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Is this law really the sixth in the world regarding quality?

EFFECTIVENESS OF THE RIGHT TO INFORMATION LAW

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Published by: "Res Publica" Center
Authors: Dorian Matlija, Dr. Irena Dule
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CONTENT

1. INTRODUCTION

The new law on the right to information, no. 119, adopted in 2014, represented a qualitative improvement in legislation, when compared to the old legal framework regulated by Law no. 8503/1999. The main push for a new law came from the civil society, which proposed putting an end to what was considered an overrun and ineffective law, and which bore the main weight in drafting the new provisions. At first, there was a general feeling that the new law brought a lot of innovation, listing it as one of the best laws in the world. It even ranked sixth in the world for the concepts it involved.

According to *Access Info* and *Center for Law and Democracy* organizations, in the Global Ranking for the Right to Information, Albania ranks sixth[1]. The ranking of the first ten positions is as follows:

1.	Mexico	136 points
2.	Serbia	135 "
3.	Sri Lanka	131 "
4.	Slovenia	129 "
5.	India	128 "
6.	**Albania**	**127 "**
7.	Croatia	126 "
8.	Liberia	124 "
9.	El Salvador	122 "

Interestingly, Austria is positioned last with 33 points, while positioned near the bottom are found countries like Germany with 54 points, or Belgium with 59 points. How is that possible? How can Sweden, which has the obligation to provide information within 24 hours, be ranked below Albania?

1 http://www.rti-rating.org/

The methodology used in the above assessment starts with the inclusion of the right to information in the Constitution, and then follows with categories included in public information, the formats in which information is delivered, principles of law, etc. The positioning of developing countries at the top of the list can be explained by the fact that the newly passed laws rank higher than those passed many years ago. In the law that is currently in force in Albania are included many concepts related to categories of information, categories of public authorities, limitations to the right of information, etc. All express in principle how far goes in theory the right sanctioned by law, assuming we are living in a highly conscientious and democratic society with a full will to implement every letter of the law. But is that enough?

A law cannot be assessed solely by conceptual advantages it brings. These might have been solved through the administrative or judicial practice in developed countries. For a law to be considered really good, it should be assessed whether it leaves room for abuse by officials who are unwilling to give life to these new concepts. So the law, in order to be a good one, should pass the test of those officials who do not want to respect its principles, who have no will and have all the reasons for disclosing information that could endanger their affairs.

We often hear that *we have good laws but they do not apply*. In our perception, a law cannot be good if it does not guarantee unavoidable enforcement mechanisms. The identification of the pitfalls in these mechanisms is precisely at the core of our work. We do not believe that it is good for the public to hear that the law ranks sixth in the world if he does not really feel the effects that a low of such high ranking should bring. The public has to understand that if the situation is not good, both lawmakers and law enforcers should work to improve it rather than preserve its statuesque through classifications/labelling that do not allow for improvement.

Our initiative to continue testing the law enforcement aims to provide a realistic picture of the situation and to identify problems that need to be solved.

Although law enforcement may have improved since the first year of its entry in force in 2014, the further we go from the initial impact, the slower and less justifiable the improvement rhythm becomes, while the overall picture is still far from lawmakers and civil society's vision at the moment of drafting and adopting this law.

In order to help the interested citizens, on 16.12.2016, Res Publica launched the right to information platform Publeaks.al, through which every individual can apply and request information and / or documentation and then Res Publica follows the entire procedure, from drafting the request to making available for the applicant/requester, the response provided by the institution. The platform contains an online request tracking system where can be found responses of other applicants request while preserving the anonymity of the applicants themselves.

There is also a large amount of information on the platform for the most important 100 public institutions in the country, information that undergoes a process of continuous completion. One of the sections is dedicated to the ranking of public institutions transparency, where visitors can get an idea about the level of institutional transparency in Albania, a ranking that is updated periodically. The Publeaks.al platform also contains studies, news and right to information decisions.

In this context, the purpose of this study is to assess the effectiveness of the right to information law enforcement through its use by individuals, civil society, activists or journalists and assess the public institutions reaction when faced with different questions.

2017 is the fourth year that the Center 'Res Publica' is monitoring the implementation of the right to information law from public authorities. In the previous study, Res Publica main conclusion was that public authorities still had considerable problems with the implementation of the law, but also the law itself has gaps that hinder the rapid disclosure of information and official documents.

This report was drafted by the Center 'Res Publica', with the support of Civil Right Defenders in the framework of the project "Promoting citizens' access to the right of information, evaluation of the work of the Commissioner for the Right to Information ".

The study includes recommendations for improving the law on the right to information, to make the public administration as transparent as possible and the citizens more aware and motivated to use it.

Author: Av. Dorian Matlija

Supported by the following working group:

- Mrs. Elida Elezi - Attorney
- Mrs. Brunilda Qershori - Attorney

2. METHODOLOGY

The purpose of this study was to monitor the implementation of the right to information law during 2017. The study is a follow up of previous studies that were carried out during 2015 and 2016 seen from a comparative prospective with the previous two years, while maintaining the same methodology, as much as possible, but with the novelty of additionally bringing in the scene the monitoring through multiple tests using the Publeaks.al platform, which was created at the end of 2016, as a support tool in function of the right to information.

To achieve this goal, the analysis focused on two main directions. First, the activity of public institutions was monitored with regards to their responsibilities within the framework of the right to information and secondly, the activity of the Commissioner for the Right to Information was monitored, as the authority specifically created by law, to guarantee this constitutional right.

Regarding the first, during the monitoring of public institutions for 2017, their reaction to the information requests generated by the Publeaks.al platform was evaluated; their publication of *transparency programs*, appointment of *coordinators*, completion and publishing the *register of requests and responses*.

To evaluate the responsiveness of the institutions to the requests for information, were analysed the path that requests for information follow, starting from the application on Publeaks.al site. A total of 183 requests for information were selected. The same division of fields was maintained as in 2015 and 2016, in order to have a fair comparative basis.

The indicators that were used as a basis for evaluation are:

1. *Deadline for providing responses*
2. *If the response was complete or partial*
3. *The reaction of institutions after administrative appeals*

To evaluate the fulfilment of the obligation to publish transparency programs, appoint coordinators, publish and complete of the register of requests and responses, 94 public institutions of different categories were monitored such as: central and local government institutions, constitutional and independent authorities, institutions of the judiciary and subordinate institutions.

Additionally, the data obtained from the Publeaks.al platform applications, even though not the main purpose of the study, gave as a deeper insight into other aspects of the right to information, which can be used for the benefit of future studies on the citizen's interest on getting information, such as age of applicants, gender, category, subject of request for information, etc.

Regarding the monitoring of the activity of the Commissioner for the Right to Information, we have used a critical approach as we consider it to be more effective in helping improve the work of this institution and because expectations towards this institution are higher as the institution which has the right to information as its functional duty.

For the sake of testing beyond ordinary and routine practice, Res Publica has also conducted a number of other tests where the subject of the request for information is within the allowed limits of the law, where restrictions start to apply in order to protect other rights such as the personal data, trade secret, etc. All the above cases, as a rule, ended up in court and it was our intention to create a new practice that would benefit the right to information.

3. AN OBSERVATION OF THE PUBLEAKS.AL PLATFORM APPLICANTS

3.1 Two words on the publeaks.al platform and online applications

The right to information platform *www.publeaks.al*, which started being operational on 16.12.2016, has assisted citizens in accessing official information and documents. Citizens have had the opportunity to apply online in an extremely simplified way, by asking different questions. Based on these questions, the staff of the Center 'Res Publica' drafted the requests for information and followed them through the whole process.

For study purposes, Res Publica has decided that when a citizen wants to apply and receive the service offered by the platform publeaks.al, he has to fill in some demographic data such as education, profession, sex, age, etc.

During 2017 (excluding December), a total of 153 applications were made through the platform, based on which were sent 183 requests for information. Res Publica has obtained data from applicants for the following indicators:

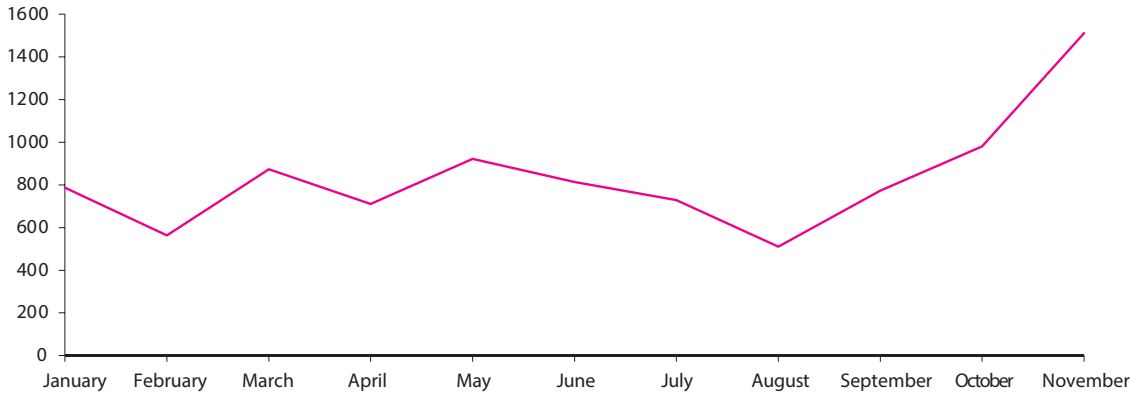
- *Education*
- *Age*
- *Gender*
- *Subject of requested information*
- *The public authorities to whom the question is addressed*
- *Clarity and proper orientation of the question*

The above indicators were selected in order to identify the typology of information requested, which group is more interested and want to be informed on the activity of the institutions, what is the level of knowledge of the law of the different demographic groups, etc.

