



MASS MEDIA ACCESS TO INFORMATION IN OLDOVA:  
PROBLEMS AND PERSPECTIVES

Chisinau 2014

This study aims to analyze the current situation of the media on access to information, to assess the legal framework in Moldova and to compare it with the best practices on access to information from the European Union. Also, it encourages a set of recommendations to optimize the legal framework, in order to contribute to the improvement of the existing regulations on the media's access to public information.

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## Summary

“Mass Media Access to Information in Moldova: Problems and Perspectives” aims to analyze the current situation in terms of access to information, to assess the legal framework in Moldova in comparison with the good practices in access to information in the European Union, and to examine possible mechanisms for guaranteeing access to information.

The study was produced using quantitative and qualitative analyses of the following:

- Contents of 46 requests and the replies to them for access to information from 8 media outlets and organizations in Moldova in 2012 and 2013 according to specific performance criteria;
- Responses of 30 ministries and central public authorities to requests for information to test their compliance with the Law on Access to Information;
- Interviews with directors/editors-in-chief of media outlets and organizations;
- Current national legislation, international standards on access to information and relevant research.

The analysis of replies received from public authorities revealed certain deficiencies in applying the provisions of the Law on Access to Information. Firstly, it was found that a significant number of institutions (up to 33%) failed to comply with the time limits set for replying to requests for access to information. Furthermore, no applicants were informed about extensions of the time limit or about reasons for delays five days prior to the expiration of the initial time limit as required by the current legislation. In addition, 3% of the requests remained unanswered.

Secondly, 15% of the requests for information from media outlets and organizations were refused. In their replies to applicants, none of the public institutions explained the procedure for appealing the refusal, including the limitation period.

At the same time, the study revealed that only 14% of the requests for access to information received by public institutions were sent by media outlets. The directors/editors-in-chief of media outlets explained their relatively small number of requests by citing i) developments over the last four years in opening public government data both on official websites and on the public government portal *date.gov.md* and ii) improvements in communication between representatives of the press services of ministries and local public administrations with mass media organizations.

Finally, the study offered recommendations for optimizing the Moldovan legal framework as follow.

- Modify the procedure for registering requests for access to information by making a separate register for such requests.
- Reduce the time limit for official replies to requests for information of public interest from 15 working days to 10 calendar days at most.
- Increase the penalties for failing to comply with the provisions of the Law on Access to Information.

- Clearly define the principles of trade secrets and state secrets in the context of the Law on Access to Information.
- Ensure the uniform and correct application of the Law on Access to Information.
- Develop a guide to good practices for civil servants concerning the uniform and correct application of the Law on Access to Information.

## Chapter 1. The current situation in applying the Law on Access to Information

A citizen's right to request and receive information of public interest is guaranteed by the Constitution of the Republic of Moldova ("The right of a person to have access to any information may not be restricted"<sup>1</sup>). In May 2000, the Law on Access to Information entered into force and provided the necessary legal instruments to exercise the right to obtain information.

The Law on Access to Information sets non-discriminatory, even-handed and fair conditions for releasing official information. The law defines the term "official information" as including, "All information that is in the possession or at the disposal of providers of information that was produced, collected, processed, systematized and/or adopted by official bodies or persons or made available to them under the law by other subjects of law."<sup>2</sup>

Implementing the Law on Access to Information was difficult especially during the first 10 years after its adoption. Public authorities replied to requests for information slowly and incompletely. In addition, journalists sometimes waited 30 days for replies to their requests for official information since public authorities often incorrectly applied the provisions of the Law on Petitioning when examining requests for information.

On 02.04.2007, the Plenum of the Supreme Court adopted a decision on examining cases concerning access to official information which explained that the right of free access to official information is a specific variety of the right to petition that results from the provisions in Article 8 (4) of the Law on Petitioning. The time limit of 15 days for providing information prescribed by Article 16 of the Law on Access to Information differs from the 30-day time limit prescribed by Article 8 of the Law on Petitioning and Article 17 of the Law on Administrative Courts, thus making the time limit of 15 days applicable.<sup>3</sup>

The rapid development of the Internet in the 2000s in Moldova facilitated the emergence of a large number of websites; public authorities were not excluded from this development. During the first half of the 2000s, the first official websites of ministries and public institutions appeared. On 19 June 2006 in Decision no. 668, the government approved the Regulations on the Procedure for Publishing Information on the Official Websites of Public Administrative Authorities which expressly provided that, "Public administrative authorities must have an official website on the Internet for the purpose of publishing information about their work."<sup>4</sup>

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<sup>1</sup> Constitution of the Republic of Moldova, Article 34 (1).

<sup>2</sup> Law no. 982-XIV of 11 May 2000 on Access to Information, Article 6.

<sup>3</sup> Decision no. 1 of the Plenum of the Supreme Court of Justice on examining cases concerning access to official information published in the Newsletter of the Supreme Court of Justice of the Republic of Moldova, 2007, no. 5.

<sup>4</sup> Government Decision no. 668 of 19 June 2006 on Official Websites of Public Administrative Authorities, Article 3 of the Regulations on the Procedure of Publication of Information on Official Websites of Public Administrative Authorities.

In the years following the adoption of the decision, ministries, central administrative authorities and other authorities and public institutions used their websites to post official information thus relieving citizens, especially journalists, of the need to request statistics or other information by means of official letters. Today, the majority of official websites publish activity reports, statistics, etc., and some even contain databases or online registers with free access for any citizen.

On 3 April 2012, the government decreed in Decision no. 188<sup>5</sup> that the official websites of public administrative authorities should function according to a single set of rules. Those regulations include a list of the information that authorities, depending on their nature, must publish on their websites<sup>6</sup> in order to increase the transparency of the work of public institutions and access to information of public interest.

The new design and structure of official websites simplify public access to open data thanks to the options for sorting datasets. “However, to increase the accessibility of open data, it is recommended that they be published under the heading ‘Public data’ or ‘Public information’ or ‘Open data’ on the first page, one click away.”<sup>7</sup>

On 29 April 2011 in Directive no. 43, the Moldovan government launched [www.date.gov.md](http://www.date.gov.md), the portal for public government data, “...to ensure the transparency of decision making, citizens’ participation in governance and access of citizens and businesses to public government data.”<sup>8</sup> The Electronic Governance Center (EGC) was designated to coordinate the development and maintenance of the portal. By launching date.gov.md, Moldova joined the global movement of “Access to Public Government Data” becoming the 16<sup>th</sup> country in the world to open a single information desk for data held by government institutions. The EGC goal is to gather on a web platform open sets of public data that public institutions publish, regularly or not, on their websites.

The report “Assessing the Opening of Public Government Data in 2012” produced by the Independent Journalism Center (IJC) in 2013 showed that 14% of journalists and civil society representatives found official information published on the websites of authorities very useful, 61% found it useful, and only 25% said it was of little use. The survey, therefore, reveals that public authorities and institutions mostly manage to publish datasets containing relevant and useful information for journalists and activists on their official websites.

The same report produced by the IJC in 2013 showed that 9% of journalists and civil society representatives found the public data on date.gov.md very useful when covering issues of public interest, 71% found it useful, and 20% said it was of little use. However, when asked if they had ever used the data published on date.gov.md to write articles, studies, etc., 53% of journalists and activists responded negatively.<sup>9</sup>

<sup>5</sup> Government Decision no. 188 of 03.04.2012 on official websites of public administrative authorities on the Internet.

<sup>6</sup> Regulations on the official websites of public administrative authorities on the Internet, Article 15.

<sup>7</sup> “Assessing the Opening of Public Government Data in 2012,” IJC, Chisinau, 2013.

<sup>8</sup> Government Directive no. 43 of 29.04.2011.

<sup>9</sup> “Assessing the Opening of Public Government Data in 2013,” IJC, Chisinau, 2014.

