



# No “Barricades” in Access to Information

*Practical Guide for Public Servants  
and Journalists*

# Why is access to information a right, not a favor?

- Citizens pay taxes and are entitled to know how public money is used.
- Elected public officials must keep their promises.
- Officials of public institutions serve citizens, not vice versa, and public administration can be effective only if it is transparent.
- It is a major step in strengthening democracy and reforming public administration.
- It institutionalizes transparency in the relationship between citizens and public authorities and thus changes the mentality of society.

**” Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers. ”**

*The Universal Declaration of Human Rights,  
Article 19*

- ✓ A person's right of access to all information of public interest cannot be restricted.
- ✓ Public authorities, according to their competence, must provide accurate information to citizens on public affairs and matters of personal interest.
- ✓ The right to information shall not be prejudicial to the protection of citizens or of national security.
- ✓ The media, both public and private, must provide accurate information to the public.
- ✓ The media are not subject to censorship.

*The Constitution of the Republic  
of Moldova, Article 34*

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# RATIONALE

## *The impossible victory and the necessary truce*

***Polemics about access to information.*** The question of how far a journalist can go when asserting the legitimate right to obtain information that will in turn be transmitted to the media consumer is as old as the independent press itself. In the case of Moldova, it dates back at least 25 years, but even though in this quarter of a century several steps have been made to improve access to information, the “professional barricades” between the two sides caught in this circle—journalists seeking information and public servants who usually have such information—do not seem to decrease.

***Representatives of the journalistic profession*** continue to complain about limited access to information when they talk about their interactions with the institutions of the state and how the latter respond to media requests. At the same time, it is very difficult to find communicators or public officials satisfied with their relationships with the media, most of whom react to the word “journalist” like a bullfighter to bull in a Spanish bullfight. It is not necessary to specify who the bullfighter is...

***A confrontation which is both fierce and useless.*** This is true if we consider the fact that the mission of both journalists and public officials is to serve citizens, including in terms of their right to be informed fully and correctly. Only when they rely on this premise will the two “belligerents” understand that, in fact, what they need is a long-term truce turned into effective collaboration rather than an illusory victory without victors. This is the purpose of this guide: to offer suggestions that will help journalists and officials gain a comprehensive understanding of the principles of access to information and to harness all the tools provided by the Law on Access to Information in order to prevent misunderstandings and to work *in* and *for* consensus and *on behalf of the public interest* which is the same for all.

*The Team of Authors*

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# I. ACCESS OF THE PRESS TO INFORMATION OF PUBLIC INTEREST

## 1. *Problems and Trends*

The access of citizens in general and of the media in particular to information of public interest is a current issue for Moldova, despite the laws adopted during the last two decades which appear to guarantee citizens' rights to request and receive information from state institutions and to participate in decision making. Studies on this subject,<sup>1</sup> however, show that very often the right to obtain public information collides with the nearly impenetrable wall of local bureaucracy, and the press is not an exception here. On the contrary, especially when the information requested could be detrimental to the institution concerned, its officials do everything possible to restrict journalists' access to it.

There are many and various pretexts for this; officials, including those responsible for communication in public institutions, make full use of gaps in the Law on Access to Information. Most of these gaps are a consequence of the evolution of the media and of communications in general. Therefore, the law must urgently be adapted to account for current trends and technologies.

### **The main problems identified in the Study “Mass Media Access to Information in Moldova: Problems and Perspectives” (IJC 2014)<sup>2</sup>**

- **Failure to comply with deadlines.** Up to 33 percent of institutions do not observe the timeframes for answering requests for access to information. Furthermore, in none of the cases reviewed was

<sup>1</sup> „Accesul mass-media la informație în Republica Moldova: probleme și perspective,” Independent Journalism Center, Chisinau, 2014 - <http://www.media-azi.md/sites/default/files/Accessul%20mass-media%20la%20informa%C5%A3ie%20%C3%AEEn%20Republica%20Moldova%20probleme%20%C5%9Fi%20perspective.pdf>

<sup>2</sup> Ibidem

the applicant informed about an extension of the deadline for submitting information or about any reasons for the delay five days prior to the expiry of the initial term as provided in the law.

- **Refusal to provide information.** In all, 15 percent of the total of 46 applications were rejected by state bodies without explaining the reason for the rejection or the procedure for appealing the refusal.

