyzed and recommendations are given for increasing its independence.

The sixth chapter details the application of the Free Access Law in the aspect of sanctioning misdemeanors. Apart from the listed weaknesses, emphasis is placed on the reasons for the need of an urgent synchronization of the Free Access Law with the Law on Misdemeanors and an expansion of the Commission's jurisdictions to include the direct issuing of fines.

The **Appendices** contain the Monitoring Methodology, the List of Submitted Requests, the Request Form for Access to Information and the Report Reviews. The Monitoring Methodology provides in detail the methodology based on which the monitoring was carried out, and which was prepared by the Open Society Justice Initiative – Budapest. It illustrates the three phases of the monitoring – the two at the local and the one at the central level. The List of Submitted Requests lists all institutions to which requests were submitted at the central level. At the same time, the table allows a preview of all the questions that were asked. It also illustrates the complete treatment the requests were given by the institutions and the Commission.

The authors address the Government of the Republic of Macedonia with the words: „Acta non verba!“<sup>7</sup>, since the Government proved to be one of the most intransparent institutions. We hope that this report will encourage all public bodies to overcome the identified oversights, which in turn would contribute to better compliance with the right to free access.

To the citizens we say: „Omnium enim rerum principia parva sunt!“ – Everything has a small beginning!

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<sup>7</sup> Actions, not words!

We hope that the citizens will not be discouraged by the weak application of the Law so far, but rather be inspired and make use of this right more often.

To the non-governmental organizations we say „Gutta cavat lapidem non vi, sed saepe cadendo“ - A drop hollows out the stone not by force, but by frequent dripping. The power of the non-governmental sector is precisely in its role of following the work of the public bodies and demanding accountability. And it is precisely the Free Access Law that provides us with a vital tool for holding public bodies responsible.

Finally, to ourselves we note „Finis coronat opus“<sup>8</sup>, and hope that this report will contribute to the further development of the right to free access to information in the Republic of Macedonia. We hope that it will also encourage all citizens, public bodies, the Commission and the non-governmental organizations to apply and further develop this law.

Let us widen the frames of democracy!

The Authors  
Skopje, November 9<sup>th</sup>, 2007

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8 The end crowns the work.

# Let us widen the frames of democracy!

## ABBREVIATIONS

Free Access Law	Law on Free Access to Public Information
Information List	List of Public Information
Information Official Commission	Information Mediating Official Commission for the Protection of the Right to Free Access to Public Information
GAPL	General Administrative Procedure Law
FOSIM	Foundation Open Society Institute - Macedonia
PE	Public Enterprise
PTE	Public Traffic Enterprise

# ESTABLISHING A SYSTEM FOR THE PROTECTION OF THE LAW

The citizens' right to request and receive information on their government's work and that of other public administration bodies is of vital importance for the transparency and the accountability that are crucial to an open and democratic society. The Republic of Macedonia adopted a Law on Free Access to Public Information<sup>9</sup> that predetermines a procedure for requesting and receiving information, which was put into force on September 1<sup>st</sup>, 2006.

This Law operationalized the right of all (termed applicants<sup>10</sup>) to demand information, which has been a constitutionally guaranteed right since 1991.<sup>11</sup> At the same time, the Free Access Law predetermined an obligation on part of the information holders (public bodies) to provide access to information that they have created or hold. For the proper enforcement of the Free Access Law, the legislator predetermined the establishment of a line of new instruments, among which the most significant are the following:

**A Commission for the Protection of the Right to Free Access to Information<sup>12</sup>** - The Commission is a controlling body for the enforcement of the Free Access Law and its basic jurisdiction is deciding on appeals made against decisions by the public bodies to deny requests.

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<sup>9</sup> Public information is information in any form created by or at the disposal of the information holder.

<sup>10</sup> According to the Free Access Law, an applicant is any physical or legal person, domestic or foreign. For the remainder of the text, for clarity and because the only applicants in the monitoring were citizens, instead of the legal term "applicants", the authors will use the term "citizen".

<sup>11</sup> „Free access to information, freedom to receive and pass on information is guaranteed”, Article 16, Paragraph 3, Constitution of RM.

<sup>12</sup> Hereinafter: Commission.

**Information Official** – All public bodies are obligated to appoint an information mediating official<sup>13</sup> whose responsibility is to assist citizens in submitting requests for access to information. This official should act upon the request internally and ensure the timely reply to the requests.

**List of Public Information** – The List, as a catalogue or index, should be prepared by all public bodies and published in a manner that would make it easily accessible to the public, so that the citizens can be informed as to what kind of information each public body holds.

**Request Form** – is the written form of the request for free access to information. As a rule, the citizens should submit their requests through this request form, which, in principle, is used to make access easier. If the request is not submitted on the request form, however, yet it is nevertheless clear from the content of the request that it is a request for access to information, the public bodies are obligated to consider and process it, according to the Free Access Law (see Appendix 3: Request form).

**Pricelist** – The Government adopted an act which determined the material costs for which compensation may be requested, and that have occurred as a result of supplying the information.

## THE COMMISSION FOR THE PROTECTION OF THE RIGHT TO FREE ACCESS WHO PROTECTS US FROM THE PUBLIC BODIES' DECISIONS?

The Commission<sup>14</sup>, as a second-level body, decides on appeals against denied requests for free access. It is responsible for the education of citizens and public bodies, gives opinions on the laws that regulate this right, and submits an annual report on how the Law on Free Access is being enforced. The Commission is made up of a president and four members, one of whom is vice-president, one a representative of the non-governmental sector, and two members from the Commission's expert service. The members' mandate is five years, with the right to be reelected. The work and the jurisdiction of the Commission are determined in a separate chapter, chapter six of the Free Access Law.

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<sup>13</sup> Hereinafter: Information Official.

<sup>14</sup> See chapter: Appeal procedure, pp. 57, for more details on the Commission's work.

The Commission would not have existed were it not for the reaction of the non-governmental organizations on the Draft Free Access Law. In its draft proposal to the Macedonian Assembly, the Government did not predetermine the establishment of a new, independent body that would decide on the appeals, but rather proposed that unsatisfied citizens exercise their rights through court proceedings. The non-governmental organizations felt that court proceedings are too long and too expensive for the majority of potential appealing parties. In addition, considering the experience from the rest of the world, which shows that an independent administrative mechanism for appeals is crucial for the effective operation of an information access system, the non-governmental organizations called for a return of the independent Commission, a model that was included in the Draft Free Access Law adopted in the first phase of the Assembly in January 2005.

The efforts made by the 131 non-governmental organizations proved successful and, under their pressure, the Government was forced to amend its Draft and include the Commission a mere 24 hours before the Assembly's session, in which the Free Access Law was adopted. Even though the Commission was "brought back", this example once again confirmed that intransparency in the processes of creating legislation proves highly unsuccessful in the long term, since legal solutions adopted in this manner do not fit actual needs and as such, are difficult to apply in practice.



So what are the problems with the specific provisions that regulate the Commission's work?

Firstly, the legislator merely stated that the Commission is independent in its work and in making decisions within its jurisdiction. With that, the Free Access Law does not determine the type of institution in question, nor whether it has the role of a legal entity and can therefore act independently in the legal trade. Additionally, it seems impossible for it to be independent in its work and in making decisions, since its members are nominated by the Government, which also nominates them for dismissal. This is an institution that should control, first and foremost, the bodies and organizations that make up the public administration, which is part of Executive government. It is due to this that we can safely claim that independence here is of a mere declarative nature.

Secondly, it is also unfortunate that there is a decision in the Free Access Law with which the Government is granted power over appointing and dismissing the non-governmental sector representative! This is a negation of the very essence behind having a member who is a representative of the non-governmental sector.

Thirdly, the criteria for the election of a Commission president, a vice-president and a member from the non-governmental sector seem insufficient. The Free Access Law determines the conditions that these persons need to meet, and they are: (1) be a citizen of the Republic of Macedonia, (2) be of good social standing, and (3) have excelled in the field of informing and access to public information. These conditions do not seem precise enough, and are subjective criteria that bring to question how the members of the Government can assess a certain candidate's good social standing or excellence in the particular field. In addition, it seems highly illogical that the Free Access Law determines no criteria for the other two members of the Commission, who come from its expert service.

Fourthly, one of the criteria for dismissing the members of the Commission seems too open and leaves room for the Government's meddling in the work of the independent Commission. Namely, paragraph 7 of Article 31 predetermines the possibility of dismissing one of the members if she fails to work in accordance with the provisions of the Free Access Law. With this, every new government is left room for possible misuse and for the dismissal of the "inapt" members of the Commission. This is especially problematic, since the Free Access Law determines neither a procedure, nor a timeframe for naming new members in cases of early dismissal. This leaves room for making the Commissions work even more difficult if the Government fails to appoint someone, since it would not be operating in full formation.<sup>15</sup>

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15 For more on the status, jurisdiction and independence of the Commission, see: B. DAVITKOVSKI, A. PAVLOVSKA-DANEVA, Commentary on the Law on Free Access to Public Information, FOSIM, Skopje, 2006.



## RECOMMENDATIONS:

Defining the status of the Commission as an independent body of the state, but also as a legal entity.  
Determining specific conditions for the election of all members of the Commission, as in, for example, type and level of education, work experience, training, publications on the right to free access, as well as a precisely determined procedure for dismissal, which, among other things, would determine precisely who can submit an initiative to the Assembly for the dismissal of the members.  
The procedure for the election of the Commission members should be conducted based on properly prescribed criteria, by way of a public call on part of the Assembly (for all interested parties that meet the legal conditions and criteria).

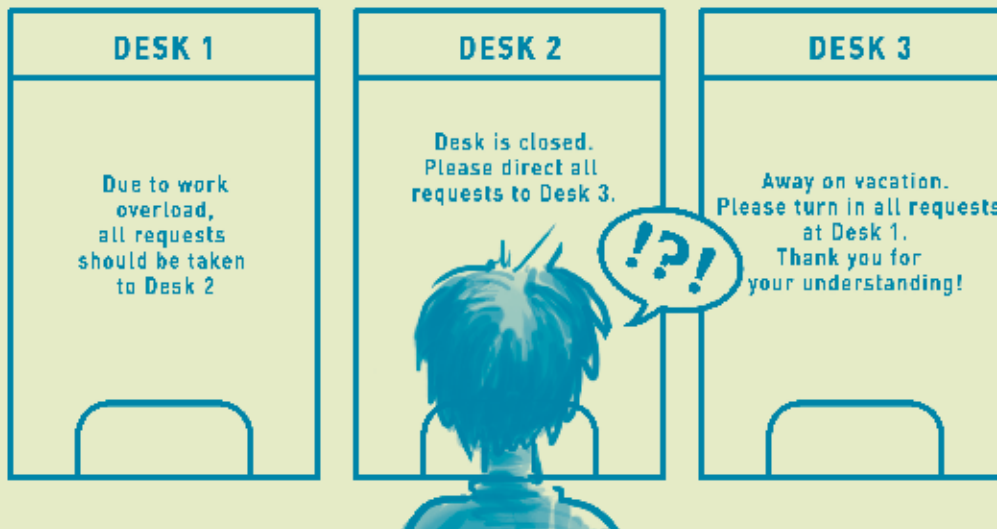
## INFORMATION OFFICIALS

### THOSE THAT SHOULD BE ASSISTING, DO THE REVERSE IN PRACTICE

For the efficient application of the Free Access Law, the legislator predetermined an obligation for each public body to appoint at least one information official. She is obligated to help the citizen in requesting information, keep a record of the received requests, as well as make sure that the requests are answered in a timely manner. For these obligations imposed on the public bodies, the legislator determined penal provisions.

Nevertheless, even as much as a year since the Free Access Law was put into force, some public bodies have not yet appointed an official. Even for those that have done so, in most cases the responsibility for mediating information has been appointed to an official as an additional responsibility, aside from the responsibilities she has in accordance with her position within the institution. This has proven to be an inadequate solution, since the official, instead of assisting the citizen, often makes things harder for her, causing a line of injuries to the right and the incorrect application of the Free Access Law. Most often, the citizens are faced with the following violations to the right to access information:

## Sector for Receiving Requests for Access to Public Information



**The inability to submit a request in the absence of the information official** – the citizens had a problem submitting a request when the officials were temporarily out for meetings, vacations, breaks, etc. The public bodies refused to accept the requests and the citizen was urged to come back another day, week, etc., as was the case with the Agency for Emigration.

**“An Informative Talk”** – we noted a few cases where some public bodies’ appointed officials “interrogate” citizens as to the reasons for their needing the information (for example, the Municipality of Debar). This goes against the provisions of the Free Access Law, where it is clearly stated that the citizens are not obligated to explain the reasons behind their request; and

**Unnecessary Costs** – in those cases where the public bodies’ employees are not familiar with who the appointed official is, or one has not yet been appointed, they urge the citizens to send their requests by mail, therefore unnecessarily imposing additional costs on the citizens (as was the case with the Ministry of Finance, Ministry of Education, Ministry of the Environment, the Agency for Electronic Communication, The Agency for Youth and Sports, the Constitutional Court, the Municipality of Shuto Orizari).

## RECOMMENDATIONS:

Immediate appointment of Information Officials on part of all public bodies.

Informing the public, but also the information holder's employees on who the official is.

Providing training for officials on the Free Access Law, the obligations that arise from the Free Access Law, as well as the rights it guarantees.

Enforcing penal provisions and sanctioning all responsible parties that have not appointed officials, as well as sanctioning the officials that do not properly enforce the Free Access Law.

## List of Public Information

The List of Public Information<sup>16</sup> is yet another obligation predetermined by the Free Access Law in order to facilitate access to information for citizens. It serves to inform the citizens of what (information) the public organs hold and it should therefore be easily accessible to the public - for example, posted on a web site, a bulletin board, in an informative newsletter, etc. In order to keep the Information List accurate, the public bodies are responsible for updating it<sup>17</sup>.

Unfortunately, the public bodies have yet to respect this provision. Of the 31 public bodies tested, as much as 52% failed to supply the requested information list. Since this is one of the key obligations that arise from the Free Access Law, we cannot help but ask ourselves whether the public bodies are aware that not only are they in breach of the Free Access Law, but are also clearly showing how undedicated they are to transparency in their work.

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<sup>16</sup> Hereinafter: Information List.

<sup>17</sup> The Commission's Guidelines (for more on the Guidelines, see footnote 40) point to the fact that the information holder is responsible for keeping and regularly updating a list of information it holds and publishing it in a manner easily accessible to citizens: bulletin board, webpage, flyers, leaflets, guides, manuals, newsletters or other. The holder publicly (in the public information media, newsletter, bulletin board, webpage and other) announces its title, address, telephone numbers and fax numbers, e-mail, webpage address, as well as the name of the official appointed for the mediation of public information.



The monitoring identified seven categories of results:

- The information list was supplied in the legally-determined time frame. For example, the Ministry of Justice, the Ministry of Economy, the Ministry of Agriculture, Forestry and Water Supply, the Ministry of Finance.
- The information list was supplied only after a submitted appeal, which means the citizens do not receive the information in the legal time frame, and are even exposed to unnecessary costs arising from the appeal procedure. For example, the Ministry of Defense, the Ministry of Labor and Social Politics, the Ministry of Transport and Communications, The Republic Institute for Health Care, the Energy Regulatory Commission.
- The information list **had not yet been prepared** and was therefore not supplied. For example, this was the reply we received from the Ministry of Internal Affairs in April 2007, fifteen months from the adoption of the Free Access Law.
- The list of information was not supplied at all because it had not been updated or because it was of a changeable – “variable” nature. It was with this excuse that we were not supplied with the information list from the Municipality of Chair. On the other hand, we could not even submit a request to the Association of Mediators, since no one seems to know where their headquarters are! Furthermore, the address for the Ministry of Justice at the Central Registry

was also incorrect! Public bodies are obligated to inform the public of their contact information.<sup>18</sup>

- The information list is not supplied at all, even after the appeal is accepted. For example, the Ministry of Health, the Ministry of Environment and Physical Planning, the Agency for Electronic Communication, the Crisis Center, the Medications Office.
- The information list was not supplied with the excuse that they do not hold public information. This was the case, for example, with the Central Registry, where they replied that “they would not be creating an information list at all”.
- The information is “apparently” on their web site, but we failed to locate it there. For example, Macedonian Telecommunication.

The Free Access Law was put into force eight months after being adopted in order to allow the public bodies to prepare for its enforcement and, among other things, to prepare an information list. It is possible that part of the shortcomings identified in the monitoring are the result of the public bodies’ lack of awareness, since no training for the officials has been conducted thus far. Still, this does not excuse the fact that even a year and a half after the Free Access Law was adopted, certain institutions are not prepared for its application.

In addition, according to international standards, the information list should contain an index of confidential information to which public access is exempt, in order to facilitate the public’s comprehension of the criteria and reasons according to which the documents are classified with a certain degree of secrecy.

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18 The Law and the Guidelines determine that: “the holder publicly (in the public information media, newsletter, bulletin board, webpage and other) announces its title, address, telephone numbers and fax numbers, e-mail, webpage address, as well as the name of the official appointed for the mediation of public information”.

## RECOMMENDATIONS:

The public bodies should prepare an information list and update it on a regular basis.

All public bodies should publish the information list in a manner that makes it easily accessible to the public, as for example a webpage, bulletin board, etc.

Not having an information list or not updating it regularly should not be an obstacle in receiving public information.

Applying penal provisions and financially sanctioning all responsible parties from the public bodies that have not published an information list.