According to the authors of the report, date.gov.md is not very popular for the following reasons: i) a significant number of ministries and central public authorities fail to observe the principle of a single information desk which makes the portal useless for those interested in the work of those institutions; ii) the possibility to sort open data by type of document, areas of the institution's activity, or year is limited iii) information from previous years and updated and complete information is lacking and iv) there is no single format for publishing data which makes them difficult to access.

On 26 December 2012, the Parliament adopted Law no. 305 on Posting Public Sector Information (published in the *Official Monitor* on 29 March 2013). The law aims to facilitate the release of documents held by public authorities and institutions that were created as part of their work and that can subsequently be used for commercial or non-commercial purposes. The law stipulates that all public authorities and institutions must prepare lists of documents for electronic posting in a format suitable for processing and must designate a person responsible for preparing lists and directories of such documents as well as for placing them on the website of "the public authority or institution and on date.gov.md."<sup>10</sup> Therefore, since 29.03.2013, public authorities and institutions are legally bound to post public data on date.gov.md and on their own websites.

The decision requires that within 90 days from the entry into force of the norms for applying the law, central administrative authorities must prepare a list of public documents, including data that are in their possession and that are intended for posting, must and post these documents and data on their own official websites and on date.gov.md according to their work plans. Therefore, before the middle of February 2014, public institutions had to decide on what datasets they would offer to the public in the future.

The authors of the report "Assessing the Opening of Public Government Data in 2013" claim that during the second half of 2013, the adoption of the law did not greatly facilitate the posting of public information. One of the reasons was the delayed adoption on 08.11.2013 of Methodological Norms for the Application of Law no. 305 of 26.12.2012.<sup>11</sup>

The "Report on the Situation of Mass Media in Moldova in 2012" produced by the IJC mentions that in 2012 there were several cases of violations of the rights of journalists but that there were many fewer than in previous years and not that serious. Most cases concerned restricting journalists' access to events of public interest. The authors did not present any cases where access to official information was denied in the context of Article 19 of the Law on Access to Information.<sup>12</sup>

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<sup>10</sup> Law no. 305 of 26.12.2012 on Posting Public Sector Information.

<sup>11</sup> Government Decision no. 886 of 08.11.2013 on approval of Methodological Norms for the Application of Law no. 305 of 26 December 2012 on the Posting of Public Sector Information

<sup>12</sup> "Report on the Situation of Mass Media in Moldova in 2012," IJC, Chisinau, 2013.



The authors of the report “Monitoring Freedom of the Press in the Eastern Partnership Countries” (March–June 2013) mentioned that the Law on Access to Information adopted in 2000 and the above-mentioned recent legislative modifications allowed international media organizations in the context of improved application of existing laws to change the status of Moldovan media from “not free” to “partially free.”<sup>13</sup>

In addition, the *Barometer of Public Opinion* (April 2013) revealed that citizens’ opinions concerning access to information were somewhat positive as 53% of respondents agreed that ordinary people have free access to information, 33% claimed that they had limited access to information, and only 5% considered that they could not access information at all.<sup>14</sup>

To assess the functionality of the Law on Access to Information, we analyzed the replies to 46 requests for information sent by 8 media outlets and organizations in Moldova in 2012 and 2013 according to these performance criteria: i) time limits for replying to requests and ii) the quality of replies and the justifiability of refusals to provide information.

### **1.1. Aspects concerning compliance with the time limits for replies to requests for access to information**

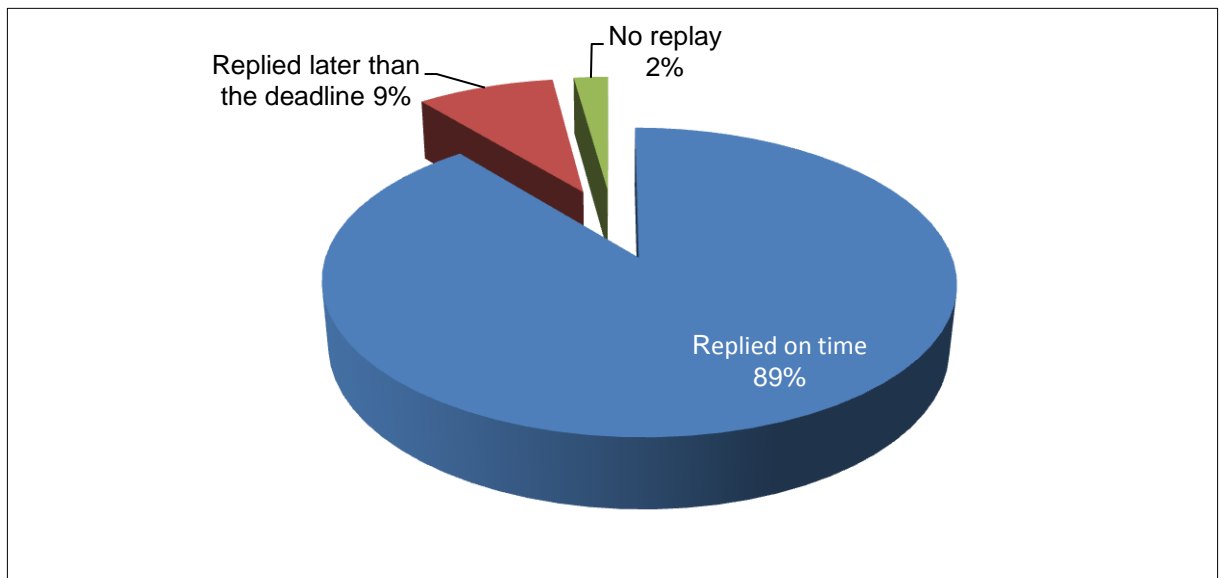
According to Article 16 of the Law on Access to Information, the information and documents requested should be issued to the requester the moment they become available but not later than 15 working days after the date of the registration of the request. The time limit may be extended by 5 working days by the head of the public institution if a) the request is for a large amount of information that needs to be collected and b) additional conditions are required to reply to the request. The author of the request shall be informed about any extension of the time limit for providing information and about the reasons five days prior to expiration of the initial time limit.

The analysis of replies showed that the majority of public institutions (about 89%) complied with the time limits set. The most rapid replies were from the State Registration Chamber at three working days. Overall, however, media outlets received replies to their requests within 10 working days. The authorities’ replies to 9% of the requests were delayed, while 2% of the requests were unanswered (Figure 1.1).

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<sup>13</sup> “Monitoring Freedom of the Press in the Eastern Partnership Countries (March–June 2013),” IJC, Chisinau, 2013.

<sup>14</sup> *Barometer of Public Opinion* (April 2013), IPP, Chisinau, 2013.

**Figure 1.1: Timeliness of replies to requests for information**

In three out of eight cases analyzed for this study, the time limits for replies were missed by the Center for Combating Economic Crimes and Corruption (CCECC, currently the National Anticorruption Center). On 17.05.2012, the Journalistic Investigations Center requested information about a criminal case initiated by the CCECC and received a reply on 22.06.2012, 27 working days later. On 21.05.2012, the Journalistic Investigations Center requested information from the CCECC about another criminal case, and the reply came on 22.06.2012, 25 working days later. On 29.05.2012, the Journalistic Investigations Center requested information from the CCECC about the adoption of the decision on a criminal case and received the reply on 26.06.2012, 21 working days later.

A fourth case of missing time limits for replies involved the Anticorruption Prosecutor's Office. On 13.11.2012, the Journalistic Investigations Center requested information about the results of examining an address to the Ministry of Justice on the allegedly illegal actions of some judges. The Anticorruption Prosecutor's Office replied on 26.12.2012, 32 working days later.

The applicants in these four cases were not informed about the extensions of the time limit or about reasons for the extensions five days prior to expiration of the initial deadline. Experience shows that requests for access to information are sometimes incorrectly processed in 30 days, the time limit set for processing petitions according to Law no. 190 of 19.07.1994 on petitioning. We assume that the officials designated to reply to the requests of the Journalistic Investigations Center applied the provisions of the Law on Petitioning out of ignorance.

