



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

***ANALYSIS OF THE REACTIVE
TRANSPARENCY OF INFORMATION
HOLDERS FOR THE PERIOD
2019-2023***



Skopje, July 2024

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Access to public information is one of the main tools for the public to be informed, i.e. the right of citizens to know what decisions are made by state administration bodies, local government, how budget funds, public money, citizens' money are spent, and at the same time to obtain accountability from information holders.

The public's right to know is part of the corpus of fundamental human rights in the modern world. This right is unthinkable without free access to information, which is one of the key pillars on which modern democracies are based. Free access to information, on the one hand, makes the work of the institutions transparent and accountable to the citizens, and on the other hand, provides timely and full information to the citizens, which is necessary for their effective participation in public life. As a key guarantor of transparency, the public's right to know is also the greatest barrier against corruption. Corrupt practices and the abuse of public resources show that these negative phenomena predominantly develop in the sphere of secrecy, public information is unavailable and public control is impossible.

Pursuant to Article 3 paragraph 1 paragraph 1 of the Law on Free Access to public information (Official Gazette of the RSM number 101/2019): "holders of information" are the bodies of the state government and other bodies and organizations established by law, the bodies of the municipalities, the city of Skopje and the municipalities in the city of Skopje, institutions and public services, public enterprises, legal and natural persons exercising public powers established by law and activities of public interest and political parties in the area of income and expenditure.

The Agency for Protection of the Right to Free Access to public information as an independent state authority is responsible for the implementation of the right to access to public information. One of the responsibilities is to prepare and publish List of information holders. Considering the statutory definition, the number of holders in the List of holders of information in the period from 2019 to 2023 has increased by 200 new holders, and thus the scope of new information available to information requesters.

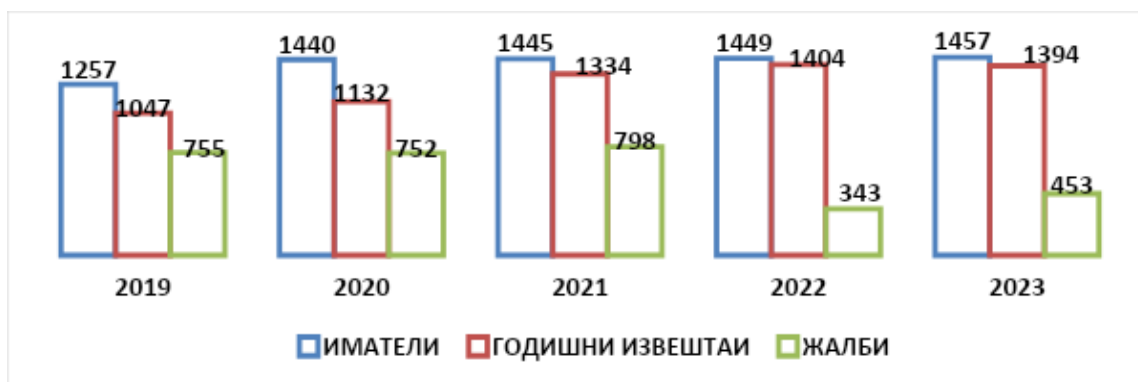


Citizens and the general public can have access to public information in two ways. The first way is acting on a submitted request for access to public information, which is the so-called reactive transparency.

The second way is when the holders of information on their initiative, regularly update the information they create and have available on their web pages or proactive transparency.

This analysis refers to the reactive action of the holders after submitting requests for access to information of a public nature, and the data that are part of this Analysis are derived from the Annual Reports of the Agency, which as a legal obligation prepares and submits them to the RSM Assembly.

The analysis shows the ratio of the number of holders of information over the years, the data on annual reports submitted by the holders to the Agency and the number of appeals submitted to the Agency, which as a secondary authority, conducts administrative proceedings and decides on appeals against the decision by which the holder of the information has refused or rejected the request for access to information of the LFAPI.



The following graphic shows the tendency of non-fulfilment of the legal obligation by the holders, that is, the submission of annual reports to the Agency within the legally established deadline.