## REQUEST FORM

The Request form is the last element that the legislator determined in order to facilitate the access to information for the citizens. The Free Access Law determined the content of the request form only in principle, and then the controlling body – the Commission – determined the final format of the request form. The Request form was supplied to all public bodies, and posted on the Commission's web site.

The public bodies are obligated to have the request form at their disposal, to supply it to the citizen at her request, and if necessary, to assist the citizen in filling it out. Nevertheless, the request form is not the compulsory form of the request, since the public bodies are obligated to reply even if the request is not submitted on the request form (is instead sent on a plain piece of paper by mail, for example), if it is clear from the subject of the request that it is a request for access to public information. The same applies to the public bodies when they do not have request forms at their disposal, and the citizens are forced to submit their requests on a plain piece of paper.

In practice, however, the public bodies act counter to this provision, and it was precisely not having a request form that was the reason for some to not accept requests. For example, the State Audit Office asks the citizen to bring her own request form. Then, the Municipality of Aerodrom sent a written reply to the already submitted request that was not on a request form, asking the citizen to return to the Municipality and resubmit the request – this time on a request form, which the Municipality had in the mean time got hold of.

These irregularities should be addressed immediately and the public bodies should accept requests

regardless of whether they were submitted on a request form. Accepting requests that were not filled out on a request form is especially important because the monitoring showed that more often than not, the public bodies do not have the request form at their disposal.<sup>19</sup>

The following public bodies did not have request forms at their disposal: the Ministry of Agriculture, Forestry and Water Supply, the State Archive, the Ministry of Culture, the Ministry of Defense, the Medications Office, the Food Direction, the Agency for Electronic Communication, the Agency for Youth and Sports, the Agency for Development and Investing, the State Audit Office, PTE – Skopje, PE Macedonian Railways, PE Macedonian Forests, PE Jasen, the Association of Doctors, the Judicial Council, the Public Attorney's Office, the Public Prosecutor's Office, the Constitutional Court, and the Municipalities of Delchevo, Pehchevo, Strumica, Karbinci, Shtip, Bitola, Zajas, Oslomej, Plasnica, Debar, Centar Zhupa, the City of Skopje, Aerodrom, Butel, Gazi Baba, Gjorche Petrov, Karposh, Kisela Voda, Centar, Saraj, Chair, Shuto Orizari, Kumanovo, Sveti Nikole.

<sup>19</sup> We have to point out that some public bodies (such as, for example, the Municipality of Tetovo) fixed the problem and got hold of the request form within the timeframe of the monitoring. Unfortunately, this is not the case with all public bodies.



...three days later



## RECOMMENDATIONS:

All public bodies should obtain a request form for free access to information.

All public bodies should also compulsorily accept requests for access that were not submitted on the determined request form and reply to each (in accordance with Article 16 Paragraph 5).

### PRICELIST

Access to information is free and therefore exempt from any charges or taxes. Nevertheless, at the beginning of the implementation of the Free Access Law, the municipalities still charged administrative costs for the submission of a request. For example, the Municipalities of Lipkovo, Kumanovo and Vrashnica charged 50 denars, whereas the Municipality of Karbinici asked for as much as 250 denars for administrative charges.<sup>20</sup>

Article 10 of the Free Access Law determines information access to which must be free of charge and proactively released. According to this, all holders are obligated to publish:

- Their basic contact information: title, address, telephone number, fax number, e-mail and website. Furthermore, the information holder is obligated to publish the means of submitting a request for access to information (written, oral and e-mail).
- All regulations that are within the information holder's jurisdiction. Apart from the laws, all regulations that are adopted by the holder as part of its jurisdiction should be stated as well, such as: statutes, regulation books, orders, guidelines, including all programs (as well as draft programs), strategies, views, opinions, studies and other similar documents that are under the jurisdiction of the information holder.
- Information on all public supplies obtained through an open call or tender
- Information on the public body's jurisdictions determined by law. It seems that the legislator probably meant informing the public of all legal jurisdictions of the public body, as well as the specific actions taken under those jurisdictions.

<sup>20</sup> 60 mk denars are equal to 1 euro.



- Information related to the organization of operations.
- Operational costs
- Information related to providing services for the citizens within the administrative procedure, i.e. information on the specific administrative acts or records, issuing documents, decisions, licenses, material actions, etc, that are in its jurisdiction.
- Publishing informative newsletters and other forms of informing. This obligation is of huge importance for the citizens in terms of assisting them in exercising their rights and fulfilling their obligations. It is therefore that the Commission should be serious about taking a stance in the direction of bringing this legal provision to life. This needs to be done by constantly reminding and controlling public bodies in their obligation to publish informative newsletters and distributing them free of charge to the users of their services, i.e. their clients.
- Websites on which they post decisions, acts and measures through which they impact the lives and the work of the citizens
- Other information that arises from the jurisdiction and the work of the information holder. It is a good thing that the legislator left open the list of information that holders are obligated to supply to the public, since every specific and limited enumeration leaves room for not including all information. This provision therefore provides the overcoming of potential oversights, while informing is nevertheless limited to things that arise from the jurisdiction and the operation of the public body.

Active transparency (the proactive release of information determined above with Article 10), such as the publication of information and posting material on government websites, facilitates access to information. This, however, does not mean that public bodies are freed from the obligation to supply this information to the citizens that request it. When a citizen has Internet access, the public bodies should provide the correct web address, because main page addresses are not sufficient. If, on the other hand, the citizen does not have Internet access, the body should print these out and supply the requested pages.

For all other information, the public body can only charge for material costs that are related to the requested information. Insight to information is always free. The decision in the Free Access Law according to which prepayment may be requested only for larger information is a good one.<sup>21</sup> For all other cases, the information should be supplied with a note on how much needs to be deposited for the costs, and where.

The Government was obligated to adopt an act determining the compensation for the material costs related to the supplied information, in order for the requestors to receive information under equal conditions. Unfortunately, the pricelist was the only bylaw that was not adopted in the legally determined timeframe

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<sup>21</sup> Similarly, the Guidelines determine that: “Only if the information is larger, and larger material costs arise from accessing it, does the information holder have the right to request compensation from the citizen that is to be paid forward”.

## Pricelist for Public Information

1. E-mail, phone, fax, address.....50 den
2. Information on Official.....70 den
3. Report on Operations.....300 den
4. Financial report.....500-2000 den
5. Supplies Report.....4500 den
6. Report on invited tenders.....7000 den
7. Travel Expenses.....5000 den
8. Report on bonuses.....8100 den
9. Compensations for MoB.....9000 den
10. Strategy for the Current Year .....12000 den
11. Adopted provisions, orders, instructions,  
laws, articles, programs, studies, opinions,  
decisions.....2000-10000 den
12. Report on Reforms.....13000 den
13. Administrative Charge.....50-200 den

Attention: Viewing this pricelist is free!  
All you need to pay is the administrative charge.

before the Free Access Law went into effect. It is therefore that the enforcement went ahead without the Government having regulated the issue of the costs of receiving information.

In practice, this caused numerous legal dilemmas ranging from whether public bodies can charge without an adopted pricelist at all, through certain public organs denying access to information precisely due to the fact that a pricelist has not been determined, so they are unable to charge for their costs, to each public body determining its own prices for material costs.<sup>22</sup> For example, the Municipality of Chair charges 230 denars for the photocopy of a final account (23 pages), a copy of the statute ranges from 111 denars (19 pages) in the Municipality of Kichevo, 200 denars (18 pages) in the City of Skopje, 300 denars (30 pages) in the Municipality of Butel, to 580 denars (48 pages) in the Municipality of Chair.

Similarly, depending on which municipality she resides in, the citizen, in order to find out “How many meetings has the Municipality Council held since its constitution?” will have to pay 300 denars to the Municipality of Butel, 100 denars to the Municipality of Chair, 84 denars to the Municipality of Sveti Nikole, whereas it would be free of charge in other municipalities included in the monitoring. Or, in order to get a copy of the decision on the amount of the compensation for

<sup>22</sup> PE Derven, Veles, published a Notification for its citizens, informing them that they need to compensate material costs, without stating the amount of the compensation, in September 2006 when the Pricelist was not adopted by the Government of RM.

the members of the Council, the citizen will pay anywhere from 50 denars to the Municipality of Aerodrom, to as much as 9.000 denars to the Municipality of Butel.

Following the adoption of the Pricelist, the public bodies refrained from charging randomly for the request, based on their own estimates of the material costs. In fact, a tendency was observed of some public bodies not charging anything at all. So, of the total of 629 submitted requests, compensation for material costs was demanded in less than 20 cases. It is therefore that amendments to the Pricelist that would determine a threshold under which compensations would not be demanded seem logical. There are two simple explanations for this: 1) citizens are unnecessarily being burdened with additional costs for bank provisions, since for the 8 denars they pay for a four-page document, they pay an additional 25 denars in bank provisions, which is at their loss; and 2) the material costs for the public bodies are covered by the tax payers – i.e. the citizens.

## RECOMMENDATIONS:

Amend the Pricelist to make potential material costs that amount to less than 200 denars free of charge, and if the cost is more than 200 denars, charge in accordance with the existing Pricelist.

Determine a fine for those public bodies that charge an administrative charge for a submitted request for free access.

Full enforcement of Article 10 of the Free Access Law in relation to the proactive publication of information.

# SUBMITTING REQUESTS – PROBLEMS THAT THE CITIZENS ARE FACED WITH

Submitting requests for information to the public body is the first step in any process of access to information. When the citizens are prevented from submitting requests<sup>23</sup>, this seriously breaches the right to access information. Apart from this, refusing to accept the request additionally discourages the citizens. The monitoring showed that even after the application of the Free Access Law became effective, the citizens are being faced with serious problems when submitting requests. They were faced with three main problems: the inability to submit the request at all, the inability to find the official that is responsible for accepting requests, and insistence on part of the official to elaborate on their reasons for needing the information. These problems point to the fact that in putting new laws into effect, without previous good preparation, we are going to be faced with numerous challenges in practice. The identified problems will be detailed further in the text.

## **Closed Doors: We Don't Accept this Kind of Request**

The citizens could not submit almost five percent of the requests because the public bodies refused to accept them. For example, in March 2007, the employees of the Republic Institute for Health Care refused to accept a request. The same happened to the citizens that attempted to submit requests to PE Standard, Debar and the Municipality of Shuto Orizari. Preventing access to public bodies is a serious breach of the right to be informed. This is absolutely unacceptable in conditions when this right is guaranteed not only by the Constitution, but by the Free Access Law. In addition, the Law on Civil Servants states that “the civil servant is bound by this Law to supply information to citizens at their request on the realization of their rights and interests” (Article 20).

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<sup>23</sup> As part of the monitoring, the right to access information was only tested through in-person submissions of written requests. Other means of submitting requests (orally, electronically, mail) were not subject to monitoring.

## RECOMMENDATION:

The public bodies should familiarize all their employees, including persons from security and front desks, with the right that everyone possesses to come forward and submit a request. They have to be informed of their compulsory obligation to accept requests for access to information.

### **Come another time. The information official is not here.**

Instead of assisting the citizen, the appointed information officials used excuses to not accept the requests. It seems that this interpretation is impossible, but the monitoring showed that a line of institutions refused to accept the request when the official was busy or absent. The Ministry of Foreign Affairs refused to accept requests both in the archive and at the front desk until the official had met with the citizen. They insisted that the citizen wait for the official to wrap up a meeting, without specifying as to how long the meeting would last, which means that the citizen might end up waiting for over an hour. In a similar case, at the Municipality of Bitola, the front desk clerk refused to let the citizen in because the official was away. Or, as in the case of the Municipality of Centar Zhupa, the citizen was urged to return in a day or two, since the archive official was away.

## RECOMMENDATION:

The bodies of government need to establish internal mechanisms that will guarantee the presence of an information official when a request is being submitted, who would assist the citizens and accept the requests without exception. These mechanisms may include the appointment of several officials, determining office hours, or setting up letter boxes for accepting requests.



## You Want to Know Something? Explain Why!

The monitoring showed that it is not uncommon for the officials to illegally ask why the citizen is demanding the information. The Free Access Law and the Guidelines<sup>24</sup> both clearly state that the public body has no right to ask the citizen to elaborate the reasons for needing the requested information. Nevertheless, the interest on part of the officials on the need for information has not been rooted out. The citizen who submitted a request to the State Statistical Office was faced with a line of questions as to why she needed the information, whether or not she is a student and whether she needs the information for student purposes. The Medicine Bureau takes this a step further, and apart from insisting on learning why the requested information is needed at the time of its submission, the citizen received a telephone call a few days later and was asked “what is the object of her interest”, even though the request was related merely to their annual report. Similarly, PE Jasen and the Municipality of Vraneshnica refuse to accept requests unless the citizens state their purposes or explain why they need the information.

<sup>24</sup> The Guidelines is a sublegal act of the Free Access Law. For more information, see footnote 40.

## RECOMMENDATION:

The bodies of the state should compulsorily respect the provisions of the Free Access Law and not demand of citizens to elaborate their reasons for needing information.

### Demands for Unnecessary Additional Clarifications

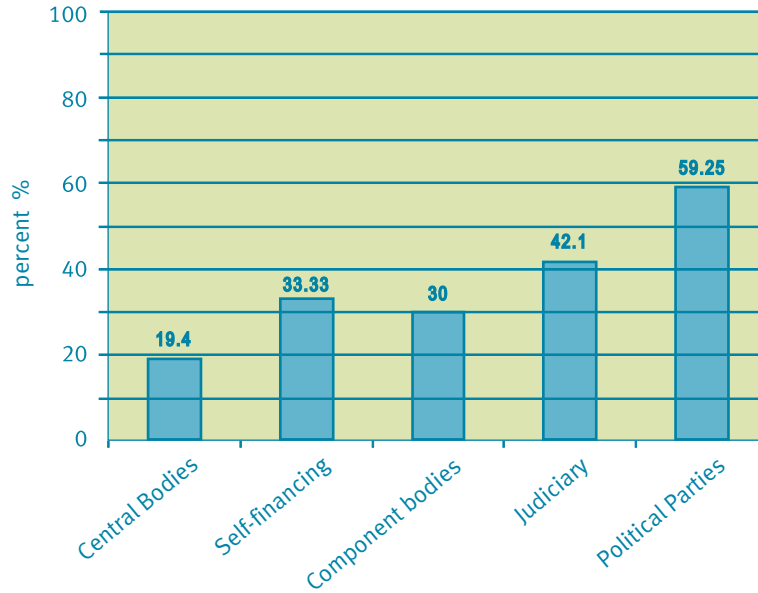
The monitoring showed that some officials demanded explanations, the sole purpose of which seemed to be the discouragement of the citizens. For example, upon the request for an analysis of drinking water, the citizen was informed that she needs to pay her water bill debt first and then receive the information. In a similar case, the Medications Bureau needs elaborations on the submitted request for access to their Information List. Or, the Ministry of Environment and Physical Planning demanded details on the request for access to the reports on the impact on the environment caused by the construction of TPP Bitola. Considering the fact that the deadline for clarifications is only three days, and these three days usually go by by the time the citizen receives the notification, the citizens seldom manage to update their requests, which is taken as a sign of their giving up on the request. It is due to this that the deadline needs to be extended.

This conduct seems unacceptable, considering the fact that the Free Access Law allows an addition to the request only if it is so incomplete that the public body cannot act on it. The citizen only needs to describe the requested information, and it is the responsibility of the official to identify the requested information.

### Illegal Practices for Turning Citizens Away: Unnecessary Costs

The monitoring revealed certain illegal practices that discouraged citizens. For example, a certain amount of municipalities conditioned their acting on the request with an administrative charge. Others, such as the Municipality of Butel, set unrealistic prices for charging for the received information, as for example the charge of 9.000 denars for the decision on the compensation for the members of the council. Others still, as was the case with the Ministry of Finance and the Municipality of Bitola, urged the citizens to send their requests by mail, burdening them with postal charges. Administering these costs is prohibited under the Free Access Law and it is therefore that these practices need to be rooted out.

Graph 1. INABILITY TO SUBMIT - SUBMITTED BY MAIL<sup>25</sup>



<sup>25</sup> This shows the percentage of requests for each body separately, where the citizens were forced to pay postal charges in order to submit their request. In the overall statistics, these requests were considered as having been submitted.



# RESULTS OF THE MONITORING

The right of free access to public information assumes that citizens and legal persons can submit requests for access to public information and receive full replies to those requests in a timely manner, within 30 days. For the duration of the monitoring, a total of 629 requests were submitted. Each request was tracked and assigned one of nine possible outcomes, detailed in the methodology in Appendix 1. In the segment that follows, the results are analyzed in the order in which the citizen is likely to be faced with in practice:

- Mute refusals (administrative silence)
- Limited access
- Being transferred to other public bodies
- Receiving an incomplete reply
- Written refusals were extremely rare

Apart from the complete evaluation of the different outcomes, we would like to point out a few conditions and shortcomings related to the received information.