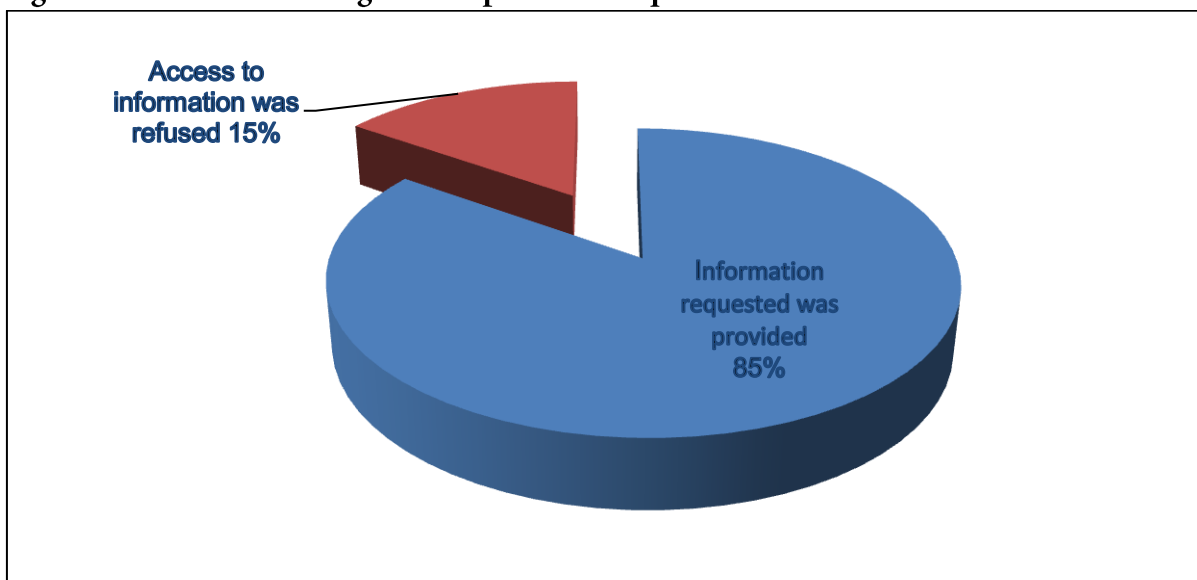
While doing the analysis, we identified a case in which the public institution failed to reply to the written request of a mass media outlet. On 04.09.2012 *Panorama* newspaper requested from the Ministry of Transport and Road Infrastructure copies of documents (certificates) confirming the registration and subsequent removal of 12 Iranian sea vessels from the *State Register of Vessels* in August 2012. The editorial office did not receive a reply to that request. During telephone

conversations with representatives of the ministry, the editorial office was notified that it would receive a reply soon, but to date the request remains unanswered.

### 1.2. Refusals of access to information

Another aspect analyzed concerns the quality of replies to requests and the justifiability of refusals to provide information. The majority of public institutions (85%) provided the information requested by mass media, and most of their replies were complete. The journalists we interviewed while preparing this study said that sometimes the information requested was not thorough but did not indicate specific cases. Media outlets and organizations received refusals from public authorities to 15% of requests (Figure 1.2).

**Figure 1.2: Positive and negative responses to requests for information**



In September 2013, Jurnal TV requested information from the Office of the President about the meeting on 07.04.2012 between President Nicolae Timofti and the President of the Supreme Court Mihai Poalelungi, the President of the Constitutional Court Alexandru Tanase, former prime minister Vlad Filat and lawyer Victor Berlinschi at the State Residence in Condrita Village. In its reply, the Office of the President mentioned that, “The information requested is not official; therefore, it may not be provided to the media outlet.”

On 20.02.2013 *Panorama* newspaper requested complete information from the Customs Service about all import and export transactions conducted by or by means of seven offshore companies through the customs of the Republic of Moldova including the type, the amount and the sender/receiver of goods from 2005 to 2013. The Customs Service replied that, “The information requested cannot be provided because it is considered confidential and protected under the Law on Trade Secrets that prescribes that data about an operation or a business entity are considered confidential and cannot be offered to third parties or other public authorities without the declarant’s permission, except in cases provided by the legislation.”

On 04.06.2012 journalist Ruslan Mihailevschi addressed the municipal enterprise Termogaz-Balti with a request for official information. On 15.06.2012, Termogaz-Balti refused to provide it claiming that it was not subject to the Law on Access to Information and that the information requested was a trade secret. In addition, the enterprise stated that Ruslan Mihailevschi was an individual and did not fall within the scope of the Law on Access to Information. Ruslan Mihailevschi filed a lawsuit against Termogaz-Balti, and on 02.05.2013 the Supreme Court compelled the enterprise to immediately issue the information requested.

On 16.10.2013, *Glusul Natiunii* newspaper requested the Customs Service to present a full list of businesses that benefit from the simplified regime of customs clearance and the criteria that served as the basis for offering them this preferential treatment. The Customs Service replied that item 22 of the Regulations on the Simplified Procedures of Customs Clearance of the Customs Service says that, “The list of beneficiaries of the procedure may be made public by posting on the official website of the Customs Service with the previous agreement of those beneficiaries. The Customs Service currently does not have the agreement of all business entities. As soon as the required agreement is obtained, the list of beneficiaries will be placed on the website.”

On 30.10.2013, *Glusul Natiunii* again requested the information, otherwise reserving the right to file a lawsuit against the Customs Service. On 14.11.2013 the Customs Service replied that item 22 of the regulations say that, “The list of beneficiaries of the procedure may be made public by posting on the official website of the Customs Service with the previous agreement of those beneficiaries,” and issued the list of beneficiaries who had agreed (six companies). Within legal terms, the newspaper filed a lawsuit against the Customs Service.

On 09.01.2013, the Association for the Development of Culture and Protection of Copyrights and Related Rights (APOLLO) requested the Broadcast Coordinating Council (BCC) to issue in writing confirmed by the institution’s seal, copies of contracts/licenses that allowed some television stations to broadcast a number of films in Moldova. On 28.01.2013, the BCC replied that it could not provide such information because, “Those broadcasters requested interdiction of the access to such information by attributing to such documents the status of trade secret.” APOLLO filed a lawsuit against the BCC, and on 17.05.2013 the Centru Court compelled the BCC to provide the information. On 29.10.2013, the Chisinau Court of Appeals examined the appeal of the BCC and upheld the initial court decision. On 05.02.2014, the extended panel of the Supreme Court upheld the decision of the Chisinau Court of Appeals and the decision of the Centru Court compelling the BCC to provide the information.

On 12.09.2013, the Particip Center for Transparency and Civic Participation requested information from the State Registration Chamber about the founders and administrators of some construction companies. On 16.09.2013, the State Registration Chamber replied that, “According to Article 4 of the Law on the State Registration of Legal Persons and Individual Entrepreneurs, the information from the State Register of Legal Persons and Individual Entrepreneurs shall be provided for a fee. The tariffs for the paid services of the State Registration Chamber are approved in Government Decision no. 926 of 12.07.2002.”

On the same day, Particip sent an additional letter specifying that the information requested from the State Registration Chamber would be used by the investigative journalists of the center for work purposes in order to provide objective information to citizens about the activities of the construction companies in Chisinau. In addition, Particip reminded the chamber that beginning in 2008, its administration publicly declared that, “Considering the public interest, the non-commercial nature of the use of information by investigative journalists, the non-secret nature of the data in the Register and transparency in its activities, the Chamber shall issue data from the State Register to media organizations without payment,” which is directly mentioned on the [website of the Ministry of Informational Development](#). On 23.09.2013, the State Registration Chamber again replied that the information could be offered only for a fee.

While preparing this study, we analyzed four similar requests addressed by media outlets and organizations to the State Registration Chamber. In all cases, except the one described above, the institution provided the information requested for free without mentioning the tariffs approved by Government Decision no. 926 of 12.07.2002.