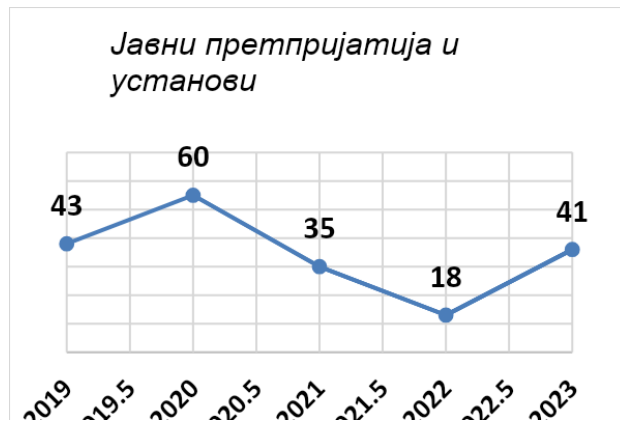
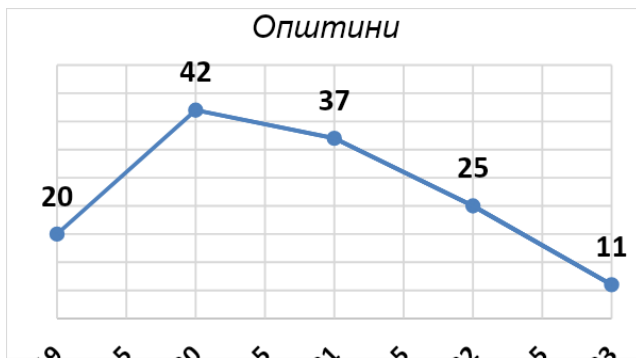
According to the content of the appeals submitted to the Agency, it can be concluded that in the largest number of cases, citizens use the Law on FAPI most often when they are not able to exercise their rights and obtain, for them, the necessary information and documents arising from competences of the institutions - holders of information. The claimants submitted their appeals to the Agency because the holders of information did not act in accordance with the material laws that they apply during operation and decision-making in a certain administrative procedure, that is, they did not act on the requests of the citizens as parties in a specific administrative case. Despite the large number of trainings held for officials to mediate information of a public nature to the information holders, the percentage of appeals submitted due to non-action by the information holders on the requests within the legally provided deadlines, i.e. they were submitted due to silence of the first instance authority, is worrying. From the processing of the files in question, as well as from the regular electronic and telephone communications with the officials and with the managers of the information holders, it can be concluded that the readiness for openness to the public is greater among the officials, in contrast to the attitudes of the management structures, which go in the opposite direction. Therefore, the need to organize additional training, workshops, round tables and similar presentations of LFAPI to the managers of the holders of information remains current. It is worth noting that the appeals submitted to the Agency usually come as a result of the expressed dissatisfaction of the information requesters with the non-action/action of the information holders, i.e. from the received negative solutions and answers from the information holders, as well as due to the non-action of the first instance authority following the decisions of the Agency in relation to the submitted requests.

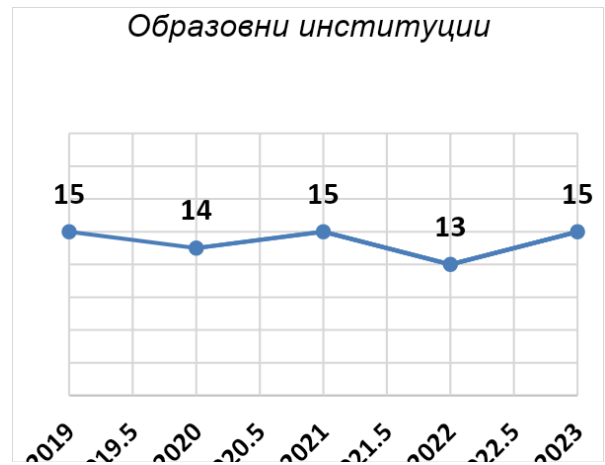
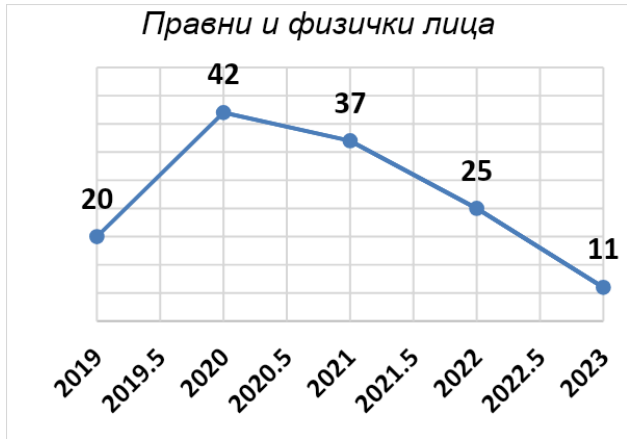


