

**Promoting transparency and
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Project "Promoting Transparency and Accountability in Public Administration"

Analysis of the application of the Law on Free Access to Public Information with recommendations for improving the system for free access to information

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IPA 2 Project "Promoting Transparency and Accountability in Public Administration"

1. Introduction

The purpose of this public policy documentⁱ is to review the situations related to the implementation of the Law on Free Access to Public Information so farⁱⁱ in the Republic of North Macedonia (hereinafter: the Law) from the beginning of the application of the Law, from 30.11.2019. until the end of the third quarter of 2022. During the analysis of the data, the limitation of the application of the Law in the first year of implementation was taken into account, because it is a worldwide pandemic year caused by Covid-19 in which in the country for a certain period, from March to June 2020, the works were carried out in a state of emergency. The document provides recommendations for advancing the exercise of the right to free access to public information, through: (a) introducing mechanisms and activities to advance the implementation of the Law in force and (b) recommendations for further amendments and additions to the Law.

In order to cross-reference the findings from the implementation of the Law identified by the Agency for the Protection of the Right to Free Access to Public Information and civil society, with the experiences of information holders and applicants, two debates (focus groups) were organized. . One with officials for mediating information, and the other with representatives from associations and foundations, to share their experiences as applicants, to identify problems and challenges in realizing the right to free access to information. The debates (focus groups) were organized within the framework of the IPA2 project "Transparency and Accountability of Public Administration", financed by the EU, and implemented by a consortium led by PwC. Both debates were moderated, thematically focused, by trusted experts of the project, with the aim of identifying the shortcomings and challenges in the implementation of the Law, as well as structuring the proposals for advancing the realization of the right to free access to public information, as one from ways to build open, transparent and accountable institutions and a tool to fight corruption. The public policy document is intended for the professional public and for additional expert discussion, in order to enable the experts in the field to give an opinion on the given conclusions and recommendations for the advancement of the exercise of the right to free access to public information. The document will be used for advocacy before policy makers to enable mechanisms and activities for enhanced implementation of the Law, for which it is necessary to allocate additional financial resources from the state budget, as well as for future amendments and additions to the Law.

The key topics of discussion in the debate with the officials among the information holders were in relation to the experiences of the officials in the application of the Law in relation to: the list of information; obligations for active transparency and internal adjustments among the holders of the information; the procedure for exercising the right to free access (deadline for responding to a submitted request, supplementing the request, forwarding the request, partial access, acting on the request/silence of the administration); the practice of publishing information that is once prepared for a requester after a request for free access has been submitted; the implementation of the rules for reimbursement of the costs of mediating the information, etc. In addition, the officials for free access to information have identified difficulties in implementing the Law in cases where they receive imprecise requests; the procedure in cases where there are no internal (internal) procedures for preparing the response from the departments, that is, the sectors of the holder of the information; and overcoming the problems of lack of staff and time, and continuous education of responsible and official persons. The same topics were the subject of discussion with representatives from associations and foundations who have experience from the previous implementation of the Law as

information requesters.

2. Regulation of the right to free access to public information in international and domestic law

The right of citizens to free access to public information is counted among the basic human rights and is an effective mechanism for the control of state bodies by citizens. The freedom to receive and provide information describes and defines democracy in every country, therefore international organizations advocate for its respect, as well as its translation into domestic legislation. The right to free access to public information is contained in a series of international documents adopted by the United Nationsⁱⁱⁱ, Council of Europe^{iv}, European Union^{vvi}, the African Union^{vii}, the Organization of American States, the World Bank, and in the last 15 years there has been a significant increase in national legislation^{viii}.

This right was defined in 1991. with the Macedonian Constitution^{ix}, in article 16 paragraph 3, which "guarantees free access to information, freedom to receive and transmit information", in the section of basic freedoms and rights of man and citizen. This means that citizens and legal entities have the right to access all information created and available by state authorities. Fifteen years later, in 2006, the Law on Free Access to Public Information was passed. It underwent more significant changes at the beginning of 2010, which improved the legal framework that guarantees the right of access to information and partially aligned with international and European standards. In the Macedonian legal system, everything that is not regulated by the Law on Free Access to Information is regulated by the Law on General Administrative Procedure and other laws^x. However, although several years after its application, the legal framework was evaluated as satisfactory^{xi}, however, contained provisions for which it was stated that "the exceptions to access to public information were vaguely formulated, leaving room for arbitrary interpretation. The sanctions established in the Law were unclear and were not applied in practice. Political parties were not recorded in the list of information holders"^{xii}. Regarding the implementation of the Law, ten years after its adoption, the excessive classification of information that did not fall under the regime of exceptions defined in the Law, was addressed as the main obstacle faced by journalists in the procedures for obtaining the information, by the international community^{xiii}.

Therefore, due to the ascertained limited transparency of the institutions^{xiv} and the incomplete exercising the right of natural and legal persons to access information from the public character in 2018^{xv} year began the process of preparing a new Law on free access to public information^{xvi}. Stakeholder comments related to: increasing the coverage of information holders; defining the term "public interest"; reducing the scope of exceptions from information and their precise definition; increasing the scope of information that is proactively published^{xvii}; shortening of the deadline for providing an answer by the holder of information; as well as an increase in the competences of the secondary authority in terms of conducting misdemeanor proceedings. In May 2019 the Parliament of the Republic of North Macedonia adopted the new Law on Free access to public information^{xviii}.

The purpose of the Law on Free Access to Public Information is to provide publicity and openness in the operations of the holders of the information, and they are enabled to natural and legal persons to exercise the right of free access to public information. Operationalization of the legal provisions is done through the Guidelines for the manner and procedure for implementing the Law^{xix}. To achieve the purpose of the Law prescribes an obligation for the holders of the information to provide

information to the public, to respond to requests for access to public information (reactive access), but it also contains provisions for proactive publication of information, that is independently disclosure of information, known as active transparency.

Placing an emphasis on active transparency, and taking into account the new trends and digitization processes that are happening in the world, the civil society in the country created and then continuously implemented the Active Transparency Index^{xx} in North Macedonia^{xxi}. In parallel, in the National Action Plan for the Open Government Partnership (2021-2023)^{xxii} which is aimed at commitments to continue activities related to the promotion of transparency, accountability, proactivity, inclusiveness, prevention of corruption and good governance, a commitment to active publication of information by the holders through intensified efforts by the Agency for the Protection of the Right to free access to public information^{xxiii} to improve active transparency among information holders.

In addition, the adopted Public Administration Reform Strategy 2018-2022 had a significant place among the adopted acts to ensure publicity and openness.^{xxiv}, with a special area "Transparency and accountability", where the issue of freedom of information, that is, the right of access to public information, occupies the largest part. A subsequent activity after the start of the application of the Law was the preparation and adoption of the Transparency Strategy of the Government of North Macedonia (2019-2021)^{xxv} the purpose of which was to indirectly or directly achieve greater transparency of the central bodies of the executive power^{xxvi}.