According to Article 19 of the Law on Access to Information, the refusal to provide information or an official document shall be made in writing, indicating:

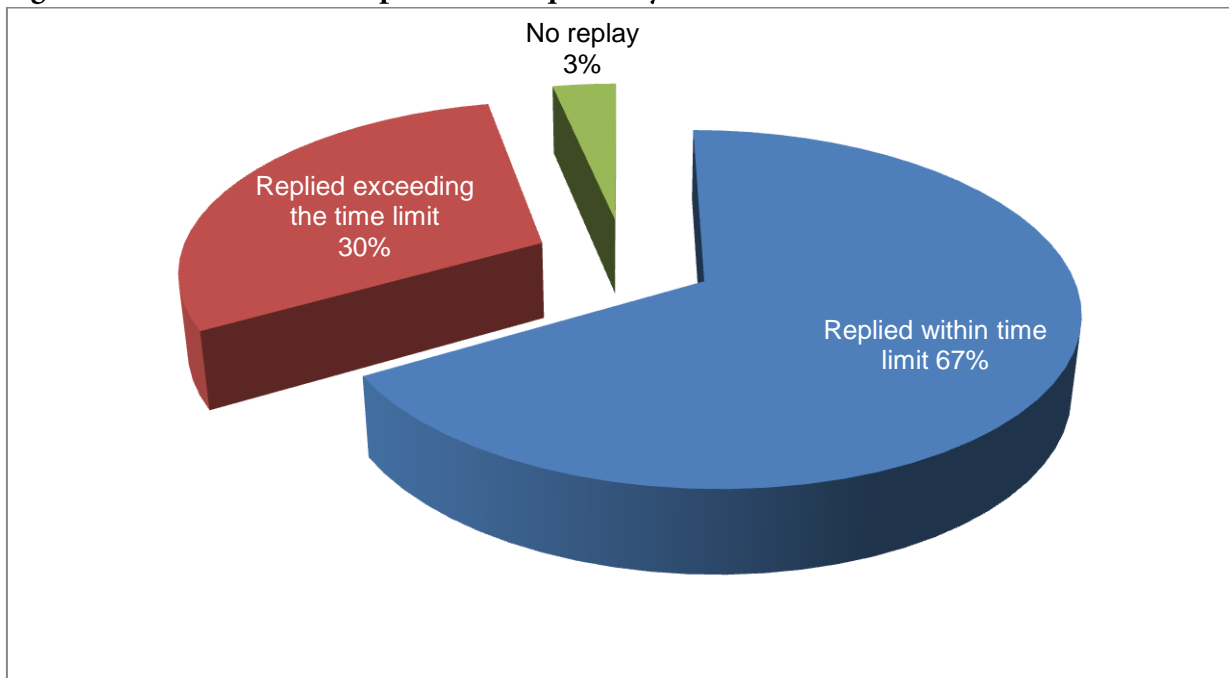
- Date of refusal;
- Name of the responsible person;
- Reason for refusal, mandatorily indicating the regulatory act (title, number, adoption date, source of official publication) that the refusal was based on; and
- The procedure for challenging the refusal, including the limitation period.

In all seven refusals to provide official information, public authorities complied with the first three conditions. None of the institutions, however, explained the procedure for challenging the refusal, including the limitation period.

### **1.3. Testing ministries and central public authorities**

To assess the functionality of the Law on Access to Information, we used a method of verification to test ministries and central public authorities. The exercise was also designed to determine the extent to which mass media and citizens use the law to obtain access to official information and to determine whether institutions reply according to legal requirements. For that purpose, on 24.10.2013 the IJC asked 30 ministries and central administrative authorities to provide statistical information about the number of requests for information submitted by media outlets and organizations and by citizens in 2012 and during the first ten months of 2013.

The analysis of replies received from the 30 ministries and public authorities revealed a number of gaps in the application of the law. First, it was found that a significant number (33%) failed to comply with the time limits for replying to requests for information (Figure 1.3). In contrast, the analysis of requests sent by media outlets and organizations in Moldova during 2012 and 2013 and the replies they received showed that only 11% of the public authorities failed to comply.

**Figure 1.3: Timeliness of responses to requests by 30 ministries and central authorities**

The Ministry of Health replied in 17 working days, the Office of the President of Moldova responded in 18 working days, the Ministry of Youth and Sport answered in 21 working days, and the State Chancellery replied in 23 working days. In accordance with Article 22 of the Law on Access to Information, the IJC complained about the non-performance of six providers of information. On 14.12.2013, the IJC was informed by the State Chancellery that, “It has been found that the information on the number of a certain type of requests and the period when they were submitted had not been collected, processed or systematized, but was the result of analysis and synthesis. For these reasons, the request of the IJC has been sent to the relevant authorities with the request to speed up the reply.”

The State Chancellery did not, however, mention that the time limit for providing information or documents may be extended by five working days by the head of the public institution and that the author of the request should be informed about such an extension and the reasons for it five days prior to expiration of the initial time limit. None of the six institutions informed the IJC about the extension of the time limit or the reasons for it.

Shortly after the IJC received the reply from the State Chancellery, five institutions replied to the request of 24.10.2013 after more than 40 working days: the Ministry of Foreign Affairs and European Integration, the Interethnic Relations Bureau, the Ministry of Culture, the Ministry of Labor, Social Protection and Family and the Public Property Agency. As of 20.01.2013, the IJC had received no reply from the Ministry of Economy.

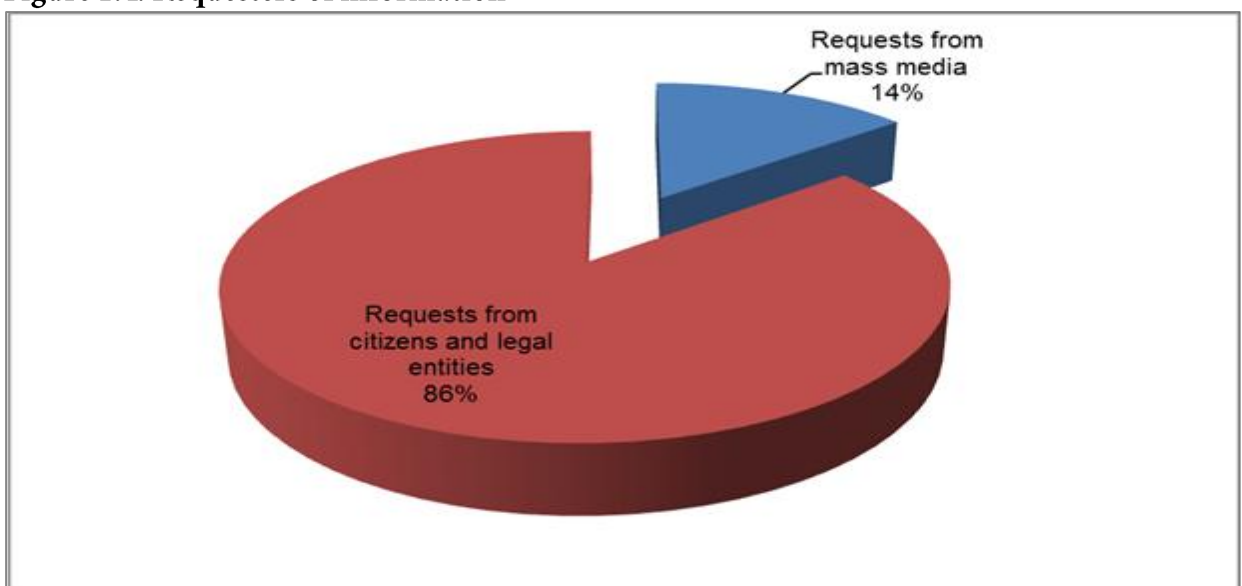
The analysis of the replies from 29 public authorities that did reply failed to reveal the exact number of requests for access to official information submitted by media outlets and organizations and by citizens in 2012 and during the first 10 months of 2013. The reason for that is that the General Prosecutor’s Office, the State Chancellery and the State Registration Chamber

do not keep separate records on the requests from media outlets and organizations. Together, these institutions recorded 6,821 requests for access to information from individuals and legal persons.