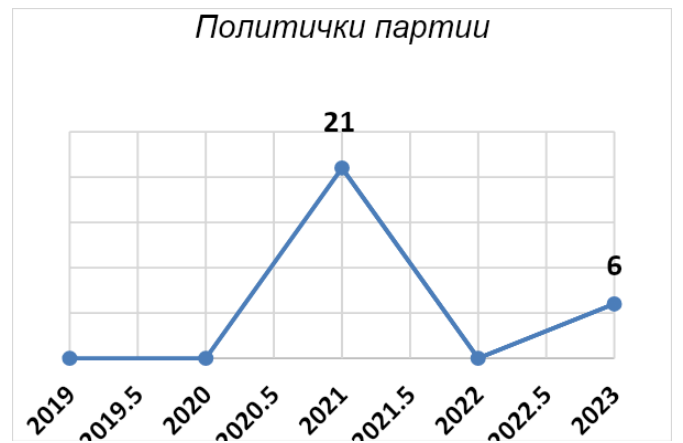
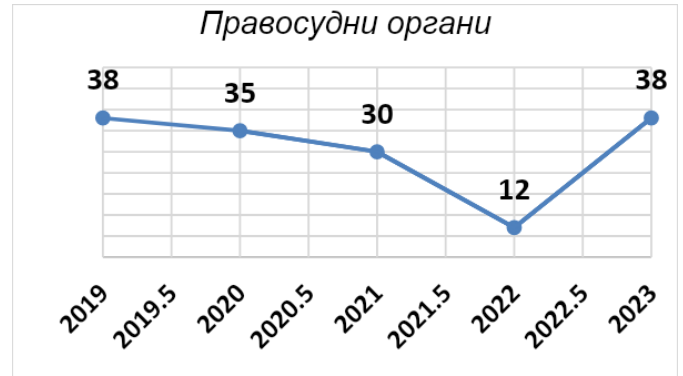
In addition (on the following graphs by holders of information), a tendency to decrease the number of submitted appeals in the analyzed period can be observed. Hence it can be concluded that information holders pay more attention to the proactive release of information, thereby reducing requests and appeals from information requesters.