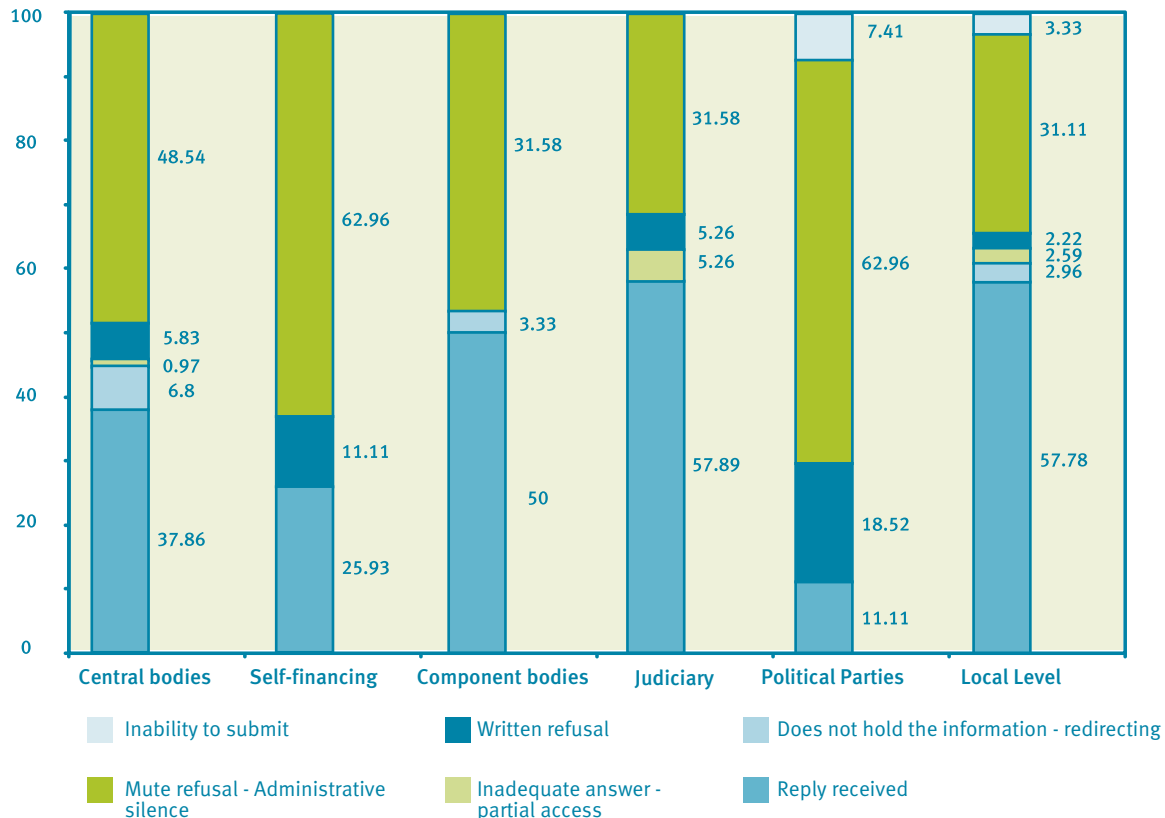
**The public bodies reply mostly in the form of an answer or a notification<sup>26</sup>.** In most cases, when public bodies replied, they did so either in the form of a notification or only as an answer. Firstly, this format is not in accordance with the Free Access Law, which is firm on the public body's obligation to prepare a record. Secondly, the legislator has chosen a wrong legal format because a record cannot be appealed. Thus, the citizen is denied the right to appeal in those cases when she has received a reply she is unsatisfied with.

**A failure to determine the right to an appeal in those cases where the public bodies do not hold the information or where they have supplied the information.** Article 20 determines that the public body should

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<sup>26</sup> The Law prescribes that the information is given in the form of records.

Graph 2. RESULTS ON THE CENTRAL (BY INSITUTIONS) AND LOCAL LEVEL

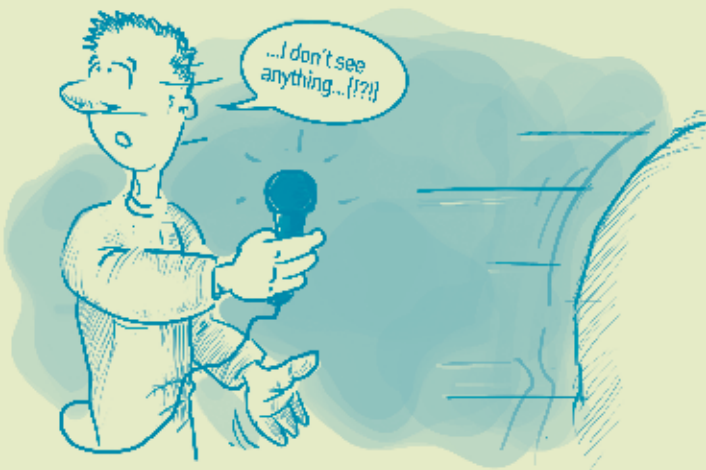
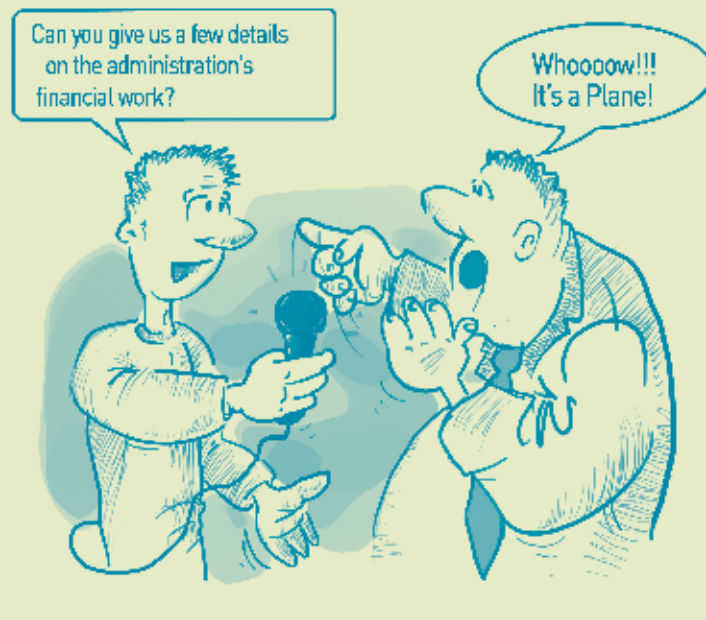


prepare a report when the request is answered positively. Similarly, in Article 26, the legislator determined that in the cases where they do not hold the information, the public bodies will inform the citizen of this. Thus, in practice, when the public organs do not have certain information at their disposal, they inform the citizens of the following: “We inform you that we do not hold the requested information”. If the citizen is not satisfied in these cases, she has no right to appeal the decision, since an appeal cannot be filed against a notification, whereas for a conclusion an appeal can be filed only if it is specifically determined, which in our case it was not. Considering that the citizen may be unsatisfied with the received answer, or may believe

that the public body does in fact hold the requested information, but has, for various reasons, informed the citizen that it does not<sup>27</sup>, we deem it inappropriate that the citizen has no right to legal protection, i.e. the right to initiate a lawsuit. It is therefore that we propose that public bodies be obligated in both abovementioned cases to provide a conclusion against which a special appeal can be filed.

**Supplying the Information Should Be Executed in the Requested Manner.** The Free Access Law allows the citizen to choose the manner in which to receive the information (insight, hand-written copy, photocopy, electronic copy). The public bodies are obligated to supply the information in the requested form, unless it is already accessible to the public or it is more convenient to supply it in a different form, in which case the public body is obligated to elaborate on the reasons behind supplying it in a form other than the requested. This provision should not be misused, and the information should, as a rule, be supplied in the requested form. However, the monitoring identified a few

<sup>27</sup> The practice so far also showed that some public bodies might send a notification informing the citizen that they do not hold the requested information even when they, in fact, do! This was confirmed by a Supreme Court decisions that ruled in favor of the citizen and obligated the public body to supply the requested information, even though the Commission dismissed the appeal on the grounds that the public body does not hold the requested information



omissions in the manner of supplying the information. For example, instead of replying by mail and sending a photocopy, PE Kale – Debar insisted that the citizen drop by and pick up the information.

**Keeping Track of the Enforcement of the Free Access Law.** The public bodies are obligated to submit an annual report on the enforcement of the Law to the Commission. This is why it is especially important to keep a record of the submitted requests, as well as the manner in which they were acted on. This approach will allow an understanding of the real conditions, through the annual reports, and it will be the basis for further action on part the relevant institutions for the improvement of free access to information. Thus far, there had been cases where we fear the appropriate records were not being kept. For example, the Ministry of Foreign Affairs replies to the citizen straight away, without recording the request, so it seems that the statistics will not be realistic.

**Introducing Internal Procedures for Acting on Requests.** The relatively weak percentage of complete and timely replies received leads us to the conclusion that public bodies should introduce internal procedures for tracking the requests. This idea seems in place, since, for example, the Ministry of Local Self-Government is one of the few public bodies that has an internal procedure, and at the same time one of the few public bodies that replies to all requests completely and in a timely manner. These internal procedures may include the appointment of a reference number for the requests, determining an internal deadline in which the official will receive a reply from the adequate employee, giving authority to the official for preparing and signing the acts that provide or deny access, etc.

# WALL OF SILENCE: ADMINISTRATIVE SILENCE

The monitoring showed that most of the submitted requests received no reply. Almost 40 percent of the requests were faced with “administrative silence”. The so-called “mute refusal” is failure on part of the public bodies to reply, in any manner whatsoever, to the request for information. This is an obvious breach of the right to access information that the state holds.

It is a cause of concern that almost half of the requests received no treatment whatsoever by the public bodies, since the submitted requests were related to information that the institutions either had at their disposal or should have had at their disposal. As much as it was possible, not one of the requests submitted was related to classified information or to information access to which should be limited.

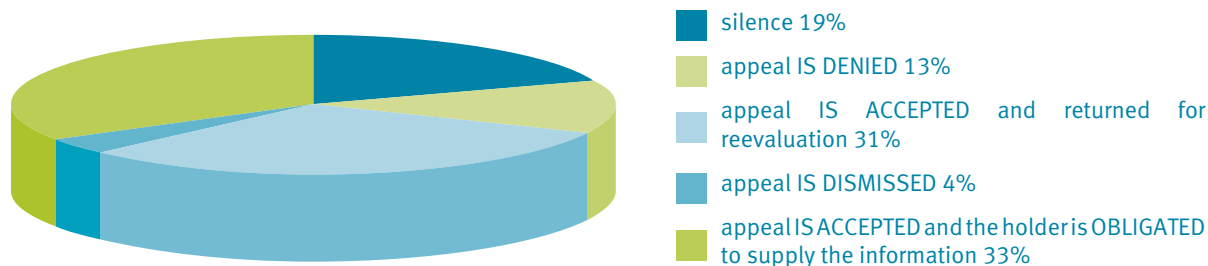
That this is only a matter of ignorant and indifferent conduct on part of the public bodies is further supported by the fact that in over 65% of the cases where an appeal was filed against administrative silence, the public bodies reacted and replied immediately. Mute refusals efficiently alienate the public from the government, degrading the citizens by giving them the role of periodic voters. They limit the citizens’ opportunity to hold the public bodies responsible, as well as their inclusion in the decision-making processes. These refusals have an unfavorable impact on the public’s confidence in the government and encourage an atmosphere in which the members of the public have the worst opinion on the work carried out by the bodies of the state. In fact, mute refusals bring about the existence of a wall of silence, allowing the blossoming of corruption and maladministration. Even when the public body denies access, it is better than silence, since it leaves room for a public debate on what information should and what information should not be accessible to the public.

The Commission is somewhat better, since it is silent in less than 20 percent of the cases. Of the total of 48 submitted appeals<sup>28</sup>, it made a decision in 39 cases and was silent in 9 cases. Even more revealing is the fact that in as much as 3 of the 9 cases where it was silent (i.e., in 30% of the cases), it was cases against

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<sup>28</sup> Filing the appeals was carried out as part of the project “A System for Free Access to Information” supported by the Swedish Helsinki Committee and FOSIM, and implemented by the Macedonian Young Lawyers Association.

Graph 3. COMMISSIONS' DECISIONS DECISIONS



the Government of the Republic of Macedonia. For example, both the Government and the Commission were silent on the submitted requests for photocopies of the sales contracts for Macedonian Telecommunications and the OKTA refinery, after which lawsuits had to be filed at the Administrative Court<sup>29</sup>. This practice so far on part of the Commission confirms our concern about its independence.<sup>30</sup>

That public bodies are infected with silence and have no attitude towards free access is evident from the example of the Commission's treatment of the decisions. The appeal following the request for access to the Defense Ministry's Strategic Plan was accepted and sent back, but even after four months, the citizen has still not received a reply.

## RECOMMENDATION:

In the cases of administrative silence, it should be considered that a positive decision was made, and the Commission should automatically accept appeals against silence, obligating the public organs to supply the information.<sup>1</sup> In this case, all material costs would fall on the public body.

<sup>1</sup> Qui tacet, consentire videtur. Who is silent is taken to agree. Silence is the sign of approval.

<sup>29</sup> The authors have to point out that stretching out the establishment of the Administrative Court has left the system for the protection of the Free Access Law incomplete, since the citizens have had no efficient legal remedy against the Commission's decisions for more than six months.

<sup>30</sup> For a reminder of the independence dilemma, see pp.14-17 of this report.

# ACCESS IS THE RULE, SECRECY – THE EXCEPTION

In principle, all information created and at the disposal of public bodies belongs to the public. The Free Access Law, therefore, determines the access to information as a rule, and in principle, the information should not be limited. It is only as an exception and for the protection of a few legitimate interests that the access to information may be limited.

Thus, the Macedonian Free Access Law determines “exceptions to free access” in Article 6. The exceptions are usually related to the protection of privacy and personal information, security and criminal investigations, industrial or private property rights, state secrets, monetary or fiscal policies. However, public bodies should not forget that even if certain information falls under these exceptions, as long as the public interest in publishing this information outweighs the protected interest, the information should be made accessible.<sup>31</sup>

For the protection of the citizen, in those cases where the request for access to information is denied, the public organs are obligated to elaborate on the decision to limit access, referring to the interest that is being protected, as well as supplying information on the application of the Public Interest Test, as well as the duration of the limitation. This is especially important, because the citizens should know what the reasons behind limited access to information are. Still, the monitoring showed that more often than not, public bodies do not supply an explanation, but merely call on the exceptions of Article 6. For example, a decision denying access to information by the Ministry of Internal Affairs only quotes the exception from Article 6, without listing and explaining the reasons for the limitation, as well as whether or not the Public Interest Test was applied.

The monitoring showed a number of inconsistencies precisely in this aspect. Namely, some public bodies limited access by merely notifying the citizen. This goes against GAPL, since in those cases where the rights are being limited, the public body has to make a decision and elaborate on it. The decision – as a legal

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<sup>31</sup> For public interest, find out more in the chapter “Public Interest Test” on page 53 of this report.

act – gives the citizen a basis for appeal if the decision is unsatisfactory. A notification on the other hand, cannot be appealed.

The Macedonian legislation that regulates the matter of classifying information determines the levels of secrecy (highly confidential, state secret, etc) and the duration of classification for each level of secrecy separately. As a rule, classified information becomes public, i.e. is de-classified after the expiration of the deadline. It is only as an exception that the document may be re-classified if the reasons for its protection are still valid after the deadline, but even that needs to be additionally elaborated.

What is important for us is the fact that all information, i.e. each and every document may be classified only during its design, and not after. This means that if certain information is not classified with a certain level of secrecy, it cannot be hidden from the public after the submission of a request for free access, i.e. it cannot be classified subsequently.<sup>32</sup>

## Partial Access

If certain information contains parts that are classified, then the public bodies should compulsorily supply that information partially. This means that they need to remove those parts that are classified and give the citizen the rest of the information. It is important here that the citizen gets a sense of how big a part of the information is missing, i.e. is removed. This is also determined by the Guidelines, which state that “the information holder clearly marks those parts of the information that are

<sup>32</sup> Especially since the Free Access Law should provide an additional mechanism for testing the systems for classification/reclassification of information. Considering the fact that up until September 2007, there was no body controlling the classification, it is very important for the Commission to assume a proactive role in the declassification of information. At the moment, classified information is covered by the Directive for the Protection of Classified Information.





missing”. For example, JP City Parking, Skopje, properly applied the Free Access Law and allowed partial access to the decision on the compensation for the members of the Supervisory Board.

## Illegitimate limitations

Even though it was not our intention to observe those provisions of the Law that define the exceptions, we nevertheless identified illegitimate limitations to the right to access that can be grouped in three categories.

Firstly, certain public bodies falsely interpreted the provisions that define public information. In those cases, the public bodies limited access to the information even though it cannot be limited based on the exceptions. For example, the Agency for Youth and Sports refused to supply its annual report on the enforcement of the Free Access Law, because it considered that “the Agency is obligated to submit its annual report to the Commission, and then the Commission is obligated to prepare a joint report and submit it to the assembly by March 31<sup>st</sup> latest”. Or, the Judicial Council of the Republic of Macedonia refused to supply a copy of the minutes of the founding session, because it does not consider this to be “public information that the Council is obligated to provide the citizen access to”.<sup>33</sup> It seems the public bodies forget that, in principle, all information that they hold belongs to the public, and that access may be denied only if this is justified with legitimate reasons, i.e. if it can be identified as part of the exclusions specifically enumerated in Article 6 of the Free Access Law.