Overall during the 22 months, the 29 institutions received 13,794 requests for access to official information. Simple division shows that the public authorities registered 627 requests for official information monthly.

In all, 26 ministries and central public authorities received 987 requests from media outlets and organizations and 5,986 requests from citizens. Therefore, only 14% of requests came from media outlets (Figure 1.4).

**Figure 1.4: Requesters of information**



The media outlet directors/editors-in-chief we interviewed for this study explained that the relatively small number of requests for official information sent by media outlets was due to:

- The development over the past four years of the process for opening public government data on official websites and on the portal date.gov.md;
- Improvements in communication between press service representatives of ministries and local public authorities with mass media.

Today, journalists can directly access the databases or online registers of public institutions on official websites without sending written requests and waiting days for a reply. In addition, press services more and more often accept oral requests for official information from journalists or use social networks (Facebook and Twitter) to communicate with mass media.

## Chapter 2. Assessing the legal framework in Moldova against good practices of access to information

### 2.1. The legislation and practice of the Council of Europe in terms of access to information

#### 2.1.1. *Convention for the Protection of Human Rights and Fundamental Freedoms*<sup>15</sup>

Article 10 of the European Convention on Human Rights (ECHR) protects the right to receive information, including the right to collect information of public interest. The European Court of Human Rights (ECtHR) often reiterates in its case law that, “Not only does the press have the task of imparting [such] information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of ‘public watchdog’” (*Sunday Times v. the United Kingdom* para. 50; *Lingens v. Austria* para. 41; *Jersild v. Denmark* para. 31). The ECtHR also confirmed, “...the public’s right to be informed of a different perspective” (*Sener v. Turkey*<sup>16</sup> para. 45).

In Recommendation (2007) 2237, the Committee of Ministers reiterated—especially recalling Article 10 of the ECHR—the freedom of expression and the freedom to receive and impart information and ideas without interference by public authorities and measures promoting the structural pluralism of the media by regulating ownership, public service and mass media thus contributing to pluralism, diversity and interoperability. Further, the ECHR formulates measures to promote content diversity and describes the information content to protect media transparency.

The main question is whether and to what extent Article 10 of the ECHR is able to grant the right to receive information that is not generally accessible. In its previous case law, the ECtHR has stated that, “Article 10 does not confer on the individual a right of access to a register containing information on his personal position, nor does it embody an obligation on the Government to impart such information to the individual.” (*Leander v. Sweden*<sup>17</sup> para. 74) and that, “Freedom cannot be construed as imposing on a State positive obligations to collect and disseminate information” (*Guerra and Others v. Italy*<sup>18</sup> para. 53).

These cases shall be distinguished from cases concerning the creation of obstacles to the public for receiving information from independent media outlets in their role as watchdog or from resources with open access to information. In this context, the ECtHR decided that Article 10,

<sup>15</sup> [http://echr.coe.int/Documents/Convention\\_ROM.pdf](http://echr.coe.int/Documents/Convention_ROM.pdf)

<sup>16</sup> [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\"docname\":\[\"sener\"\],\"documentcollectionid2\":\[\"GRANDCHAMBER\"\],\"CHAMBER\"\],\"itemid\":\[\"001-58753\"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\)

<sup>17</sup> [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\"docname\":\[\"leander\"\],\"documentcollectionid2\":\[\"GRANDCHAMBER\"\],\"CHAMBER\"\],\"itemid\":\[\"001-57519\"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\)

<sup>18</sup> [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\"docname\":\[\"guerra\"\],\"documentcollectionid2\":\[\"GRANDCHAMBER\"\],\"CHAMBER\"\],\"itemid\":\[\"001-58135\"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{\)



“...prohibits a Government from restricting a person from receiving information that others wish or may be willing to impart to him” (Leander v. Sweden para. 74).

Further, the ECtHR examined whether the public has the right to access public documents. In the case of *Sdruzeni Jihoceske Matky v. Czech Republic* in which the authorities denied access to some administrative documents, judges explicitly accepted the applicability of Article 10 and then found that such a refusal constitutes interference with the right to receive information and should be in compliance with the requirements of Article 10 (2). In fact, this right is not absolute. The Court emphasized that the exercise of this right may violate the rights of others, national security or public health and that the right of access to that information is limited.

Moreover, the ECtHR also said that, “It is difficult to derive from the Convention a right of access to information and administrative documents” (*Loiseau v. France*<sup>19</sup>); however, in 2009 the ECtHR extended its case law in this regard. Specifically, the request addressed to the Constitutional Court of Hungary to disclose the complaint of a member of parliament challenging the new criminal legislation was rejected. The Court noted that in terms of importance of bringing to discussion matters of public interest, free access to information plays a vital role in the public debate on such matters. Also, Article 10 of the ECHR does not tolerate a law allowing arbitrary restrictions. If countries create obstacles to collecting information that could lead to a form of censorship, it can be seen as interference with the media’s watchdog functions.

In addition, the state’s obligations concerning freedom of the press include removing barriers to the press to exercise its functions where in matters of public interest such barriers exist only because of the authorities’ monopoly on information. The same would apply to private organizations which the Court might also classify as “public watchdogs.” Given that the information requested had been prepared and was available, it is considered that the state has the obligation not to impede the flow of information sought by the applicant. Thus, the Court found a violation of Article 10.

Although judges noted that it was difficult to determine a general right of access to administrative documents, they also reiterated that, “The Court has recently advanced towards a broader interpretation of the notion of ‘freedom to receive information’” (*Társaság a Szabadságjogokért v. Hungary*<sup>20</sup> para. 35) and therefore to acceptance of the right of access to information. So, it can be concluded that the Court obviously tends towards accepting the right of access to public documents.

In this context, it should be noted that according to Recommendation (2002) 2, “Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities.” However, it is recognized that limitations, if they are set explicitly by law, are

<sup>19</sup> [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{ "itemid":\["001-66716"\] }](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{ )

<sup>20</sup> [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{ "languageisocode":\["FRA"\], "docname":\["Társaság"\], "documentcollectionid2":\["GRANDCHAMBER", "CHAMBER"\], "itemid":\["001-92179"\] }](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{ )

necessary in a democratic society and proportionate to the purpose of protection. So far, the Court has not referred to this recommendation in its case law.

The special significance of the right to receive information became clear in the case of *Khurshid Mustafa and Tarzibachi v. Sweden* examined by the Court in 2008. The Court found that the right of foreign residents to have access to information on matters concerning their country of origin was so important that it exceeded even other constitutionally guaranteed rights such as property rights. The Court concluded that the information included, for example, in political and social news might be of special interest to the applicants—immigrants from Iraq. Moreover, while such news might be the most important information protected by Article 10, the freedom to receive information extends not only to reports about events of public interest but also covers, in principle, events of culture and entertainment. The importance of this information should not be underestimated especially to an immigrant family with three children that wants to keep contact with the culture and language of their country of origin. Therefore, a landlord cannot legally require tenants to remove satellite dishes.

### ***2.1.2. Council of Europe Convention on Access to Official Documents,<sup>21</sup> Tromsø 18.VI.2009***

The Council of Europe Convention on Access to Official Documents is a general framework that emphasizes the principles of ensuring the right of access to information as stated in the following documents: the Universal Declaration of Human Rights; the Convention for the Protection of Human Rights and Fundamental Freedoms; the United Nations Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

The Council of Europe Convention on Access to Official Documents strengthens the provisions of national legislation guaranteeing citizens access to information and official documents and transparency in governance.