3. Realization of the right to free access to public information in the Republic of North Macedonia

The procedure for exercising the right to free access to public information is essentially an administrative procedure, but the Law on Free Access also establishes certain exceptions to the rules of the general administrative procedure. This procedure for exercising the right to free access to information begins with an initiative to initiate a procedure by the requester of the information, i.e. with the submission of an oral or written request by natural and legal persons, both domestic and foreign. This means that this procedure is not initiated *ex officio*. In contrast to this method, also known as reactive^{xxvii} access to information, which implies the right of citizens to ask the holders of the information, the Law on Free Access to Information regulates the duty of the holders of information to inform the public and publish information arising from the competence and work of the holder of information (as discussed above, known as active transparency). The holders have to fulfill this duty in different ways, and on their website they are obliged to publish information arising from the competence and work of the holder of the information.^{xxviii}. For the operationalization of this provision, the Agency for the Protection of the Right to Free Access has prepared a "Manual for proactive publication of information", "Guidelines for proactive transparency", as well as "Guidelines for proactive publication of public information for officials or managers".^{xxix}.

The procedure for exercising the right is characterized by legally established short deadlines in which the right of access is exercised, that is, a deadline of 5 days for familiarization with the content of the requested information upon oral request; a period of 20, that is, 30 days for a response to the request of the applicant; a period of three days for supplementing an incomplete request for free access; a period of ten days for a response from the holder of the information after receiving a new request; a period of three months during which an applicant cannot request the same or similar information from a holder who has already responded positively to the request; a period of fifteen

days for the right to appeal to the Agency; a period of 15 days for the Agency to decide upon the submitted appeal.

The Law on Free Access to Information also established instruments for simplifying the way of exercising the right, among which are: form; cost sheet for determining the amount of material costs; list of public information; information broker; a list of holders of information and a secondary authority, the Agency for the Protection of the Right to Free Access to Information, was established, which decides on appeals in the procedure if the right to free access is limited.

The form represents a prescribed form of the request for free access to information by the Agency for the Protection of the Right to Free Access to Public Information. What characterizes this special procedure is the exemption from the obligation for the requester to justify the request for the reasons why he is requesting the information.

The second instrument for facilitating and realizing the right of free access is the creation of a list of public information. This list is an obligation for the holders of information to prepare it as a catalog or index of the information they have and it should be published in a way that is easily accessible to the public, through a website, notice board, etc., so that citizens can be informed what kind of information each information holder has.

The operationalization of the principle of service orientation of the administration, established as a basic principle of the Law on the general administrative procedure, is made through Article 8 of the Law on free access to public information, i.e. through the obligation of the holders of information to determine an official person to mediate with information and to inform the public about it. It is the duty of the official to help the appellants submitting requests for access to information. This official should forward the request internally and ensure that the requests are answered in a timely manner.

The list of information holders is a catalog with data on the holders of information and data on officials, which is prepared, regularly updated and published by the Agency for free access to public information.

An instrument for facilitating and realizing the right of free access is the determination of the amount of material costs for which compensation can be requested, and which occurred due to the provision of information. The Law on Free Access stipulates that the Government adopts an act that will determine the compensation for the material costs for the given information, that is, for the received transcript, photocopy or electronic record. This way of equalizing the material costs for all information holders is a limitation of the arbitrariness of the holders who, wanting to hide some information, could determine a high amount that would deter the requester of the information.

Finally, as particularly significant in ensuring an economical (without costs), fast and efficient procedure for realizing the right to free access to information, the Law on Free Access to Information established the Agency for the Protection of the Right to Free Access to Information (hereinafter text: Agency), as a secondary authority, which, among other things, decides on appeals against the decisions by which the holders refused or rejected the request for access to the information. Due to its significant competence to take care of the implementation of the Law, the Agency carries out a series of tasks that are determined by the Law, i.e. undertakes activities on the plan of the education of the holders, promotes the right of free access, develops policies and provides guidelines in relation to exercise of the right, prepares an annual report on its work, conducts misdemeanor proceedings, etc.

From the rule of free access to public information, there are exceptions and limitations for a certain type of information, that is, for information that, if available to the general public, could threaten the interest being protected. Namely, the exceptions refer to 1) classified information with an appropriate degree of classification; 2) personal data, the disclosure of which would mean a violation of the protection of personal data; 3) information, the provision of which would mean a violation of the confidentiality of the tax procedure; 4) information acquired or compiled for investigation, criminal or misdemeanor proceedings, for the implementation of administrative and civil proceedings, the provision of which would have harmful consequences for the course of the proceedings; 5) information that threatens industrial or intellectual property rights. As a result of the international standards and the Macedonian Law, the exceptions are not absolute, i.e. it is determined that in order to refuse access, the holders must carry out a harmfulness test, which will determine whether the consequences on the interest being protected are less than the public interest that would be achieved with the publication of the information. In addition, the Law regulates the possibility to separate protected information from a document without jeopardizing its security, and to enable the requester to familiarize himself with the content of the rest of the document (partial access). For the appropriate application of the harmfulness test, the Agency has published a Manual for the implementation of the harmfulness test^{xxx}.

4. Notes from the implementation of the Law on Free Access to Public Information in the Annual Reports of the Agency for the Protection of the Right to Free Access to Public Information

According to the data from the official Annual Reports of the Agency for Free Access to Public Information, in the period 2020-2021. a total of 16,073 requests were submitted^{xxxii} for free access to institutions, i.e. 7,163 in 2020. and 8,910 in 2021. Compared to 2019 in which 8,752 requests were submitted, as the last year in which a Law that ceased to be valid was applied, there are still no indicators of a significant improvement in the work of the holders in the direction of active transparency, which would affect the reduction of reactive transparency.

Although the activities undertaken by the Agency should be emphasized in the direction of facilitating the submission of requests for free access and increasing the transparency of the institutions. Namely, two platforms have been established, an e-portal for the holders, which is expected to raise the cooperation of the Agency with the holders of information to a higher level, as well as an e-portal for the applicants, on which they will be able to submit a request electronically to the holders or an appeal, if they do not receive an answer to their request within the legally stipulated period^{xxxiii}.

Chart 1. Number of submitted requests for free access to information in 2019. 2020 and 2021.



The trend of submitted appeals has not changed in the last three years, although there is an improvement in the number of submitted appeals due to the silence of the administration in the last 2021. for which the data are analyzed in the Annual Report on the work of the Agency. Namely, in 2021, 44.9% of the submitted appeals are due to the administration's silence, and in 2020. this percentage was 81.25%, i.e. 89.66% in 2019. With the silence of the administration, the institutions do not allow access to the requested information and ignore the right of the citizens.

Graph 2. Number of total submitted appeals in relation to appeals submitted due to the administration's silence



Based on the way the Agency acted in the past three years after the appeals of the holders, it can be concluded that in a large percentage it decided positively and ordered or obliged the holders of information to act on the request. However, if the order to the holders to act on the request is not accompanied by a mechanism that will reliably and promptly provide the information to the holders, it calls into question the realization of this right. Well, in 2020. The Agency made 26 meritorious decisions, and in 2021. 35 meritorious solutions.

The Law establishes competences for the Agency to conduct misdemeanor proceedings and impose misdemeanor sanctions. In 2020 The agency started 10 misdemeanor proceedings, and already in 2021. conducted a total of 344 settlement procedures and dealt with 279 misdemeanor cases.

Table 1. Structure of the decisions made by the second-level authority in 2019, 2020. and 2021.

