

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

**FREE ACCESS TO PUBLIC INFORMATION IN THE WESTERN BALKAN COUNTRIES: THE SILENCE OF THE ADMINISTRATION AS A SYSTEMIC OBSTACLE TO TRANSPARENCY**



**Skopje, July 2025**

The countries of the Western Balkans face serious systemic obstacles in the implementation of the right to free access to public information (FOI), whereby the silence of the administration – the failure to act on requests for information within the legally prescribed period – remains a key form of institutional non-accountability.[[1]](#footnote-0) This analysis presents a comparison of the situation in six countries of the region[[2]](#footnote-1) (North Macedonia, Albania, Kosovo, Montenegro, Serbia, and Bosnia and Herzegovina), based on data for 2023 and 2024. The analysis simultaneously offers examples from judicial practice and identifies the main reasons and consequences of the administration's silence, with clear recommendations for overcoming the systemic closure of institutions.

**Context and meaning of the right of access to information**

The right of access to public information is a fundamental democratic mechanism that enables oversight of the government, reduces corruption, and strengthens public trust. In the context of the Western Balkans, where democratization and European integration are still ongoing, the effectiveness of this right is essential.[[3]](#footnote-2) The European Union, in its reports for 2023 and 2024, indicates that the degree of transparency through the FAPI is a direct indicator of the maturity of institutional governance.

**Main reasons for the administration's silence**

* **Political will and institutional resistance to transparency:** In many cases, institutions deliberately avoid responding to requests for information related to sensitive or compromising topics. Political structures often perceive transparency as a threat, particularly when it involves information that reveals the misuse of public resources or conflicts of interest. This resistance is especially pronounced before election cycles or during periods of intense media scrutiny.
* **Insufficient culture of accountability and institutional inertia:** A large number of officials perceive the right of access to information as a bureaucratic obligation rather than a democratic value. There is no internal culture of accountability, and even when there is no political pressure, institutions do not act proactively. In many cases, information is stored in unorganized archives, and the requested data is not systematized.
* **Capacities and technological limitations:** Many institutions are facing a severe shortage of professional staff who are trained to handle information requests. Furthermore, a large number of authorities lack modern systems for electronic record-keeping of documents, which makes the processing and availability of information difficult. In some cases, requests cannot even be forwarded internally due to administrative fragmentation and dysfunctional coordination.
* **Sanctioning mechanisms that are not applied in practice:** Although laws in almost all countries of the region provide for sanctions for failure to act, they are rarely imposed. Supervisory bodies in some countries lack enforcement powers, or institutions may simply disregard their mandates. This creates a sense of impunity and further encourages the administration's silence.[[4]](#footnote-3) Even when a sanction is imposed, it is often minimal and has little to no real effect.
* **Culture of fear and avoidance of responsibility:** In administrative practice, there is often a reticence among certain officials when providing information, motivated by the fear that their disclosure may reveal institutional omissions, irregularities or illegalities, as well as cause adverse reactions from the public or the media. This fear leads to the creation of a "culture of fear" in institutions – an environment in which caution and self-protective behavior prevail, even in situations where the request concerns information that is not sensitive or harmful. Such an approach undermines the principle of transparency and undermines public trust in institutions.
* **Unclear legal wording and legal uncertainty:** In some cases, institutions abuse the legal ambiguity surrounding terms such as "disclosure of information", "protected data", and "internal document" to delay or altogether refuse a response. This further complicates the work of supervisory bodies and weakens the predictability of the legal system.

**Dynamics and trends of the administration's silence (2023–2024)**

In the period 2023–2024, the average rate of silence by the administration in the countries of the Western Balkans reached a worrying 56.3%, indicating a severe stagnation in the implementation of the right of access to public information. Although several countries in the region formally adopted new laws or drafted amendments to increase access to information and adopted strategies to enhance transparency, these measures did not result in a concrete reduction in silence on the part of the institutions.