Under the Convention, the contracting states guarantee the right of everyone, without discrimination for any reason, to have access to official documents held by public authorities upon request; states shall take the measures necessary to adjust or modify national laws for the purposes of implementing the provisions on access to official documents under the Convention.

This Convention is the first binding international legal instrument to recognize a general right of access to official documents held by public authorities. According to its authors, the transparency of public authorities is a key feature of good governance and an indicator of whether or not a society is genuinely democratic and pluralist.

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<sup>21</sup> <http://conventions.coe.int/Treaty/EN/Treaties/Html/205.htm>

According to the Convention, limitations on the right of access to official information are permitted only in order to protect certain interests such as national security, defense or privacy.

The Convention sets forth the minimum standards to be applied in the processing of requests for access to official documents, forms of and charges for access, review procedures and complementary measures, and it has the flexibility required to allow national laws to build on this foundation and to provide even greater access to official documents. Moldova signed the European Convention on Access to Official Documents on 21 December 2010 but has not ratified it yet.

## **2.2. Access to information in the European Union**

The right of access to information is not one of the four freedoms that were the foundation of the European project; however, the EU's ambitions exceeded the purely functional purposes of the free economic zone established by the Treaty of Rome in 1957. Information about individuals can be shared among the public authorities of Member States. For example, Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communication networks aims to harmonize Member States' provisions concerning the obligations of suppliers of publicly available electronic communication services or of public communication networks with respect to the retention of certain data which are generated or processed by them to ensure that data are available for the investigation, detection and prosecution of serious crimes.

The availability of information immediately entails the potential for abuse and, implicitly, the need for regulations to ensure that the interests of the individual are properly taken into consideration. Thus, laws on data protection are a must at the national or supranational level in order to abide by the rule of law.

Further implementation of the rule of law in the context of the information age is the ideal of transparency: members of society must be able to assess the nature of fact and law underlying the decisions of officials. This creates the need to regulate the access of interested persons to the information held by public authorities.

Article 42 of the Charter of Fundamental Rights of the European Union provides that any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right of access to documents of the Union's institutions, bodies, offices and agencies, regardless of their form.

### 2.3. National case law regarding access to information

In Judgment no.1 of 02.04.2007 by the Plenum of the Supreme Court of the Republic of Moldova on the examination of cases concerning access to official information: “Access to official information is a fundamental human right of a person to be informed and a means to control the work of public authorities/institutions, to manage public money and to stimulate the formation of opinions and the active participation of people in decision making in a democratic spirit.”

Supreme Court Judgment of 02.05.2013, file no. 3r-228/13: the civil case of Ruslan Mihailevschi v. Municipal Enterprise Termogaz-Balti on challenging the refusal to provide information and on compensation for damages<sup>22</sup>

Complainant Ruslan Mihailevschi claimed that on 04.06.2012 he addressed Municipal Enterprise Termogaz-Balti with a request for official information under the Law on Access to Information. In its reply no. 167 of 15 June 2012 Termogaz-Balti refused to provide information on the grounds that it is not subject to the Law on Access to Information and that the information requested was a trade secret. Among the grounds for refusal, Termogaz-Balti also claimed that Ruslan Mihailevschi was an individual and did not fall within the scope of the Law on Access to Information. The court allowed the lawsuit and ordered Termogaz-Balti to immediately release the information requested to Ruslan Mihailevschi.

Supreme Court Judgment of 05.06.2013, file no. 3ra-596/13: the complaint of Semnal JSC against the Public Property Agency<sup>23</sup>

On 21.09.2012, Semnal JSC filed a lawsuit against the Public Property Agency concerning access to information. According to Article 10 of the Law on Access to Information, a person is entitled to request from information providers, personally or through representatives, any information in their possession with the exceptions established by law. A person’s right of access to information, including personal information, may be restricted only by law. Any persons requesting access to information under this law are freed from the obligation to justify their interests in the information requested.

According to Article 10 (1) of the ECHR, everyone has the right to freedom of expression. This right includes the freedom to hold opinions and the freedom to receive and impart information and ideas without interference by public authorities and regardless of frontiers.

Supreme Court Judgment of 14.08.2013, file no. 3ra-974/13: the lawsuit filed by commercial bank Intreprinzbanca in the process of liquidation against the State Tax Inspectorate of Chisinau concerning the provision of information requested<sup>24</sup>

<sup>22</sup> [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=70](http://jurisprudenta.csj.md/search_col_civil.php?id=70)

<sup>23</sup> [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=880](http://jurisprudenta.csj.md/search_col_civil.php?id=880)

<sup>24</sup> [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=2481](http://jurisprudenta.csj.md/search_col_civil.php?id=2481)

The Chamber on Civil, Commercial and Administrative Matters noted that according to Article 34 of the Constitution, Article 10 (1) of the European Convention on Human Rights and Fundamental Freedoms and Article 4 (1) and Article 10 of the Law on Access to Information, the complainant was entitled to request from information providers, personally or through representatives, any information in their possession with the exceptions established by the law and that according to Article 11 of the Law on Access to Information, the defendant as a public authority was obliged to provide to the applicant any official information except that exempted by the law. In this context, it was concluded that the defendant's claim that the information requested was contrary to Article 10 of the Law on Access to Information and that Article 131 of the Tax Code was an exception was unfounded and unjustified. Therefore, the actions of the State Tax Inspectorate of Chisinau in denying access to information were a violation of the applicant's rights as stipulated in the legal rules mentioned above.

Supreme Court Judgment of 21.09.2013, file no. 3ra-1337/13: lawsuit filed by the periodical *Cerere și Ofertă* LLC against municipal enterprise Hotelul Balti on appealing an administrative act<sup>25</sup>

The periodical *Cerere și Ofertă* LLC filed a lawsuit in the administrative court against municipal enterprise Hotelul Bălți for refusing to provide the information it had requested and to compel Hotelul Bălți to provide it. Case materials certified that *Cerere și Ofertă* LLC sent two letters to Hotelul Bălți requesting information. The chamber considered it appropriate to reiterate Article 34 of the Moldovan Constitution that comprehensively establishes that: (1) a person's right of access to any information of public interest cannot be restricted; (2) public authorities, according to their competence, shall be bound to provide correct information to citizens on public affairs and matters of personal interest; (3) the right to information shall not damage measures to protect citizens or national security; (4) mass media, public or private, are required to provide correct information to the public and (5) mass media shall not be subject to censorship.

The court of appeals also reiterated the provisions of Article 5 of the Law on Access to Information which expressly states the following:

- (1) the subjects of this law are information providers and information seekers;
- (2) information providers, i.e. holders of official information that they are required to provide to applicants under this law, are central and local public authorities including
  - (i) state administrative authorities stipulated in the Constitution, namely Parliament, the President of the Republic of Moldova, the Government, public administrations, the judiciary and central and local public institutions;
  - (ii) organizations founded by the state in the person of public authorities and financed by the state budget entrusted with administrative, socio-cultural and other non-commercial tasks;
 and

<sup>25</sup> [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=3442](http://jurisprudenta.csj.md/search_col_civil.php?id=3442)

(iii) individuals and legal persons that under the law or a contract with a public authority or public institution are entitled to manage some public services and to produce, collect, possess, keep and use official information;

(3) official information under this law may be requested by any citizen of the Republic of Moldova, by foreign citizens who are domiciled or residing in the Republic of Moldova and by stateless persons domiciled or residing in Moldova.

The Supreme Court Chamber stated that the interpretation of the constitutional norm, namely Article 34 of the Moldovan Constitution, indicates that the term “person” in this article means both an individual and a legal person. The court of appeals noted that in this case, there was a discrepancy between the Constitution and the Law on Access to Information. The Chamber noted that in that situation one should directly apply the provisions of the Constitution.