### 1.1. *Recommendations to Improve the Legal Framework concerning Access to Information*<sup>3</sup>

- ✓ **Change** the procedure for registering requests for access to information namely by entering such requests in a separate register. Today many public inquiries are incorrectly reviewed within 30 days, the deadline set for examining petitions. This is because Art. 15 (1) of the Law on Access to Information provides that written requests for access to information shall be recorded according to the law on petitioning.
- ✓ **Reduce** to 10 days the deadline of 15 working days for replying to requests for public information. The example of EU countries where deadlines for providing information are shorter than those in Moldova (not exceeding 8 days in Slovakia, up to 10 days in Romania and Malta, but also up to 14 days in Norway, Bulgaria and the Netherlands) is cited as an argument.
- ✓ **Provide stricter sanctions** for the failure to observe the Law on Access to Information. Although Art. 71 of the Administrative Code provides for a series of fines in this regard, there are no public data showing the number of people fined under it. In EU countries, on the contrary, explicit or tacit refusal to provide the public information is subject to disciplinary liability, e.g. of about 2,000 euros for non-complying institutions in Slovakia.

<sup>3</sup> „Accesul mass-media la informație în Republica Moldova: probleme și perspective” , Independent Journalism Center, Chisinau, 2014 - <http://www.media-azi.md/sites/default/files/Accesul%20mass-media%20la%20informa%C5%A3ie%20%C3%AE%20Republica%20Moldova%20probleme%20%C5%9Fi%20perspective.pdf>



- ✓ **Clearly** define commercial/state secrecy principles in the context of the Law on Access to Information. The sometimes vague definition of state secrecy and the lack of interpretation in the context of the law allow public authorities to hide behind “state secrecy” or “commercial secrecy” when reviewing requests for access to information from journalists.
- ✓ **Ensure** the fair and uniform application of the Law on Access to Information, in particular at the local level where public authorities often deal with requests for public information using their own discretion.

It should be noted that based on these recommendations, in 2014 and 2015 IJC conducted an extensive advocacy campaign for amending the Law on Access to Information and adjusting it to the best EU practices; however, at the time this guide was drafted, the media and the authorities continue to refer to the law in force.

## 2. What Does the Law Say

*The basic principles of Law No. 982/2000 on access to information<sup>4</sup> and possible solutions for problems*

### 2.1. Access to Information: a Universal Right

*The Law on Access to Information* adopted by the Parliament of Moldova on 11 May 2000 lays down the rules for cooperation between the provider of and the applicant for information. In our case we talk about public servants on the one hand and journalists on the other. The law also establishes the order for providing access to official information held by public officials.

In a broader context, the representatives of central and local public authorities are obliged to provide public information to **all applicants**. In turn, the journalist must provide objective and unbiased information to the public. Likewise, the Law on the Press provides that the journalist has to consult institutions to verify the facts and circumstances referred to in articles and news items.

### 2.2. What Is Official Information

*Official information* or information of public interest is all information held by information providers that has been developed, selected, processed, systematized and/or adopted by official bodies or persons or that has been made available to them under the law by other subjects of the law.

*Official information* includes any document or item on which there is an inscription; a map, a plan, a drawing, a photograph; video or audio material; any object or item that can reproduce sound, images or documents; any information recorder produced as a result of technical progress.

<sup>4</sup> <http://lex.justice.md/md/311759/>

**NOTA BENE!**

***The right to request information belongs to:***

- any citizen of the Republic of Moldova;
- individuals and legal entities;
- citizens of other countries and stateless persons who are domiciled or resident in the Republic of Moldova.
- citizens are entitled to request official information in person or through their representatives without having to justify their interest in the information requested.

**2.3. Who Are Providers**

Holders, i.e. providers of official information, are central and local public authorities, namely:

- state administrative authorities provided for in the Constitution of the Republic of Moldova—Parliament, the Presidency, the government, public administrations, the judicial authority;
- central and local public institutions—organizations founded by the state represented by public authorities financed from the state budget that aim to carry out administrative, social and cultural duties and other non-commercial duties;
- legal and natural persons who, under the law or a contract with a public authority, are authorized to run public services and to collect, select, possess, keep and hold official information.

**USEFUL**  
for Officials

The answer provided to the applicant must be specific and must relate directly to the subject of the application. Evasive, incomplete, vague or immaterial answers are not acceptable. The right of access to official information will be deemed infringed if the provider indicates only some benchmarks based on which the applicant may approximate the information later after further investigation despite the fact that the provider has the information requested in the required form, volume and capacity. For example, the answer will be

deemed evasive if the applicant requests information about the salary of the mayor of a town and the mayor’s office answers that the salary is calculated according to the Law on Salaries of Employees in the Public Sector.

*(Decision No. 1 of 02.04.2007 on the review of cases related to access to official information, Plenum of the Supreme Court of Justice<sup>5</sup>)*

### 2.4. *How Should Official Information Be Requested*

Public information should be requested *in writing* (Art. 12 of the Law on Access to Information). A document confirming the request is necessary because the answers of public officials must be approved by their supervisors.