Structure of the Agency's Decisions	2019	2020	2021
Decisions by which the appeal is respected and the holder is ordered to act on the request	237	229	166
Decisions by which the appeal is respected and obliges the holder to act on the request	107	10	29
Decisions rejecting the appeal as unfounded	18	46	24
Decisions rejecting the appeal as untimely/inadmissible/premature	14	91	61
Decisions upholding the appeal and remanding the case before the first instance authority	23	81	116
Decisions that stop the procedure after an appeal due to withdrawal or due to receipt response in the meantime or with a delay	58	287	437

Regarding the structure of the applicants over the years, it is safe to conclude that civil society organizations in a much greater number (over 76% in 2021) submit requests and appeals for free access to public information, which confirms that citizens still they are insufficiently familiar with the law, that is, they do not practice this law. In terms of familiarity with the right to free access and its use by citizens, the Agency notes from the analysis of the appeals received by it, that "citizens usually appear as information requesters, that is, as complainants, only in situations in which they reached out to the legal provisions for the purpose of realizing some personal interests, which derive from another material law, which regulates a different legal matter"^{xxxiii}. In recent years, no research has been conducted on a representative sample of citizens to determine the reasons why they do not use the Law to exercise their right to free access^{xxxiv}.

However, in order to make a significant difference and improve the system for access to information as a whole, so that the competences will be fully implemented by the Agency, it is necessary to increase the budget for the work of the Agency and strengthen its human capacities. Because exercising the right of access to public information affects the transparency and accountability of the institutions, the higher the level, the lower the chances of corrupt behavior among the holders of the information, and this affects the increase in the integrity of the institutions. In 2021 The agency had a total budget of 16,287,000 denars, of which it showed expenses in the amount of 11,223,164 denars, and in 2020 the budget amounted to 15,363,000 denars, of which it showed expenditures in the amount of 11,434,360 denars, mainly for salaries and allowances, communal services and current maintenance.

5. Identified problems and challenges by officials and civil society in the application of the Law on Free Access to Public Information

In order to cross-reference the findings from the implementation of the Law, which have been identified by the Agency for the Protection of the Right to Free Access to Public Information, with the experiences of information holders and applicants, two debates were organized^{xxxv} (focus groups). One with officials for mediating information, and the other with representatives from associations and foundations, to identify problems and challenges in the implementation of the Law, that is, in

exercising the right to free access to public information. The identified problems and challenges are elaborated individually and conclusions are given about the state of application in practice.

Officials at the holders of information

1. Lack of internal procedures that will speed up internal communication with the holder of the information, as well as lack of training for familiarization with the Law and the obligations arising from it for the majority of the employees of the holder of the information

The Law on Free Access to Public Information mandates certain activities for the holders of information in order to facilitate its application, such as the appointment of an official to mediate the information, publication of a list of information, proactive publication of certain categories of information, determination of a separate room for inspection. Information holders have implemented certain activities to comply with the Law and to enable its more effective implementation.

However, in addition to these established legal duties, for the full application of the Law, officials identify that additional activities are needed, such as, for example, the introduction of an internal procedure for each holder of information to respond to requests and training for the majority of the holder's employees of the information for familiarization with the obligations arising from the Law. They point out that "it takes a week from the archive for the request to reach the official"^{xxxvi}, and then for days they "conduct door-to-door" conversations individually with their colleagues to identify which sector has the requested information.

And from the previous experience of the applicants^{xxxvii} they point out that the holders respond to the request towards the end of the term, ie on the 20th day. And according to another applicant's experience^{xxxviii} they received answers to requests after almost a year of submitted questions, which did not really benefit them. So, they consider this to be another reason for introducing an internal procedure with the holders, which will enable better communication and processing of the request from the officials to the appropriate persons in the institution, then back to the official, so that the applicant can receive the answer to the request sooner within the legal deadline.

Hence, it can be concluded that internal procedures are missing: (a) which will regulate the procedure from the receipt of the request to the submission of the answer with deadlines and responsible persons, as well as (b) will foresee responsible persons who will submit new information that they create or at the disposal of the holder, to the Communications Departments or IT persons so that they are promptly and actively published without being previously requested. Parallel to this, the conclusion is that it is necessary to increase the number of trainings for the majority of employees among the holders of the information.

2. Officials with information holders identify difficulties in implementing the Law due to imprecise requests they receive from applicants

Information holders identify that much of the difficulty arises from imprecise requests by requesters. This deficiency, on the one hand, can be overcome by the legal provision and the possibility for the holder to ask the applicant to supplement the request. On the other hand, this identified problem, considering the service orientation of the holders towards the applicants, can be overcome with a

complex approach, i.e.: (a) create a list of information in the form of a catalog or index with all the information by categories and sectors that they create, i.e. dispose of them, which will help them for applicants to understand what information holders possess; (b) to establish an internal procedure that will quickly help the official to identify which department created or has such type of information with the holder; and (c) to implement educational campaigns to overcome the lack of information of the citizens.

3. The number of held advanced and continuous trainings for the responsible and official persons with the holders of the information is insufficient

The Agency has the legal authority to undertake activities in terms of education of information holders on the right to free access to information. It continuously conducts free trainings, but only in 2021. although they invited 529 officials out of a total of 1445 holders of the information, only 237 expressed interest in the trainings. While, 355 holders of information did not show any interest in attending the trainings^{xxxix}. Officials agree that only with advanced and continuous thematic trainings, which will cover both responsible and official persons with information holders, the difficulties in implementing the Law will be overcome, so the conclusion is that it is necessary to make these trainings mandatory. Related to this, in point 6 below, an explanation is given for the need to change the approach in education by the Agency to the holders.

4. The list of information is not created in the form of a catalog or index with all the information by categories and sectors that are created and available to the holders of the information

In the era of advanced information and communication systems, state institutions should use them in a way that will contribute to a more comprehensive and efficient distribution of important information for citizens. The Agency states that only in the case of a small number of holders of information, the duty to create a List of Information has been completed at a high level, that is, a small number have acted in accordance with Art. 10 and their List of Information contains all the information arising from the holder's competences, such as and contains links to all the information they have. Also, the Agency states that when the active transparency is strengthened, as in these cases, then the appellants do not file appeals against these information holders. Therefore, in this sense, the list of information should show full commitment to the regular publication of all public information, which will promote active transparency.

Seen from the Active Transparency Indices^{xl}, in the last three years, the holders have increased to the greatest extent the number of information available to citizens on the web pages that are self-published (active transparency). But despite that, a large number of requests with a reactive approach are generally received by state institutions, health facilities, municipalities and judicial authorities (82% of the total requests submitted in 2021.^{xli} and 84% of the total submitted requests in 2020. are addressed to these holders).

Hence, it can be concluded again that only with advanced active transparency, the pressure will be reduced with a reactive approach to the holder of the information.

