



**AGENCY FOR THE PROTECTION OF THE RIGHT OF FREE ACCESS TO PUBLIC
INFORMATION**

**REPORT ON THE VERIFICATION OF THE PUBLISHED
DOCUMENTS AND INFORMATION THAT THE
HOLDERS OF THE JUDICIAL AUTHORITY IN THE
REPUBLIC OF NORTH MACEDONIA ARE OBLIGED TO
PUBLISH ON THEIR WEBSITES**



Skopje, July 2022

INTRODUCTION:

Public information is available to citizens in two ways - by proactivity of the institutions themselves and by reactive means - that is, by submitting a request for information from certain public institutions. Proactive transparency implies the timely publication of public information by institutions that do so on their own initiative before they are requested orally, in writing or electronically, through clear and transparent websites that contain all relevant information for the citizens. Such proactive publication of information contributes to the strengthening of law and enables the public to become familiar with the regulations, decisions and other actions that are of interest and affect them.

All obligations of the institutions to make their work transparent also apply to the institutions of judicial power. Courts must protect the freedoms and rights of citizens, the rights and interests of legal entities established by law and ensure constitutionality and legality. For that reason, it is important that citizens are promptly informed about all information of importance to the public, and courts are obliged to provide citizens with access to that information.

The general objective of the monitoring was to see the level of proactive transparency of the judiciary. In this report, we present the findings of the monitoring that examined the extent to which the basic, appellate courts, as well as the Higher Administrative Court, the Administrative Court, the Supreme Court and the Judicial Council of the Republic of North Macedonia, publish information relevant to citizens, about the annual reports on their work, whether they provide accurate, precise and complete data to information seekers, whether there is a designated official in the courts to mediate with public information, as well as numerous other issues based on which the application of proactive transparency standards is evaluated.

WHAT IS PROACTIVE TRANSPARENCY?

When the holders of public information are open to the public, citizens find out what and how the state government bodies and other establishments and institutions work. This enables them to participate equally in public life and continuously control the work of the authorities.

The proactive publication of public information is a legal obligation of all holders of public information, self-initiated and continuously on their websites to publish information about their work and actions, for decision-making, finances and about the services they provide to citizens.

The goal of fulfilling the obligation to proactively publish information is reflected in the opportunity for citizens/information seekers to exercise their constitutionally guaranteed right of access to information, by providing services to information holders in a simple and fast way. At the same time, the holders of information receive the necessary legitimacy, because they demonstrate responsibility in their work, and thus restore the trust of the citizens in the institutions.

With the proactive publication of public information, the legal obligation is clearly established for the holders not only to respond to the submitted requests in relation to the Law on Free Access to public information but also to publish public information on their websites, such as those that are not requested. Proactive publication of public information is an integral part of the right of access to information, ensuring that key information is available promptly. As stated by the European Court of Human Rights, which recognizes it as a fundamental human right, "information is changeable and any delay in its publication, even for a short period of time, may reduce its overall value and interest in it."

A major advantage of proactively releasing public information, especially when it is done immediately, is that it makes it more difficult for information holders to deny the existence of the information or manipulate it. This means that all citizens/seekers of public information are saved time, money and effort. The principle of equality enables the realization of this right, fulfilment of obligations, as well as participation in political, social and economic processes, all with the aim of strengthening trust in institutions. The low proactivity of publishing information makes it impossible for the public to monitor and control the work of information holders.

RESULTS OF THE MONITORING:

The Agency for the Protection of the Right to Free Access to Public Information, in accordance with its competencies and following the signed Memorandum of Cooperation with the Judicial Council for increasing the active transparency of the courts in the direction of consistent implementation of the provisions of the Law on FAPI and the realization of the rights of citizens for free access to information, conduct monitoring of the websites of the basic, appeals courts, the Administrative Court, the Higher Administrative Court, the Supreme Court and the Judicial Council in connection with compliance with Article 10 of the Law.