The www.publeaks.al website, is not only a platform that gives citizens the opportunity to apply for requesting information from a public institution, but also an informative platform which contains 10 sections, where each citizen can get acquainted with responses to requests for information of other applicants, as well as studies, news, domestic courts case law and decisions of the European Court of Human Rights (ECtHR).

Since its creation, the use of the pubLeaks.al has increased in the in last months of 2017 as the following chart shows:

Fig.1 – Number of clicks on pubLeaks.al webpage during 2017



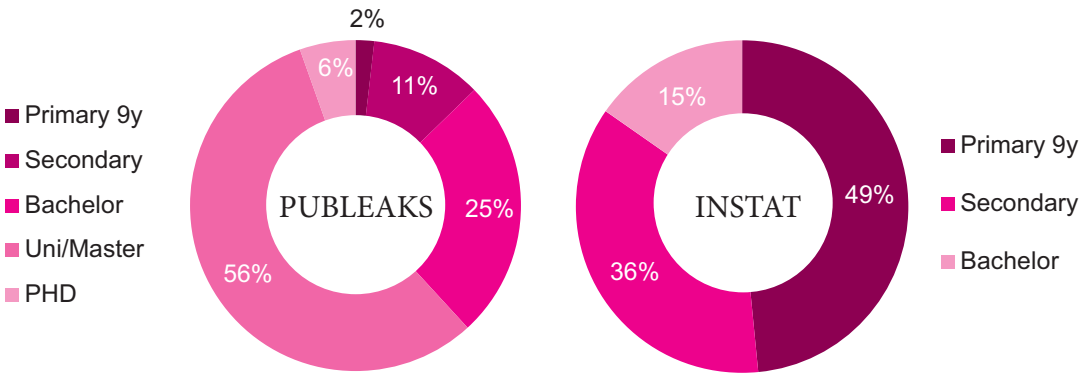
From the chart above we see that the lowest site usage was recorded in August 2017, which is assumed to be due to summer holidays, and the highest point in November 2017. On average, the site was visited by 834 people per month. This figure is still low compared to what its potential could be, mainly due to citizens' reluctance to show interest in public matters, and because of insufficient publicity compared to other online sites that receive greater attention from the visitors such as news portals, social networks, etc., which are thought to have a significant marketing investment by their site administrators.

3.2 Applications by level of education, age and gender of the applicants

Applicants by level of education

Referring to the data provided by the applicants, it results that applicants that have shown interest by applying in the platform have different levels of education.

Fig. 2 – Applicants by education



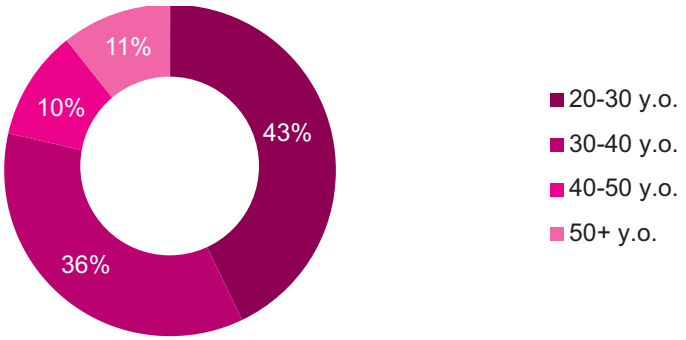
As the above graph reveals, 87% of applicants have higher education with a "bachelor" degree, while this category comprises only 15.3% of the population. Applicants with secondary education are only 11%, while they account for 36% of the total population, while the applicants with the primary (9 years) education, despite accounting for the vast majority of the population with about 49%, amount to only 2%.

The conclusion drawn from the two graphs above clearly shows an inverse proportionality between the share of the population by the level of education and the interest on the right to information law. The higher the level of education, the greater the interest in public decision-making, despite the fact that the number of people pertaining to the higher education category is lower.

The fact that people with higher education show greater interest is obviously not related to their knowledge of the right to information law, since it is Res Publica itself that carries out all the procedures for obtaining information, meaning there is no need for the applicants to be knowledgeable the law. A reasonable explanation could be that a part of the users of the law are journalists or scholars, assumed to have higher education. This is confirmed by the type of question they make and the use of the responses in actual articles or studies. This analysis leads to the conclusion that the active part of the society in exercising the right to information, is that with a higher education (bachelor or higher) which, because of their professional activity, can exercise this right for "private" reasons sufficient to result in a higher interest in public matters. However, the working group cannot conclude what is the dominant reason, as the above explanation does not apply to the reported ratio between persons with secondary education and those with primary (9 year) education, and this phenomenon may need to be clarified by more in-depth studies in the future.

Applicants by age

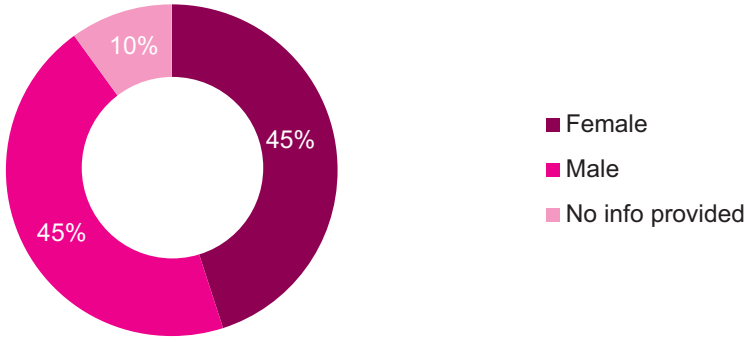
Fig. 3 – Applicants by age



As it can be seen from the chart above, there is a direct proportionality between the number of applicants of a certain age group (the requesters of information/applicants) and the population of the same age group. The majority of applicants at Publeaks.al are between 20-30 years old, an age group that comprises the majority of the population. This is followed by the age group of 30-40 years old, which maintains the same proportionality. From this data we deduce that there is no particular trend in the correlation between the active age and the interest shown in information held by state institutions, but its is a mere consequence of the numerical dominance of the 20-30 and 30-40 years age group.

Applicants by gender

Fig. 4 – Applicants by gender



The above graph shows that there is no difference in the distribution of applicants by gender, meaning that both genders are equally interested in public matters. A difference exists only in the fact that men have made slightly more requests, but the number of applicants is equal. A not so small amount of applicants have preferred not to provide info on their gender, which indicates that this indicator is not considered significant even by the applicants themselves.

3.3 Applications out of the scope of the law no 119/2014 "On the right to Information"

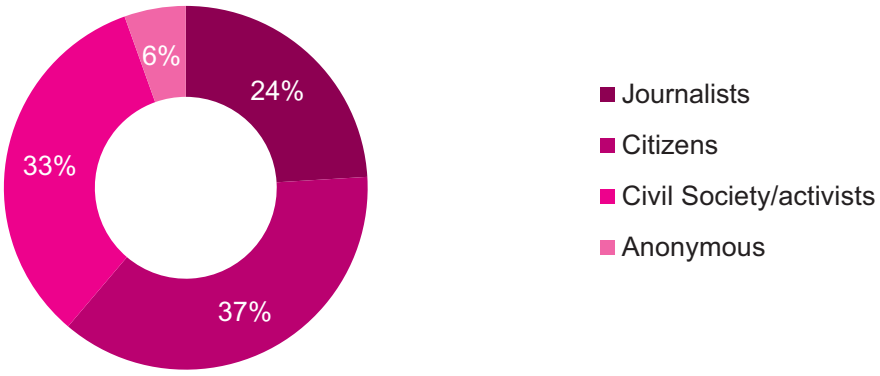
From the online platform applications, it was noticed that 10% of the questions did not have as their subject the requesting of public information, but were rather seeking direction and advice on various legal issues of a private nature. Applicants are proportionally distributed in the different education level categories, and therefore this does not seem to be related to the level of knowledge of the law. This fact shows that some citizens, regardless of education, gender or age group, are unclear on what is the purpose of the law on the right to information and therefore submit requests that resemble more to complaints or concerns than to actually requests for information on actual issues that the authorities have the obligation to disclose to the public.

Res Publica has always provided direction to these applicants as to where they can go to get the information required or to resolve the concrete disputes.