5. Lack of staff among information holders to enable partial access to information in larger volumes of information

The method of providing the requested information to the requester is regulated in the Law. The

holder is obliged to provide the requester with the information in the requested form, unless the requested information already exists in a pre-prescribed form and is available to the public and if it is more favorable for the requester to provide the information in a different form than requested, for which the holder of the information explains the reason for this method of delivery. In cases where the requester requests a photocopy of information that is larger and contains personal data, officials identify a problem they are facing and the inability to provide access to the requested information. Namely, in these cases, in order to be able to provide partial access, they experientially say that greater cooperation or additional staff is needed among the holders to enable the separation of the protected information, thereby providing partial access. The conclusion is that for the ways of providing a partial approach, which the applicants point out that it is almost never applied, it can be actualized through thematic trainings, which prove to be necessary for both responsible and official persons.

6. The Agency for the protection of the right to free access to information does not have a budget to fully implement its competences, that is, it has modest capacities to monitor compliance with the active publication of information, and it does not have mechanisms to instruct the holders to promote active transparency

From the day of the establishment of the Agency, the state provides it with a budget only for salaries, contributions, overheads and an insignificantly small amount for contractual services. The Agency constantly emphasizes in its Annual Reports that due to insufficient financial resources it faces difficulties in the implementation of its competences and overcomes these problems through cooperation with domestic and international stakeholders in the field of access to public information.

An additional problem is the small number of employees in the Agency. So, although 15 years have passed since the adoption of the Law on Free Access to Information, there is still no systematic approach to measuring active transparency, except for activities carried out through the Civil Society Transparency Index.^{xlii}. Two targeted measures are foreseen in the National Strategy for the Prevention of Corruption and Conflict of Interest (2021-2025) for strengthening the supervision by the Agency in relation to the active publication of information from public procurements and the acts for organization and systematization and employment, provided for in the Law, for which the implementation is late^{xliii}.

Hence, the conclusion is that enough time has passed since the establishment of the system for free access to information, in which free trainings were organized for the holders of information. Therefore, it is necessary, on the one hand, to strengthen the financial capacity of the Agency, and on the other hand, to show commitment to the improvement of the system for free access to the information by the holders, so that the costs of training or education of the holders in the future will be borne by the holder of the information. The holder should reimburse costs for the trainings that refer to covering the actual costs needed to organize and conduct training for free access. Also, more financial resources are necessary for the Agency in order to be able to strengthen its human capacities and realize its competences in full, such as monitoring active transparency, upgrading the capacities of employees, promoting the right to free access and dr. With increased finances and human resources, the Agency will be able to work on the education of the holders of information and monitor the proactivity of the holders of public information, based on the Transparency Standards and through the application of the Methodology for determining the transparency index^{xliv}.

7. Lack of competence at the Agency to supervise the legality of the activities undertaken

in exercising the right to free access to public information

Efficiency in exercising the right to access to information is important because very often the very exercise of access to information is later connected to the exercise of some other right. If we take into account that after 15 years since the establishment of the legal framework, the Agency decides in favor of the appellants in more than half of the cases, and in some years even 80% of the appeals are resolved in favor of the appellants, it can be concluded that the existence of the Agency is important for the effective functioning of the information access system, but it cannot be said that the system is functioning efficiently. Hence, in order to contribute to an efficient system as a whole, the conclusion is that the Agency should be strengthened with competences in the direction of supervising the legality of the activities undertaken in exercising the right to free access to public information.

8. The holders of the information do not fulfill their legal obligations to submit annual reports on the implementation of the Law on Free Access to Public Information

The Agency recorded that in 2021 the number of submitted annual reports on the operations of information holders out of a total of 1,445 information holders, 1,334 holders submitted an Annual Report on the application of the Law, ie 92.32% percent of the total number. 111 institutions, or 7.68% of the holders of information, did not fulfill the legal obligation. Compared to 2020 when 78.61% fulfilled the legal obligation, it is a solid improvement. But these reports do not contain the details given by officials about the reasons for refusing requests for free access^{xlv}. From the content of the Reports, the Agency should essentially plan its Annual Work Program, but from the scarce data that the Agency receives from the holders, there is no such possibility. Therefore, the researches of civil society organizations that monitor the application of the right to access to information on an annual level are still just as important.

In order to improve the content of the Annual Reports, the conclusion of the officials is that it is necessary for the Agency to prepare a document for keeping separate records for the requests for free access and for conducting the Annual Report among the holders, and the established portal for the holders should be used as a tool.

9. The majority of information holders point out that they do not charge material costs for the given information

The law stipulates that the requester of information for the received transcript, photocopy or electronic record of the information, pays compensation in the amount of material costs^{xlvi}. Determining the amount of material costs is an instrument for facilitating and exercising the right to free access, because by the very fact that they are the same for all holders of information, it affects the limitation of the arbitrariness of the holders to determine a high amount for the information, which would they dissuaded the information requester from requesting information.

From the previous practice of the officials, as well as of the appellants, only a few cases were identified in which material costs were charged. On the other hand, in 2017 The government adopted a measure for journalists and journalist associations and provided them with free access to information of special importance for investigative journalism from the Central Registry and the Real Estate Cadastre Agency. In order to establish a balance for other appellants, especially for civil society organizations with this measure for journalists and to provide free access to them as well, the Law should provide that as long as the material costs for the requested costs "do not have an economic

impact" there should be no to be charged.

Requesters of public information

1. A large part of the holders of information still do not have web pages, which prevents active transparency for the requesters, and those who have web pages do not invest enough in the IT structure

A big problem pointed out by the applicants is that out of 1455 information holders, approximately 600 of them do not have web pages, which is a problem for the implementation of active transparency. In terms of policies in the country, the Open Data Strategy (2018-2020) and Action Plan and the Law on the use of public sector data have been created, among others.^{xlvii} which establishes the obligation of public sector bodies and institutions for public publication of the data they create in the exercise of their competences, in an open format. Then, in the National Action Plan for Partnership for Open Government (2021-2023) all commitments are intertwined with measures to increase datasets in open format. If all this is taken into account, then it can be concluded that a complex approach should be taken to solving this established problem: (1) it is necessary for the information holders to allocate financial resources for the establishment of web pages, (2) their work should be direct in such a way that in their work they will collect data in an appropriate format, (3) to start training for employees on the use and publication of open data, and then to connect with the foreseen measures that are necessary to increase active transparency, etc.

2. The format of published information in active transparency is not at a satisfactory level compared to "open data" commitments

The applicants agree that with the digitization and publication of the expenditures from the state budget, after the establishment of the "Open Finances" platform^{xlviii}, transparency increased significantly, which in turn affects the detection of possible abuses in the spending of public money. But this way of practicing automated platforms for access to public information, i.e. "access to open data, they say is still at a very low level"^{xlix}.

3. There is no practice of actively publishing information that is continuously sought with a reactive approach

It was noted above and concluded that the more advanced the active transparency, the lower the pressure with a reactive approach towards the holder of the information.

Taking into consideration that the budget information among the holders of information is of special interest to the requesters and together with other categories of information that the requestors continuously request from the holders, it can be concluded that with their increased publication, especially by the municipalities, it will decrease significantly the number of paper requests to information holders.

Regarding "the volume of information that is actively published, no increased volume of information by health institutions is observed"^l. In contrast to this, a positive example of the volume of published documents stands out during public procurements. However, the conclusion according to the applicants is that "the active publication of special categories of information does not depend on previously received requests, but on the conclusions of the Government, with which the institutions

are obliged to do this^{that}.