Supreme Court Judgment of 11.12.2013, case file no. 3ra-1624/13: lawsuit filed by Svetlana Tcacenco and Svetlana Garstea-Bria against Moldova-Gaz JSC, intervener Chisinau-Gaz LLC, concerning the requirement to provide information requested<sup>26</sup>

On 25.09.2011, Svetlana Tcacenco and Svetlana Garstea-Bria addressed a request to Moldova-Gaz JSC to verify the legality of the installation of an autonomous heating system by the owner of an apartment in a building in Chisinau given that other owners in the building were refused installation of this system on the grounds that the building was protected. In letter no. Col-111/11 of 16.06.2011, Moldova-Gaz JSC informed them that the installation of the above-mentioned system had been suspended and the decision on putting heating systems in the entire building into operation would be adopted only after additional hydraulic analyses were performed to assess the diameter of gas pipes supplying the building and distributing gas inside it.

In reply no. T-168/11 of 13.09.2011, Moldova-Gaz JSC informed the applicants that following request no. 1442b of 02.11.2010, the resident of the apartment was granted permission to install an autonomous heating system in the above-mentioned apartment.

Moldova-Gaz JSC is a legal person, and as it is an information provider, its work falls under Article 5 (2) of the Law on Access to Information. According to that law, any citizen of the Republic of Moldova has the right to seek, receive and impart official information that is in the possession and at the disposal of providers of information that has been produced, collected, processed, systematized and/or adopted by official bodies or persons or made available to them under the law by other subjects of the law.

Examining documents (or parts thereof) at the institution’s offices and making copies of the document or information (or some parts thereof) requested are ways of accessing official information. Thus, it was established that Moldova-Gaz JSC failed to provide all the information requested by the applicants as its replies did not contain the information they had requested or

<sup>26</sup> [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=5959](http://jurisprudenta.csj.md/search_col_civil.php?id=5959)

answers to their questions. Under those circumstances, the court of appeals found that the court of first instance had correctly determined that the defendant refused to supply the information requested by Svetlana Tcacenco and Svetlana Garstea-Bria, i.e. they were challenging the refusal to provide information and not the reply, as the defendant invoked in the appeal.

Moreover, in light of the legal provisions mentioned, the defendant failed to prove that the requested information was a state secret or that it was of an indisputably limited nature under the Law on Access to Information.

Under Article 7 of the Law on Access to Information in conjunction with Article 54 of the Moldovan Constitution and Article 10 (2) of the European Convention on Human Rights and Fundamental Freedoms, the right of access to official information may be restricted only if this restriction meets the three requirements that have come to form the legal constant that is reflected in national and international laws called the “triple test”: such a restriction must be prescribed by law, must protect a legitimate interest and must be necessary in a democratic society.

After analyzing national case law, particularly Supreme Court case law concerning the Law on Access to Information, we found the following.

- In cases concerning access to information, domestic courts strictly apply both the Law on Access to Information and the requirements of the Constitution and the ECHR, reiterating that in some instances the refusals of public authorities constitute violations of the above regulations.
- In cases of discrepancies between the Law on Access to Information and constitutional requirements, courts directly apply the Constitution.
- Domestic courts find that the right of access to official information may be restricted only if such a restriction meets the three requirements that have come to form the triple test: such a restriction must be prescribed by law, must protect a legitimate interest and must be necessary in a democratic society.

### Chapter 3. Recommendations for improving the legal framework in Moldova

**Recommendation:** *Modify Article 15 (1) of the Law on Access to Information regarding the registration of requests for access to information.*

#### Current phrasing:

##### Article 15. Examination of requests for access to information

(1) Written requests for access to information shall be registered according to the legislation on registers and petitioning.

#### New phrasing proposed by the authors of this study:

##### Article 15. Examination of requests for access to information

(1) Written requests for access to information shall be registered according to the legislation on registers **into the register of requests for access to information.**

#### Competent institutions:

According to Article 73 of the Constitution of the Republic of Moldova, the right to legislate initiatives belongs to Members of Parliament (MPs), the President of the Republic of Moldova, the Government, and the People's Assembly of the Autonomous Territorial Unit Gagauz Yeri. Therefore, a draft law modifying Article 15 (1) of the Law on Access to Information can be proposed by MPs, the President or Government, and the People's Assembly of Gagauz Yeri.

#### Rationale for the recommendation (explanatory note):

Experience shows that requests for access to information are often incorrectly processed in a 30-day time frame which is the time limit set for processing petitions. Officials are misled by the fact that Article 15 (1) of the Law on Access to Information requires that written requests for access to information be registered according to the legislation on petitioning.

The Plenum of the Supreme Court explains that the right of free access to official information is a specific variety of the right of petitioning that results from Article 8 (4) of the Law on Petitioning. The time limit of 15 days for providing information prescribed by Article 16 of the Law on Access to Information differs from the 30-day time limit prescribed by Article 8 of the Law on Petitioning and Article 17 of the Law on Administrative Courts, thus the 15-day time limit is applicable.

To avoid incorrectly processing requests for access to information according to the Law on Petitioning, the authors therefore propose that written requests for access to information be registered in a special register named the Register of Requests for Access to Information.



**Recommendation:** Modify Article 16 of the Law on Access to Information regarding the time limits for replies to requests for access to information.

**Current phrasing:**

Article 16. Time limits for replies to requests for access to information

- (1) Information and documents requested shall be provided to requesters from the moment they become available for provision but not later than 15 working days from the date of registration of the request for access to information.
- (2) The head of the public institution may extend the time limit for providing information or documents by 5 working days if:
  - a) the request refers to a large amount of information that needs to be collected;
  - b) additional consultations are necessary to reply to the request.
- (3) The author of the request shall be informed about any extension of the time limit for providing information and about any reasons for the extension 5 days prior to expiration of the initial time limit.

**New phrasing proposed by the authors of this study:**

Article 16. Time limits for replies to requests for access to information

- (1) Information and documents requested shall be provided to the requesters from the moment they become available for provision but not later than **10 calendar days** from the date of registration of the request for access to information.
- (2) The head of the public institution may extend the time limit for providing information or documents by **5 calendar days** if:
  - a) the request concerns a large amount of information that needs to be collected;
  - b) additional consultations are necessary to reply to the request.
- (3) The author of the request shall be informed about any extension of the time limit for providing information and about any reasons for the extension **5 calendar days** prior to expiration of the initial time limit.

**Competent institutions:**

According to Article 73 of the Constitution of the Republic of Moldova, the right to legislative initiative belongs to MPs, the President of the Republic of Moldova, the Government, and the People's Assembly of the Autonomous Territorial Unit Gagauz Yeri. Therefore, a draft law modifying Article 16 of the Law on Access to Information can be proposed by MPs, the President or Government, and the People's Assembly of Gagauz Yeri.

**Rationale for the recommendation (explanatory note):**

Media outlet directors/editors-in-chief find that the time limits for providing information are too generous—not later than 15 working days from the date of registration of the request (or about 20 calendar days)—and suggest reducing the limits to at most 10 calendar days. In the EU

Member States, the time limits for providing information vary but are usually shorter than those in Moldova. In Slovakia, for example, authorities must reply to requests for access to official information in not more than 8 calendar days, in Romania and Malta within not more than 10 calendar days, and in Norway, Bulgaria and the Netherlands within not more than 14 calendar days.

Decreasing the time limits for providing information in Moldova is justified in the context of implementing the Strategic Program of Technological Modernization of Government (e-Transformation) approved by Government Decision no. 710 of 20,09.2011. Some public services have been digitalized and high-performance databases have been created which simplify collecting and accessing official information.

The analysis of the replies received from public authorities as part of this study has shown that currently about 50% of institutions reply within an average of at most 10 days from the submission of requests for information. In this context, it is recommended to shorten the 15 working day period to at most 10 calendar days. This modification would discipline providers of information and thus increase the efficiency of mass media.