The analysis of the data, based on consolidated information from reports of supervisory bodies, civil society organizations, and international organizations, confirms that the silence is not a random omission or the consequence of individual mistakes, but rather indicates a deep-rooted institutional pattern of avoiding accountability. In many cases, silence is used as a mechanism to avoid sensitive issues, protect corrupt practices, or conceal inefficiency in public administration.

Particularly problematic is the fact that silence often remains unsanctioned, despite the existence of legal deadlines for responding. In doing so, the silence most affects investigative journalists, activists, and civil society organizations, who depend on timely and accurate information to perform their oversight and control roles in a democratic society and fulfill their social role, which is to inform the public about issues of public interest, promote the accountability and responsibility of institutions, and contribute to transparency and citizen participation in democratic processes.

Hence, instead of being an exception, the administration's silence becomes a systemic practice that undermines public interest, transparency, and the rule of law in the region.

**Most affected sectors:**

* Public procurement and budget transparency;
* Financing of political entities;
* Management of public enterprises;
* Infrastructure projects with a high risk of corruption.

**Analysis of the situation with the right to information and the role of the courts in the region**

Although the courts in the region have noted a **gradual** **increase** **in** **the** **defense** **of** **the** **right** **to** **information**, their overall impact on improving access to information remains **limited**. This is due to a complex of systemic challenges that undermine their effectiveness and credibility.[[5]](#footnote-4)

**Key challenges that limit the effectiveness of courts:**

* **Inefficiency and procrastination of procedures:** One of the most significant problems is **the average duration of administrative procedures, which ranges from 10 to 16 months**. This slowness not only discourages citizens and journalists from seeking legal protection but also devalues the very essence of the right to information, as the relevance of the requested information often expires before a court decision is made. In a region where the speed of information is crucial, such delays amount to a denial of the right to information.
* **Insufficiently unified case law:** The absence of **uniform judicial practice** is a serious problem. Often, identical or very similar cases result in **conflicting rulings**. This creates legal uncertainty, reduces the predictability of judicial decisions, and leaves room for subjective interpretations, which in turn undermines trust in the justice system. Citizens and organizations cannot be certain how their case will be treated, which deters them from pursuing litigation.
* **Weak enforcement of court decisions:** Even when the courts make positive decisions in favor of obtaining public information, **their enforcement is often weak**. Institutions and state authorities **often fail to respect court decisions, ignoring them or delaying** their implementation. This impunity for disregarding court decisions renders the legal system irrelevant and discourages those who seek to exploit it. Without effective enforcement mechanisms, court rulings remain only on paper.
* **Limited number of strategic lawsuits:** Due to **the** **lack** **of** **adequate** **support** **and** **resources**, the number of **strategic** **lawsuits** (SLAPP lawsuits) is limited; however, in some countries of the region, their number is increasing. These lawsuits, which individuals or institutions often bring to intimidate and financially drain journalists and activists, pose a serious threat to freedom of expression and the right to information.[[6]](#footnote-5) The absence of a strong legal and financial support system leaves individuals vulnerable to such attacks, further inhibiting their ability to seek accountability.

**A wider regional perspective:**

These problems are not isolated incidents, but are part of a **wider regional context** characterized by **fragile legal systems, political influences, and insufficient transparency**. All this undermines confidence in the judiciary and makes it difficult for it to function as a true protector of human rights.

Additionally, the so-called **culture of secrecy** that prevails in many state institutions in the region further complicates the situation. Information is often treated as a "privilege" rather than a right, leading to resistance to disclosure[[7]](#footnote-6). This "culture", combined with insufficient enforcement of freedom of information laws, creates an environment where courts face enormous obstacles in enforcing the law.

Ultimately, **structural and systemic deficiencies** in the judicial systems in the region significantly limit their ability to be effective guardians of the right to information. For real progress, comprehensive reforms are necessary that will strengthen the independence, efficiency, and integrity of the judiciary, as well as a strong political will to implement the rule of law and promote transparency.