4. The administration's silence is still a problem in exercising the right to free access to information

Although the legal framework is evaluated as satisfactory, a large percentage of the submitted appeals are due to the silence of the administration (in 2021, 44.9% of the submitted appeals were due to the silence of the administration, and in 2020 this percentage was 81.25%). Therefore, the interest of the searchers was analyzed in terms of the categories of information they most often seek in the past three years. From the Agency's analyses, several categories of interest for applicants have been identified, namely: (a) number of employees in state bodies, costs for contractual services with state bodies, minutes of meetings, (b) biographies of members of management and supervisory boards, (c) information related to detailed urban plans, (d) information on inspections in municipalities, (e) information on public procurement procedures in state bodies and municipalities, (f) information from health institutions, etc., which are part of the categories of information for which the holders are obliged to publish on the website according to Art. 10.

This negative practice of the holders, the implementation remained "a weak point in the system for exercising the right to free access to public information"ⁱⁱⁱ.

The second-level Agency for the Protection of the Right to Free Access states in its annual reports that the silence of the holders of the information is present, although there has been a significant improvement in the previous year. From the statistical indicators of the Agency in 2020. made 229 decisions ordering the applicant to act on the request due to silence, and in 2021. made 166 such decisions. According to these decisions of the Agency, the holders did not act in 26 or 35 cases, for which it made meritorious decisions.

Namely, this attitude of the holder when he ignores the requester, and then ignores the secondary authority, the Agency, for information that the Agency has decided is public information, should no longer be tolerated. Therefore, the conclusion is that a fine should be provided for the responsible person if he does not implement the Agency's decision within 15 days of its receipt and a fine for the responsible person if he does not notify the Agency of the actions taken.

On the other hand, a problem pointed out by the appellants is that the Law establishes a deadline of 15 days for the claimant to submit an appeal even in the case of silence on the part of the administration. This deadline for submitting an appeal in case of silence of the administration is in complete contradiction with the essence of this institute^{liii}. Namely, with the silence of the administration, one thing is clear and indisputable: the appeal may be premature, but it is never late. The deadline for submitting the appeal begins after the expiration of the 20, that is, 30 days for responding to a request, but does not end. The applicant can submit an appeal to the second-level Agency as long as he needs the requested information and thinks that his right to access it has been violated. This legal presumption is regulated by Art. 111 of the Law on General Administrative Procedure and in no paragraph of this article is there a deadline for submitting the appeal. From then on, without any time limit, the applicant can file an appeal with the Agency for the Protection of the Right to Access to Public Information. However, in the Law on access to public information, a provision (which existed in 2006, and then was deleted by the amendments to the Law) with a deadline for submitting an appeal in case of silence of the administration has been "restored". Therefore, the professional public has taken a very firm position that a deadline for filing an appeal

should not be established in the silence of the administration and the provision should be deleted.

5. For a large part of the holders of the information, the responsiveness depends on the will of the responsible person, and the Law does not provide for offenses for the responsible person in cases where the right to free access is restricted

Given that the level of achieved transparency and accountability, together, represent an indicator of the integrity of the institutions, prevent and influence the prevention of corruption in the spending of public money, i.e. in public procurement, in the legal framework for free access, a special place is given to active transparency. In addition, through increased transparency and accountability of institutions, citizens better understand the operation of institutions, allowing them to influence the creation of policies. Therefore, the appellants point out that free access must not depend on political will^{liffe}, that is, from the will of the responsible person. Hence, in order not to be left to the will of the responsible person, the conclusion is that it is necessary to foresee a fine for the responsible person for unjustified restriction of access to information.

6. Access to public information is increasingly being restricted due to the fact that the document contains personal data.

The practice of the application of the Law encountered by the requesters shows the absence of action by the holders to provide partial access in cases where the requested information contains "personal data". The applicants point out that in cases where access to information containing personal data is required, the holders must appreciate the context in which the personal data is encountered and provide partial access, which is regulated as a possibility in the Law. On the other hand, the applicants point to the current practice observed among the holders, which is the restriction of access to the information in its entirety, because "the holders consider that the name and surname of persons hired with compensation from the state budget are personal data".^{lv} The conclusion is that it is necessary for the holders (and responsible and official persons) to be trained through the previous practice that the Agency has built in favor of transparency against the exceptions provided for in the Law.

7. The deadline of 20 days, i.e. 30 days, for responding to requests for free access is the longest deadline in a procedure for exercising the right to free access to information compared to the region

The law stipulates a duty for holders to respond to written requests "immediately, and no later than within 20 days from the day of receipt of the request". In order to ensure a fast and efficient procedure for exercising the right to free access to information, the applicants believe that the best international and regional practices should be followed in terms of the waiting time for a response to a paper request for free access, which ranges between 7 and 15 days^{lvi}. It was discussed the need to establish a shorter deadline in the first instance procedure than the previous deadline of 20 days, i.e. 30 days, for acting upon a request, considering that from the analysis of the requests requested by the requesters it can be concluded that it is about categories of information which should be available proactively. The conclusion is that it is necessary to intervene in our country again within the legal term, so that the waiting time should be reduced from 20 days to a maximum of 15 days.

8. The contacts of the officials are not updated and the official e-mail addresses of the officials are not published on the holders' websites.

The list of holders and officials is an instrument provided in the Law to facilitate the initial contact between the requester and the holder of the information in exercising the right to free access. The Agency for the Protection of the Right to Free Access to Information has a legal obligation to create, update and publish the list of information. The Law stipulates a fine for the person in charge of the holder of the information if he does not appoint and provide information to the public about the official. From the experience of the applicants and the given remarks that the Agency has received, a problem that appears among the holders is highlighted because they do not regularly update the data on the changed officials, nor do they notify the Agency about it. In addition, a large part of the holders in the contacts of the officials do not indicate the official e-mail address of the official. Applicants agree that the problem can be overcome with determination of an offense for the responsible person who does not notify the Agency about the changes in relation to the official.

9. At the local level, there is insufficient education of the officials, as well as of the other employees about the obligations and the way of acting according to the Law

There is still a connection between the level of education of the officials depending on the "hierarchy" of the institutions. At the central level, there is more education and greater responsiveness in relation to requests for free access, while at the local level, especially after schools and kindergartens, they are generally unavailable to the requesters. The general conclusion is that officials "still do not know enough about the Law, and consequently there is a need to continue working actively in the field of education, through additional training and capacity building, both at the central and local level."^{lvii}.

10. Forwarding according to the Law is almost never applied by the holders of the information

The principle of assistance to the ignorant applicant in the system of free access to information is foreseen following the principle of the Law on the general administrative procedure, in the sense that the authority leading the procedure ensures that the ignorance and ignorance of the party and other persons participating in the procedure do not be to the detriment of the rights that belong to them. That is why the Law regulates if the request is addressed to an inappropriate holder, i.e. to a holder who does not have the requested information, it is his duty within 3 days to forward the request to the holder of the information, who, according to the content of the request, is the holder of the information and to notify the requester thereof. However, the applicants point out that in the actions of the applicants, this obligation of the holders is not respected. In order to overcome non-compliance with the Law, it is necessary to foresee violations of this duty of the holders of the information.