The Agency carried out monitoring of 35 holders, that is, on the websites of the courts, and published on the List of holders of information on the Agency's website. The monitoring was carried out in the period from May 30 to July 1, 2022. The Department of Cooperation and Analysis was in charge of monitoring websites for the full publication of documents and information that the holders of information are obliged to publish according to Article 10 of the Law.

We should mention that the Monitoring does not analyze the contents, that is, the quality of the published information.

The monitoring was carried out according to the new methodology implemented in cooperation with external experts, hired by the IPA II Project "Transparency and Accountability of Public Administration", whose beneficiary is the Agency. The prepared questionnaire contains a total of 30 questions that derive from Article 10 of the Law, and are following their competencies. Some of them contain one or more sub-questions, and the maximum number of possible points is 50. Holders of the published data receive 0, 0.5 and 1 points, depending on the number and update of the published documents. The questionnaire was distributed to the holders, who were asked to carry out a self-evaluation of their transparency.

The Judicial Council sent the questionnaires to the holders of information and within the deadline provided for the submission of the answers, all 35 holders answered the questionnaires, and they contained links to the specific documents as requested for the needs of monitoring the web pages.

Proactively published information of the holders should be easily accessible and understandable, usable, relevant to citizens and regularly updated. Information is a prerequisite for responsible government and a basis for democratic processes - information about the work of the holders enables citizens to adequately draw conclusions and participate in decision-making on issues that are of interest. Transparency and access to public information are inseparable instruments in the fight against corruption.

The web pages of the holders monitored by the judicial authority are unified, that is, they are all identical in terms of their content and the information that is published. They are updated according to their activities and have their function as the first informant for the citizens and the services they provide. However, we should emphasize that most of the web pages of the holders do not publish the data from their legal competencies (Law on Courts and its amendments and additions) and do not systematize the information following Article 10 of the Law on FAPI. We also want to emphasize that unsystematized information creates confusion among citizens, that is, information is more difficult to access. This means that web pages should be easily accessible, and thus the information needed by the requestors is in accordance with the legal obligation for transparency of the holders of public information. Therefore, we appeal to the judicial authorities to make the information available for use by citizens with a maximum of three clicks. "Informed citizens, satisfied citizens", is the maxim for a transparent judiciary.

Depending on the total number of points that the monitored holders received in relation to the published necessary documents and information in accordance with Article 10 of the Law, a gradation was made of the degree of fulfillment of the legal obligation for

their active transparency, as follows: holders with many low levels of transparency who have between 0 and 20 points, with a low level between 20 and 30 points, medium level holders between 30 and 40 points, and with a high level of transparency between 40 and 50 points. In doing so, it was determined that none of the holders have a high degree of transparency in relation to the published information, only **one** holder has a medium level of transparency, while **25** have a low level, and **9** have a very low level of performance in terms of active transparency.

Based on the monitored webpages according to the methodology and the Questionnaire, the following results and indicators for the proactive transparency of the holders were obtained: out of a total of 35 monitored holders, none published a List of information on the home page. 33 holders have published data about their competence, while all monitored subjects have published the basic contact data with the holder of the information. Information about the official or responsible person of the holder of the information: biographies on the web pages have published 22 holders and only two contact details.

From the monitoring, we can conclude that in the link free access to information, all holders have published the basic contact data for the officials who mediate the public information. Only eleven holders have uploaded personal data for authorized protected internal reporting. Some of the monitored holders have published a list of persons employed by the holder of the information with a position, and only four subjects have moved data on the official telephone contacts and e-mail addresses. In the section clarifying the way of submitting the request for access to information (way of submitting oral, written request and electronically), 28 holders clarify how the requesters can get the requested public information. Only nine holders have moved the request form for free access to public information, and most of the monitored institutions still have the form according to the 2006 Law. The annual report on access to public information (2021 and 2020) has been uploaded on their websites by 28 holders, of which 20 for 2021 and 8 for 2020.

The laws that refer to the competence of the holder of information have been changed by only 5 holders, which means that the citizens, that is, the applicants, are prevented from getting to know the basic information about the basis on which the holders work from the judicial authority. In the section in which the holders inform about the Regulations within their jurisdiction in the form of a by-law, which refers to: the rules for internal organization, this document has been published by only 16 holders, the rules for the systematization of jobs on the web pages 17 entities have moved, and the rules for protected internal reporting only two monitored holders. In the section of decrees, orders and instructions, the holders do not publish information. Organograms for internal organizations have been published on the web pages by only 15 holders from the judicial authority.