Movement of the number of submitted appeals throughout the reporting years

2019-2023 by category of holders

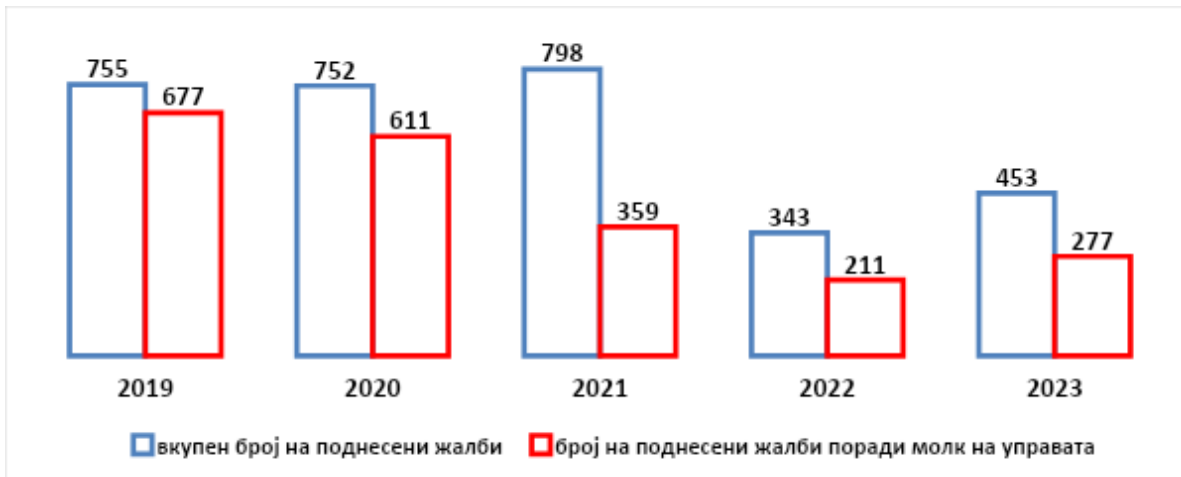




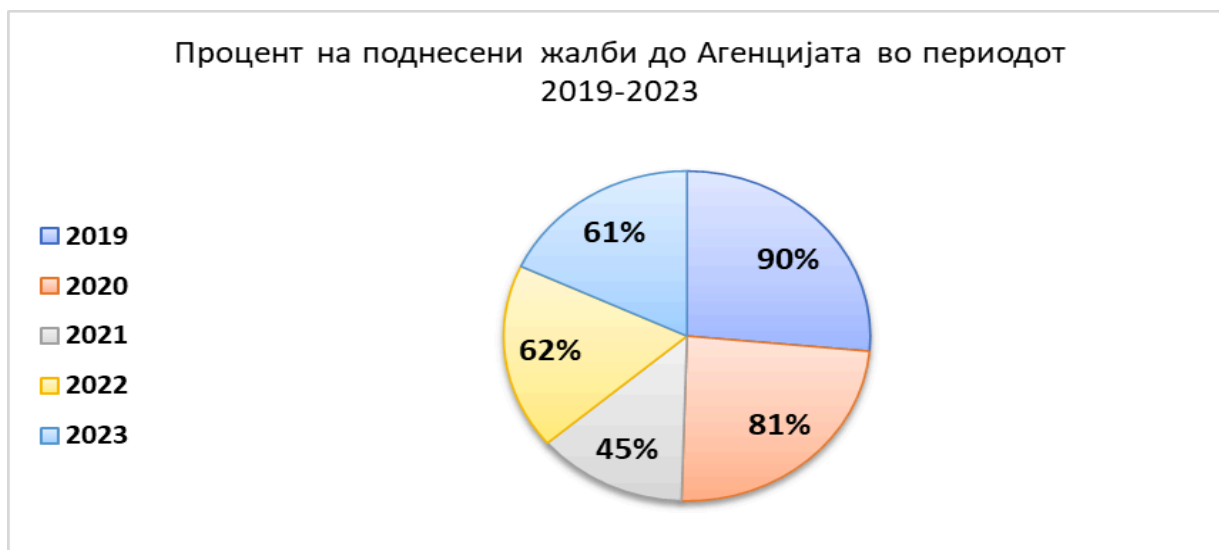


Nature of submitted appeals

The analysis of appeals submitted to the Agency over the years shows that most often and in the largest percentage of appeals expressed by information requesters, they are submitted because the holders of information did not act on the received request for access to information. The graph below shows the total number of submitted appeals and the number of submitted appeals due to the so-called "silence of the administration".



2019 is a year with 90% Silence of the administration or only 10% of the submitted requests, the holders of information responded within the legally provided deadline.



In 2021, 45% of the holders did not act within the legally provided deadline for responding to requests, that is, the silence of the administration is the least used. We should mention that the increasing trend of this unpopular tool by the holders is recorded again in 2022 and 2023 (62% and 61%, respectively).

Apart from appeals filed against the administration's silence, the Analysis also shows data on cases on which the Agency acts in accordance with its legal competencies:

- appeals filed due to dissatisfaction with the received response/notification by the information holders



- appeals filed against decisions/conclusions by the holders



We should emphasize that the Agency makes great efforts to reduce the trend of not acting on the requests submitted by the holders. Unfortunately, the holders of information are still practising the Silence instrument of the administration to deny the constitutionally guaranteed right of access to public information. In its operations, the Agency will continue to point out the importance of this unpopular

instrument being eliminated in practice, through its training intended for officials and with their continuous education of the officials at the holders, to cooperate with the institutions and the non-governmental sector and will emphasize the importance of proactive transparency and the publication of information by the institutions on the web pages, and especially the timely handling of requests for public information.

In principle, the holders may proactively publish all the information they have, except for those for which there are exceptions, listed in Article 6 of the Law.

In the future, as until now, the Agency will continue to emphasize the importance of proactive transparency of information holders. Proactive publication of appeals is an integral part of the right of access to information, ensuring that key information is available in a timely manner. As stated by the European Court of Human Rights, which recognizes it as a fundamental human right, "information is transitory and any delayed publication of it, even for a short period of time, may reduce its overall value and interest." Proactively published information should be easily accessible and understandable, usable, relevant to citizens and regularly updated. Transparency and access to information of a public nature are inseparable instruments in the fight against corruption, which is at its core the Law on FAPI.

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