**Recommendation:** *Modify Article 71 of the Contravention Code regarding the violation of legislation on access to information and on petitioning.*

#### **Current phrasing:**

##### Article 71. Violations of legislation on access to information and on petitioning

- (1) Intentional violations of legal provisions on the access to information or petitioning shall be penalized with a fine varying from 15 to 25 conventional units applied to individuals and a fine varying from 30 to 50 conventional units applied to officials.
- (2) Provision, upon request, of a reply with evidently erroneous data shall be penalized with a fine varying from 45 to 55 conventional units applied to the responsible official.

#### **New phrasing proposed by the authors of this study:**

##### Article 71. Violations of legislation on access to information and on petitioning

- (1) Intentional violations of legal provisions on the access to information or petitioning shall be penalized with a fine varying **from 150 to 250 conventional units** applied to individuals and a fine varying **from 300 to 500 conventional units** applied to officials.
- (2) Provision, upon request, of a reply with evidently erroneous data shall be penalized with a fine varying **from 450 to 550 conventional units** applied to the responsible official.

#### **Competent institutions:**

According to Article 73 of the Constitution of the Republic of Moldova, the right to legislative initiative belongs to MPs, the President of the Republic of Moldova, the Government, and the

People's Assembly of the Autonomous Territorial Unit Gagauz Yeri. Therefore, a draft law on modifying Article 71 of the Contraventions Code can be proposed by MPs, the President or Government, and the People's Assembly of Gagauz Yeri.

**Rationale for the recommendation (explanatory note):**

Media experts believe that the penalties for failure to comply with legal provisions should be increased. There are no public data indicating the number of persons fined under Article 71.

In many EU countries, explicit or tacit refusals by designated employees of public authorities or institutions to comply with the law on access to information are misdemeanors entailing disciplinary sanctions for the offenders. For example, in Slovakia the institution violating legal provisions is at risk of a fine amounting to about 2,000 euros and the application of the law on access to information is efficient and uniform which makes it, according to experts, one of the most functional in Europe.

Increasing the penalties might discipline public institutions and thus provide additional guarantees for the uniform application of legal provisions.

**Recommendation:** *Clearly define the principles of trade and state secrets in the context of the Law on Access to Information.*

According to Law no. 171 of 06.07.1994 on trade secrets, a **trade secret** is information that is not a state secret and relates to the production, technology, administration, financial activities and other type of activities of a business entity whose disclosure (transmission, leakage) may affect their interests. Trade secrets protect economic interests and information about various aspects and areas of production, administration, research and development and the financial operations of a business entity in the interests of competition; unauthorized disclosure or loss could possibly jeopardize the economic safety of the business entity.

According to Law no. 245 of 27.11.2008 on state secrets, a **state secret** is state-protected information in the areas of national defense, economy, science and technology, foreign affairs, state security, law enforcement and the activities of public authorities whose unauthorized disclosure or loss may affect the interests and/or security of the Republic of Moldova.

The sometimes vague definitions of trade secrets and state secrets and the lack of interpretations of these principles in the context of the Law on Access to Information allow public authorities to hide behind them when examining mass media requests for access to information. Our analysis of refusals to provide information showed that 50% were motivated by protecting trade secrets. In this context, it is recommended that civil society initiate discussions with the authorities that have the right to legislate initiatives and with mass media about redefining or reassessing the definition of trade secret through the prism of the Law on Access to Information and the concept of information of public interest.

**Recommendation:** *Ensure the uniform and correct application of the Law on Access to Information.*

The media outlet directors/editors-in-chief we interviewed considered that the Law on Access to Information contains clear provisions but that it is not applied in a uniform and correct manner by all public authorities, especially at the local level. The authors of the report “Monitoring Press Freedom in the Eastern Partnership Countries” (March–June 2013) noted that in the north of the country, the Balti City Council and Mayor’s Office often distort and violate some provisions of the Law on Access to Information when replying to journalists’ requests for information of public interest.

The Plenum of the Supreme Court in decision no. 1 of 02.04.2007 on examining cases dealing with access to official information emphasized that replies must be concrete and must refer directly to the object of the request and that an evasive, incomplete or disingenuous answer was inadmissible. For example, the right of access to official information shall be considered violated if the provider gives only some of the information to the requester after which the requester must collect the rest by conducting additional investigations despite the fact that the provider had the requested information in the necessary form, amount and quality at the outset. The Plenum of the Supreme Court also provided an example: when one requests information about a mayor’s salary and the mayor’s office replies that the mayor’s salary is calculated according to the Law on Salaries for Budget-Sector Employees.

To ensure the uniform and correct application of the Law on Access to Information, we recommend the following.

- Improve and standardize the principles for examining requests for access to information in public institutions (responsible authority=Supreme Court).
- Provide training to public officials responsible for examining requests for access to information (responsible authority=Ministry of Justice in partnership with civil society).
- Increase penalties for the failure to comply with the Law on Access to Information (responsible authority=Parliament).

In addition, it is recommended that civil society, especially media NGOs, initiate public debates on cases of restricting access to information with the participation of the institutions that most often refuse access as well as lawyers, court representatives, journalists, etc. Also, media outlets should file lawsuits against public authorities denying access to information. The case law of the Supreme Court indicates that mass media outlets are usually the ones to win such lawsuits.

**Recommendation:** *Develop a guide to good practices for public officers concerning the uniform and correct application of the Law on Access to Information.*

The analysis of replies provided by public authorities to requests for access to information revealed the incorrect application of certain provisions of the law, specifically: violations of the time limits for replying to requests; failure to notify the requester about extensions of the examination period and reasons for them and failure to explain the procedure for challenging a refusal of access to information including the limitation period.

To ensure the uniform and correct application of the Law on Access to Information, it is recommended that media NGOs in collaboration with the Ministry of Justice and the Supreme Court develop a guide to good practices for civil servants.

**Annex 1. List of ministries and central public authorities tested**

<b>No.</b>	<b>Institution</b>
1.	Ministry of Economy
2.	Ministry of Finance
3.	Ministry of Justice
4.	Ministry of Internal Affairs
5.	Ministry of Foreign Affairs and European Integration
6.	Ministry of Defense
7.	Ministry of Regional Development and Constructions
8.	Ministry of Agriculture and Food Industry
9.	Ministry of Transport and Road Infrastructure
10.	Ministry of Environment
11.	Ministry of Education
12.	Ministry of Culture
13.	Ministry of Labor, Social Protection and Family
14.	Ministry of Health
15.	Ministry of Information Technology and Communications
16.	Ministry of Youth and Sport
17.	State Chancellery
18.	National Bureau of Statistics
19.	Agency for Land Relations and Cadastre
20.	Interethnic Relations Bureau
21.	Moldsilva Agency
22.	Material Reserves Agency
23.	Tourism Agency
24.	State Registration Chamber
25.	Public Property Agency
26.	Public Procurement Agency
27.	General Prosecutor's Office
28.	Customs Service
29.	Parliament of the Republic of Moldova
30.	Office of the President of the Republic of Moldova

**Annex 2. List of ministries and central public authorities whose replies were analyzed for this study**

No.	Institution	Number of requests analyzed
1.	Center for Combating Economic Crimes and Corruption (currently National Anticorruption Center)	8
2.	Anticorruption Prosecutor's Office	6
3.	State Registration Chamber	4
4.	Main State Tax Inspectorate	3
5.	Customs Service	3
6.	General Prosecutor's Office	2
7.	Superior Council of Magistracy	2
8.	Ministry of Justice	2
9.	Chisinau Mayor's Office	2
10.	Ministry of Education	1
11.	Ministry of Defense	1
12.	Ministry of Environment	1
13.	Consumer Protection Agency	1
14.	Ministry of Labor, Social Protection and Family	1
15.	Ministry of Regional Development and Constructions	1
16.	Ministry of Culture	1
17.	Center for Human Rights	1
18.	National Integrity Commission	1
19.	Broadcast Coordinating Council	1
20.	Office of the President of the Republic of Moldova	1
21.	Ministry of Transport and Road Infrastructure	1
22.	State Enterprise Radiocomunicatii	1
23.	Municipal Enterprise Termogaz-Balti	1