Strategic plans and work programs have been published by only one holder. Annual plans and work programs have been published by 17 holders, while proposal documents (proposals of programs, programs, views, opinions, studies) on the web pages have 19 holders. On the web pages in the section where the holders publish the work reports that they submit to the supervisory authorities, as well as statistical data that affect the life and health of the citizens, the monitoring showed that this type of information has been moved by 33 subjects.

Information about published acts and measures resulting from the authority and work of the holder, the monitoring showed that all 35 holders publish this type of information on their web pages. Through links and access to them, citizens can access information that is of interest to them. In the section on published services provided by the holders of information and fee schedules for issuing real deeds, the monitoring showed that 6 holders published this information on their websites.

Only three holders have published annual budgets for the last three years, and 25 holders have published information on final accounts for the last two years. Quarterly financial statements for the current year have not been published by any monitored holder, and only one holder has published the audit report.

As for the publication of the annual public procurement plans, nine holders have moved them to a separate link, and 10 entities publish public procurement announcements. Only nine entities have published the notices of the concluded agreement.

The monitoring showed that only one holder has 31.5 points and has a medium level of transparency, one holder has 28 points, while three holders have 27.5 points out of a possible 50 according to the Methodology for Monitoring Holders and Article 10 of the Law on FAPI and they have a low level of transparency.

The agency, conducting the monitoring, determined that the active transparency among the holders is still at a low level. The holders of the judicial authority should improve and strengthen as much as possible their proactivity towards the citizens and the information they publish should be placed in a separate banner/link under the title LIST OF INFORMATION/FREE ACCESS TO INFORMATION, which will make it available to applicants and to thus, they will reduce the number of requests for free access to public information. We should mention that the holders of the judicial authority on their websites have placed a link entitled FREE ACCESS TO INFORMATION, but they should adapt it in accordance with Article 10 of the Law and their competencies and in the same link the necessary information that they have published in separate links on web pages. In that way, information seekers will be able to access information that is of interest to them quickly and simply.

In the future, in the training that the Agency continuously organizes for officials with information holders, it will emphasize active transparency and consistent application of

Article 10 of the Law on FAPI, because in this way holders help citizens to better understand the functioning of institutions, their rights and obligations, how they can influence the making of decisions that are reflected on their daily living and work, as well as to make it easier for them to access the services offered to them by the judicial authority.

CONCLUSIONS AND RECOMMENDATIONS:

The results of the monitoring indicate that the websites of the holders of the judicial authority apply proactive transparency, but at a low level, and hence there is room for further improvement of the practice of actively publishing public information.

Among the 35 monitored web pages, it is most notable that the courts do not have the practice of publishing the information on the home page in a separate banner LIST OF INFORMATION/FREE ACCESS TO INFORMATION, which will make access to it much faster and simpler.

The most notable drawback is that they do not have the practice of publishing the laws they work under and are under their jurisdiction. In the future, they will have to overcome this practice and place them on the side so that citizens will be able to access them.

The courts publish the data of the persons who mediate the public information, but it is necessary to move the Request Form according to the Law of 2019. By publishing the 2006 form, they create confusion among potential information seekers.

In the future, the holders should move, that is, publish the Annual Report that they submit to the Agency on the websites following Article 36 of the Law.

The websites do not provide data on the internal organization, the systematization of jobs, as well as the publication of strategic plans, programs and other documents related to their operations.

The most missing information is related to the financial operations, i.e. the budgets of the courts, as well as the publication of the information from the public procurements that they carry out and are obliged to publish on the websites with a link from the page of the Electronic System for Public Procurements (ESPP) of the Bureau for Public Procurement.

The monitoring showed that holders of judicial power should publish as much information as possible about their work on a proactive basis. This will increase the satisfaction of citizens/information seekers, will affect the reduction of the number of requests for access to public information submitted by the requesters to them, and will also reduce the number of complaints against the courts submitted to The agency.