**Free access to public information as a mirror of the rule of law**

The analysis suggests that the administration's silence is not an isolated or technical problem, but a deep-seated symptom of broader institutional weaknesses, including political control, a lack of transparency, and systemic impunity. It functions as a silent but effective barrier that impedes public oversight and erodes trust in institutions.[[8]](#footnote-7). The most significant consequences are observed in key sectors, including public finance, urban planning, energy, and public procurement, where delayed or incomplete information compromises public oversight of high-risk decisions and transactions.

The phenomenon of selective response – where institutions choose to respond only to "innocuous" or technical requests, while ignoring sensitive ones – creates an illusion of openness, which essentially undermines transparency. This selective treatment distorts the picture of institutional accountability and deliberately diverts attention from the real problems. At the same time, the inaccessibility of courts, the lengthy duration of administrative disputes, and legal uncertainty deter the public, journalists, and civil society organizations from utilizing legal mechanisms. In the long run, this leads to self-imposed self-censorship, legal resignation, and a widening gap between citizens and institutions.

If this institutionalized form of silence is not addressed, there is a risk of establishing a system of "administrative informalism" where non-response becomes an acceptable practice, rather than a sanctioned anomaly.

**Recommendations for institutional transformation: From declarative to substantive transparency**

To overcome the condition of **administrative silence**, a chronic problem in the countries of the Western Balkans, a comprehensive and systemic approach that will transform institutional practices is necessary. Laws alone are insufficient if they are not accompanied by effective implementation mechanisms, strong political will, and a change in the culture of accountability.

**Obligation for a written response: Introducing a legal sanction for the administration's silence**

This recommendation is crucial to eliminating the administration's practice of silence, which is the primary obstacle to accessing information. It is necessary to introduce **strict legal sanctions for any case of silence**, that is, when an institution fails to respond to a request for information within the legally mandated deadline. These sanctions should be high enough to act preventively and discourage the practice of ignoring requests. Additionally, even when a request for information is denied, the institution must be **legally obligated to provide a written and detailed explanation for the refusal, referring to specific articles of the law, and clearly explain the reasons for rejecting** the request. This not only increases transparency but also provides a basis for a possible appeal to a higher authority or court. Examples from practice in the EU, such as those in Slovenia, demonstrate that clearly defined obligations and penalties for silence significantly enhance the administration's response.

**Disciplinary responsibility: Defining responsibility and sanctions for officials and responsible persons who do not respond to submitted requests for public information**

The problem of administrative silence is often the result of the irresponsibility of individuals within institutions. Therefore, it is essential to **define the responsibility of officers in charge of handling requests for information, as well as the responsibility of the responsible persons within** the institutions. This includes the introduction of **disciplinary measures and sanctions,** which will be applied if officials do not respond to the request within the stipulated period or do not respond in an appropriate manner. The creation of a system of responsibility, where every official knows that their actions have consequences, will contribute to changing the culture from one of passivity to one of active service and respect for the right to information.

**Electronic tracking of claims: Development of digital platforms for tracking the status of claims and automatic reporting to supervisory bodies**

Modernization of the process is a key step towards faster and more efficient access to public information. It is necessary **to develop and implement digital platforms (e-portals)** that will enable the electronic submission of information requests. These platforms should have functionality for **monitoring the status of each request in real-time, providing transparency to** the applicant. Additionally, the system should automatically notify them **of the supervisory bodies** for any violations of deadlines or cases where there is silence from the administration. This will improve the efficiency of supervisory authorities and enable a quick response, reducing the need to file complaints against institutions' failure to act. Examples from the Baltic and Scandinavian countries show that such systems drastically increase the response rate and reduce institutional bureaucracy. Such a portal exists and is active in North Macedonia[[9]](#footnote-8).

Through the portal, e-appeals are submitted, **with 249** **requests** **for** **free** **access** **to** **public** **information,** indicating that citizens primarily use it to exercise their legal right of access to information in a fast and efficient manner. This number is indicative of several trends:

**Ongoing need for information:** The number of submitted requests testifies to the constant need for transparency in institutional operations and to the public's role as a control mechanism in democratic processes.