4. DATA ON THE AUTHORITIES REACTION TO QUESTIONS COMING THROUGH THE PUBLEAKS.AL PLATFORM

4.1 Requests by type of applicant and the activity of public authorities

Fig. 5 – Request by type of applicant



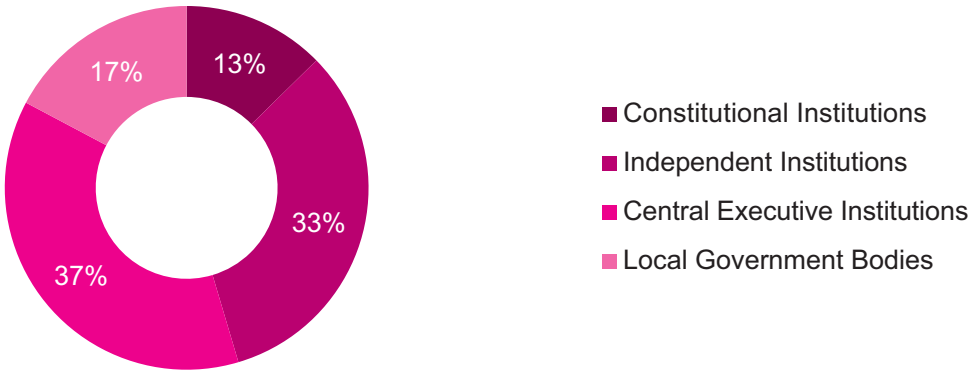
In the graph above, there is an almost equal distribution between journalists, civil society activists and citizens. Because publeaks.al has only been operational in 2017, it is impossible to make a comparison with the previous years in this respect, but the figures of the Office of the Commissioner for the Right to Information highlights the fact that during 2017 there is an increase in the number of requests initiated by individuals.

The high number of applicants from the citizen's category is an indication that individuals take action if someone simplifies the administrative procedures. In this context, the Publeaks.al platform has helped those citizens who, despite their curiosity, do not want to strain themselves into preparing requests for information, filing complaints etc.

The subject of requests for information has been varied and mainly related to the following areas (sorted according to the interest shown):

- education
- procurement
- urban planning, construction
- consumer protection
- culture
- housing
- environment

Fig. 6 – Requests by type of public authority



The greatest interest of the applicants is related to central and independent institutions, while noticeably little interest is shown about local government bodies, even though this bodies are the ones to have the greatest impact on the citizen's everyday life. This phenomenon can be explained by the fact that the platform users are journalists, researchers and civil society activists, who focus on the most important bodies that impact the lives of all citizens, regardless of where they live.

Our data show that in the category of requests addressed to the local government, the Municipality of Tirana has received the majority of questions, with about 54%. To the Municipality of Elbasan are addressed 19% of the questions and to the Municipality of Durres, 8%. Minimal interest has also been shown for the Municipalities of Vlora, Kavaja, Korca, Lezha and Saranda. This phenomenon is an indicator of two influencing factors: first, the Publeaks.al platform may not be known in other areas of Albania; secondly, citizens living in large cities are more interested in using legal mechanisms rather than finding informal solutions, which supposedly are perceived to be more efficient in areas with smaller population where acquaintances and connections between residents are stronger.

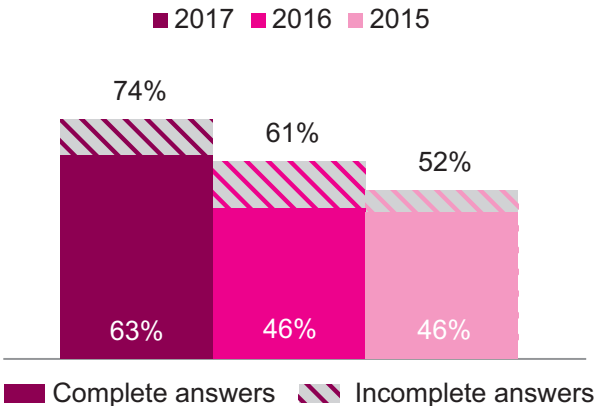
4.2 Reaction of public institutions to the requests for information

Replies after initial requests

After the initial request for information the authorities have:

- Have responded 74% (63% complete and 11% incomplete replies)
- Have not responded 26%

Fig.7 – Percentage of responses after submission of the initial request



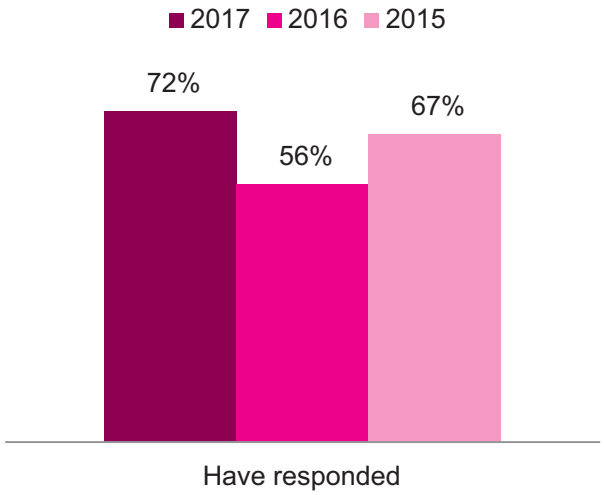
In the above chart we notice a positive trend in the responsiveness of the authorities after initial requests in the three years in comparison, where in 2017 we have a 13% increase in response rates compared to 2016 and 22% increase compared to 2015. The improvement may be related to the fact that the number of institutions that have appointed *coordinators for the right to information* has increased, as well as to an increased awareness of the consequences in case of noncompliance with the law. However, despite the increase in the number of responses, in 26% of cases the public authorities did not respond to the request within the legal deadlines or refused to respond, and this a high figure considering the fact that the law has been in force for over 3 years and the Commissioner has held continuous trainings on the right of information for the coordinators.

One disturbing aspect relates to incomplete responses. As noted in the graph above, the situation seems to have improved compared to the previous year, but it still remains below the level of 2015. Overall, the total response rate after the initial request is 63%, the incomplete replies comprise 11% of total requests, or 15% of the total responses provided.

4.3 Reaction of public institutions after administrative complaints

In cases of refusal to respond or partial responses by the public authorities, administrative complaints have been filed with the Commissioner for the Right to Information. More specifically, following the complaint to the Commissioner for the Right to Information, the authorities:

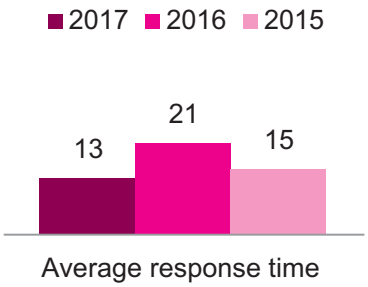
Fig. 8 - Percentage of responses after submission of administrative complaint



As the chart shows, in 2017 there is an increase in the reaction of public authorities who provided information shortly after a complaint to the Commissioner. As we have observed in our previous studies, this phenomenon continues to manifest itself. The above does not change the fact that the individual continues to go through a long hurdle to get the information, wasting a lot of time.

4.4 Timeline for responding to requests before and after complaining to the Commissioner

Fig.9 – Responsiveness to initial request (in calendar days)

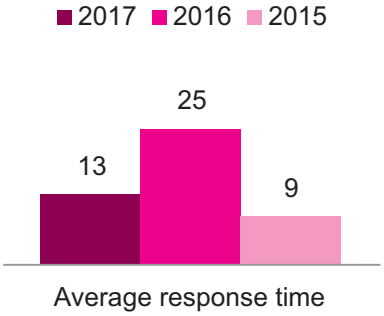


The above graph shows a an improvement in the timeline for the provision of information after the initial request. The average response time is 8 days shorter than that of 2016 and 2 days shorter than the 2015 average response time.

However, we could not decide on what are the reasons for this improvement because all requests, despite being based on applications made on the Publeaks.al platform, have formally been made by Res Publica and there is a feeling that quicker disclosure of information is related to the fact Res Publica has the reputation of being an organization that perseveres in getting information even by following the cases in court and consequently public authorities are inclined to reply to the requests. It remains unclear what would the case be if the requests were submitted by the citizens themselves.

Delays seem to be related to specific requests for information regarding procurements, audits, criminal reports, activities of the Prime Minister's Office, minutes of meetings, National Territory Council decisions, environmental information, etc. So, on a general note, the deadlines were not met when the information was of a sensitive nature. On the other hand, it is specifically for this type of information that this law is intended. Other information such as the budget, organisational structure, working hours, etc., are not information that affects the transparency of the administration.

Fig.10 - Responsiveness after administrative complaint (in calendar days)



The graph above also shows an improvement in the response time after an administrative complaint compared to 2016, but a worsening of the situation compared to 2015.

5. DATA ON THE INSTITUTIONS' PROACTIVE TRANSPARENCY

5.1. Transparency Programs

Following the adoption of the transparency program model by the Commission for the Right to Information, many public authorities have begun publishing information without a request in order to complete the transparency program. In previous monitoring, many deficiencies have been noted in completing transparency programs, while in the publication "Transparency Index 2017"[2], a significant slowdown in the progress of completing these programs has been observed over the last year.