Secondly, certain information was hidden under the excuse that it is classified information. For example, the Ministry of Defense refused to supply the Agreement for Leasing the Army Pool in the Municipality of Aerodrom, since it was classified information. An appeal was filed against the decision, and the appeal was accepted:

...”The Commission especially points out that, in accordance with Article 6 Paragraph 1 Point 1 of the LFAI, public bodies may deny the access to information only as long as the information is classified under law, with a certain level of secrecy. In the Ministry’s notification, it is not stated under which law and bylaw the requested information is considered classified information. Which means that the information holder did not act according to these provisions of the LFAI...Furthermore, according to Article 6 Paragraph 2 of LFAI, information determined in Paragraph 1 of this Article becomes accessible once the reasons for their inaccessibility no longer apply, and according to Article 6 Paragraph 3, public bodies will allow access to information if following the publication of such information the consequences to the protected interest

<sup>33</sup> Commission’s Decision 07-397/2 of 7.8.2007.

are outweighed by the public interest that would be achieved with the publication of the information. In accordance with Article 7 of LFAl, if a document or one of its parts contains information from Article 6 Paragraph 1 of LFAl that can be removed from the document without thereby endangering its safety, the holder separates this information from the document and informs the citizen of the content of the rest of the document...”. Following the Commission’s decision, the Ministry supplied the requested contract.

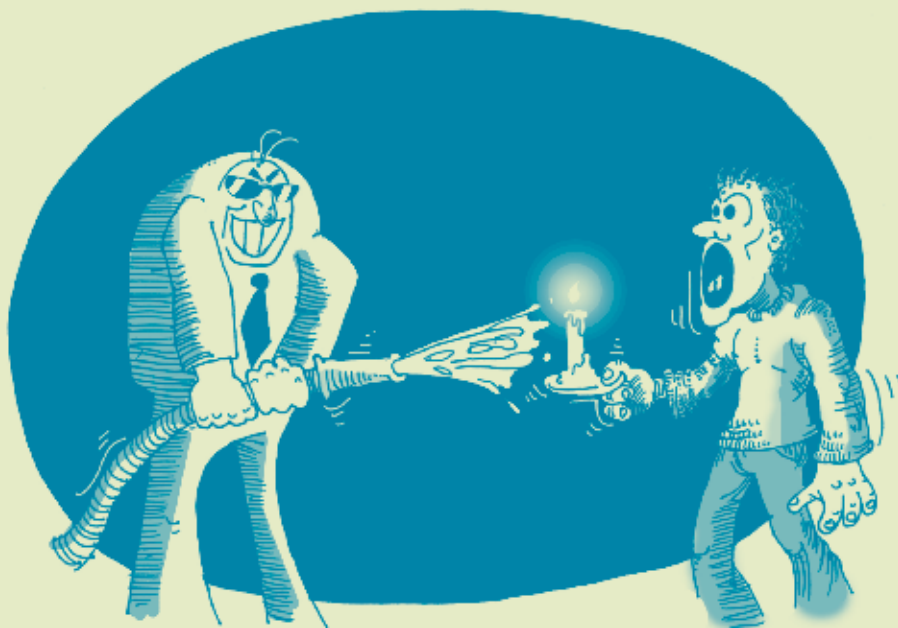
Similarly, the Ministry of Education denied access to the budget of one of the science institutes that is part of the State University in Bitola, elaborating that it is not public information, since “it refers to data on a single-entity user, which the institute is, and public information is only budgetary subsections up to the level of activity that is public information”. After the appeal was accepted, the budget was supplied.

Thirdly, certain institutions limited access to information that was not placed on their lists of public information. For example, the PE for the Management of Residential and Office Facilities refused to supply the decision on the compensations for the members of the Supervision and Managing Boards, because it was not on the list of information. As a clarification, PE said that “the requested information will be placed on the list of public information and once the list is revised by the Board, the requested information will be supplied to the citizen”. The information lists are there to assist citizens in being informed as to what information the public bodies hold, and the fact that certain information is not on the list should by no means be the basis for limiting access, albeit temporarily.

### **Oral Refusal: Slightly More than Being Ignored**

One of the principles of the right to free access is that denying access has to be in written form, because every denial has to be justified, clarified and legitimate – pointing out the reasons for the inaccessibility of the information. In this way, if the citizen is not satisfied, she has the right to appeal the negative decision. It is therefore that the Free Access Law clearly determines that should the public body deny access, it needs to make an elaborated decision. The monitoring nevertheless identified cases where the public bodies denied access and informed the citizens of this orally. For example, PE Bregalnica, Delchevo refused to supply a photocopy of the analysis of the water for the preceding month, and gave the following oral explanation: “The information is not public and may be misused”. At the same time, the official insists on giving on oral reply, stating “I can’t give it to you stamped and in writing”.

Similarly, in the case of PE Isar, Shtip, the citizen received a telephone call from the manager the very same day, requesting a meeting regarding the submitted request. The citizen requested the decision on appointing members of the Board of Directors and the compensation they receive. Even though the citizen



asked for a photocopy of the decision, the secretary informed her that the information can only be received orally and by the manager personally.

## Having No Information

The Free Access Law predetermines access to information that already exists and does not impose an obligation on the public bodies to create new information. In the cases when certain information does not exist, the public body is obligated to inform the citizen. This information is also important for the citizens because it gives them insight on the type of information that public bodies create, as well as the flow and management of information within the bodies. Consequently, when a person requests information that officials either cannot locate or it does not exist, then they are obligated to inform the citizen. For example, after being silent and thus provoking an appeal, the Government informed the citizen that it does not hold information as to the financial means projected with the Budget for the campaign “Invest in Macedonia – the New Business Haven in Europe”<sup>34</sup>. It is embarrassing for the government to not hold this information, and we ask ourselves how it made the decision to enforce the campaign in the absence of sufficient information? These examples once again point to the fact that the Free Access Law opens a window of opportunity for the citizens to control the public bodies and participate in the improvement of their work.

<sup>34</sup> Reply No. 19 – Sk. of 06.07.2007.

## RECOMMENDATIONS:

Training the officials on the proper application of the exceptions to access stipulated in Article 6 of the Law to Free Access.

Training on the compulsory application of the Public Interest Test.

The public bodies should compulsorily explain the decisions through which they deny full and partial access to certain information.

The members of the Commission should receive a security certificate upon their appointment, in order to have access to classified information. Changes to the Law on Classified Information, so that the Commission can reclassify certain information, if public interest “prevails”.

# SENT ELSEWHERE: TRANSFERRING

**S**ubmitting a request for information at the wrong address is a mistake that the citizens may make from time to time. Considering the fact that in the Republic of Macedonia lists of public information did not exist before the Free Access Law, these mistakes are to be expected. In order to get the requests to the right address, the Free Access Law contains provisions that regulate the procedure of transferring. Consequently, the Macedonian legislator determined an obligation for the public body that received a request to immediately, ten days at the latest, transfer the request and inform the citizen in those cases where it does not hold the requested information.

This is where the three obligations for the public body arise from. Firstly, determining the authorized public body according to the content of the request; secondly, transferring the request; and thirdly, informing the citizens in order for them to know who to expect the requested information from. Thus, the Guidelines also unambiguously determine that “the transfer is made to the right information holder and the citizen is informed of this”.

Even though in this monitoring the requests were submitted to those public bodies that we deemed adequate, they were nevertheless not always directed to the right place. This natural mistake<sup>35</sup> allowed us to identify serious weaknesses related to the obligation of internal transferring, i.e. the communication between the public bodies.

## Directing Instead of Transferring

The citizens were most often directed to the adequate public body instead of having their request transferred. The Ministry of Labor and Social Policy, the Ministry of Health, the Ministry of Local Self-Government, PEP Kale – Centar Zhupa all directed the citizens to where they could receive the information.

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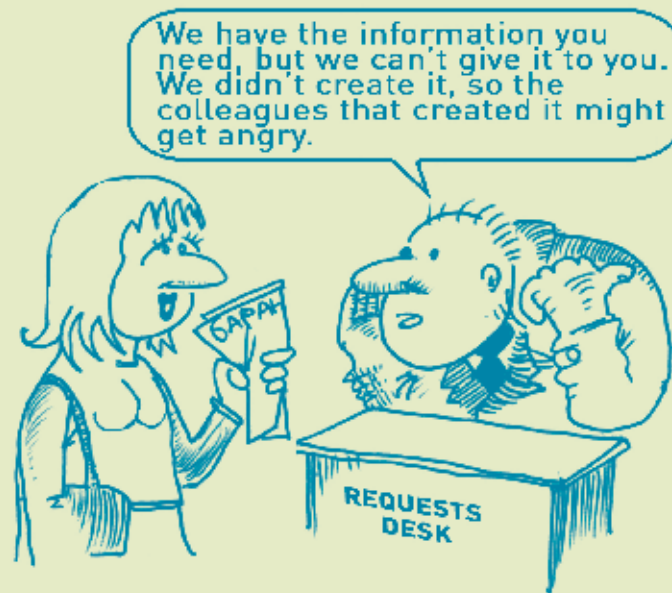
<sup>35</sup> We were wrong in little over four percent.

## Belated Transfers

Only a small number of bodies (for example, the Macedonian Assembly and the Ministry of Health) properly transferred the requests and informed the citizen. In another case, even though the Ministry of Health transferred the request, it was a whole three months late. Similarly late were the other public bodies that transferred the requests.

## Incorrect Application of the Law: Directing to the Information Creator

The monitoring determined yet another incorrect application of the Free Access Law: the public bodies refused to supply information that they hold, but was created by someone else. It seems that in these cases the holders would rather forward the requests than supply the information that they hold. For example, the State Statistical Office did not supply the citizen with their audit report, but rather directed the citizen to the State Audit Office, since it was they who produced the report. The Macedonian State Archive also directed us to another public body, because “it did not create the information, and it is only information that it has created that is subject to free access”. This interpretation goes against the Free Access Law, since the law clearly states that public information is information in any form that the holders have created or hold.



We had similar situations with certain institutions that directed us to the information creator, stating that they do not hold the requested information. For example, the Ministry of Local Self-Government replied that they do not hold information on the amount of the municipalities' debt and directed the

citizen to the Ministry of Finance. The same happened with the Ministry of Health regarding information on the number of HIV/AIDS infected patients when the citizen was directed to the Republic Institute for Health Care. It seems unbelievable that these institutions do not hold this information. If it is in fact true, then this raises a whole new discussion that should be additionally explored.

### Confusing the Citizen: Redirecting to the Wrong Address

Unfortunately, the monitoring identified cases when the public bodies sent documents or pointed out websites that apparently contained the requested information. For example, in reply to our request on the division of ESM (The State Electricity Company) into three new companies: ELEM, MEPSO and EVN<sup>36</sup>, the Government directed us to the Official Gazette 92/04, where it is only the decision that confirms the plan that is published, and not the information that we requested. Similarly, in reply to a request, the Macedonian Public Prosecutor's Office sent us their annual report. Why they supplied a report that was neither requested, nor contained the requested information is a question we leave to your personal interpretation. The filed appeal was accepted by the Commission, which obligated the Prosecutor's Office to supply the requested information. The Public Prosecutor's Office then replied that they do not hold the information. The obligation to compulsorily inform the citizen if they do not hold the requested information is a key element for openness and may be the basis for constructive dialogue between the government and the public on the type of information needed to improve the efficiency of the public administration and raise the quality of decision- and strategy-making.

## RECOMMENDATIONS:

- The public bodies must supply information that they hold, but was created by someone else.
- The public bodies must inform the citizen in those cases when they have no information on the request.
- The public bodies must transfer the requests to the right public body within 10 days, and inform the citizen thereof.

<sup>36</sup> Reply No. 14-1840/2 of 18.06.2007.

# INCONSISTENCY IN THE REPLIES – THE LAW MUST BE EQUAL FOR ALL!

**T**he assumption that the law will be equally applied by all and to all is a basic principle of the rule of law. In order to get a sense of how consistent the bodies of the state will be in their replies, different citizens submitted identical requests to various institutions and at different times for the duration of the monitoring. Unfortunately, our research showed that the institutions are not consistent in the application of the Free Access Law.

For example, a copy of the functional analysis was requested from several ministries. The Ministry of Foreign Affairs and the Ministry of Local Self-Government gave the full analysis. So did the Ministry of the Environment and Physical Planning, which even posted its functional analysis on its website. Unlike them, the Ministry of Finance and the Ministry of Agriculture, Forestry and Water Supply supplied abridged versions, without the main appendices. The Ministry of Health supplied no reply within the legal timeframe, but, following an appeal, supplied the analysis in full. Access to this document was denied by the Ministries of Economy and Labor and Social Policy, classifying this document as for internal use only. We ask ourselves how is it possible for the same type of document to be classified information for some ministries, while others are posting it on their websites?

When they are exercising their rights, citizens and legal persons should not be in fear that the law is not being applied or to expect arbitrary conduct on part of the officials. The inconsistent replies point to a number of problems, among which is weak training and the lack of internal procedures for processing requests for information. Inconsistent replies also reflect the simple fact that some officials observed the right to free informing, while others were less willing to strive toward this. This outcome may be due to the absence of internal guidelines, so the officials treat the requests on an *ad hoc* basis.



## RECOMMENDATIONS:

The public bodies should reply to requests for information in an identical manner. They can accomplish this by introducing transparent internal mechanisms and procedures for acting on a submitted request for information.

Urgent training of all officials on the responsibilities and the procedure for securing free access to information, for the equal enforcement of the Law on part of all public bodies.

Improving efficiency in acting on requests for free access by appointing an official with a single responsibility of acting on requests for access.

# USE OF OFFICIAL LANGUAGES

With Article 25 and under the title “Language in Which the Request is submitted”, the Free Access Law attempts to regulate the issue of the use of languages when submitting requests. This provision seems unnecessary, since it does not actually regulate the use of languages, but merely refers to those laws that regulate this issue.

The legislator’s intention here is somewhat confusing. Firstly, because all other laws naturally apply and need to be enforced regardless of whether this law refers to them or not. Secondly, the provision will mislead the citizens, since the Free Access Law does not only apply to the state, i.e. public sphere (for which the laws that regulate the use of languages apply), but also enters the private sphere and includes legal and physical persons who carry out public jurisdictions or services of public interest. These public bodies are obligated to accept requests for free access, but the citizens can only address them in Macedonian. It is therefore that this provision seems unclear and confusing, and causes problems in practice as to what language the requests for free access will be accepted in, for example, by NGOs in the field of social welfare registered in Tetovo?<sup>37</sup>

In order to determine how the Free Access Law will be applied in relation to other laws that regulate the issue of the use of languages, the use of official languages in the Republic of Macedonia held a special place in the monitoring. Municipalities were chosen in which, aside from Macedonian, there is a second official language – Albanian, Turkish and Roma. In the course of this, in two separate occasions, identical requests were submitted to the same public bodies, but in different languages. We wanted to see whether the treatment of the requests differed depending on the language used.

The general conclusion is that the requests made in Macedonian and Albanian received roughly the same treatment, whereas the requests for information made in Turkish or Roma received a significantly worse treatment, i.e. it was exceptionally rare for them to receive replies – less than 5%. In addition, the monitoring revealed inconsistencies in the communication of the bodies:

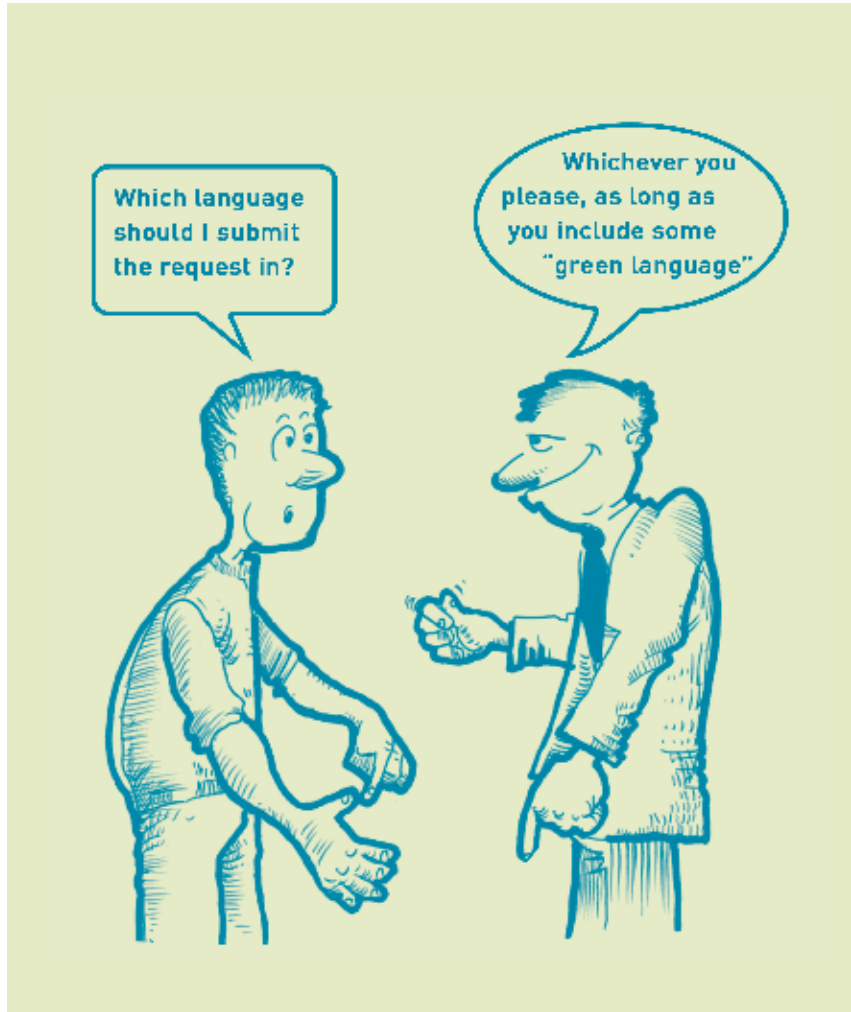
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37 In Tetovo, both Macedonian and Albanian Language are official.