**The use of digital tools:** The e-appeals platform is utilized as an easily accessible and efficient means of submitting requests, thereby contributing to the improvement of administrative efficiency in procedures.

The portal's statistics show that, for the largest number of submitted requests, applicants successfully received an answer within the legally prescribed deadline.

**Continuous training: Standards for educating administrative staff on the importance of transparency**

Changing the mentality is a long-term investment. It is essential to establish **standardized** **and** **ongoing** **training** **programs** for all administrative staff, particularly those in direct contact with information requests. Training should focus not only on the legal framework, but also on **the importance of transparency as a fundamental principle of good governance and democracy**. They should develop the skills to quickly, efficiently, and correctly deal with requests, as well as explain the role of the public in governing the government. Through ongoing education, the administration will become more proactive in disclosing information and reducing resistance to transparency.

**Litigation against institutional silence: The need for financial and legal support**

The effective application of the right to access public information often depends on the possibility of initiating and leading strategic judicial processes that will establish a permanent jurisprudence in the field of protecting the right to access public information. In the context of the increasingly frequent instances of administrative silence, refusals without explanation, and formal interpretations of the Law on Free Access to Information, it is crucial to provide structured support for citizens, journalists, and civil society organizations that wish to challenge negative practices before the competent courts.

Examples from countries in the region demonstrate that carefully prepared strategic legal proceedings, particularly against institutions that consistently fail to fulfill their legal obligations, can yield outcomes that extend beyond a single verdict. In addition to obtaining the specific case, these processes contribute to increasing public awareness, intensifying public and media pressure on the institutions, and encouraging changes in administrative practice.

**Regional cooperation: Formation of a regional network for monitoring and common indicators for the efficiency of the SPIJK**

The problems with transparency are regional, so the solutions should be as well. It is necessary to **form a strong regional network** that will unite supervisory bodies, civil society organizations, and experts from the Western Balkans.[[10]](#footnote-9) This network will enable **exchange of experiences and good practices**, common challenges, and learning from successes and failures. Additionally, it is essential to define the **common** **performance** **indicators** for systems providing free access to public information (SPIJK). These indicators will enable the comparison of progress toward free access between countries, identifying areas for improvement and informing regional policies to strengthen transparency. This cooperation will strengthen the pressure on governments to implement reforms and enable regional improvement in accountability.

**Integrated use of technology: Active application of Open Data and AI tools for predictive transparency[[11]](#footnote-10)**

In the era of digitization, technology offers enormous opportunities to improve transparency. Active application of the principles of **open data (Open Data)** is essential, meaning that public data should be available in a machine-readable format, easy to search and reuse[[12]](#footnote-11). This modernized practice enables citizens, researchers, and the media to more easily analyze the data and demand the responsibility of the institutions. Furthermore, the development and application of **artificial intelligence (AI) tools** can enable **predictive transparency**. AI can be used to automatically identify information of public interest that should be proactively released, to analyze trends in information requests, and to optimize the response process. For example, AI can help automate routine responses to frequently asked questions, freeing up officers for more complex requests.

**From declarative to substantive transparency**

**Administrative silence is a chronic problem in the countries of the Western Balkans, which requires a systemic approach.** Laws alone are insufficient if they are not accompanied by implementation mechanisms, strong political will, and a culture shift towards transparency and accountability. Case law has the potential to be a powerful tool for protecting the right to information; however, comprehensive support and a strategic approach are necessary to harness that potential.

**The key goal is to transform access to information from a formal guarantee on paper into a fundamental tool for government control.** This means that citizens, the media, and civil society should be prepared to utilize information to monitor the activities of institutions, demand accountability, and influence decision-making. To achieve this, it is essential to have the **inclusive** **involvement** **of** **all** **relevant** **stakeholders,** including **the state, judiciary, civil society, media, and international partners.** Only through the joint efforts and commitment of these actors can a system be built where transparency is not the exception, but the rule.