The request may also be submitted *orally* if the respondent has full and sufficient information to satisfy it immediately. Otherwise, the applicant will have to submit a *formal* application in order to receive a complete response.

#### USEFUL for Journalists

A written request containing the date sent and the questions is also in the interest of the journalist. It should sufficiently and conclusively identify the information requested (a part or parts thereof), the acceptable way of receiving the information and the applicant’s identification data. (A sample application is in **Annex 1**.)

Be as convincing as possible! Arguments for requesting information may include equally the Law on Access to Information and the fact that the information will contribute to the credibility of the publication and of the public institution concerned.

<sup>5</sup> Published in the *Newsletter of the Supreme Court of Justice of the Republic of Moldova*, 2007, no. 5

**USEFUL**  
for Officials

To ensure citizens' access to public information, public authorities and institutions are encouraged to organize special units for information and public relations, to designate a spokesperson and to organize press conferences or thematic briefings once or twice a month.

Also, given the major role the Internet plays in our lives today, we recommend placing a **standard form for requesting information** that an applicant has to fill in on the website of the public authority. Even if the law does not yet explicitly stipulate the right to request information by email, a public institution that wants to establish effective communication with society, including journalists, will make use of technological progress.

## 2.5. *Deadline for Providing a Reply*

According to the law, an official must provide information requested by a journalist in **15 working days** after receiving the request. This deadline may be exceeded by 5 days when 15 days are not sufficient to provide a comprehensive answer. In this case, the applicant must be informed about the extension of the deadline.

If the information requested is not held by the institution receiving the request, or if another institution has the capacity to deliver a more complete answer, the request shall be forwarded to that institution; the applicant will be informed within three days.

**USEFUL**  
for Journalists

Since the current version of the law provides that written requests for access to information are registered in accordance with the laws on registers and petitions that allow up to 30 days for answering the request, when conducting a journalistic investigation or another project the completion of which will take time, a journalist should try to submit the request for information well in advance or during the documentation stage.

Plan your time so that the 15 days do not coincide with the deadline for publishing the article. This will save you time. Indicate clearly the information or documents you request as this will help officials quickly identify the information you need. Indicate the best way to receive the answer—by e-mail, printed letter or fax—and a phone number and email address.

If you feel you need to do so, invoke the Supreme Court of Justice’s judgment on reviewing cases related to access to official information<sup>6</sup> which states that free access to official information is a specific element of the right to petition. Accordingly, the Court said that since the 15-day deadline provided for by the Law on Access to Information is different from the deadline of 30 days stipulated in the Law on Petitions, the limit of 15 days is applicable.

### USEFUL for Officials

The information requested by journalists serves the public interest; therefore, provide it as soon as possible. Prompt responses to requests help fully inform the public and stop the spread of untruthful information and diminish the negative consequences of one-sided communication. At the same time, your efficiency will help establish productive relationships with the press.

Inform the journalist about any extension of the deadline for providing the information and about the reasons for such an extension five days before the initial term expires (15 days). Also, inform the journalist within reasonable timeframes about any decisions related to the request for information making sure that he/she received it. If the request for providing information is readdressed to another provider (the information is not in possession of the provider or the information held by

<sup>6</sup> Judgment no. 1 of 02.04.2007 on review of cases of access to official information, Plenum of the Supreme Court of Justice, Published in the Newsletter of the Supreme Court of Justice of the Republic of Moldova, 2007, no. 5

another provider would completely satisfy the interest of the applicant), inform the applicant within three working days upon receipt of the request and ask for his/her consent. Enter the requests for information in a separate register. It will make your work more efficient and above all will improve your relationship with the media.

## 2.6. *What Shall We Do if the Information “Costs”*

In general and hypothetical terms, access to public information is free; however, in Moldova and elsewhere, there are institutions that claim payment for providing information, money that later goes into their budgets. The arguments usually invoked for claiming payment include the need for resources for copying, sending documents to the applicant and/or translating information noting that the amount of payments should not exceed the costs incurred by the provider.

### NOTA BENE!

***No payment is appropriate for providing official information that:***

- ↳ directly affects the applicant’s rights and freedoms;
- ↳ is provided orally;
- ↳ is requested for study at the institution;
- ↳ helps increase the transparency of the activity of the public institution and is in line with the interests of society.

### USEFUL for Journalists

Try to persuade the representative of the public institution to find a way other than payment to access the information you need! For example, ask permission to see the files on the spot in order to eliminate the costs and time required to copy them. This is especially useful when studying information presented in a large number of documents. Similarly, if you know it’s available, ask for information in electronic format, or ask permission to record the information onto an electronic carrier like a DVD or a CD.