**Regardless of what official language the request was submitted in, the public bodies reply in Macedonian.**

The local self-government units that should reply in both the official Macedonian and in the official language used in the communication and spoken by at least 20%, proceed in different ways. For example, to requests submitted in Albanian, the Municipality of Kumanovo, the City of Skopje, JP Komunalec – Kichevo and JP Vodovod – Kumanovo all replied only in Macedonian. Similarly, to requests submitted in Turkish, the Municipality of Centar Zhupa, the Municipality of Plasnica and JP Kale – Centar Zhupa replied in Macedonian.

**To a request submitted in Macedonian, some municipalities with a predominantly Albanian population replied in both Macedonian and Albanian.** For example, in the Municipality of Chair, the citizen who submitted a request in Macedonian, received a reply in both Macedonian and Albanian, contrary to the provisions under the Constitution, because in this case, the reply should have only been supplied in Macedonian.



To a request submitted in Albanian, some municipalities with a predominantly Albanian population replied only in Albanian. For example, the Municipalities of Debar, Tetovo, Lipkovo, Zajac, Oslomej and Saraj communicated with the citizen that used Albanian only in Albanian. Again, this is contrary to the Constitution, because in this case, the reply should be supplied both in Albanian and Macedonian.

## RECOMMENDATION:

Respecting constitutional and legal provisions for the use of languages. Strengthening the capacities of the state and municipal administration for the implementation of the use of Turkish and Roma.

# PUBLIC INTEREST TEST – PUBLIC INTEREST VERSUS SECRECY INTERESTS

In the Republic of Macedonia, there are no absolute exceptions to the right to free access to public information. On the contrary, in all cases where the bases for limiting access can be applied<sup>38</sup>, the public bodies are obligated to apply the Public Interest Test, in accordance with Paragraph 3 of Article 6. Unfortunately, the Public Interest Test was not applied to a single case for the duration of the monitoring.

The aim of this provision is to allow access to information even where such access should be limited, as long as public interest outweighs the protected interest. This is a discretionary decision that the public bodies make for every single case when they deny access to certain information. It is therefore of particular importance to the consistent enforcement of this provision that directions be given as to how those responsible, including the information officials, will implement said provision. The Guidelines for the application of the Free Access Law adopted by the Commission, unfortunately, do not contain similar provisions and these need to be changed immediately. In addition, all those responsible, including information officials, should be trained on the aims of this provision, as well as on the manner in which to proceed in its application.

In practice, it was often suggested that the fact that “public interest” is not defined with the Law on Free Access to Information results in difficulties in its application. This should not be the case. Even though evaluating two different and opposing interests will be problematic in some cases, it does not mean that the task for the public bodies in the application of the Public Interest Test is not clear. When applying the test, the information holder should merely decide whether it is in the public’s interest to give or limit the information in that particular case. It is precisely because of this that both the Public Interest Test and public interest per se do not have a fixed definition in the Free Access Law, the aim of which is to direct the process towards more openness, which is why the meaning attached to these terms may change over time and depending on context.

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<sup>38</sup> Paragraph 1 of Article 6 determines the bases for dismissing access to information.

In this sense, the already established European and international standards should be taken into account. Even though it is difficult to give a definitive list, the public bodies should consider the following factors in their application of the Public Interest Test:

1. supplying the information will contribute towards enforcing the laws and serving justice, including preventing or uncovering a criminal act;
2. supplying the information will have an impact on the economic interest for part or all of the territory of the Republic of Macedonia;
3. supplying the information will ensure the efficient supervision over spending public money and provide insight into whether or not public money is being used for public purposes;
4. supplying the information will make sure that the public is adequately informed of any dangers to people's health and lives and of pollution to the environment;
5. supplying the information will contribute to the assessment of whether or not the public administration is adequately fulfilling its functions and jurisdictions;
6. supplying the information will contribute to a constructive and informed public debate on issues of public interest;
7. supplying the information will not have a negative impact on the protection of national and state security, as well as international collaboration.

The public bodies should set a goal for changing the way in which they operate, because with the adoption of the Law on Free Access to Public Information, the legislator *de facto* wants to change the practice of **need to know** – when the citizens had to state their purposes for requesting the information – to **the right to know** - where the citizens have the right to be informed on the work being done by their administration and public sector without having to state their purposes and needs for requesting information. Therefore, accepting and promoting a practice of openness should provoke a change in the practices followed thus far, including a revision of the systems for the protection of information.

We would like to mention once again that the Public Interest Test has to be applied and elaborated on in every case of denied access.

# Who is protecting us from the protectors?

## RECOMMENDATION:

The public bodies should compulsorily apply the Public Interest Test in each particular case when they limit access to information, applying the exceptions listed in Article 6 Paragraph 1 of the Free Access Law. The assessment should consider the particular conditions in which it is carried out, in order to determine whether the benefits for public interest from the publication of the information outweigh the damages caused to the protected interest. The Commission is urged to amend its Guidelines and provide additional directions for the application of the Public Interest Test.

In this context, it is worth mentioning the provision under Article 38 of the Free Access Law, which for the first time predetermined the parole of a state administration employee from criminal responsibility for revealing protected information, if said information is essential to uncovering misuse of an official post and corrupt behavior, as well as for preventing serious risks to people's health and lives and pollution to the environment (i.e. protection of whistleblowers). Even though the purpose and essence of this provision are understandable and acceptable, it remains unclear as to why it is only state administration employees that are exempt from responsibility, and not the rest as well, i.e. the employees in all public bodies, and especially special agents<sup>39</sup>, who will most often come in contact with information with a certain level of secrecy since it is in the nature of their posts.

## RECOMMENDATION:

Changing Article 38 in order to exempt the employees in all public bodies who might reveal protected information from criminal responsibility.

<sup>39</sup> Police, Army, Intelligence.





# APPEAL PROCEDURE



T DESINT VIRES, TAMEN EST LAUDANDA VOLUNTAS! ALTHOUGH THE POWER IS LACKING, THE WILL IS COMMENDABLE!

## Deadlines for filing an appeal

If the request is declined or the citizen receives no reply after the thirty, i.e. forty days in those cases when the deadline has been extended, the citizen has the right to appeal to the Commission for the Protection of the Right to Free Access to Public Information<sup>40</sup>.

In the timeframe of eight days after the information has been received, the citizen should file an appeal if: (a) the citizen is not satisfied with the information she received, (b) the holder has fully or partially denied the request, and (c) the citizen has received no reply (administrative silence).

In the first two cases, the intention of the legislator to keep the deadline short is clear, because it applies to cases where the right has been limited, i.e. the citizen is not satisfied with the answer. It is therefore commonsensical to expect of the citizen to react in a short timeframe by submitting an appeal.

However, the third case is, to say the least, troubling for the citizens, which is why our largest objections refer to this deadline. Namely, it is difficult to elaborate on why this deadline exists in the first place, since said deadline is determined “from the date the document was received”, and in this case there is no act to speak of because the administration is silent. It is therefore that we ask ourselves how this deadline can be determined if it lacks a starting point. In addition, establishing the deadline for an appeal in the case of administrative silence, when the citizen was not “dignified” with an answer on part of the holder, brings the citizen in the situation of carefully keeping track as to how many days have gone by since the request was submitted, i.e. since the public body was supposed to reply. If she misses the eight days given to her, the

<sup>40</sup> For a reminder, see pp 14-17.

citizen is left without any legal protection – i.e. her appeal will be rejected as untimely. This also goes against the General Administrative Procedure Law, which (rightly so) does not determine a deadline for the submission of an appeal against administrative silence for several reasons: firstly, it considers the prospect that the administrative body in question in fact does need more than the designated time to complete the opened case, and it depends on the citizen's good will whether she will wait for a while longer or decide to submit an appeal straight away; secondly, the awareness that an appeal against a certain unresolved case may be submitted at any time influences the official's responsibility and work – an influence that is not present when the eight day deadline does not apply; thirdly, the citizen is not obligated to count the days since the request was filed to make sure that she does not miss the appeal deadline and therefore be punished for the body's inability to do its work.<sup>41</sup> There were numerous cases in which the citizen was objectively prevented from filing an appeal within the eight days determined by the Free Access Law.

It is due to all this that we are astonished by the Commission's policy of dismissing appeals as untimely in the cases of administrative silence when the appeal is filed after the eight day deadline. For example, in one of its decisions, the Commission states that "the legal timeframe for supplying the requested information on part of the holder expires on April 15<sup>th</sup>, 2007, and the legal timeframe for filing the appeal on April 23<sup>rd</sup>, 2007". In that particular case, the Commission reckons that the complaining citizen who filed an appeal on May 4<sup>th</sup>, 2007 has failed to make the deadline for filing an appeal! This stance on part of the Commission is astonishing and we ask ourselves how it deemed the deadline as expired, since the Free Access Law is clear – the deadline is measured "from the day the case was received", and in these cases there is no case to speak of. Considering the fact that more than a third of the requests receive no reply, we believe that the provisions from GAPL should be applied here as more favorable for the citizens, and that there should be no deadline for filing an appeal in the case of administrative silence.

The law determines another deadline as well, one of fifteen days, which applies to those cases in which the public body has rejected the request. This goes against the provision determined for the same situation (rejected request), according to which there is an eight-day deadline (aforementioned under b). This collision of the provisions under the Free Access Law leads to problems in its practice, which then impede the realization of the Law. The legislator should be careful in determining deadlines, because the realization of the rights is most often based on them.

Finally, we would like to turn to the provision of the Free Access Law which stipulates that the public body that does not hold certain information merely informs the citizen of this. In these cases, the citizen has

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<sup>41</sup> See B. DAVITKOVSKI, A. PAVLOVSKA-DANEVA, Commentary on the Law on Free Access to Public Information, FOSIM, Skopje, 2006.

been denied the right to legal protection, since she can neither file an appeal nor initiate a lawsuit against a notification of this kind.

## Filing an appeal

The question of where the citizen should file her appeal is a dilemma in and of itself. The Free Access Law states that it should be submitted to the Commission. However, GAPL, which regulates anything that is not regulated by the Free Access Law, contains provisions that regulate appeal submissions differently. Thus, GAPL stipulates that the appeal should be filed through the public body. The Commission adopts these provisions in its Guidelines.<sup>42</sup> We assume that the Commission has adopted the filing procedure from GAPL because it gives the public body a chance to change its mind and reverse its decision after the appeal has been filed, without waiting for the Commission to decide on the appeal. On the other hand, it seems that this particular stance on part of the Commission complicates matters further, since the citizen is in a dilemma as to where to file the appeal: should it be brought directly to the Commission – as stipulated by the Free Access Law, or through the public body against which she is filing the appeal – as stipulated by the Guidelines.

Our monitoring has shown that filing appeals through the public bodies is efficient in cases of administrative silence, where in as much as 65% of the cases the public bodies supply the information right away. For example, the Ministry of Internal Affairs supplied the requested information immediately following the appeal submission, not waiting for a decision from the Commission. On the other hand, in other cases this decision proved unfortunate, because the public bodies did not forward the appeal to the Commission at all, i.e. kept it “in the drawers”. With that, the Commission cannot act on the appeal, while the citizens are burdened with additional expenses, since the Commission is not acting on the appeal, and they need to “remind” it through a notification<sup>43</sup>. For example, for a request submitted to the Ministry of Defense, the citizen was forced to submit a notification to the Commission on the filed appeal, to which she got a reply that the Commission lacks the necessary case documentation. To add to the irony, the Ministry sent the citizen the reply without informing the Commission, which additionally accepted the appeal and obliged the holder to supply the information.

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42 The Guidelines is a bylaw adopted by the Commission in order to break in the Free Access Law, i.e. to determine the manner and procedure of enforcing the law.

43 The Notification is a document the citizen submits to the second-level body (Commission) if a decision has not been made in the predetermined time frame (15 days). The Notification (or, renewed request) is submitted in order to “remind” the body that it has not made a decision within the predetermined time frame and give it an additional 7 day deadline to make a decision (Article 22 of the Law on Administrative Disputes). After this, the citizen has the right to an administrative dispute, as if the appeal were dismissed.

## The deadline for deciding on an appeal

The Commission is obligated to decide on the appeal within 15 days from the date the appeal was received. The deadline given for the Commission's decision for this type of procedure, which involves the realization of a right, is welcomed. The idea behind the short deadline in the procedure is achieving swiftness, urgency and efficiency. However, as mentioned above, the Commission refers to provisions from GAPL in its Guidelines and directs the citizen to file her complaint through the body from which she received no reply. In this case, the citizen does not know what date the deadline is being measured from, since she does not know when the public body will forward the appeal to the Commission. In practice, too, these fifteen days get stretched out to a month, or even longer, especially if the appeal has not been forwarded at all, which was often the case. This goes against the legislator's initial idea for swiftness in receiving information. For example, the Agency for Electronic Communication failed to forward the appeal to the Commission, so the Commission finds itself in the position of sending the citizen a memo in which it "announces that it cannot act on the appeal due to a lack of the necessary case documentation needed for acting on the appeal"<sup>44</sup>. In these situations the citizen is exposed to additional expenses, since she had to send a notification for procedures before the deadline is up, and at the same time she is denied the right to receive even the most routine information. Due to the inability to act, the Commission cannot make a decision and the citizens are forced to initiate a lawsuit at the Administrative court. In the timeframe of May 2007 up until the time this report was being published, the citizens cannot even realize their right to court protection, since the Administrative court of the Republic of Macedonia has not yet been established.

## RECOMMENDATIONS:

Evening out the deadlines for filing an appeal to 15 days.

Deleting the 8-day deadline for filing an appeal in the cases of administrative silence and applying the provision from GAPL, according to which an appeal against administrative silence cannot be untimely.

The Commission should synchronize its Guidelines to the Free Access Law and stipulate that the appeals be filed directly and without exception to the Commission.

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<sup>44</sup> Notification No. 07-325/2 of 20.06.2007.

## The Commission's Practices So Far

In the three phases of the monitoring, a total of 149 appeals<sup>45</sup> were brought before the Commission – 44 of those against decisions on the local level and 105 against decisions by central bodies.

Of the 44 appeals brought before the Commission against municipal decisions, the Commission reacted and supplied a decision immediately 38% (17 cases) of the time, whereas the other appeals (as much as 93% of the filed appeals) received a reply before the Commission's fifteen-day deadline was up, i.e. without a decision on part of the Commission.

The Commission's first decisions for the duration of our monitoring were made in September 2007, creating a legal practice. Of the 105 appeals, the Commission made 39 decisions, i.e. decided on 37% of the filed appeals. It accepted the appeal in 31 decisions, where half of those obligated the public body to supply the information, but sent the remaining 15 back. The decisions that we consider to be problematic are these 15 that are sent back for reevaluation. We failed to determine the criteria under which the Commission discriminates a difference and directly obligates certain public organs to supply information, and returns the cases to others. This is a bad practice on part of the Commission, especially if a request was made for information that should be publicly accessible. This was the case with the Energy Regulatory Commission, to which the Commission returned a case in which a list of public information was requested! It is clear that the Commission should merely obligate the public body to supply the information. The appeals brought before the Commission refer only to those cases where the right to access information has been hindered, so it seems only logical that in those cases where it accepts the appeal, it should obligate the public body to supply the information.

The monitoring showed positive results in the Commission's work when it decides on the appeals against denied access by parliamentary political parties. Namely, they were asked to supply information on their material-financial work and the donations they received in the past year. Of 26 filed requests, the political parties were silent in 16. For half, i.e. 8 of those, appeals were filed, which the Commission accepted.

## Commission Report

One of the Commission's jurisdictions is providing a report for the application of the Free Access Law. This report is prepared based on data received from the public bodies' reports on the previous year. This means that the public bodies are obligated to provide an annual report for the Commission by January 31<sup>st</sup> 2007,

<sup>45</sup> See Footnote No. 27.

and once the Commission puts together a joint report, it is obligated to bring it before the Assembly of the Republic of Macedonia, by March 31<sup>st</sup> at the latest. Once said report is adopted by the Assembly, it is published on the Commission's website. Unfortunately, at the time this analysis was completed in October 2007, the citizens had still not had the chance to read the Commission's report for 2006, since it had still not been reviewed by the Assembly of the Republic of Macedonia. It is ironic that the Commission does not deem the document as public information<sup>46</sup> until the Assembly adopts the report! We ask ourselves then, who is it that protects us from the closedness of the public bodies?

## The Commission's Other Jurisdictions

**MISDEMEANORS.** The Commission's jurisdiction to make sure that the provisions of the Free Access Law are carried out is also an opportunity for the Commission to pass the penal provisions that are predetermined in the Free Access Law. For the uninterrupted passing of penal provisions, the existing law needs to be amended in accordance with the new Law on Misdemeanors. Namely, the Law on Misdemeanors of 2006 provides all bodies of the state with the individual right to pass a misdemeanor sentence in a misdemeanor procedure that they carry out and to determine sanctions, i.e. fines of a certain amount. This new jurisdiction belongs to those bodies of the state that, even up to the adoption of the Law on Misdemeanors, were specifically authorized through a separate law to initiate a misdemeanor procedure for the enforcement of the provisions of the separate law. It is for the efficient enforcement of the provisions of the Free Access Law that we therefore consider its change and amendment necessary for this provision to be supplemented with an unambiguous authorization of the Commission to pass misdemeanor sanctions.