6. Recommendations for improving the system for free access to public information

If the current situation and the identified problems and challenges in the system for free access to information are taken into account, the proposals are divided into two directions: (1) promotion of the right to free access to information by enabling mechanisms and activities for enhanced implementation of the Law for which it is necessary to allocate additional financial resources from the state budget and (2) amendments to the Law. The end result would be the provision of greater transparency and accountability of the institutions, and for the citizens, an increase in participation in policy-making, an increase in trust in the institutions and, of course, the exercise of the right to free

access to information.

Below are the recommendations addressed to public policy makers:

- (1) To separate **additional financial resources from the state budget, i.e. to double the budget for the work of the Agency**, in order to be able to perform its responsibilities in full, with a focus on:
 - 1.1. To undertake activities on the plan of **education of information holders** for the right to free access to information by increasing the number of **basic trainings** on an annual basis for the holders of information, through which **the responsible persons and the officials** they should realize that the information they create and with which the holders dispose belongs to the public. Establishment of **advanced and continuous thematic trainings** with experiences from international and domestic practice with a focus on training **for the implementation of the harmfulness test** when responding to requests and refusing access in cases where the requested information contains "personal data" (Article 6), and in connection with partial access (Article 7); preparation trainings and **updating and appropriate publication of the List of public information**, in the form of a catalog of information arising from the holder's competences, and in terms of content, it easily and quickly refers with links to all the information available to the holder (articles 9 and 10);
 - 1.2. To take care of the implementation of the provisions of the Law, i.e. to strengthen the Agency with additional human capacities in order to: (a) be able to **monitors the active publication of information through the Active Transparency Index** (Art. 10); (b) to prepare **terk for keeping separate records** for the requests for free access by the holders of the information, which will improve the content of the Annual Reports, where the reasons for denying the access will be listed with the possibility to analyze and give suggestions for overcoming them in favor of transparency (Article 36); (c) to prepare a **terk** as a basis for **internal procedures among the holders of the information**, in order to organize the procedure from the receipt of the request to the delivery of the answer, with specified deadlines and responsible persons; and **terk** of an internal procedure in which the rules, deadlines and responsible persons for the delivery/flow of new information created by the holder to the Communications Departments or IT persons will be provided so that they are promptly and actively published on the holder's website; (d) to provide **continuous improvement of the knowledge, skills and work of its employees in the Agency**. Additionally, the Agency to **improve its systems and equipment with information and communication equipmenta**.
 - 1.3. To carry out **promotion of the right of free access** to public information with educational campaigns, for **to overcome lack of information** of citizens, after which they will exercise the right to free access to information more often. Among public officials – the holders of information – educational campaigns to change the understanding of who owns the information.

(2) To **amend and supplement the Law** for free access to public information, which would regulate:

- 2.1. To **expand the competences of the Agency** for the protection of the right to free access to information, as an authority that is responsible for taking care of the application of the Law, in order to increase the efficiency and effectiveness of its operations. To determine the possibility for the Agency to supervise the legality of the undertaken activities in exercising the right of free access to public information. It will contribute to increasing the transparency and accountability of the institutions.
- 2.2. To intervene within the legal deadline for responding to requests for free access to information of 20 days, i.e. 30, **to reduce the waiting time to a maximum of 15 days**, that is, 20 days for access to information on a larger scale or partial access.
- 2.3. The provisions for **reimbursement of material costs to be reformulated** in the direction that if the material costs for the requested information "do not economically affect" the holder, they will not even be charged.
- 2.4. To standardize provisions that will establish mandatory trainings for the responsible and official person and **reimbursement of training costs** by the holders of information if they were penalized as a misdemeanor because they restricted the right of access to the information without a basis, that is, they did not provide the information within the deadline.
- 2.5. To **expand the list of offenses** in order to foresee fines for all non-compliance with duties by the holders of the information, and to add to the list of offenses: (1) for the responsible persons to be fined for unjustified restriction of access to information; a fine if he does not implement the Agency's decision within the given period and does not notify the Agency thereof; a fine if he does not unreasonably provide the information within the stipulated period for acting on a request; a fine if the data on the mediation official is not updated and if he did not inform the Agency about it; (2) a fine for the official if he does not unreasonably provide the information within the stipulated period; a fine if he did not attend at least one training during the calendar year.
- 2.6. Yes **the deadline set for filing an appeal is deleted in cases where the holder of the information remains silent** and does not act within the legal deadline following the request for free access to information.

ⁱ The content of the text is the sole responsibility of the author and can in no way be considered to reflect the views of the project donor.

ⁱⁱ Official Gazette of the Republic of North Macedonia number: 101/2019 of May 22, 2019.

iii **United Nations General Assembly Resolution 59** adopted in 1946, <http://www.un.org/documents/ga/res/1/ares1.htm>. Article 19 of **The Universal Declaration of Human Rights**: "Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without influence, and to seek, receive and impart information and ideas through any media, regardless of frontiers."

iv Through **European Convention on Human Rights** adopted in 1950, the Council of Europe in Article 10 guarantees freedom of information and that: Everyone has the right to freedom of expression. This right includes freedom of opinion and to receive and impart information or ideas without any interference by public authority and regardless of national borders. In fact, this right refers to freedom of expression and freedom of information, which extends to everyone equally, offline and online, and should be applied in accordance and correlation with other rights and freedoms. The commitments of the Council of Europe do not stop here, but continue in 2009 with the adoption of **The Convention on Access to Public Documents**, which includes a series of rules, but also monitoring mechanisms for the implementation of these rules. Council of Europe Convention on Access to Official Documents, Tromsø, 18.06.2009, <https://rm.coe.int/1680084826>.

in Since its foundation, the European Union has been dedicated and working towards greater transparency and accountability of its bodies through the application and guarantee of freedom of information. So still in **the founding treaty of the European Union** the guarantee of access to information and public documents is met, namely: "1. Every citizen of the EU and every natural or legal person who resides or is registered in a member state has the right of access to the documents of the European Community, the Council and the Commission, respecting the principles and conditions that will be established on the basis of points 2 and 3; 2. the basic principles and limitations based on the public or private interest for access to documents will be determined by the Council, within the decision-making procedure provided for in Article 251 within two years from the entry into force of the Treaty of Amsterdam; 3. Each said authority shall adopt in its rules of procedure specific provisions regarding access to documents."

we Within the framework of the most important document in the EU, **the Treaty on the Functioning of the EU (Lisbon Treaty)**, freedom of information, occupies a very high position. Freedom of information is also a part of **European Charter of Human Rights**, specifically in Article 42, which guarantees the right of access to documents of all natural and legal persons, EU citizens by all EU institutions, bodies, agencies and offices. **Regulation no. 1049/2001** aims to facilitate the "fullest possible public access" to EU documents (especially in cases where the EU institutions act in a legislative capacity), while - at the same time - trying to preserve the "efficiency" of the decision-making process of the institutions, preserving the secrecy of the internal consultations and consideration of the institutions where necessary to preserve their ability to perform their tasks (Article 4 (3)). One of the most important documents that regulates the right to free access to public information is **Directive 2003/98/EC** for reuse of information from the public sector, available at <https://ec.europa.eu/digital-single-market/en/european-legislation-reuse-public-sector-information>

vii See more in "**Right to free access to information**", by Dr. Ana Pavlovska-Daneva and MSc Elena Davotkovska, Skopje 2010, publisher "Justinian Prvi" Faculty of Law, Skopje ^{viii} **Global ranking map of national open access laws**, available at <https://www.rti-rating.org/>

ix **Constitution** of the Republic of North Macedonia available at <https://www.sobranie.mk/ustav-na-rm.nspix> ^x Article 1, paragraph 2 of **Law on free access to public information** ^{xi} „Six years later: Has the wall of silence cracked?“, Open Society Foundation - Macedonia, 2013, available at https://fosm.mk/wp-content/uploads/publications/Zakoni_pod_lupa_Kniga_6_Raspuka_li_dzidot_od_tishina.pdf ^{xii}