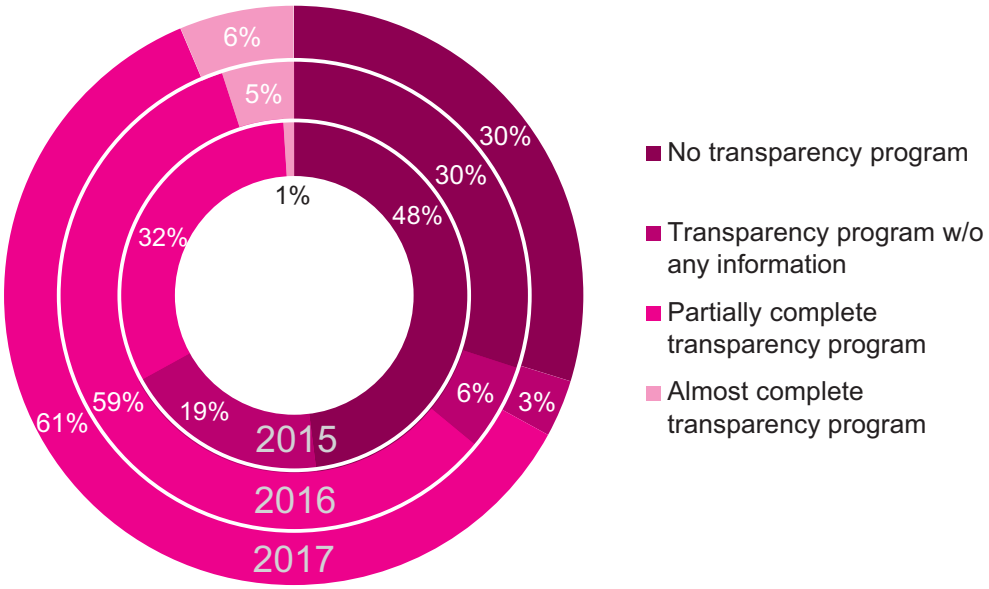
In order to have a more complete picture of how public authorities have fulfilled this obligation, after the third year of entry into force of the law, a comparison has been made taking into account the level of completion of *transparency programs*, the appointment of the *coordinators for the right to information* and maintaining a *register of request and responses*.

Just as in previous studies, 100 institutions have been monitored, including institutions from all categories and powers, as institutions belonging to central government, local government, independent institutions, and subordinate institutions.

Although there is an improvement compared to previous years, in the situation is still very problematic, as it results that the transparency programs are completed to a little extent or not at all, except for some isolated institutions that have done better in completing the program. Our observations show that there is no institution has fully completed the transparency program and many public authorities that do not have a program do not have either an official online website or the site isn't functioning.

2 http://www.publeaks.al/wp-content/uploads/2017/11/Raport-Indeksi-i-Transparences-2017-ok.pdf

Fig.11 – Completion of the transparency programs during 2017

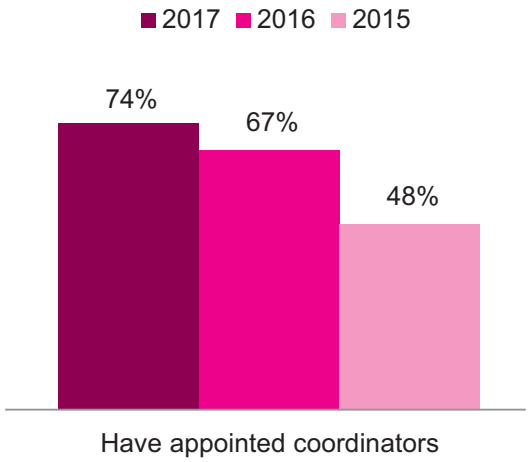


As evidenced by the graph, in addition to the expected improvements during 2015 - 2016 when the completion of transparency programs became a legal obligation, we see a lack of improvement in 2017. The percentage of public authorities without a transparency program has remained the same and the percentage of public authorities that have satisfactorily completed the transparency program remains unchanged.

5.2 Appointing Coordinators for the right to information

The appointment of persons responsible for the disclosure information and who are held personally responsible in case of violations of the legal provisions is a guarantee for the enforcement of the law on the right of information. These responsible persons are the right to information coordinators.

Fig.12 – Appointing Coordinators for the Right of Information



The above graph shows the situation continues to improve. Compared to 2016 the number of authorities that have appointed coordinators for the right to information has increased

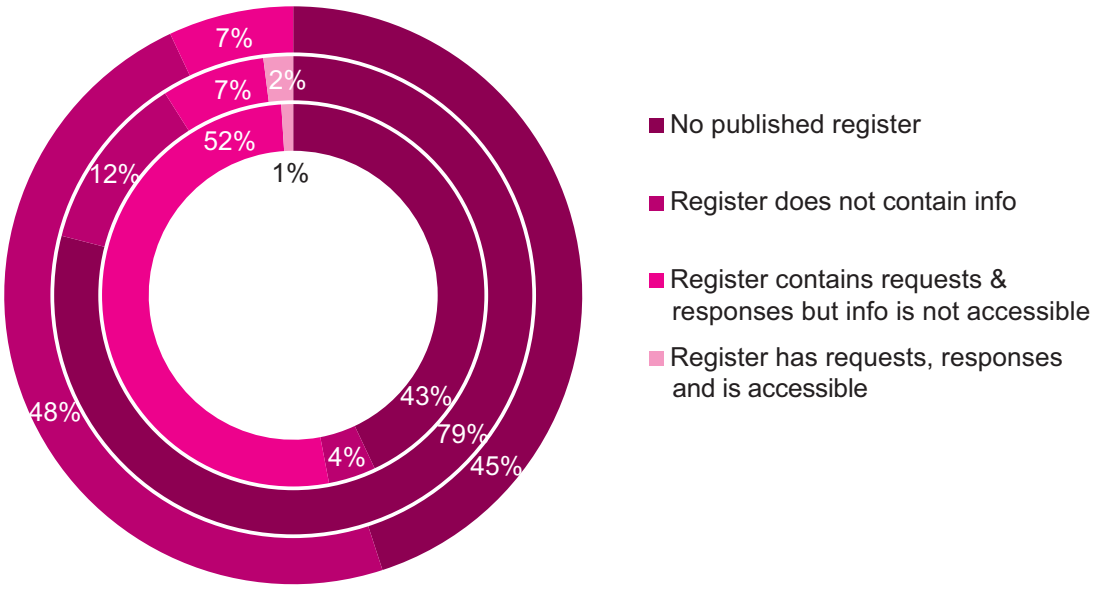
by 7%. However, it is still worrying that even after three years, a considerable number of monitored public authorities, about 26%, have not appointed coordinators.

For the workgroup of this study it remains unclear whether what is considered as a failure to appoint coordinators is simply related to a the fact that the authorities have no online webpage where info on coordinators is taken from. This category includes 11% of the public authorities, for which the conclusion that they have not appointed a coordinator may be wrong. But even in these cases, the fact that the general public does not know whether or not the public authority has appointed a coordinator is the same as not having a coordinator. The appointment of the coordinator without announcing it publicly is not believed to serve its purpose. Moreover, failure to publish the coordinator's data is a contravention punishable by a fine.

5.3 Register of requests and responses

Keeping a register with the request number, the subject and the response provided by the authority is another obligation stipulated in the law on the right to information. In order to monitor the keeping of the register by public authorities, the same methodology was followed as in the previous study, with regard to the indicators.

Fig.13 – Publication of the register of request and replies



The above graph shows the improvement in the publication and completion of the request and responses register. The number of institutions that have not published the register of requests and responses has significantly decreased. We also notice a significant increase in the number of institutions that are completing this register.

However, even during 2017 a high percentage of public authorities do not have a register and only half of the authorities have a register containing the requests and responses and in some cases a brief description of the information. Only The Commissioner for the Right to Information has an almost complete register.

As per provisions of the article 8 of the law on the right to information, the register need to contain the requests, responses as well as the disclosed information, which should be accessible.

The institutions continue to follow the practice of providing a short summary of the information disclosed to the public, and not publishing the full information that has been given to the applicant. This practice is miles away from the lawmaker's intent when drafting the law on the right to information, which entails that information given to an applicant should be given to any other interested person. By publishing the responses to request for information, the law seeks to avoid repetitive requests on the same information, as the existence of an online response could be used by other potential information seekers. The more information is requested by applicants the less need there is for new requests. This objective of the law has not at all been met.

6. DATA FROM THE ACTIVITY OF THE COMMISSIONER FOR THE RIGHT TO INFORMATION

6.1 Commissioner's failure to make decisions

The Commissioner for the right to information reviews the complaints and within 15 working days, takes a decision whether to accept or reject the complaint. The applicant or the public authority has the right to challenge the decision of the Commissioner in court within 45 days (according to Law 49/2012 "On the organization and functioning of the administrative court and the resolution of administrative disputes").

The study found that during 2017, out of 60 complaints filed by the Center "Res Publica", the Commissioner decided to accept the complaints in 3 cases, to reject the complaint in 1 case, and to take an "interim decision" in 19 cases, giving additional time to authorities to provide information and make the requested documentation available. It should be noted that these "interim decisions" are documents issued by the staff of the Commissioner's office, while the law recognizes the Commissioner for the Right to Information as the sole authority to issue such decisions

From the above, we consider that the complaints addressed by the Commissioner, by responding to complaints as per the standard legal procedure, are only 4 cases out of 60, or expressed otherwise, only 7% of complaints filed with the Commissioner. While the reasons for this institutional behaviour are not officially known, it is certain that this figure is worrying. During the first year of the law enforcement (the end of 2014 and 2015), this practice seemed to aim at bringing to the attention of the public authorities the new law, which was difficult to be properly understood. However, after this initial period, in 2016 the first negative effects started to appear, which marked a regress in all the responsiveness indicators, like longer timeline for responding to requests, smaller number of responses to initial requests, incomplete responses, longer response timeline after a complaint, etc.