ANNEX 1:

РЕЗУЛТАТИ ОД МОНИТОРИРАНИТЕ ИМАТЕЛИ:		
Основен суд Кратово	31,5	со средно ниво на транспарентност
Управен суд на Република Северна Македонија	28	
Апелационен суд – Битола	27,5	со ниско ниво на транспарентност
Основен суд Гевгелија	27,5	
Основен суд Неготино	27,5	
Основен суд Кочани	26,5	
Основен суд-Крушево	25,5	
Виш управен суд на Република Северна Македонија	25,5	
Судски совет на Република Северна Македонија	25	
Апелационен суд – Штип	24,5	
Основен суд- Свети Николе	24,5	
Врховен суд на Република Северна Македонија	24,5	
Основен граѓански суд Скопје	24,5	
Основен суд Охрид	23,5	
Апелационен суд- Гостивар	23,5	
Апелационен суд – Скопје	23	
Основен суд Винаца	22,5	
Основен суд Кичево	22,5	
Основен суд Прилеп	22,5	
Основен суд – Крива Паланка	21,5	
Основен суд Дебар	21,5	
Основен суд – Ресен	21,5	
Основен суд Гостивар	21,5	
Основен суд Струмица	20,5	
Основен суд Штип	20,5	
Основен суд Тетово	20,5	
Основен кривичен суд Скопје	18,5	со многу ниско ниво на транспарентност
Основен суд Битола	18,5	
Основен суд Велес	17,5	
Основен суд Делчево	17,5	
Основен суд Кавадарци	17,5	
Основен суд Струга	17,5	
Основен суд Берово	16,5	
Основен суд Куманово	16,5	
Основен суд Радовиш	16,5	

ANNEX 2:

LIST OF INFORMATION CATEGORIES FOR PROACTIVE TRANSPARENCY: JUDICIARY

- **FIRST GROUP: ACCESS TO INFORMATION**

1. DO YOU HAVE THE LIST OF INFORMATION POSTED ON THE HOME PAGE?

YES
NOT
LINK

2. DATA FROM HIS COMPETENCES?

YES
IN PART
NOT
LINK

3. THE PRINCIPAL DATA FOR CONTACT WITH THE HOLDER OF THE INFORMATION:

3.1. NAME,

YES
NOT
LINK

3.2. ADDRESS,

YES
NOT
LINK

3.3. TELEPHONE NUMBER,

YES
NOT
LINK

3.4. FAX NUMBER,

YES
NOT
LINK

3.5. EMAIL ADDRESS

YES
NOT

LINK

3.6. THE WEBSITE ADDRESS

YES
NOT
LINK

4. DETAILS OF THE OFFICER OR PERSON RESPONSIBLE FOR THE HOLDER OF THE INFORMATION

4.1 BIOGRAPHY

YES
NOT
LINK

4.2. CONTACT INFORMATION

YES
NOT
LINK

5. THE PRINCIPAL CONTACT DETAILS OF THE OFFICIAL PERSON ARE:

5.1. FIRST AND SURNAME,

YES
NOT
LINK

5.2 EMAIL ADDRESS

YES
NOT
LINK

5.3. PHONE NUMBER

YES
NOT
LINK

6. BASIC DATA FOR CONTACT WITH AUTHORIZED PERSON FOR PROTECTED INTERNAL REPORTING ALSO:

6.1 FIRST AND SURNAME,

YES
NOT
LINK

6.2. EMAIL ADDRESS

YES

NOT

LINK

6.3. TELEPHONE NUMBER

YES

NOT

LINK

7. LIST OF PERSONS EMPLOYED BY THE INFORMATION HOLDER WITH POSITION:

7.1. OFFICIAL EMAIL

YES

NOT

LINK

7.2. OFFICIAL TELEPHONE

YES

NOT

LINK

8. CLARIFICATION OF THE WAY OF SUBMITTING THE REQUEST FOR ACCESS TO INFORMATION (WAY OF SUBMITTING ORAL, WRITTEN REQUEST AND ELECTRONIC WAY)?