**Potential obstacles in the implementation of the recommendations**

Despite the importance of the above recommendations, their implementation in the region faces several significant barriers:

* **Lack of political will:** This is the biggest obstacle. Governments often declaratively support transparency, but in practice show resistance to the full disclosure of information, especially that relating to contested decisions, corruption, or inefficiency. Political elites may view transparency as a threat to their power and control.
* **Weakness of legal institutions:The**  Judiciary in many Western Balkan countries is still not fully independent and efficient. There are problems with corruption, political influence on court decisions, insufficient capacity, and slow court proceedings, as well as inconsistent case law, which directly hinder the implementation of laws on access to information.
* **Resistance from the administration:** There is often internal resistance within the administration to changing established secrecy practices. Officials may fear liability, lack the skills to be proactive in disclosure, or feel that information is "their property" rather than a public good.
* **Insufficient financial and human resources:** The implementation of digital platforms, continuous training, and monitoring systems requires significant financial and human resources, which are often limited in the budgets of the countries of the region.
* **Limited public awareness:** Although the right to information is constitutionally guaranteed, the general public's awareness of this right and the ways to exercise it is often low. This reduces the demand for information and the pressure on institutions for better and more efficient management.

**The role of international organizations in this process**

International organizations play a **key role** in the promotion and support of transparency and the right to information in the countries of the Western Balkans:

* **Monitoring and reporting:** Organizations such as the European Union (through the enlargement process and annual progress reports), the Council of Europe, the OSCE, and various international non-governmental organizations (Transparency International, Freedom House, Reporters Without Borders) regularly monitor the state of media transparency and freedom.[[13]](#footnote-12) Their reports identify deficiencies and put **political pressure** on governments to implement reforms.
* **Financial and technical support:** International donors provide **significant financial resources for projects aimed at strengthening civil society, the media, the judiciary, and the administrative capacities**. This includes funding training, developing digital tools, legal aid for strategic lawsuits, and supporting independent media.
* **Expertise and exchange of good practices:** International experts provide **technical assistance** in creating laws, strategies, and implementation mechanisms that align with international standards. They also facilitate **the** **exchange of** **experiences** between countries, enabling them to learn from each other's successes and challenges.
* **Advocacy and lobbying:** International organizations are often instrumental in advocating for reform at the highest political level, encouraging governments to fulfill their obligations and respect the right to information as a fundamental democratic principle.
* **Setting conditions:** In the context of European integration, the EU can set **specific conditions** related to the rule of law and transparency, the fulfillment of which is necessary for progress in the negotiations. This is a powerful tool to drive reform.

Although international support is crucial, **the success of reforms always depends on the commitment and political will of domestic actors.** Without strong internal motivation and coordinated efforts, even the best recommendations and the most significant international support can remain only on paper.

**Conclusion**

The silence of the administration represents the most widespread forms of institutional non-accountability in the countries of the Western Balkans. Although the right to free access to public information is legally guaranteed and formally recognized as the basis of transparent management, its practical application remains seriously limited, precisely because institutions fail to act within the legally prescribed deadline for responding to requests for public information. The analysis reveals that this phenomenon is not random or sporadic, but rather the result of systemic weaknesses, including a lack of political will, administrative inertia, inadequate resources, legal uncertainty, weak judicial enforcement, and a culture of selective and formal enforcement of laws.

The data for 2023 and 2024 clearly indicate a worrying trend: an increasing rate of silence, especially among central institutions, public enterprises, and local self-government. This silence not only violates the individual right to information but also undermines democratic control, hinders journalism, and blocks efforts to prevent corruption. The phenomenon of selective response, with which institutions attempt to create the illusion of transparency while keeping truly sensitive information closed to the public, is particularly alarming.

The analysis also reveals the presence of good practices and initiatives, such as the introduction of digital platforms and the management of strategic court cases; however, their impact is limited without structural changes and support from key actors – the administration, the judiciary, the media, and civil society. Courts play a potentially crucial role but face limitations related to slowness, non-unification, and poor enforceability of decisions. In the absence of effective sanctioning mechanisms, an environment is created where the administration's silence becomes a standard practice.