Although in 2017 the same indicators have improved, the situation does not seem to be better than the first year. After a period of over three years, the law enforcement has still not reached the desirable parameters, due to the Commissioner's tolerance and extralegal behaviour.

6.2 The issuing "Interim Decisions" from the Commissioner

As stated above, out of 60 complaints filed by the Center "Res Publica", the Commissioner has decided in 19 cases to give a chance to public authorities to provide the requested information by giving them a second deadline beyond that provided by the law. This practice is not stipulated in the law, and as such it is ungrounded.

Even after this deadline, public authorities have not responded to the request for information in 5 cases and the Commissioner has not taken a final decision for provision of information within the deadline.

The Commissioner continues to widely use this practice, giving the public authorities a second, extrajudicial option for disclosing information before he takes a final decision. This practice has two effects that contradict each other: (1) On the one hand, this tool results effective, as long as the Commissioner has come up with a final decision in 7% of cases filed by Res Publica. The positive effect lies in the fact that the information, though delayed was delivered; (2) On the other hand, this tool brings a negative consequence because it gives a second chance to public authorities, who in the end of the day, have delayed the information to the limits of its uselessness. Information is a "perishable commodity" according to ECtHR. If it is not disclosed in time, it does not make sense to disclose later when it might have lost its value and interest. For this reason, the law has not only sanctioned the Commissioner's right to force public authorities to provide information, but also the right to fine offenders in every case. The Commissioner's failure to act this way has the effect that public authorities, even though they provide information, do not learn to do better next time. This is how the "recidivists" trend develops, which put no efforts in improving because of the Commissioner's tolerance.

The Commissioner has not taken a decision in 8% of the cases, despite expiring deadlines, creating an environment of excessive tolerance. In the overwhelming majority of Res Publica's complaints, the Commissioner has not taken any decisions on cases against the Prime Minister's office, a public authority that has shown no improvement, despite tolerance beyond limits.

6.3. Delegation of Commissioner's competence to his staff

In the practice of the Commissioner for the Right to Information during 2017, were found some isolated cases of an altered practice for rejecting complaints. These decisions were signed by an official from the Office of the Commissioner instead of the latter. We reiterate that the Commissioner is the only authority that according to the law has the competence to make decisions, excluding this way any other official of this office. This incorrect practice is justified by the Commissioner by stating that the practice in question was provided for in the regulation of this institution, but the regulation not only is not an act that brings legal effects to third parties, but even if that were the case, this provision would be in contradiction with the law on the right to information itself.

This practice, according to "Res Publica", is wrong and against the law, so in order to change it Res Publica challenged it to the court, requesting the invalidity of these acts for two cases. The First Instance Court of the Tirana District considered the arguments fair and in both cases decided to invalidate the relevant decisions because they were issued by exceeding the power by an unauthorized body.

6.4 Application of fines by the Commissioner

The Law on the Right to Information entitles the Commissioner to impose sanctions with a fine, in case of violation of specific provisions of the law.

From the information received from the Commissioner it turns out that during 2017 he has taken 62 decisions[3] out of which only 6[4] are sanctioned with a fine. Although in 2017 fines were included in 10% of the decisions, compared to 2016 (5%) and 2015 (3%), this figure remains very small.

The application of fines to public authorities in these decisions was mainly due to a failure to respond to requests for information, but in special cases also for non completing the transparency programs.

6.5. Double standards in the Commissioners' decision making

The commissioner for the right to information and has been applying fines to the institutions that have not published the transparency program. From the data of the study we notice that 30% of the monitored public authorities do not have a transparency program at all, despite three years have passed since the entry into force of the law on the right to information. This figure does not represent the trend for all the institutions as the study has taken in consideration the most central and important institutions for which there are higher expectations that they will enforce the law. It is assumed that this percentage may be higher if smaller and less central institutions were monitored.

The lack of transparency programs to a large extent was also acknowledged by the Commissioner himself. Although the organic function of the later is to guarantee law enforcement in general and the publication of transparency programs in particular, its function is limited to identifying violations but not acting on them. Thus, in such circumstances, the Commissioner has applied only on fine, against the Kurbin Municipality, which had no transparency program (see Decision No. 67, dated 07.02.2017). Meanwhile, this municipality is not more important than many other public authorities that have not been punished with a fine. Choosing the Municipality of Kurbin to be fined shows a double standard in Commissioner's treatment of the cases. If this treatment is based on objective reasons or on any given methodology, it would be advisable that the reasons be published, as a part of the Commissioner's annual reports.

3 The data is for the period January 1, 2017 - December 7, 2017.

4 Decision no. 31, dated 16.02.2017; Decision No. 30, dated. 16.02.2017 of the Commissioner for the Right to Information; Decision No. 59, dated 06.04.2017, against the Obligatory Insurance Fund of Health Care, Decision No. 67, dated 02.05.2017, against the Municipality of Kurbin, Decision No. 60, dated 10.04.2017, Decision no 61, dated. 04/31/2017.

6.6 The need for revision of the transparency program model

The Commissioner for the Right to Information and Protection of Personal Data, in accordance with Law No.119, dated 18.09.2014 "On the Right to Information", has approved the Transparency Program Model, which should be published by the public authorities.

The approved transparency program model is the same for all public authorities, creating difficulties in completing it, as some of the required elements in the program do not fit with the nature of all public authorities. This leads to difficulties in assessing whether an institution has a complete or partial transparency program.

6.7 Independence of the Commissioner for the Right to Information

The Commissioner for the Right to Information is elected by the Parliament on a proposal from the Council of Ministers for a five-year term/mandate with the right of being re-elected[5].

At first glance, this high level official seems to enjoy a relatively high independence, as the appointing body is the Parliament. However, the election is done by a simple majority and the proposal comes from the Council of Ministers, making it an easy "prey" the governing majority.

In the cases followed by Res Publica during 2017 it was noticed that the Commissioner has taken no decision against the Prime Minister's Office, leaving the decisions pending for 4 cases without giving any explanation. Likewise, in sensitive cases, it appears that the decision that solved the problem of a journalist (see examples of the journalist A.R. in Chapter 7 below) was made by the court, which enjoys greater independence. Actually, to date, the only admitted case with a decision against the Prime Minister's Office, is issued by the Administrative Court, in 2014.

Although the Commissioner is able to resolve large number of cases, he does not seem to be able to extend the effects of his decision-making where there is a lack of willingness to make transparency by the higher executive power bodies. We would like to point out that the simple majority of the Parliament is dominated by one political force, while the Council of Ministers is the product of this majority. Under these conditions, also considering that the Commissioner has not had the power to act against the Prime Minister's office, we see the necessity of changing this interdependence.

The commissioner should be appointed by a qualified majority in the Parliament, not leaving his election and dismissal in the hands of a single political force that governs the country and effectively runs very important public authorities subject to the law on the right to information. The mandate of the Commissioner should be longer in order to guarantee the longevity of a consensual electorate of various political forces. The proposal should not come from a political body such as the Council of Ministers, but should come from civil society, or journalists, or a combination of them jointly with university cathedras, trade unions, free-profession bodies and so on.

The Commissioner for the Right to Information should be a really independent body as it plays a key role in exercising a constitutional right that is set against the tendency of

5 Article 33 of Law no. 9887, dated 10.03.1998 "On the Protection of Personal Data", amended.

closing the administration for the corruptive reasons that serve as a powerful drive in the fight for power.

6.8 The problem of anonymisation of the data in the court proceedings

The years 2016-2017, marked an important step backwards in the field of court transparency. Based on an instruction from the Commissioner for Protection of Personal Data, the Minister of Justice issued an instruction to anonymise all the details of court proceedings.