YES

NOT

LINK

9. POSTED FORM FOR REQUEST FOR FREE ACCESS TO PUBLIC INFORMATION

YES

NOT

LINK

10. WHEN HAVE YOU STARTED POSTING THE ANNUAL REPORT ON ACCESS TO PUBLIC INFORMATION?

2021 year.

2020 year.

● **SECOND GROUP: ORGANIZATIONAL STABILITY**

11. THE LAWS GOVERNING THE JURISDICTION OF THE INFORMATION HOLDER

YES
NOT
LINK

12. THE REGULATIONS WHICH ARE ENACTED BY THE HOLDER OF THE INFORMATION IN THE FORM OF BY-LAWS WITHIN THEIR JURISDICTION:

12.1 RULES FOR INTERNAL ORGANIZATION

YES
NOT
LINK

12.2 RULES FOR SYSTEMATIZATION OF WORKPLACES

YES
NOT
LINK

12.3. PROTECTED INTERNAL REPORTING RULE

YES
NOT
LINK

12.4 REGULATIONS

YES
NOT
LINK

12.5. ORDERS

YES
NOT
LINK

12.6 INSTRUCTIONS

YES
NOT
LINK

13. ORGANIZATION CHART FOR INTERNAL ORGANIZATION

YES
NOT
LINK

● **THIRD GROUP: OPERATIONAL**

14. STRATEGIC PLANS FOR WORK OF INFORMATION HOLDERS

YES
NOT
LINK

15. STRATEGIES FOR THE WORK OF INFORMATION HOLDERS

YES
NOT
LINK

16. ANNUAL PLANS AND WORK PROGRAMS

YES
NOT
LINK

17. ARE PROPOSED DOCUMENTS (PROPOSAL OF PROGRAMS, PROGRAMS, ATTITUDES, OPINIONS, STUDIES) POSTED ON THE WEBSITE?

YES
NOT
LINK

18. ARE THE WORK REPORTS YOU SUBMIT TO SUPERVISORY AUTHORITIES PUBLISHED?

YES
NOT
LINK

19. DO YOU PUBLISH STATISTICAL DATA THAT INFLUENCE THE LIFE AND HEALTH OF CITIZENS

YES
NOT
LINK

20. PUBLISHED ACTS AND MEASURES ARISING FROM THE COMPETENCE AND WORK OF THE INFORMATION HOLDER

YES
NOT
LINK

21. INDICATE LINKS WHERE YOU PUBLISH THE SPECIFIC INFORMATION (VERDICTS) ABOUT YOUR INSTITUTION

YES
NOT

LINK

22. ARE THE TYPES OF SERVICES PROVIDED BY THE HOLDERS OF THE INFORMATION DISCLOSED?

YES
NOT
LINK

23. TARIFFS FOR FEES FOR ISSUANCE OF REAL DEEDS

YES
NOT
LINK

• **FOURTH GROUP: BUDGET, FINANCIAL OPERATION AND PUBLIC PROCUREMENT**

24. ANNUAL BUDGET FOR THE LAST THREE YEARS

2022 yes/no
2021 yes/no
2020 yes/no
LINK FOR EACH YEAR

25. FINAL ACCOUNT FOR THE LAST THREE YEARS

2021 yes/no
2020 yes/no
2019 yes/no
LINK FOR EACH YEAR

26. QUARTERLY FINANCIAL REPORTS FOR THE CURRENT YEAR

YES
NOT
LINK

27. HAS YOUR INSTITUTION BEEN AUDITED?

YES
NOT

27.1. HAS THE AUDITOR'S REPORT BEEN PUBLISHED?

YES
NOT
LINK

28. HAS THE ANNUAL PUBLIC PROCUREMENT PLAN BEEN PUBLISHED?

YES
NOT
LINK

29. ARE PUBLIC PROCUREMENT ADS PUBLISHED?

YES
NOT
LINK

30. IS THE NOTICE OF CONTRACT IS PUBLISHED?

YES
NOT
LINK