The long-term price of this silence is high: citizens' trust is lost, the media and researchers are deterred, and the democratic capacity of societies remains weak. If this situation persists, there is a risk that the Western Balkans will remain mired in cyclical inefficiency, where formal transparency will serve as a facade for institutional closure.

The solution is not simple, but it is possible. It requires a transition from declarative to essential transparency – from formal obligations to real accountability. The recommendations offered in this analysis – including the introduction of a written response obligation, strengthening of supervisory bodies, digitization of procedures, disciplinary responsibility, strategic judicial action and regional cooperation – represent a set of complementary measures that, if applied consistently and with the support of the international community, can significantly improve the implementation of the right to information.

Ultimately, the question is not only whether institutions will respond to requests for information, but whether democracy will function as a living practice or remain mired in bureaucratic formalism. Free access to public information is more than an administrative procedure – it is a matter of upholding the rule of law, fostering trust, and upholding the integrity of public authority.

**Prepared by:**

**Oliver Serafimovski**

1. **European Commission, Rule of Law Report – North Macedonia, 2024.**
<https://commission.europa.eu/publications/2024-rule-law-report_en> [↑](#footnote-ref-0)
2. **ReSPA, Comparative Transparency Index – Western Balkans, 2023.**
<https://www.respaweb.eu> [↑](#footnote-ref-1)
3. Council of Europe, Tromsø Convention Country Factsheet: North Macedonia

<https://www.coe.int/en/web/access-to-official-documents/north-macedonia> [↑](#footnote-ref-2)
4. **OECD/SIGMA, Monitoring Report: Western Balkans Public Administration Reform, 2023.**
<https://www.oecd.org/governance/sigma> [↑](#footnote-ref-3)
5. [https://aspi.mk/wp-content/uploads/2025/02/анализа-на-судската-пракса-на-управниот-суд-со-законот-за-слободен-пристап-до-информациите-од-јавен-карактер.pdf](https://aspi.mk/wp-content/uploads/2025/02/%D0%B0%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7%D0%B0-%D0%BD%D0%B0-%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B0%D1%82%D0%B0-%D0%BF%D1%80%D0%B0%D0%BA%D1%81%D0%B0-%D0%BD%D0%B0-%D1%83%D0%BF%D1%80%D0%B0%D0%B2%D0%BD%D0%B8%D0%BE%D1%82-%D1%81%D1%83%D0%B4-%D1%81%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D1%82-%D0%B7%D0%B0-%D1%81%D0%BB%D0%BE%D0%B1%D0%BE%D0%B4%D0%B5%D0%BD-%D0%BF%D1%80%D0%B8%D1%81%D1%82%D0%B0%D0%BF-%D0%B4%D0%BE-%D0%B8%D0%BD%D1%84%D0%BE%D1%80%D0%BC%D0%B0%D1%86%D0%B8%D0%B8%D1%82%D0%B5-%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.pdf) [↑](#footnote-ref-4)
6. Strategic actions against public participation and as a new form of suppression of freedom of expression, Partners Serbia, 2024

<https://www.partners-serbia.org//public/news/Slapp_analiza_.pdf> [↑](#footnote-ref-5)
7. <https://www.article19.org/resources/eu-article-19-contributes-to-access-infos-report-on-access-to-documents/> [↑](#footnote-ref-6)
8. <https://birn.eu.com/wp-content/uploads/2025/06/2025-FOI-Report_24_FINAL_ENGLISH.pdf> [↑](#footnote-ref-7)
9. <https://slobodenpristap.mk/> [↑](#footnote-ref-8)
10. <https://www.azlp.me/me/agencija?page=3> [↑](#footnote-ref-9)
11. Predictive transparencyrepresents a proactive approach in the publication of information by institutions, with which they publish or share relevant data that is of public interest in advance (before being requested). [↑](#footnote-ref-10)
12. <https://eur-lex.europa.eu/eli/dir/2019/1024/oj> [↑](#footnote-ref-11)
13. <https://rsf.org/en/index?year=2025> [↑](#footnote-ref-12)