European Commission, **Macedonia Progress Report, 2012** d., p.52, available at http://aei.pitt.edu/44859/1/Macedonia_2012.pdf

^{xiii} **Urgent reform priorities**, June 2015 Available at https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf

^{xiv} At the 25th session, held on August 29, 2017, the government adopted **conclusion to declassify 10 the information** adopted by the Government which are of public interest and **refer to contracts for the granting of state aid**. At the same time, the directors of the Agency for Foreign Investments and the Directorate for Technological Industrial Development Zones are responsible for declassifying information that was previously classified by their institution, and refers to information and contracts for the granting of state aid.

^{xv} In **The work program of the Government of the Republic of North Macedonia 2017-2021** it was established that the reforms for membership in the EU and NATO can only be realized under the conditions of a responsible government that works transparently and accountable. In that direction, in order to increase transparency, the Government announced the implementation of the concept of open government and the principle of active transparency of institutions. Government work program,

http://vlada.mk/sites/default/files/programa/2017-2020/ProgramaVlada2017-2020_08062017.pdf

Notification of the start of the process for the preparation of the Draft Law on Amendments and Supplements to the Law on Free Access to Public Information,

https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_ann_detail&itemid=XkoOisEV5ujfCo2W+zupwQ==

^{xvii} In the direction of increasing active transparency, while the new text of the Law on Free Port was being prepared, at its 34th session of the RSM Government, **a decision was made on the list of acts and materials (21 documents,** available at <http://vlada.mk/InformacijavenKarakter>) which ministries **were obliged to publish them on their websites.** The list of information referred to all ministries (with the exception of the Ministry of the Interior and the Ministry of Defense), including the ministers without portfolios.

^{xviii} Official Gazette of the Republic of North Macedonia number 101/2019 of May 22, 2019. ^{xix} **Guidelines for the method and procedure for implementing the Law on Free Access to Public Information,** Agency for the Protection of the Right to Free Access to Public Information, available at <https://aspi.mk/wp-content/uploads/2020/09/%D0%A3%D0%BF%D0%B0%D1%82%D1%81%D1%82%D0%B2%D0%BE-%D0%B7%D0%B0-%D1%81%D0%BF%D1%80%D0%BE%D0%B2%D0%B5%D0%B4%D1%83%D0%B2%D0%B0%D1%9A%D0%B5-%D0%BD%D0%B0-%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D1%82-%D0%B7%D0%B0-%D0%A1%D0%9F%D0%98%D0%88%D0%9A.pdf>

^{xx} **Active Transparency Index 2021,** Center for Civic Communications, available at <https://www.ccc.org.mk/images/stories/akt21.pdf> and <https://www.aktivnatransparentnost.mk/> ^{xxi} Assessment of good governance in North Macedonia and the region through **Openness Index 2021,** Metamorphosis Foundation, abandoned to https://metamorphosis.org.mk/aktivnosti_arhiva/proценка-na-dobroto-vladeenje-vo-severna-makedonija-i-regionot-preku-indeksot-na-otvorenost-sobranie-i-izvrshna-vlast-2021/

^{xxii} **National Action Plan for the Open Government Partnership (2021-2023)**

<https://ovp.gov.mk/%d0%bd%d0%b0%d1%86%d0%b8%d0%be%d0%bd%d0%b0%d0%bb%d0%b5%d0%bd-%d0%b0%d0%ba%d1%86%d0%b8%d1%81%d0%ba%d0%b8-%d0%bf%d0%bb%d0%b0%d0%bd-%d0%b7%d0%b0-%d0%be%d0%b2%d0%bf/>

^{xxiii} The Agency for the Protection of the Right to Free Access to Information of a Public Character, in accordance with its competences for increasing the active transparency of the holders of public information, and in the direction of consistent implementation of the provisions of the Law on Free Access to Information of a Public Character and the realization of the citizens' right to free access to information, carried out four monitorings on the websites of public enterprises and institutions under the jurisdiction of the Municipalities, Municipalities and Centers for the Development of Planning Regions in the Republic of North Macedonia, of state institutions, as well as of the basic, appellate courts, the Administrative Court, the Higher Administrative Court, the Supreme Court and the Judicial Council regarding compliance with Article 10 of the Law. Monitoring reports are available at the following link

<https://ovp.gov.mk/%d0%b8%d0%b7%d0%b2%d0%b5%d1%88%d1%82%d0%b0%d0%b8-%d0%b7%d0%b0-%d0%b8%d0%b7%d0%b2%d1%80%d1%88%d0%b5%d0%bd%d0%b0-%d0%bf%d1%80%d0%be%d0%b2%d0%b5%d1%80%d0%ba%d0%b0-%d0%bd%d0%b0-%d0%be%d0%b1%d1%98%d0%b0/>

^{xxiv} **Public Administration Reform Strategy, Ministry of Information Society and Administration,** <http://mioa.gov.mk/?q=node%2F4542>

^{xxv} **The Transparency Strategy of the Government of North Macedonia (2019-2021),** available at https://vlada.mk/sites/default/files/dokumenti/strategii/strategija_za_transparentnost_mk.pdf ^{xxvi} However, the implementation of this Strategy was very limited, as noted in "Assessment of the level of implementation of the Government Transparency Strategy Action Plan (2019-2021)". available at izvestaj_03_izmeni-1.pdf (metamorphosis.org.mk)

^{xxvii} „**Proactive Transparency: The Future of Access to Information?**” By Helen Darbshire, Publisher: The World Bank. Available at http://siteresources.worldbank.org/WBI/Resources/213798-1259011531325/6598384-1268250334206/Darbshire_Proactive_Transparency.pdf