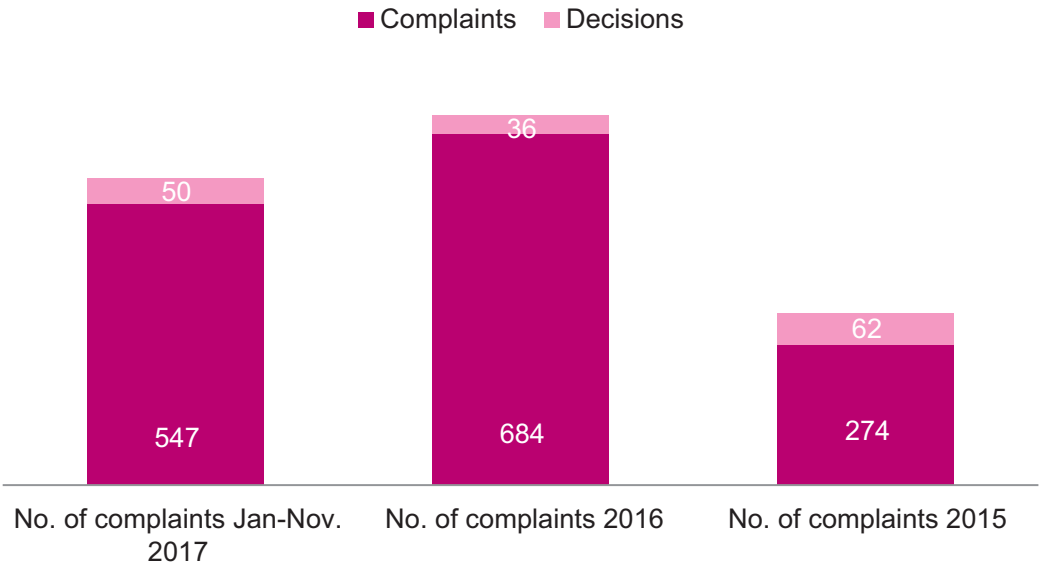
In our concept, trials are public. Under the law everyone has the right to participate in open court hearings. The only authority that decides whether the trial will be conducted by open or closed doors, is the court. No other authority has the power to interfere in the transparency of this process. The initial idea is that trials should be conducted in such places that give everyone the opportunity to participate in trials, hear witnesses, parties, experts, get to know the procedural actions and be present when evidence is submitted to the court and debated over. Given that this is impossible in practice, technical means such as access to archives or access to internet are available. For a long time, the Tirana District Court has had a very good website where each court decision was published along with information from the hearings. This way, anyone who could not be present in the courtroom could get to know what actions were taken through the internet.

This opportunity is no longer available today. The impact of the Commissioner's instruction has enabled courts to act in anonymous terms without giving the public access to judicial activity. Journalists are already having difficulties in getting info on the developments from important court sessions, and lawyers or interested citizens no longer have access to cases that have been judged.

To date there is no initiative to solve this problem, while it is seen that other courts are starting to act like the Tirana District Court and very soon the corts judicial activity risks to fall into a complete information blackout.

6.9. Complaints submitted to the Commissioner

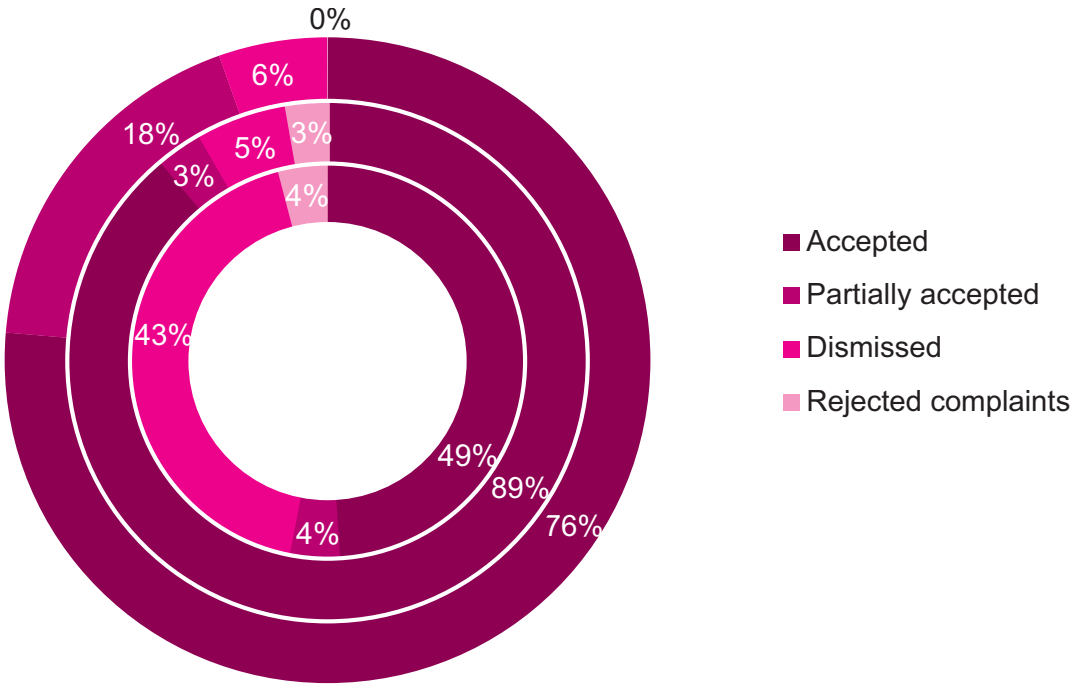
Fig. 14 – Number of complaints handled by the Commissioner



During 2017, until November 2017, 547 complaints were filed with the Office of the Commissioner. By the end of the year this number could amount to 600 complaints. As evident from the above graph, the number of complaints for 2017 has slightly decreased. This phenomenon can be explained by the fact that during 2016 many complaints have been made by civil society organizations that have carried out activities to test the law, activities that have decreased during 2017.

The number of Commissioner's decisions is constantly much lower than the number of complaints. In the three years the Commissioner has made a decision in only 9.8% of the cases. All other cases have been solved through the "settlement with reconciliation" practice, promoted by the Commissioner as an effective tool. This tool, though acceptable for the first year of entry into force of the new law, is no longer considered effective by us. This practice results in delays in the provision of information, avoidance of sanctions, and a lack of a well establishment and consolidated practice.

Fig.15 – Commissioners' decision-making for the years 2015, 2016, 2017



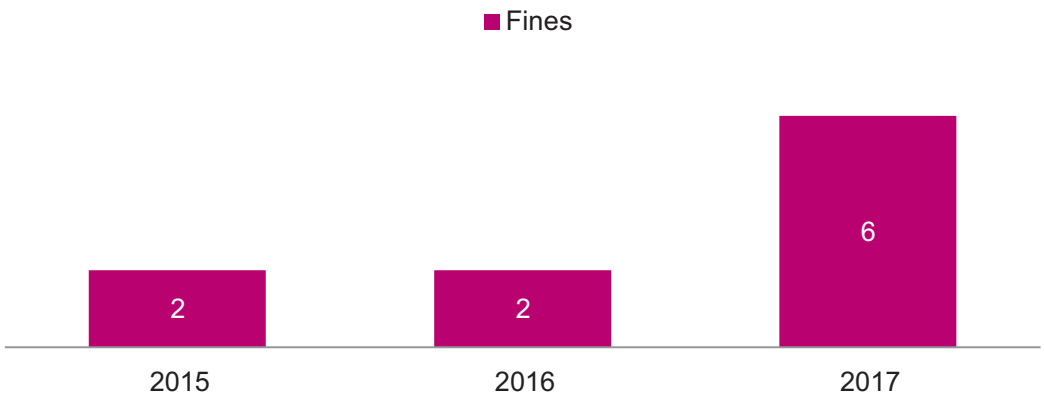
In 2017 there is a decrease in the number of accepted complaints, but this trend is mostly related to the quality of complaints and their admissibility merits. Positive is the fact that during this year are reported no cases of non-acceptance of complaints, which happens when the complainant has not respected the formal aspect of the complaints. This goes to shows that the formal quality of the complaints, as well as the observance of deadlines by the complainants, have improved.

We notice that the number of decisions taken by the Commissioner during 2017 has doubled compared to 2016. This fact shows that a problematic part of public authorities are still not improving and increasing the level of cooperation. From the decisions we notice that there is a very low number of rejected complaints cases filed by the subjects.

During 2017, the Commissioner has taken 6 decisions sanctioned with fines[6], a higher number than that of 2015 and 2016 together, where the Commissioner has imposed a fine only in 4 cases.

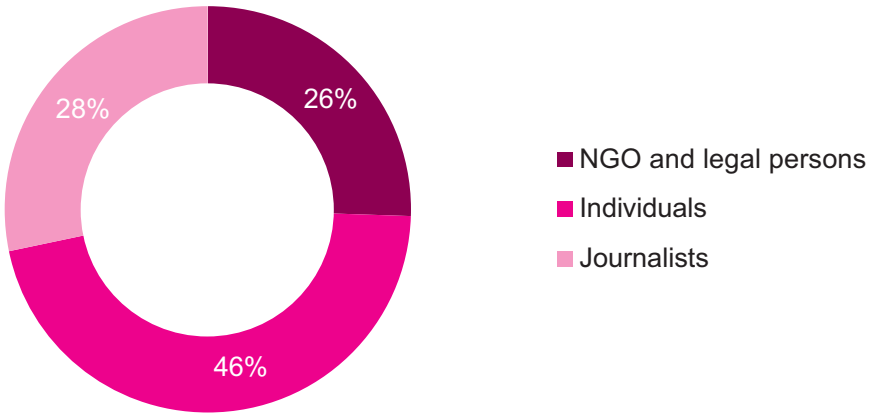
However, this number is very low compared to the requirements of the law. An important fact to notice is that the fines have been overturned by the court after the appeal of the fined persons, having a zero impact on the punishment of officials violating the constitutional right to information.

Fig.16 – Fines imposed by the Commissioner during 2015, 2016, 2017



6.10 Complaints handling by the Commissioner. Comparative evaluation

Fig.17 – Complaints by type of complainant (up to September 2017)



If we look at the type of subjects that have filed a complaint to the Commissioner and make a comparison with the type of applicants on the Publeaks.al platform (see Fig. 5), we notice that the weight of each group does not change, which means that the interest to use all the legal procedures, from the initial application to the complaint to the Commissioner, is equally manifested by all categories of applicants. There is no category that seems to "hesitate" when it comes to filing complaints more than the others.