## USEFUL for Officials

Be flexible: It is for the benefit of everyone!

### 2.7. *When the Answer Is “NO”*

If the journalist receives only some of the information requested; if he/she is told that the institution does not have such information; if some information is retained as an exception or if the journalist receives a refusal to provide any of the information or documents requested, **the journalist has the right to lodge a complaint**, though not before as the team of authors of the “LegalLeaks toolkit”<sup>7</sup> warns us ensuring that the questions have been understood correctly. If the question was misinterpreted, come back with a new request.

## USEFUL for Journalists

***Partial access or a total rejection*** by the institution of the request for public information may be appealed to an administrative court. However, initially, it is recommended to appeal the decision to a superior body or to a higher authority.

***The actions or inactions*** of the institution providing information should be challenged with its management and/or the superior body within 30 days from the date when the applicant learned of or had to be informed about the violation. The management of the information provider and/or its superior body will examine the complaints within five working days and will inform the petitioner about the results of examination within three working days.

***An internal or administrative complaint*** is an appeal to the same institution that issued the refusal or to the next higher administrative body. For them, it is a signal that you are serious about defending your right and often makes them

<sup>7</sup> “LegalLeaks toolkit”. A guide about illegal access to government information, Access Info and n-ost Legal Leaks Toolkit 2011, [http://www.access-info.org/wp-content/uploads/LL\\_toolkit\\_Moldova.pdf](http://www.access-info.org/wp-content/uploads/LL_toolkit_Moldova.pdf)



change their minds. In many countries, internal complaints are a prerequisite for later appeals to the information commissioner, an ombudsman or the courts. Sometimes you can appeal directly to the information commissioner or to the ombudsman.

*(“LegalLeaks toolkit”: A Guide about Legal Access to Government Information<sup>8</sup>)*

**USEFUL**  
for Officials

A refusal to provide the information or documents requested shall be submitted in writing, specifying the date of refusal, the name of the responsible person and the reason for refusal. Also, a reference to the normative act (title, number, date of adoption, source of official publication) on which the refusal is based and the procedure for contesting the refusal, including the limitation period, is mandatory.

**NOTA BENE!**

**Access to information cannot be restricted unless the authorities justify a serious threat to public safety or to the protection of citizens**, a definition given by the Constitutional Court of Moldova on 22 June 2015 on the limits of restricting the right to information. Thus, in the context of measures to “protect citizens” and “national security” (Art. 34.3 of the Constitution) the Constitutional Court held that the restriction of the right to information must observe:

- 1) the condition of a real and legitimate purpose to protect citizens or national security;
- 2) the condition that public interest in the information does not prevail.

Therefore, public authorities must demonstrate that disclosing the information would seriously threaten the protection of citizens or national security.

<sup>8</sup> Ibidem

### 3. *Behind the Scenes of Public Service*

What does the Code of Conduct for Public Officials say about access to information<sup>9</sup>

- Public officials shall ensure the active provision of accurate and timely information to citizens on matters of public interest, ensure free access to information and observe the deadline for delivering information.
- Public officials should comply with restrictions on access to information under the law in order to protect confidential information, individual privacy and national security and should ensure the security of information from unauthorized access, modification or destruction.
- Communication with the media on behalf of public authorities is conducted only by legally authorized public officials.

#### 3.1. *Active, Accurate and Timely Information*

The active provision of information concerns officials responsible for the so-called *ex-officio* publication of information without an express request to this effect. This refers to the legal name and address of the authority; the regulatory documents on which the authority operates; a description of the structure, competences and services; the program of work; hours of hearing citizens, etc.

The information routinely published also includes the full name of heads of the institution, contact data of the institution; financial sources, the budget and the balance sheet; the programs and strategies adopted and a list of documents deemed to be of public interest.

It also includes information that can prevent or diminish danger to the lives and health of people or damage of any kind; information that can stop the spread of untruthful information or diminish the negative consequences of its spread and information of particular social importance.

<sup>9</sup> [http://cariere.gov.md/downloads/ghid\\_conduita\\_functionar\\_public.pdf](http://cariere.gov.md/downloads/ghid_conduita_functionar_public.pdf)

**NOTA BENE!**

The public officials responsible for presenting active information must ensure that this information is accurate, i.e. that it does not contain false data and is submitted on time so it is not irrelevant.