^{xxviii} Data from his competences that he performs, that is, determined for him by law; basic contact data with the holder of the information; data about the official or responsible person at the holder of the information; basic contact details for the official person for mediating information; basic contact data for a person authorized for protected internal reporting; list of persons employed by the holder of the information with position, official e-mail and official phone; the laws and by-laws that refer to the competence of the holder of information;

organogram for internal organization; strategic plans and work strategies of the holders; annual work plans and programs; annual Budget and final account; annual financial plans by quarters and programs for the implementation of the budget; audit report; types of services provided by information holders; tariff lists for fees for issuing real deeds; the method of submitting a request for access to information; the entire documentation for public procurements, for concessions and for public-private partnership agreements; proposal of programs, programs, views, opinions, studies and other similar documents that refer to acts under the jurisdiction of the holder of information; announcements to the public, information bulletins, official bulletins and others; work reports that they submit to the authorities responsible for implementing control and supervision; statistical data on work, as well as other information, acts and measures that affect the life and work of citizens and that result from the competence and work of the information holder and other information that result from the competence and work of the information holder ^{xxxix} **Guidelines for Proactive Release of Public Information for Officials or Managers**, prepared within the framework of the project "Promoting transparency and accountability in public administration", financed by the European Union. Available on <https://aspi.mk/wp-content/uploads/2021/09/%D0%9D%D0%B0%D1%81%D0%BE%D0%BA%D0%B8-%D0%B7%D0%B0-%D0%BF%D1%80%D0%BE%D0%B0%D0%BA%D1%82%D0%B8%D0%B2%D0%BD%D0%BE-%D0%BE%D0%B1%D1%98%D0%B0%D0%B2%D1%83%D0%B2%D0%B0%D1%9A%D0%B5-%D0%BD%D0%B0-%D0%B8%D0%BD%D1%84%D0%BE%D1%80%D0%BC%D0%B0%D1%86%D0%B8%D0%B8-%D0%BE%D0%B4-%D1%98%D0%B0%D0%B2%D0%B5%D0%BD-%D0%BA%D0%B0%D1%80%D0%B0%D0%BA%D1%82%D0%B5%D1%80-%D0%B7%D0%B0-%D1%84%D1%83%D0%BD%D0%BA%D1%86%D0%B8%D0%BE%D0%BD%D0%B5%D1%80%D0%B8-%D0%B8%D0%BB%D0%B8-%D1%80%D0%B0%D0%BA%D0%BE%D0%B2%D0%BE%D0%B4%D0%BD%D0%B8-%D0%BB%D0%B8%D1%86%D0%B0.pdf>

^{xxx} **Manual for conducting the harmfulness test**, prepared within the framework of the project "Promoting transparency and accountability in public administration", financed by the European Union. Available on <https://aspi.mk/wp-content/uploads/2021/09/%D0%9F%D1%80%D0%B8%D1%80%D0%B0%D1%87%D0%BD%D0%B8%D0%BA-%D0%B7%D0%B0-%D1%81%D0%BF%D1%80%D0%BE%D0%B2%D0%B5%D0%B4%D1%83%D0%B2%D0%B0%D1%9A%D0%B5-%D0%BD%D0%B0-%D0%A2%D0%B5%D1%81%D1%82-%D0%BD%D0%B0-%D1%88%D1%82%D0%B5%D1%82%D0%BD%D0%BE%D1%81%D1%82.pdf>

^{xxxi} Data from **Annual reports of information holders** of public nature for 2019, 2020 and 2021 in open format. Available at <https://aspi.mk/%d0%b4%d0%be%d0%ba%d1%83%d0%bc%d0%b5%d0%bd%d1%82%d0%b8/%d0%b3%d0%be%d0%b4%d0%b8%d1%88%d0%bd%d0%b8-%d0%b8%d0%b7%d0%b2%d0%b5%d1%88%d1%82%d0%b0%d0%b8/>

^{xxxii} Within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information". a new one was prepared **website of the Agency, and e-portals for holders and requesters of information**.

^{xxxiii} **Annual report 2021.**, Agency for the Protection of the Right to Free Access to Public Information, p. 4, available at https://aspi.mk/wp-content/uploads/2022/04/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98_MK.pdf

^{xxxiv} Last one **Report of a research conducted on the right of free access to public information in Macedonia** is implemented by the Open Society Foundation - Macedonia in November 2013. Available at http://www.fosm.mk/CMS/Files/Documents/istrazuvanje_tainnost-vo-rabotenjeto-mkd-1.pdf.

^{xxxv} The two debates (focus groups) were organized on July 5 and 6, 2022. by the Agency for the Protection of the Right to Free Access to Public Information within the framework of the IPA2 project "Transparency and Accountability of Public Administration", financed by the EU, and implemented by a consortium led by PwC.

^{xxxvi} **Statement of an official** with the holder of information at a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 5, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".

^{xxxvii} **Applicant's statement** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 6, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of

activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".^{xxxviii} Ibid.

^{xxxix} **Annual Work Report 2021**, Agency for the Protection of the Right to Free Access to Public Information, p. 3 and 4, available at https://aspi.mk/wp-content/uploads/2022/04/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98_MK.pdf

^{xl} Vidi end note xx and xxi.

^{xli} **Data from the Annual Reports of holders of public information for 2021-open format**, available at <https://aspi.mk/%d0%b4%d0%be%d0%ba%d1%83%d0%bc%d0%b5%d0%bd%d1%82%d0%b8/%d0%b3%d0%be%d0%b4%d0%b8%d1%88%d0%bd%d0%b8-%d0%b8%d0%b7%d0%b2%d0%b5%d1%88%d1%82%d0%b0%d0%b8/>

^{xlii} Vidi end note xx and xxi.

^{xliii} **Annual report on the implementation of the National Strategy for the Prevention of Corruption and Conflict of Interest (2021-2025)**, available at <https://dsk.mk/wp-content/uploads/2022/03/Godisen-izvestaj-za-sproveduvanje-na-NS-vo-2021.pdf>

^{xliiv} **Strategic plan of the Agency for the Protection of the Right to Free Access to Public Information with Action Plan 2021-2025**, available at <https://aspi.mk/wp-content/uploads/2021/06/%D0%A1%D0%A2%D0%A0%D0%90%D0%A2%D0%95%D0%A8%D0%9A%D0%98-%D0%9F%D0%9B%D0%90%D0%9D.pdf>

^{xliiv} **Statement of a representative from the Agency** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 5, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".

^{xlivi} **Decision to determine the amount of compensation for material costs** for the information provided by the information holders (Official Gazette of RSM number 31/2022 of 08.02.2022)^{xlvii} Official Journal of RSM no. 27/2014

^{xlviii} **"Open treasury", i.e., insight into state spending** by Dr. German Filkov, Skopje 2021, available at https://fosm.mk/wp-content/uploads/2022/02/studija-na-sluchaj_otvoren-trezor.pdf^{xlix} **Applicant's statement** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 6, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".

^{that} Ibid.

^{lii} **Applicant's statement** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 6, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".^{liii} See **Commentary on the Law on Free Access to Public Information**, Open Society Foundation - Macedonia, 2006 by authors Prof. Dr. Borche Davitkovski and Prof. Dr. Anna Pavlovska-Daneva

^{life} **Applicant's statement** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 6, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".^{lv} **Applicant's statement** of a debate/focus group on Experiences from the implementation of the new Law on Free Access to Public Information and opportunities for advancing the exercise of the right to free access to public information, held on July 6, 2022. within the framework of the project "Promotion of transparency and accountability in public administration", financed by the EU, in which the Agency is a direct beneficiary of activities contained in Component 2: "Support of the Agency for the protection of the right to free access to public information".^{lvi} In the Republic of Bulgaria, the deadline for responding to a paper request is 14 days. In the Republic of Serbia, the Republic of Croatia and the

Republic of Bosnia and Herzegovina, the deadline is 15 days.

^{lvii} **Annual Work Report 2021**, Agency for the Protection of the Right to Free Access to Public Information, p. 5, available at https://aspi.mk/wp-content/uploads/2022/04/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98_MK.pdf