6 Decision no. 30, dated 16.02.2017 against the General Maritime Directorate; Decision no. 31, dated 16.02.2017 against the Food Safety Institute; Decision no. 59, dated 06.04.2017 against the Compulsory Health Insurance Fund; Decision no. 60, dated 10.04.2017 against the General Directorate of Taxation; Decision no. 61, dated 13.04.2017 against the Ministry of Energy and Industry; Decision no. 67, dated 02.05.2017 against Municipality of Kurbin.

Interestingly enough, a large number of journalists follows through the complaint procedures at the Commissioner. This fact is an indication of the trust attributed to the law on the right to information as means of achieving a purpose that journalists could achieve informally as well as a means for improving the quality of journalism by using the law to crosscheck and confirm information.

7. TESTS IN THE FRAMEWORK OF STRATEGIC LITIGATION

The right to information, like any other right, is guaranteed not only through administrative processes but also from court proceedings. The latter are not a practice commonly encountered today in the Albanian courts because the costs involved and time spent do not justify the receipt of public information from the citizens. However, cases are not lacking thanks to the persistence of some journalist and the support of civil society organizations.

Following are some interesting court cases, initiated and followed by Res Publica, in which the court has made valid analyzes on controversial issues, such as those restricting the right to information that may be help public institutions, and more so the Commissioner for the Right to Information, to improve their respective practice.

7.1 The right to information versus the right to protect the personal data

The right to information is restricted in case of competing rights, such as the right to personal data protection or the protection of trade secrets.

The Commissioner for the Right to Information has shown in many cases a greater sensitivity when the right to information is contraposed to the right to protection of personal data and the right to trade secrecy. This stand of the Commissioner, in our view, often overlooks the proportionality as an important element in exercising the balance of conflicting rights.

In order to test the proportionality when the right to information was in conflict with the right to the protection of personal data and the protection of trade secrecy, we decided to sent the case in court would be given the discretion to evaluate the balance of conflicting rights as well as to establish a practice that is missing in our case law.

Example 1: The case of A.R. against the General Directorate of Taxes and the Commissioner for the Right to Information

A.R. is an investigative journalist. He filed a lawsuit against the General Directorate of Taxes and the Commissioner for the Right to Information, with the subject of seeking information on the "list of insured employees working in the media (Klan, Vision Plus, Top Channel, Ora News, Report TV). The General Directorate of Taxes refused to disclose information on the grounds that its disclosure violates personal data. In order to obtain information, the applicant filed a complaint with the Commissioner for the Right to Information and Protection of Personal Data, a complaint that the Commissioner dismissed, as according to him the information could not be given because it contained personal data. In order to obtain the information, we appealed to the First Instance Administrative Court of Tirana, which decided to cancel the Commissioner's decision and to oblige the General Directorate of Taxes to provide the information requested by the journalist A.R., evaluating the right to information as prevalent in the present case as the applicant is an investigative journalist and the purpose of collecting information was to inform the public through an investigative article on how much the audiovisual media respect the labor legislation for the journalists working for these media.

Example 2: The case of A.R. against the General Directorate of Taxes and the Commissioner for the Right to Information (Case No. 2)

In this case, A.R. in the quality of an investigative journalist, requested to be informed of a document containing data on the tax liabilities of a commercial subject, participating in a public tender. The General Directorate of Taxation refused to disclose information on the grounds that its disclosure violates the personal data of the taxpayer and the principle of confidentiality. In order to obtain information, the applicant filed a complaint with the Commissioner for the Right to Information and Protection of Personal Data, who rejected the complaint on the grounds that the information could not be given because it contains confidential data that constitute trade secret. In order to resolve the conflict, we addressed the First Instance Administrative Court of Tirana, which decided to accept the lawsuit and to oblige the General Directorate of Taxes to provide the information requested by the journalist AR on the grounds that the information requested is not subject to data confidentiality, since against the commercial entity for which the journalist requested tax information was initiated a compulsory liability collection procedure and the information requested related precisely to the amount of matured liabilities of the commercial entity towards the tax authority.

7.2 The right to information versus the right to protection of trade secret

Example no. 3: The case of A.R. against the Ministry of Economic Development, Trade and Entrepreneurship

In this case, AR, in the quality of an investigative journalist, requested from the Ministry of Economic Development, Tourism, Trade and Entrepreneurship, information on the documentation accompanying the lease / use of public assets BUNKART 1 and BUNKART 2. The ministry concerned refused to provide all the documentation with the claim that it contained data considered trade secret. The Commissioner for the Right to Information did not review and did not take a decision on the applicants complaint for being refused the information, so in order to have the information as well as to establish a practice in this

regard, the applicant addressed the First Instance Administrative Court with a lawsuit. The court decided to accept the lawsuit and to oblige the Ministry of Economic Development, Tourism, Trade and Entrepreneurship to provide the information requested by the journalist A.R., on the grounds that the data requested are not protected by the trade secret, given that the same company involved in the procurement procedures did not request such a thing from the state authority. The latter can not a priori protect the trade secret.

Example 4: The case A.R. against the Ministry of Culture

In this case, A.R., in the capacity of an investigative journalist, requested from the Ministry of Culture to be informed about the documentation on the Opera Theatre procurement procedure. The Ministry of Culture refused to provide all the documentation with the allegation that it contained data considered a trade secret. The Commissioner for the Right to Information did not act on the journalist's complaint. For this reason, and to establish a practice in this regard, the applicant addressed the First Instance Administrative Court with a lawsuit. The Court decided to accept the lawsuit and obliged the Ministry of Culture to provide the information requested by the journalist A.R., on the grounds that the requested data are not protected by the trade secret, as the same company involved in the procurement procedures did not request such a thing from the public authority. Even in this case the public authority was a priori defending a trade secret.

The above cases show that the Commissioner for the Right to Information either made unfounded decisions or took no decision at all. The court provided a fair solution to the case having a positive approach in favour of the right to information.

Res Publica believes that merging two functions, that of the protection of the right to information on one side and the protection of personal data in the other in the same authority, the Commissioner, is not wrong. However, this duality of functions results in a duality in exercising the balance between the rights. He is not independent but dual. In simple terms, the Commissioner tries to protect two rights and tends to bring a balance between them, unlike the court that is impartial and fairly weights the case on a case by case basis. The Commissioner's balance is strained by his advocacy on the protection of the personal data, and this phenomenon is producing effects on other aspects as well. This phenomenon becomes more obvious in the protection of personal data in court proceedings, where during 2017, by order of the Minister of Justice based on a recommendation by the Commissioner, court decisions were made anonymous. Although the recommendation dates back to a few years ago, the Commissioner is making no efforts to 'free' court's decisions from anonymisation, precisely because it is his job to protect this kind of data. For this reason, courts are the only mean left in the hands of journalists and civil society, a tool that has proved effective in terms of jurisprudence.

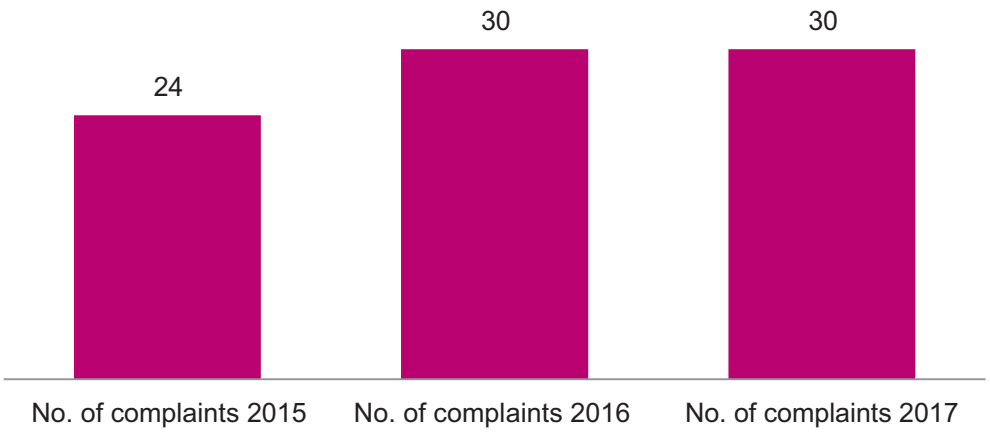
8. THE OMBUDSMAN ROLE IN THE IMPLEMENTATION OF THE RIGHT TO INFORMATION LAW

The Ombudsman is another body which has as one of its functions the guarantee of human rights, where the right to information is part of the package.

In the preceding law (No. 8503/1999), the Ombudsman was in the role of the oversight body for the right of information. The new Law (No. 119/2014) brought in this role the Commissioner for the Right to Information, who has the right to review complaints, impose sanctions, etc. Meanwhile, the role of the Ombudsman is mentioned superficially in this law, creating the premise for confusing citizens on which body is responsible for resolve the case.

During 2015, 2016 and 2017, the Ombudsman has received complaints related to the right to information from various individuals.

Fig.18 – Complaints handled by the ombudsman



As shown in the above graph, the number of complaints filed with the Ombudsman during 2017 continues to be at the same level as 2016.