**TRAINING.** The Commission is obligated to carry out educational activities and training for the public bodies in order to simplify the process of providing access to information. The state and public administration, as well as the public servants and public administration employees were intended to go through training in which they would have been informed of their obligations to efficiently and timely reply to requests for information. This obligation was intended to be fulfilled by the Commission by August 2006 latest, but the provision remained an obligation on paper only, since the Commission did not have a projected budget for carrying out the training, nor did it manage to get finances from donors. Our research showed that this triggered a line of inconsistencies and shortcomings in the officials' work. For example, the citizen is unable to submit a request if the official is not at work or the official does not provide access to information because she cannot make a difference between "document" and "public information". At the request of the citizen for a certain institution's total annual telephone costs, the official asks the citizen to submit 12 separate requests (for each month separately), since she believes that the Free Access Law applies only to documents (i.e. phone bills).

<sup>46</sup> Commission's decision No. 07-460/6.

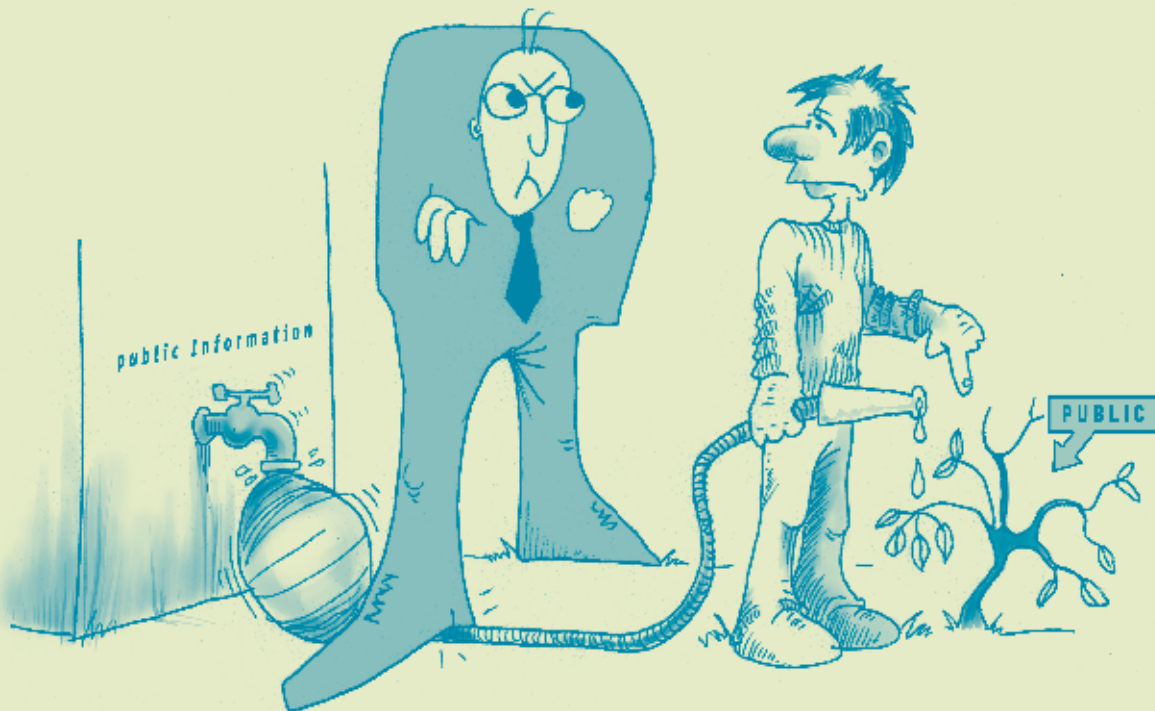
## RECOMMENDATION:

The immediate completion of training for officials. The public bodies should be consistent in their enforcement of the Free Access Law in order to make sure that all citizens have access to information in equal conditions. This would help avoid situations in which the same question is answered for some citizens, but not for others, i.e. they receive information from one public body, but are refused for same or similar requests by others.

**GUIDELINES.** The Commission's Guidelines state that at the submission of a request, the information holder's official fills out a special form with which she confirms that she has received the request and that she has charged a compensation of a certain amount. This special form is the only proof that the citizen submitted a request for free access to information. The information that this form contains is the following: request number, date of receipt, official's first and last name, who the request is forwarded to, certain charges and the official's signature. Nowhere does the form confirm the formulation of the question in the request, so in those cases when the citizen is not satisfied with the received reply, she has no proof of what she requested until the Commission gets access to the full case documentation. However, if the holder loses the request, as was the case with the Ministry of Education and Science and the Agency for Youth and Sports, then the citizen is in an unfavorable situation – and has to submit the request again.

## RECOMMENDATION:

Changing the Guidelines and finding a different solution for the manner in which public bodies confirm the receipt of requests. Already established practices, such as a receipt stamp or postal confirmation can serve as the basis for solving the problem.





# PENAL PROVISIONS – THE STATE REFUSES TO PUNISH ITSELF!

**F**For the successful implementation of the Free Access Law, the legislator predetermined penal provisions for the unfulfillment of responsibilities on part of the public bodies or for the wrongful application of the Free Access Law. Considering the inertness of the holders thus far, the legislator determined a fine where practice has revealed the biggest breaches to the right. Unfortunately, in the first year of the implementation of the Free Access Law, not a single appointed official or information official was punished. Therefore, it seems logical to make use of the opportunity for the direct passing of misdemeanor sanctions on part of the public bodies for the more efficient enforcement of the misdemeanor procedure and for improving the efficiency of acting according to this law. In this case, when filing an appeal before the Commission, the citizens can, at the same time, initiate the issuing of a sanction. In addition, the money that the Commission would collect from the issued fines will allow it to actually carry out the activities for the promotion of this right in the Republic of Macedonia, for which it lacked means thus far.

## RECOMMENDATION:

Synchronizing the Law on Free Access to Public Information with the Law on Misdemeanors and expanding the Commissions jurisdictions by including the direct issuing of fines for misdemeanors prescribed with the Law on Free Access to Public Information.

FINE	BREACH OF LAW	FINED INDIVIDUAL
30.000-50.000	Failing to supply information in accordance with the Free Access Law Allowing or denying access contrary to the provisions of the Free Access Law	Whoever makes the decision
20.000-40.000	Failing to appoint an information official (by June, 2006)	Head of Public Body
20.000-50.000	Failing to keep and update a record of information they hold and failing to publish it in a proper manner	Head of Public Body
20.000-40.000	Failing to provide and appoint a viewing room	Head of Public Body
20.000-50.000	Failing to assist the citizen in requesting information	The information official
20.000-50.000	Failing to mediate the information within the projected deadline without legitimate reasons	The information official
20.000-50.000	Failing to supply the Commission with documents, or denying the Commission insight during the appeal procedure	Head of Public Body
5.000-30.000	Failing to put together an annual report on the enforcement of the Free Access Law and failing to supply it to the Commission	Head of Public Body

# APPENDICES

## APPENDIX 1: THE MONITORING METHODOLOGY

The Monitoring Methodology was prepared by the Open Society Justice Initiative – Budapest, in collaboration with Thomas Patrick Carson (an expert in the field of methodologies in statistical research), but adapted to FOSIM specifically for the needs of the Macedonian Law. It was adapted in order to leave room for evaluating whether the provisions contained in the Free Access Law are being applied in practice and whether they are in line with international standards. The methodology is an efficient instrument that allowed the analysis of the indicators for access to information, as well as a comparative analysis of the transparency of different institutions. In the period from February 1<sup>st</sup> to September 31<sup>st</sup>, 2006, when the Free Access Law was adopted, with postponed enforcement, a pilot monitoring was carried out in 31 municipalities. A total of 275 requests were submitted that later contributed to the improvement of the methodology and its expansion.

The monitoring process was executed in three phases. Two of those were at the local level and one at the central level, in March 2007. For the purposes of the monitoring at the local level, FOSIM formed an expert working group that selected **31 municipalities**<sup>47</sup>. In the selection of the municipalities, special attention was paid to the inclusion of municipalities with various ethnic and political structures, population, difference in geographical location and territorial size, as well as urban and rural setting. The monitoring included the municipalities of: Gevgelija, Delchevo, Pehchevo, Tetovo, Strumica, Karbinci, Shtip, Veles, Bitola, Vraneshtica, Zajac, Kichevo, Plasnica, Oslomej, Drugovo, Debar, Centar Zhupa, Sveti Nikole, Kumanovo, Lipkovo, Aerodrom, Butel, Gjorche Petrov, Gazi Baba, Karposh, Kisela Voda, Centar, Saraj, Chair, Shuto Orizari and the City of Skopje. In the two phases at the local level, a total of **393 requests** were submitted.

At the central level, **73 institutions** were monitored, with **263 requests** submitted. From the institutions, we included: the Assembly, the Government, the Ministries, Secretariat for European Affairs, State Archives of the Republic of Macedonia, State Statistical Office, State Office for Geodesy Affairs, the Republic Institute for Health Care, State Commission for Preventing Corruption, Food Direction, Directive for the Protection of Classified Information, Crisis Management Center, City Institute for Health Care, Institute for Urban Planning,

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<sup>47</sup> Out of 84 municipalities in total.

State Audit Office, Public Revenue Office, Commodity Reserve Bureau, Medications Office, Central Register, Commission for Religious Affairs, Energy Regulatory Commission; from the agencies: Agency for Electronic Communications, Agency for Youth and Sports, Agency of Emigration, Employment Service Agency, Agency for Development and Investments; from the public enterprises: PE for the Management of Residential and Office Facilities, PE City Parking, PE Macedonian Railways, PE Macedonian Forests, PE for the Management and Protection of the Multifunctional Area “Jasen”, as well as the Association of Notaries, Association of Doctors, Association of Mediators, Public Attorney’s Office, Public Prosecutor’s Office, Judicial Council, Constitutional Court, Supreme Court, Court of Appeals, the Ombudsman, “Ss. Cyril and Methodius” University, South-East European University – Tetovo, and the 16 political parties of parliament.

The monitoring was designed in such a way that the requests for access to information referred to information that the holders hold or should hold. Attention was paid to making sure that the requested information was not information that would be considered inaccessible, i.e. protected under a special regime. Consequently, the monitoring did not test the application of the exceptions, but rather aimed to create a comparative survey of existing information that would usually be accessible. Thus, the requests for free access to information were structured in three categories: (1) routine or common requests, (2) sensitive requests and (3) difficult requests for which the information holder needed more time and effort.

It is important to note that the requests were submitted by physical persons, citizens of the Republic of Macedonia, who were trained on the procedure and rights under the Free Access Law. The goal of this approach in the methodology was to avoid the potential pressure on the public bodies that would reveal unrealistic openness triggered by the awareness that they are monitored by the non-governmental sector, the media or the business sector.

The monitoring process starts with the submission of a written request for free access to information. The chance to submit oral requests that is provided by the Free Access Law was not tested. In a predetermined time frame of 10 working days, the citizens submitted requests to the public agencies in three occasions (September and October 2006, and March 2007), during which they observed: the conduct of information officials, the assistance that they are required to give, how equipped the institutions are (like, for example, having the request form at their disposal) and whether they observe the act that determines the compensation for material costs for the given information. The methodology also set standards for the conduct of the citizens: at the training for example, they were instructed to submit their requests at noon, in order to potentially avoid hours when the public bodies are not open for visitors. The citizens submitted the answers, after which these were put in a common database.

The software for monitoring free access to information (the common database) by the Open Society Justice

Initiative - Budapest includes simple commands that are easy to use, as well as a functional database that enables the tracking of key stages of the requests for public information, from its submission to receiving the reply, through refusals and appeals. The gathered information was placed in the database, which enabled a centralized analysis of the information. The software generates statistics for the monitoring results and facilitates data comparison within holders and between them. The last step in the process was data analysis for identical requests, comparing the treatment of the same request submitted to different holders.

The results we received are grouped into the following main categories:

**Received information:** The requested information was supplied in writing. The information received is an answer to the question and is mainly complete.

**Partial access:** The documents are supplied with parts that are darkened or part of the information is “removed”. As long as the Free Access Law clearly indicates the reasons for the unavailability of some information, partial access is considered as an appropriate answer.

**Refusals in writing:** The refusal to supply the requested information needs to be in writing, in the form of a decision, and it should state the reasons for the unavailability of the information. Refusals in writing provide the basis for filing an appeal, which is why they are useful even when they are inadequate (for example, when the reasons for the refusal are inadequate, or not indicated, or when the refusal is in the form of a “notification”).

**Transferring:** The institution either: (a) provides an answer in writing that directs the citizen to another institution, or (b) transfers the request to another appropriate institution. The latter is the appropriate reply, if it is obvious that the institution that has received the original request is clearly the correct location for the information.



And the younger brother is watching over the older one!

**Information that it holds, but has not created:** The holder we approached was the correct location for the requested information, since it holds it even if it has not created it. The appropriate conduct is for this holder to give the answer and allow the access to the information, rather than directing the citizen to the holder that created the information. In our particular case, the answer that was additionally given to the citizen was: “We do not hold the information”.

**Inadequate answer:** The supplied information is for the most part incomplete, irrelevant or unsatisfactory in some other manner, demonstrating the failure to respect the right to free access to information. For example, “an inadequate answer” was observed when the holder directed the citizen to find the requested

information on a web page, and then it was only after an accepted appeal that the holder supplied a copy of the information, after acknowledging that it was not on the website at all. There were cases where a pile of documents were supplied that did not contain the answer to the specific request or, when the citizen was informed that the requested information is classified and for internal use, only to have it fully supplied following an accepted appeal.

**Mute refusal:** This category includes holders that had not replied at all, i.e. the administration is silent on these requests. In this case, there is no formal refusal and the information is not supplied. This result is observed after the timeframe projected for a reply elapses.

**Inability to submit:** A request is marked as “impossible to submit” when the citizen cannot submit the request in person. For example, some citizens are prevented from talking to the information mediating official because this official is either not appointed or absent, “at a meeting”, so the citizen submits the request by mail, for which she is charged with additional material costs.

**Belated replies:** Replies supplied after the legal deadline has elapsed are considered received replies in this analysis, but an appeal is nevertheless filed with the second-level body. We decided to classify belated replies as inadequate because: (a) a timely response is an important element in the right to receive information, and (b) we wanted to provide consistency in archiving the results

## Appendix 2: List of Requests and List of Monitored Institutions, with Final Outcome

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Government of RM	1.1 How much money has the state spent on the defense of the defendants in the Hague in 2006?	04.04.2007	administrative silence	Notification	administrative silence	LAWSUIT
	1.2 Financial construction of the campaign "Invest in Macedonia, new Business haven in Europe"	15.03.2007	administrative silence	Notification	Complaint IS DENIED	LAWSUIT
	1.3 The Government's Contract for the sale of Macedonian Telecommunications	16.03.2007	administrative silence	Notification	administrative silence	LAWSUIT
	1.4 The Government's Contract for the sale of the OKTA refinery	19.03.2007	administrative silence	Notification	administrative silence	
	1.5 The Government's Decision for appointing officials - inspectors to assist the General Inspector for the protection of classified documents (Article 71 of the Classified Information Law, Official Gazette of RM 9/2004)	not submitted				
	1.6 The Government's decision on breaking up ESM into ELEM, MEPSO and EVN	21.03.2007	administrative silence	Notification		On June 18th, the Government's General Secretariat redirected the applicant to an issue of the Official Gazette



INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	1.7 The Government's Decision for forming a Commission for the Assessment of the Historical, Scientific and Cultural value of Files (Articles 16 and 17 of the Law on Acting on Files on Individuals Kept by the State Security Service, Official Gazette of RM 52/2000)	23.03.2007	administrative silence			On July 12th 2007, the General Secretariat supplied a copy of the Government's Decision
Ministry of Defense	2.1 Functional analysis of the Ministry made with DFID	12.03.2007	administrative silence	Notification	22.06.2007, The complaint is ACCEPTED and the case is returned for reevaluation	
	2.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	administrative silence	Notification	On June 15th the Commission sends a notification that it does not possess the case documentation	reply received on August 14th, 2007
	2.3 The Ministry's Strategic Plan for 2007	16.03.2007	administrative silence	Notification	June 22nd, the complaint IS ACCEPTED and the case is returned for reevaluation	
	2.4 How many days in total had the Minister been away on business trips abroad in 2006?	not submitted				
	2.5 List of public information	20.03.2007	administrative silence	Notification	June 15th, the complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply received on July 6th, 2007