In a three year period, a total of 84 citizens have complained to the Ombudsman, hoping to find a solution when information was not disclosed to them. The law on the right to information has really created a great amount of confusion between the competencies of these two institutions, having practical consequences for a relatively significant number of citizens.

On 16.04.2015, the Parliament adopted a resolution on the activity of the Commissioner for the Right to Information for the year 2014, which required the signing of a cooperation agreement between the two institutions (the Commissioner and the Ombudsman) with a view to addressing right to information cases, in reference to Article 24 of Law No.119 / 2014.

But despite the above, the situation remains the same, bringing about confusion for another 30 citizens this year. This situation should change once and for all, by removing from the law the provision involving the Ombudsman. The latter may continue to exercise the right in question even without having a specific article in the law, as the right to information is part of the human rights package and may always be the subject of recommendations by the Ombudsman within its competencies defined in the Constitution.

9. CONCLUSIONS

9.1 Assessing the public authorities responsiveness to requests for information

As the statistics show, public authorities have improved responsiveness to requests for information, especially for the cases when the information is not sensitive. But, on the other hand, the law is not implemented as it was originally conceived. There are still significant deficiencies in its enforcement as in only 63% of cases are provided complete responses without the need to involve the Commissioner. Most of the information withheld to the public is of a sensitive nature in the sense that it contains information about activities that are usually the preferred target of corruption. The timeline for fulfilling the obligation to disclose information, even in cases where authorities have nothing to hide, is still unreasonably long and at the maximum limits allowed by the law. For journalists this situation is very unfavorable. They loose interest in using the requested information. Is no longer acceptable that authorities should be continuously given an a priori understanding for their delays in providing information. Meanwhile, the "teeth" of the law, or else sanctions, are not being imposed, at least in those cases where the public authority is repeating the offense. There is no reason why the Prime Minister's office should not be obliged to reply to requests for information and its is tolerated while the only authority to receive a fine is the Municipality of Kurbin, which despite the importance it has to the local population, it can never be a more important institution than the Prime Minister's office.

It is not positive neither the fact that Res Publica files 60 complaints with the Commissioner and the latter takes a decision to accept only 3 cases, while taking an "interim decision" for 19 other cases which is a practice not recognized by the law on the right to information itself, while for other cases information is disclosed only when the Commissioner inspects the authority. This practice tolerates those authorities that violate the law, to the detriment of the public interest. This practice is having a bad effect on the authorities, favouring their continued ignoring of the importance of the law on the right to information, which is not

intended only to guarantee the right of every individual to seek information but is also an instrument that makes the government better and the state more righteous.

In view of the above, a law that lacks a mechanism that forces the authorities and the Commissioner itself to act rigorously, cannot be classified as 'one of the best in the world' with regards to quality.

9.2 Assessing the Completion of Transparency Programs, Appointment of Coordinators and Completion of the Registers of Requests and Responses

The new concept of "transparency programs" aims to increase public authorities' proactive transparency. This would in practice reduce the need to make requests for information as information would be made available by the public authorities without a specific requests.

By failing to meet this obligation, the public has to use longer and more complicated ways to get the information that need to be found online. Fulfilling this obligation to only 26% is too low a figure and we can say that this aspect of the law has failed[7].

Among the information commonly missing in the transparency programs, although clearly required by the law, are the audit reports, data on procurement procedures or concessions and public private partnerships etc. the most complete sessions of the program like office addresses, contain data that do not make authority more transparent. And yet, nowadays you can find more info on Google maps than in this section of the transparency program.

It is unacceptable that 30% of the monitored authorities do not have a transparency program. While others, have not updated the programs for a long time. Ministries created under the new government have not done any updates. In the best case, they have completed something more than half of what the law requires.

Although Article 18 (b) of Law No.119 / 2014 "On the Right to Information" stipulates that the failure to implement the transparency program is punishable by a fine of 50,000 to 100,000 ALL, the Commissioner for the Right to Information has issued fines in only one case, that of Kurbin Municipality. To date, this municipality has approved its transparency program, but 30% of the authorities have taken no actions and as long as no punitive measures are taken, they will continue to be non-transparent, eclipsing the positive effect that the penalty imposed on Kurbin Municipality brought on transparency at a country level.

It is unacceptable that 26% of the authorities have not yet appointed a coordinator for the right to information.

It is also unacceptable that only 53% of public authorities have a register containing the request number, the subject and a summary of the responses given to the applicant. Meanwhile, authorities do not give the wide public the opportunity to know the full response given to the applicant. A great number of authorities amounting to 43%, have not published any registers, or have a totally incomplete register.

The sanctions imposed for these violations are insignificant compared to the number of found violations.

7 http://www.publeaks.al/wp-content/uploads/2017/11/Raport-Indeksi-i-Transparences-2017-ok.pdf

9.3 Evaluation of the activity of the Commissioner and recent developments in the right of information field

The cases sent to court makd clear that the decisions of the Commissioner on the Right to Information should be signed by the Commissioner himself and not by his office clerks.

The Court established a compelling practice to access tax data, which, according to the Commissioner, were inaccessible, with the justification that personal and other confidential data were being protected.

A development in disfavor of the right of information is the anonymisation of court decisions by an order of the Minister of Justice based on a recommendation of the Commissioner. Even though the recommendation was made a few years ago, the Commissioner is not taking measures to 'free' court decisions from anonymisation because protection of personal data is also part of its functions.

The number of fines imposed remains insignificant and moreover imposed only in insignificant cases. Even this few fines are appealable in court. In our evaluation and interpretation, some fines are wrongly imposed and can be overturned by the court

9.4 Assessing the legal framework

The situation remains unresolved when on the one hand the institution violates the provisions of the law and on the other hand a coordinator who is the person supposed to be subject to punishment has not yet been appointed. This situation makes the Commissioner's fine inapplicable, as long as the non-appointment of the coordinator does not constitute an administrative offense under the current law.

The fact that the Commissioner's decisions are not enforceable because they do not constitute an executive title under the current law still continues to be a problem.

The law does not guarantee for a full independence of the Commissioner, allowing for Commissioner's failure to react against the bodies responsible for his appointment, such as the Prime Minister's Office.

The legal way to obtain refused information is too long and discouraging because court decisions on a lawsuit with the subject of requesting information are not included in the category of decisions that are final in the First Instance Courts.

There is no mechanism in the law that guarantees the Commissioner's obligation to impose sanctions for every case of an accepted complaint. Additionally, there is also no obligation for the Commissioner to take decisions on every complaint submitted to him, and the taking of decisions or their lack thereof is left at his discretion.

The law does not provide a fair solution for the issue of the burden of responsibility for the offenders by penalizing only the right of information co-coordinators, while they have no full power to disclose information held by a whole institutional hierarchy. Institution heads are unjustly excluded from this responsibility, while there are higher chances that they become a hindrance to the achieving full transparency of the institution they lead.

There continues to be confusion among the citizens about the role of the Ombudsman, while the actual powers of this body are insignificant compared to those of the Commissioner for the Right to Information.

10. RECOMMENDATIONS

Recommendation no.1
Include in the list of the offences or contraventions, the failure to appoint coordinators for the right to information

In the first study we have recommended and continue to recommend that it is necessary that the failure to appoint coordinators for the right to information by the head of the public authority be considered as an administrative contravention and therefore be sactionable by a fine.

Recommendation no.2
Impose fines in case of violations of the law

As we have recommended in our previous studies, the Commissioner should impose fines in cases of found violations in the law. Public authorities have had sufficient time to become familiar with the law and 3 years after its entry into force, the negligence or lack of will in fulfilling the legal obligations is no longer justifiable.

Recommendation no.3
The Commissioner's decisions should become executive titles

Currently, the decisions of the Commissioner are not forcefully executable, so there is a need for these decisions to be recognized by law as executive titles.

Recommendation no.4
Publish the fees and costs for obtaining official information and documentation

Based on Order No.86, dated 17.04.2015 "On the fees for providing the requested information (documentation)" issued by the Commissioner for the Right to Information, public authorities should publish the fees and costs for obtaining the requested documents.

Recommendation no.5
Revise the transparency program model, by adapting it to the typology of the public authorities

The model adopted by the Commissioner is the same for all public authorities, creating difficulties in completing it. For this reason, specific models of transparency program should be approved, adapted to the different typology and competencies of public authorities.

Recommendation no.6
The commissioner should take a decision for each complaint

The commissioner should take a decision for each complaint received, not giving additional time to public authorities to provide information since they have not responded within the deadlines defined by law.

Recommendation no. 7
For lawsuits whose subjects are the request of information, the court's decision should take the final form at the First Instance Courts.

Currently, in the Law no. 49/2012, for certain lawsuits the court decision becomes final at the First Instance Court. Such should be the case for lawsuits whose subject is requesting information, because before the case is sent to the court, the Commissioner guarantees a quasi-judicial procedure. This way, delays in disclosing information that is enforced by a court decision can be avoided.

Recommendation no. 8
The commissioner should start a wider scale monitoring of the transparency programs, appointment of coordinators and completion of the register of requests and responses and take appropriate measures.

It is necessary for the Commissioner to draft and implement a concrete action plan to strengthen law enforcement in relation to transparency programs, the appointment of coordinators for the right to information and the completion of registers of requests and responses.

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