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	2.6 Which buildings (barracks) and how many of them has the Ministry leased, or transferred ownership of, to others?	21.03.2007	administrative silence	Notification		reply received on September 11th
	2.7 The Ministry's contract for leasing the military pool in the Municipality of Aerodrom.	02.04.2007	08.05.2007, access denied, classified information	Notification	7.08.2007, the complaint IS ACCEPTED and the case is returned for reevaluation	reply received on October 5th, 2007
Ministry of Internal Affairs	3.1 Functional analysis of the Ministry made with DFID	13.03.2007	02.04.2007			
	3.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	18.04.2007			
	3.3 The Ministry's Strategic Plan for 2007	not submitted				
	3.4 Copy of document - Organized Crime Department - put together by a team working on reforms in MIA	20.03.2007	12.04.2007, denied access, classified information			
	3.5 List of public information	20.03.2007	23.04.2007, still in preparation			
	3.6 How often and how many authorised officials in total did the Ministry provide the PP of RM with, at their request, in 2006?	23.03.2007	02.04.2007, partial reply			reply received on May 31st, 2007
	3.7 How many prosecution requests corruption and organized crime cases were filed with the Public Prosecutor in 2005 and 2006?	04.04.2007	20.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	4.1 Functional analysis of the Ministry made with DFID	22.03.2007	20.04.2007			notification that the information is not ready
Ministry of Justice	4.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	not submitted				
	4.3 The Ministry's Strategic Plan for 2007	28.03.2007	administrative silence	Notification	administrative silence	LAWSUIT
	4.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	23.04.2007			
	4.5 List of public information	20.03.2007	14.04.2007			
	4.6 Decision for the formation of a working group for the preparation of a Law on the Agency for Fighting Organized Crime, as well as the Draft text of the Law.	21.03.2007	23.04.2007			
	4.7 Number of committed murders and suicides in and escapes from Penatentiaries in 2006	23.03.2007	23.04.2007			
Ministry of Foreign Affairs	5.1 Functional analysis of the Ministry made with DFID	14.03.2007	administrative silence			reply received on 20.06.2007
	5.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	16.03.2007	10.05.2007			
	5.3 The Ministry's Strategic Plan for 2007	16.03.2007	administrative silence			reply received on 04.09.2007
	5.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	administrative silence	Notification		reply received on 22.05.2007
	5.5 List of public information	20.03.2007	20.03.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	5.6 What is the number of states, and which states are they, that have recognized the Republic of Macedonia under its constitutional name by December 31st, 2006?	21.03.2007	access denied, classified information		Complaint IS DENIED	LAWSUIT
	5.7 In which countries does the Republic of Macedonia own the diplomatic/consular representations, and what value has each been estimated at?	23.02.2007	administrative silence			reply received on 7.05.2007
Ministry of Labor and Social Policy	6.1 Functional analysis of the Ministry made with DFID	13.03.2007	27.03.2007	Notification	administrative silence	
	6.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	29.03.2007			
	6.3 The Ministry's Strategic Plan for 2007	13.03.2006	26.03.2007			
	6.4 How many days in total had the Minister been away on business trips abroad in 2006?	22.03.2007	30.03.2007			
	6.5 List of public information	20.03.2007	administrative silence			reply on 18.05.2007
	6.6 How many citizens used welfare in RM in 2006?	22.03.2007	08.04.2007			
	6.7 How many complaints in total have been filed against the ministry for the compensation of financial means, on the basis of maternity leave, in 2006?	23.03.2007	27.03.2007	Notification		holder redirects to other holder, without forwarding the request. Reply received on 30.08.2007
Ministry of Finance	7.1 Functional analysis of the Ministry made with DFID	12.03.2007	30.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	7.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	administrative silence	Notification		reply received on 14.05.2007
	7.3 The Ministry's Strategic Plan for 2007	16.03.2007	24.04.2007			
	7.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	20.04.2007			
	7.5 List of public information	13.03.2007	26.03.2007			
	7.6 Draft of the Law on Financial Police	23.03.2007	19.04.2007			
	7.7 Financial construction of the campaign for the promotion of payment cards (credit and debit).	23.03.2007	administrative silence			reply received on 27.04.2007
	Ministry of Education and Science	8.1 Functional analysis of the Ministry made with DFID	not submitted			
8.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.		15.03.2007	administrative silence			complaint withdrawn following received reply on 17.05.2007
8.3 The Ministry's Strategic Plan for 2007		16.03.2007	administrative silence	Notification	administrative silence	LAWSUIT
8.4 How many days in total had the Minister been away on business trips abroad in 2006?		20.03.2007	28.03.2007			
8.5 List of public information		not submitted				
8.6 List of scientific publications and research financed by the Ministry in 2006		21.03.2007	administrative silence			reply received on 5.06.2007
	8.7 Budget, with budget items, designated for the Hydro-Biological Institute - Ohrid in 2007	23.03.2007	11.04.2007, access denied, information is not public	Notification	The complaint IS ACCEPTED and the case is returned for reevaluation	reply received on 22.06.2007

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Ministry of Economy	9.1 Functional analysis of the Ministry made with DFID	13.03.2007	administrative silence	Notification	Complaint IS DENIED	LAWSUIT
	9.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	16.03.2007	24.04.2007			
	9.3 The Ministry's Strategic Plan for 2007	not submitted				
	9.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	26.03.2007		The complaint IS ACCEPTED and the case is returned for reevaluation	
	9.5 List of public information	11.04.2007	15-3191/2 from 04.05.2007			reply received on 4.05.2007
	9.6 Tourism Strategy for RM	not submitted				
	9.7 How much did the Ministry spend on computer supplies in 2006?	23.03.2007	19.04.2007			
Ministry of Agriculture, Forestry and Water Supply	10.1 Functional analysis of the Ministry made with DFID	12.03.2007	11.04.2007			
	10.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	19.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	10.3 The Ministry's Strategic Plan for 2007	16.03.2007	22.03.2007			
	10.4 How many days in total had the Minister been away on business trips abroad in 2006?	20.03.2007	21.03.2007			
	10.5 List of public information	20.03.2007	21.03.2007			
	10.6 List of pesticides prohibited in agriculture	22.03.2007	12.04.2007			
	10.7 Decision for the appointment of state agricultural land in 2006	23.03.2007	administrative silence	Notification	The complaint IS ACCEPTED and the case is returned for reevaluation	
Ministry of Transport and Communications	11.1 Functional analysis of the Ministry made with DFID	13.03.2007	administrative silence			reply received on 31.05.2007
	11.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	24.04.2007			
	11.3 The Ministry's Strategic Plan for 2007	not submitted				
	11.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	05.04.2007			
	11.5 List of public information	20.03.2007	administrative silence			reply received on 8.06.2007
	11.6 Locations in RM conceded for building Lukoil gas stations	not submitted				
	11.7 How much was spent for the Skopje roundabout by February 28th, 2007 and the plan for its realization	23.03.2007	03.04.2007			
	12.1 Functional analysis of the Ministry made with DFID	12.03.2007	21.03.2007			
	12.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	administrative silence			reply received on 2.05.2007

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Ministry of Health	12.3 The Ministry's Strategic Plan for 2007	16.03.2007	administrative silence			notification on complaint 18-6968/2 from 22.05.2007
	12.4 How many days in total had the Minister been away on business trips abroad in 2006?	19.03.2007	administrative silence	Notification		reply received on 9.07.2007
	12.5 List of public information	20.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	
	12.6 How many HIV/AIDS infected patients are there in RM (newly and already infected) to this day and if available, what are the estimates for unregistered HIV/AIDS infected patients?	21.03.2007	administrative silence			redirecting the citizen through notification
	12.7 What are the most common reasons for mortality in RM?	23.03.2007	directs to other holder by notification			reply received on 15.08.2007
	13.1 Functional analysis of the Ministry made with DFID	not submitted				
Ministry of Culture	13.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	administrative silence			reply received on 30.08.2007
	13.3 The Ministry's Strategic Plan for 2007	16.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply received on 6.08.2007



INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	13.4 How many days in total had the Minister been away on business trips abroad in 2006 and how much was spent for this purpose?	19.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply received on 6.08.2007
	13.5 List of public information	20.03.2007	administrative silence	Notification		reply given on 6.08.2007
	13.6 List of printed publications, books and publishing houses supported by the Ministry in 2006	23.03.2007	administrative silence	Notification	administrative silence	LAWSUIT
	13.7 List of monuments with second-level protection that were taken down in 2005 and 2006	23.03.2007	administrative silence	Notification	on 22.06.2007, the Commission sent a notification that it does not possess the case documentation	
Ministry of Local Self-Government	14.1 Functional analysis of the Ministry made with DFID	12.03.2007	21.03.2007			
	14.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	21.03.2007			
	14.3 The Ministry's Strategic Plan for 2007	19.03.2007	02.04.2007			
	14.4 How many days in total had the Minister been away on business trips abroad in 2006 and how much was spent for this purpose?	19.03.2007	23.03.2007			
	14.5 List of Public Information	20.03.2007	26.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	14.6 The total debt of the municipalities in RM, by December 31st, 2006	21.03.2007	02.04.2007			notification that the holder is the Ministry of Finance, but not forwarded
	14.7 Whether the Ministry has been spending on supplying computer in the previous year (2006), and if yes, how much.	23.03.2007	02.04.2007			
Ministry of Environment and Physical Planning	15.1 Functional analysis of the Ministry made with DFID	13.03.2007	02.04.2007			
	15.2 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	15.03.2007	22.03.2007			
	15.3 The Ministry's Strategic Plan for 2007	16.03.2007	26.03.2007			
	15.4 How many days in total had the Minister been away on business trips abroad in 2006 and how much was spent for this purpose?	19.03.2007	administrative silence			reply given on 8.05.2007
	15.5 List of Public Information	20.03.2007	05.04.2007			
	15.6 Analysis of the impact of TPP Bitola on the environment	22.03.2007	request for completing/clarifying request		Complaint IS DENIED	
	15.7 Analysis of the impact of the OKTA refinery on the environment	23.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply on 21.05.2007 that information has already been published in daily newspapers

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Secretariat for European Affairs	16.1 Draft Implementation rules for IPA regulative	13.03.2007	administrative silence			decision to deny access from 23.05.2007
	16.2 Amount of financial means SEA has spent on the campaign "The Sun, Too, is a Star"	15.03.2007	18.04.2007			
	16.3 Which institutions and organization used foreign assistance in 2006, and what are the individual amounts?	not submitted				
	16.4 How many days in total had the President of the Government been away on business trips abroad in 2006 and how much was spent for this purpose?	21.03.2007	26.04.2007			reply received on 14.05.2007
	16.5 List of Public Information	20.03.2007	administrative silence			
	16.6 How much did SEA spend on supplying computers for its operations in 2006?	21.03.2007	16.04.2007			
	16.7 Number of individuals contracted by the Ministry through temporary employment agencies in 2007.	not submitted				
17.1 What is the number of files passed on the Macedonian State Archive after the Law on Acting on Person Files Kept by the State Security Service ceased to apply? (Official Gazette of RM No. 52/2000)	13.03.2007	23.04.2007	Notification		reply received on 18.06.2007	

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
State Archives of RM	17.2 How many experts and scientists took part in the operation of the Commission that assessed the historical, scientific and cultural value of the files? (Articles 16 and 17 of the Law on Acting on Person Files Kept by the State Security Service, Official Gazette of RM No. 52/2000.)	15.03.2007	administrative silence			reply received on 20.04.2007
	17.3 Records of inspectional supervision conducted between January and June 2006	15.03.2007	administrative silence			20.04.2007
	17.4 For the duration of 2005, to whom and how often has the Archive given permission for destroying documented material whose deadline has expired?	19.03.2007	27.04.2007			
	17.5 How many and which scientific/informative and other publications for the promotion of protecting, keeping and using of the archive contents did the Archive publish from 2000 to 2006?	20.03.2007	28.04.2007			
	17.6 A photocopy of the General Act of the Archive that regulates the jurisdiction and make-up of the expert=scientific council	not submitted				
	17.7 How many experts and scientists that are not employed by the Archive make up the expert-scientific council?	23.03.2007	27.04.2007			
	18.1 Annual report for 2005 of the State Commission for Preventing Corruption	not submitted				
18.2 Annual Report for 2005 of the State Auditor of RM	not submitted					

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
The Assembly of RM	18.3 List of MPs in the Assembly that have declared their ethnicity	16.03.2007	administrative silence		The complaint is ACCEPTED and the case is returned for reevaluation	reply received on 31.05.2007
	18.4 The finances spent on by Assembly of RM for paying the MPs (current formation) on the basis of participation in the commissions	not submitted				
	18.5 Records of the Assembly's session for the adoption of the Ombudsmans's annual report for 2005	not submitted				
	18.6 Annual Report of the Ombudsman in 2005	22.03.2007	19.04.2007			
	18.7 Annual report for 2005 of the Directorate for Personal Information	23.04.2007	26.04.2007			
State Statistical Office	19. Annual Report of the State Audit Office of RM	15.03.2007	04.05.2007			
	19.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	not submitted				
	19.2 Amount of compensation for the census workers in the 2002 Census	16.03.2007	19.03.2007			
	19.3 List of census workers for the 2002 Census	22.03.2007	02.04.2007			
State Office for Geodesy Affairs	20.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	20.03.2007	29.03.2004			
	20.2 Number of changes made to the data in the cadastre for the land - real estate for the duration of 2006 on part of the Sector for Registry and Cadastre Ohrid	16.03.2007	03.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	20.3 How many percent of the land in RM is in the data of the cadastre for land - real estate of RM?	20.03.2007	administrative silence			reply received on 18.05.2007
Medications Office	21.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	12.03.2007	15.03.2007			reply received on 21.07.2007
	21.2 List of medications that are on the positive list	not submitted				
	21.3 Report on the work of the Medications Office in 2005	23.03.2007	23.03.2007 request for clarification			
Food Directorate	22.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	15.03.2007	administrative silence	Notification		reply received on 15.06.2007
	22.2 Number of employees and their expertise	20.03.2007	05.04.2007			
	22.3 Copy of the sublegal acts that regulate the work of the Food Directorate	22.03.2007	04.04.2007			
Republic Institute for Health Protection	23.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	13.03.2007	administrative silence			reply received on 4.05.2007
	23.2 The Institute's Operations Plan for 2007	not submitted				
	23.3 A copy of the sublegal acts put into force by the Director of RIHP	14.03.2007	20.03.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Agency for Electronic Communications	24.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	15.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	
	24.2 The decision for the compensation the members of the Agency would receive for their work	20.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	
	24.3 List of expert members	23.03.2007	administrative silence	Notification	On 25.07.2007, The complaint is ACCEPTED and the holder is OBLIGATED to supply the information	LAWSUIT on 12.07.2007
Agency for Youth and Sports	25.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	12.03.2007	administrative silence	Notification		reply supplied in July 2007
	25.2 How much will the employment of the football player Slavkovski cost, including his transportation expenses	15.03.2007	administrative silence			
	25.3 The contract signed between the Agency for Youth and Sports and the company for the renovation of the 35 sport venues, announced in 2007	20.03.2007	04.04.2007			reply through a notificatgion that it is not ready was received on 03.04.2007
Agency of Emigration	26.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	22.03.2007	02.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	26.2 The Agency's Operations Plan for 2007	not submitted				
	26.3 How many days in total had the person in charge of the agency spent away on business trips abroad, and how much was spent for this purpose from the Agency's budget?	23.03.2007	27.03.2007			
Employment Service Agency	27.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	16.03.2007	administrative silence			reply received on 23.05.2007
	27.2 Number of unemployed graduates with a degree from a) the Faculty of Electrical Engineering and Information Technologies and b) Faculty of Law - Skopje	20.03.2007	11.04.2007			
	27.3 Number of organized trainings for requalification in 2006 and number of participants	26.03.2007	02.04.2007			
Commission for Religious Affairs	28.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	not submitted				
	28.2 Decision for the compensation the members of the Commission will receive	14.03.2007	14.04.2007			
	28.3 List of the commission's members, their qualifications and religious affiliation	22.03.2007	administrative silence			reply received on 28.05.2007
Agency for Development and Investments	29.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	15.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the information	



INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	29.2 The Agency's annual plan for 2007	20.03.2007	administrative silence	Notification	Complaint IS DENIED on 11.06.2007	
	29.3 Number of employees and their qualifications	27.03.2007	administrative silence			reply received on 23.05.2007
Energy Regulatory Commission	30.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	12.03.2007	administrative silence	Notification	Complaint is ACCEPTED and the case is returned for reevaluation	reply received on 12.07.2007
	30.2 The Government's decision for the division of ESM into ELEM, MEPSO and EVN	21.03.2007	30.03.2007			
	30.3 Methodology (manner, procedure) for determining fuel prices	23.03.2007	04.04.2007			
Center for Crisis Management	31.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	22.03.2007	administrative silence	Notification	On 05.07.2007, the complaint is ACCEPTED and the holder is OBLIGATED to supply the information	LAWSUIT 04.07.2007, reply given on 20.07.2007
	31.2 Report on the operation of the Center for Crisis Management for 2005	20.03.2007	11.04.2007			
	31.3 Number of employees and their qualifications	23.03.2007	11.04.2007			
State Commission for Preventing Corruption	32.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	12.03.2007	19.03.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	32.2 Minutes of the Commission's first session with the members of the new structure	16.03.2007	26.03.2007			
	32.3 Decision for the compensation the members of the Commission will receive	22.03.2007	26.03.2007			
Directorate for Personal Data Protection	33.1 Number of complaints submitted by the citizens of RM in 2006	13.03.2007	26.03.2007			
	33.2 Number of appealed citizens' complaints in 2006	20.03.2007	23.03.2007			
	33.3 How many days in total had the director of the Directorate spent away on business trips abroad, and how much was spent for this purpose?	19.03.2007	23.03.2007			
Directorate for the Protection of Classified Information	34.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	12.03.2007	15.03.2007			
	34.2 How many days in total had the director of the Agency spent away on business trips abroad, and how much was spent for this purpose?	29.03.2007	16.04.2007			
	34.3 How much was spent in total on telephone conversations in 2006?	22.03.2007	27.03.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Institute for Urban Planning of RM	36.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	15.03.2007	administrative silence	Notification	Complaint is ACCEPTED and the case is returned for reevaluation	
	36.2 Detailed urban plan for the Municipality of Centar	02.04.2007	administrative silence	Notification	memo from second-level body	LAWSUIT
	36.3 General urban plan for the City of Skopje	22.03.2007	administrative silence	Notification	memo from second-level body	
State Audit Office	37.1 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	14.03.2007	05.04.2007			
	37.2 Analysis of the status and standing of the auditor in other European countries	20.03.2007	17.04.2007			
	37.3 Based on the audit reports put together by the State Audit Office for 2005, what is the total sum of illegally (irregularly, undesignated) spent finances on part of the institutions?	22.03.2007	10.04.2007			
Public Revenue Office	38.1 How many tax returns were submitted by the citizens in 2005?	16.03.2007	10.04.2007			
	38.2 How much had PRO spent on computer supplies in 2006?	21.03.2007	16.04.2007			redireted to the Regional Directive at the Ministry of Finance (PRO)
	38.3 How many motions were filed against corruption and organized crime in 2007?	19.04.2007	administrative silence		administrative silence	

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Commodity Reserve Bureau	39.1 List of commodities considered as necessary commodity reserves	13.03.2007	17.03.2007			
	39.2 How many oil derivatives had RM bought in 2006 for commodity reserves?	19.03.2007	23.03.2007			
	39.3 What company was chosen on the tender for purchasing oil derivatives in 2005?	20.03.2007	26.03.2007			
Central Register of RM	40.1 List of Agencies (by name) that list consulting services as their main function	12.03.2007	administrative silence		Complaint IS DENIED	LAWSUIT
	40.2 The act that regulates the manner of protecting personal information contained in the register	16.03.2007	administrative silence	Notification	Complaint IS DENIED	LAWSUIT
	40.3 Number of registered associations of citizens by February 28th, 2007	02.04.2007	04.05.2007			reply received on 06.06.2007 the the information is not commercial
PE City Parking	41.1 Decision for the compensation the members of the Board of Directors will receive	not submitted				
	41.2 Decision for the compensation the members of the Supervision Board will receive	16.03.2007	03.04.2007			
	41.3 How much has the public enterprise charged from the parking lots in 2006?	02.04.2007	16.04.2007			
PE for the Management of Residential and Office Facilities	42.1 Decision for the compensation the members of the Board of Directors and the Supervision Board will receive	13.03.2007	13.04.2007			reply received that the information is not public.

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	42.2 Number of apartments being built, where the public enterprise is the investor	16.03.2007	15.04.2007			
	42.3 Has a decision been made for the privatization of PE for the Management of Residential and Office Facilities, and if yes, a copy of the decision	02.04.2007	14.04.2007			
Macedonian Railways	43.1 Decision for the compensation the members of the Board of Directors will receive	14.03.2007	administrative silence	Notification	The complaint is ACCEPTED and the case is returned for reevaluation	
	43.2 Decision for the compensation the members of the Supervision Board will receive	19.03.2007	administrative silence			
	43.3 Macedonian Railways' total debt by December 31st, 2006	not submitted				
Macedonian Forests	44.1 Decision for the compensation the members of the Board of Directors will receive	14.03.2007	administrative silence			
	44.2 Decision for the compensation the members of the Supervision Board will receive	19.03.2007	administrative silence			reply received in July 2007
	44.3 Annual report for the operations of Macedonian Forests in 2006	23.03.2007	administrative silence			
PE for the Management and Protection of the Multi-functional Area JASEN	45.1 Decision for the compensation the members of the current Board of Directors will receive	12.03.2007	16.04.2007, refusal	Notification	administrative silence	LAWSUIT, withdrawn following received reply on 20.07.2007
	45.2 Decision for the compensation the members of the current Supervision Board will receive	16.03.2007	administrative silence	Notification		reply given in July 2007

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	45.3 Minutes from the BoD session in which the current president of the Board was elected	22.03.2007	administrative silence	Notification		reply given in July 2007
Notary Chamber	46.1 List of public information	14.03.2007	administrative silence			
	46.2 List of Notaries in RM	19.03.2007	19.03.2007			
	46.3 The Statute of the Association of Notaries in RM	22.03.2007	28.03.2007			
Chamber of Medical Doctors	47.1 Decision on the conditions and criteria for receiving a medical license.	13.03.2007	administrative silence			reply received on 8.05.2007
	47.2 Decision for the compensation the members of the association and the President will receive for participating in the BoD sessions.	not submitted				
	47.3 Number of issued medical practice licenses in 2006	16.04.2007	24.04.2007			
Chamber of Mediators	48.1 List of public information	20.03.2007, returned from Post Office				address listed in the Holders List is incorrect
	48.2 List of licensed mediators in RM.	not submitted				address listed in the Holders List is incorrect
	48.3 Who are the members of the Association's Board of Directors, as well as the decision for the compensation that they receive for their participation in the BoD meetings	not submitted				address listed in the Holders List is incorrect
State Attorney	49.1 How many cases has the State Attorney dropped in the state's name from 2000 to 2006?	12.03.2007	12.04.2007			
	49.2 What is the State Attorney's salary?	16.03.2007	10.04.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	49.3 List of public information and annual report on the enforcement of the Law on Free Access to Public Information for 2006	14.03.2007	11.04.2007			
Public Prosecution of RM	50.1 Number of criminal motions filed against authorized public officers in 2006	14.03.2007	administrative silence			reply received on 05.06.2007
	50.2 Number of motions filed against authorized public officers in 2006	not submitted				
	50.3 Number of criminal charges filed that involve death or serious injuries caused by state officials and number of conducted investigations that did not result in criminal charges. (i.e. the Public Prosecutor withdrew from further prosecution)	22.03.2007	administrative silence			reply received on 25.07.2007
Judicial Council of RM	51.1 Analysis made by the Judicial Council of RM on the need for changes and amendments to the Law on Courts (Official Gazette of RM)	13.03.2007	administrative silence		The Complaint IS DENIED as unfounded	LAWSUIT
	51.2 Minutes from the constitutive session of the current line-up of the Judicial Council of RM	20.03.2007	27.03.2007, decision to deny; holder believes that it is not obligated to allow the applicant a viewing of this particular information	Notification	The complaint is ACCEPTED, the Decision is annulled and the holder is OBLIGATED to supply the information	
	51.3 How many judges had the Judicial Council of RM (at the time, RJC) dismissed in 2005?	not submitted				

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Constitutional Court of RM	52.1 How many complaints in total were filed for the evaluation of the constitutionality and legitimacy of the laws in 2006?	12.03.2007	29.03.2007			
	52.2 Copy of the Rules of Procedure of the Constitutional Court of Republic of Macedonia	21.03.2007	30.03.2007			
	52.3 How many general sessions has the Constitutional Court held in 2006?	23.03.2007	03.04.2007			
Supreme Court of RM	53.1 Number of instigated and resolved administrative disputes in 2006.	14.03.2007	12.04.2007			
	53.2 Number of instigated and resolved extraordinary legal remedies in 2005	22.03.2007	18.04.2007			
	53.3 How many general sessions has the Supreme Court held in 2006?	23.03.2007	administrative silence			
Court of Appeal - Skopje	54.1 Number of appealed criminal rulings in the Court of First Instance in 2006	15.03.2007	24.04.2004			
	54.2 Number of rulings returned for retrial in 2006	19.03.2007	21.04.2007			appealed, but withdrawn following a belated reply
	54.3 Number of confirmed rulings in 2006	22.03.2007	administrative silence			the received reply is from 17.04.2007, but arrived late
Ombudsman	55.1 Ombudsman's annual report for 2005	14.03.2007	16.03.2007			
	55.2 How many complaints were filed by citizens for infringement to their rights in 2006?	16.03.2007	20.03.2007			
	55.3 Financial means spent in 2006 on the operations of the Ombudsman's regional offices.	22.03.2007	27.03.2007			



INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
Ss. Cyril and Methodius University	56.1 Income made from the parking lot at the CMU Head Office?	14.03.2007	administrative silence		The complaint is ACCEPTED and the case is returned for reevaluation	
	56.2 Budget of the Farming Institute designated for SHUM - Struga for 2007, in items under: spawning, staff, overheads, etc.	19.03.2007	administrative silence	Notification	memo from the second-level body	reply received on 22.06.2007
	56.3 What is the total of financial means given to the SAUCM in 2006?	04.04.2007	administrative silence			
South East European University - Tetovo	57.1 Contracts for using the cafeterias at the University campus	12.03.2007	they are not financed by the Budget of RM, and are not information holders under this law			they are not financed by the Budget of RM, and are not information holders under this law
	57.2 What is the University's Budget for 2007 (budget from RM, tuition, donations)?	21.03.2007	they are not financed by the Budget of RM, and are not information holders under this law			they are not financed by the Budget of RM, and are not information holders under this law
	57.3 How much money has the University given the student organization in 2006?	21.03.2007	they are not financed by the Budget of RM, and are not information holders under this law			they are not financed by the Budget of RM, and are not information holders under this law

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
SDUM	58.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	14.03.2007	27.03.2007			
	58.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	19.03.2007	21.04.2007			
IMRO-DPMNU	59.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	13.03.2007	silence			
	59.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	23.03.2007	silence			
IMRO-PP	60.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	29.03.2007	silence			
	60.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	23.03.2007	silence			
NSDP	61.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	not submitted, returned from Ul. Dame Gruev No.5				

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
	61.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	not submitted, returned from Ul. Dame Gruev No.5				
DPA	62.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	16.03.2007	silence		The complaint is ACCEPTED and the case is returned for reevaluation	
	62.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	not submitted				
DUI	63.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	23.03.2007	silence			
	63.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	23.03.2007	silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	LAWSUIT due to the fact that the second level body has not acted within the legal time frame
PDP	64.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	not submitted				
	64.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	22.03.2007	11.06.2007			

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
DDM	65.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	15.03.2007	silence			reply given on 23.07.2007
	65.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	22.03.2007	silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	
LDP	66.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	12.03.2007	28.03.2007			
	66.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	19.03.2007	28.03.2007			
LPM	67.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	12.03.2007	silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply given on 27.07.2007
	67.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	21.03.2007	silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	reply given on 27.07.2007

INFORMATION HOLDER	QUESTION/REQUEST	SUBMISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
PEI	68.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	not submitted				
	68.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	not submitted				
Democratic Union	69.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	15.03.2007	29.03.2007			
	69.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	23.03.2007	silence			
Roma Union	70.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	13.03.2007	26.03.2007		The complaint is ACCEPTED and the case is returned for reevaluation	reply received on 6.06.2007
	70.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	21.03.2007	23.03.2007	Notification	The complaint is ACCEPTED and the case is returned for reevaluation	reply received on 6.06.2007

INFORMATION HOLDER	QUESTION/REQUEST	SUB-MISSION DATE	DATE REPLY WAS RECEIVED	APPEALED REQUEST	COMMISSION'S REPLY FOLLOWING COMPLAINT	COMMENTS
United Emman-cipation Party	71.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	15.03.2007	21.03.2007			
	71.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	22.03.2007	silence			
Democ-ratic party of the Turks in Mace-donia	72.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	14.03.2007	silence	Notification	The complaint is ACCEPTED and the holder is OBLIGATED to supply the requested information	
	72.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	22.03.2007	silence		The complaint is ACCEPTED and the case is returned for reevaluation	
Democ-ratic Party of the Serbs in Mace-donia	73.1 The Donation Registry for 2006 (Article 17 of the Law on Financing Political Parties)	15.03.2007	01.04.2007			
	73.2 Full survey of the political party's financial operations (financial-material operation) for the period of January-December 2006 (Article 4, and related to Article 2 of the Law on Financing Political Parties)	24.04.2007	silence			

# Appendix 3: Request Form

(Form PP \_\_\_\_)

To \_\_\_\_\_  
(information holder)

## REQUEST for access to public information

Based on Article 4 and Article 12 of the Law on Free Access to Public Information (“Official Gazette of the Republic of Macedonia” No. 13/ 1.2.2006), I request the following public information from the holder:

\_\_\_\_\_

(description of the requested information)

Form in which the information is requested:

- a) insight
  - б) hand-made copy
  - в) photocopy
  - г) electronic data
  - д) other \_\_\_\_\_
- (circle the requested form)

Manner of supplying information:

- a) mail
  - б) telephone
  - в) fax
  - г) e-mail
  - д) other \_\_\_\_\_
- (the requested form should be circled)

Information Applicant: \_\_\_\_\_

(title, first and last name, address, telephone, fax, e-mail)

Power of appointment/attorney of the information applicant:

\_\_\_\_\_

(title, first and last name, address, telephone, fax, e-mail)

(Legal advise: The applicant is not obligated to state and elaborate on the reasons for the request, but does need to state that he/she is requesting free access to public information)

In \_\_\_\_\_

200\_\_, Skopje

## Appendix 4: Reviews

### REVIEW of

### The Report on the implementation of the Law on Free Access to Public Information

Neda Korunovska and Dance Danilovska are the authors of the Report subject of this Review, which is part of a larger project “Free Access to Information” by FOSIM.

As a professor who has spent a substantial amount of time researching topics in the field of human rights and their protection, the Law on Free Access to Public Information seriously provoked my interest, and, invited by FOSIM, I was included in multiple phases of the realization of said project.

Almost all my observations on the conditions in the field of free informing in our country, a large part of the objections to those conditions, as well as opinions on further steps and measures that need to be taken, have been, to my great pleasure, included in the Report on the Implementation of the Law on Free Access to Public Information.

Part of the Report’s contents are analyses of conducted “experiments” before numerous state bodies and institutions on the application of the Law on Free Access to Public Information, part of them are opinions adopted from the Commentary on the Law I co-authored with A. Pavlovska-Daneva, PhD, which was prepared in the framework of FOSIM’s abovementioned project, but most importantly, a good part of the Report’s contents is made up of recommendations and the opinions of its authors, who have gone into serious study and interpretations of the legal provisions, as well as their practical application in the Macedonian reality. The Report contains a sort of critical note on the breach of the constitutional right of free access to public information on part of the most significant bodies of the state, as well as the insufficient preparedness of all jurisdictional institutions to allow the citizens to exercise this right. At the same time, it contains recommendations for legal changes, recommendations for a more adequate application of the existing regulations and recommendations for training all involved sides that are responsible for enforcing the Law. These recommendations, for the most part of an expert nature, are backed up with argumentation and are acceptable and easily accessible to the wider public. Apart from that, part of them have an exceptional utilizing value for all information holders who have the will and aspiration to participate in the realization of the provisions under the Law on Free Access to Public Information.

It is because of all this that it is my great pleasure to recommend this Report for publication, and I hope that it will be distributed to all participants in the process of free access to public information, which would



touch their awareness of the anomalies in the existing legal regulation, the possibilities of its change and its proper implementation.

Skopje,  
16.11.2007

Borche Davitkovski, PhD

## REVIEW of The Report on the implementation of the Law on Free Access to Public Information

As part of the project “Free Access to Information”, carried out under the sponsorship of the Foundation Open Society Institute – Macedonia, a year-long monitoring was conducted over the implementation of the Law on Free Access to Public Information. The monitoring included multiple organizations, bodies of the state, domestic and foreign experts from the field, state officials, media, and other institutions and physical persons

The most active participation and engagement in the execution of the projects was done on part of Neda Korunovska and Dance Danilovska, in the role of managers of the organizational and technical preparation of the project. Their role and input in this several-year-long venture (2004-2007) are especially significant in their work as authors of the Report on the Implementation of the Law on Free Access to Public Information.

The Report covers the results of a year-long monitoring of the implementation of certain provisions of the Law on Free Access to Public Information. In addition, the Report singles out those legal provisions whose application is made impossible or hindered by the current political situation in the country, as well as those provisions that are incompatible with the existing legal system in the Republic of Macedonia, but that are nevertheless included in the Law on Free Access to Public Information.

The value and quality of the reviewed Report are in the following:

- following every part of the analysis of the legal norms, backed up with examples of their practical non-enforcement or false application on part of certain “public bodies” (a term that is used in the Report instead of “information holders”), the authors give specific recommendations for further steps and measures that need to be taken in order to improve the conditions;

- the given recommendations are mostly complemented with recommendations for changes and additions to the text of the Law on Free Access to Public Information;
- the Report includes specific recommendations for better organization of the work done by certain subjects included in the Law;
- as well as legal interpretations of certain legal provisions in whose creation the legislator left certain things unsaid, said them imprecisely, or contradicted herself.

The courage of the rhetoric on part of the authors should also be emphasized, especially in those parts where they voice criticism against the work done by certain bodies of the state: the Government of the Republic of Macedonia, The Judicial Counsel, the Commission for the Protection of the Right to Free Access to Public Information, and others. As part of this, there are no textbook phrases by famous thinkers in their fierce criticism, but rather their own views, opinions and very specific and precise recommendations, backed up with expert and solid argumentation.

From the content of the Report, which completely paints the actual situation and the level of awareness for the existence and importance of the right to free access to information in Macedonia, one cannot get an optimistic sense of the conditions in this sphere, both in terms of institutional capacities and preparedness in the state. However, it seems that the same applies to the citizens and their awareness and understanding of this field of law.

I recommend that the text of the Report be published, so that it can be accessible to all information holders responsible for the implementation of the Law on Free Access to Public Information, to the expert public, as well as to all citizens of the Republic of Macedonia. I share the conviction that the publication will manage to stir up serious debates in the expert and wider public, which would, among other things, contribute to raising awareness of the importance and manner of realizing the right to information, the realization and the enforcement of numerous trainings in this field, and through that result in an efficient implementation of a new legal text in said field.

Skopje,  
16.11.2007

Ana Pavlovska-Daneva, PhD