**USEFUL**  
for Officials

To ensure free access to information, the provider of information:

- will provide a space equipped for research and accessible to applicants;
- will appoint and train officials responsible for providing official information;
- will develop regulations on the rights and obligations of officials in the provision of documents and official information;
- will provide assistance and support to applicants for searching and identifying information;
- will ensure effective access to registers of information providers that will be completed in accordance with the legislation on registers;
- will make their meetings open to the public in accordance with the law.

### **3.2. *Restrictions on Access to Information***

Access to information may be restricted in some cases by law such as respect for the rights and reputation of another person or the protection of national security, public order, health or morals. Other information that cannot be provided includes:

- information defined as a state secret, the unauthorized disclosure or loss of which could harm the interests/security of the Republic of Moldova;
- confidential business information governed by the law on trade secrets (manufacturing, technology, finance, etc.) the disclosure of which (transmission, leak) could affect the interests of entrepreneurs;

## NO “BARRICADES” IN ACCESS TO INFORMATION

- personal information, the disclosure of which is considered interference in private life protected by the Law on the Protection of Personal Data;
- information related to an ongoing investigation or prosecution by competent bodies, but only if disclosure might affect the investigation or conduct of a trial, could deprive the individual of the right to a fair and impartial trial or would endanger the life or physical safety of any person;
- information that reflects the final or preliminary results of scientific or technical research the disclosure of which could deprive the authors of the priority to publish it or that may have a negative impact on other rights protected by law.

### USEFUL for Officials

Remember: By virtue of the profession and of editorial policy, the journalist will always try to circumvent some of these provisions. That is why one of the unwritten laws of the press says, “When a door is closed, a journalist will try to get in through the window.” Therefore, the first recommendation is that officials should not get angry with journalists and should instead be more responsive especially since, as mentioned earlier, officials often invoke state secrecy or commercial secrecy when they do not want to provide information and now have added the protection of personal data (Annex 2). Journalists are very aware of these ploys!

If access to the information requested is partially limited, show the parts of the document that are not restricted. Instead of omitting portions, use one of the following labels: “state secret,” “commercial secret” or “confidential personal information.” Be prepared to demonstrate that the restriction is regulated by law and is necessary in a democratic society to protect the rights and interests of a person or national security and that the damage to such rights and interests would be greater than the public’s interest in the information.

**NOTA BENE!**

No one can be punished for making certain information with limited access public if the disclosure does not damage or cannot damage legitimate interests related to national security or if the public interest in knowing the information outweighs the damage such a disclosure may entail.

### 3.3. *Communication on Behalf of the Public Authority: the Single Voice Principle*

According to Art. 8 para. (3) of the Code of Conduct for Public Servants in Moldova,<sup>10</sup> **communication with the media on behalf of public authorities is to be conducted by legally authorized public officials only**. The essence of this paragraph refers only to the expression of the official position of the authority; **the purpose is to ensure that the official position of the authority is expressed “with a single voice.”**

The authors of the laws on national public service believe that, “This provision in no way can be regarded as affecting a public official’s right to freedom of opinion and expression,” which are fundamental rights expressly provided in the provisions of Art. 15, para. (3) of Law No. 158-XVI,<sup>11</sup> among others. On the contrary, according to the lawmakers, the entry into force of these provisions **eliminated the legal vacuum** that used to create uncertainty for a public official who, for instance, was asked for an interview or who was invited to a TV show.

#### **USEFUL** for Officials

Central administrative bodies usually have communication advisors (spokespersons) and/or subdivisions responsible for communication and media relations; the duty for presenting the official position is theirs. However, this is not a law, and there may be situations when, for instance, a draft public policy is discussed on a TV program in technical terms and the spokesperson is not a specialist in the field. In such cases, the burden for presenting the official position will fall on a public

**10** [http://cariere.gov.md/downloads/ghid\\_conduita\\_functionar\\_public.pdf](http://cariere.gov.md/downloads/ghid_conduita_functionar_public.pdf)

**11** <http://lex.justice.md/md/330050/>

official delegated this task by a manager. What is important is that the person delegated presents the official position with explanations and knows the scope of the representation and when asked a question that exceeds those limits expresses the position knowledgeably.

### NOTA BENE!

- The obligations of officials in terms of ensuring access to public information are not limited to those set out in the Code of Conduct but also extend to the provisions of the Law on Access to Information.
- Public officials holding information classified as active must ensure the ex-officio dissemination of such information.
- Even if there is no mandate to represent the authority, a public official can participate in activities or public debates but should announce that the views expressed do not represent the official views of the public authority; the same approach applies if a public official is asked to present the position of the authority in a field or on a subject that goes beyond the mandate given by the head of the institution.

## 4. *Web Pages, a Useful Tool to Ensure Access to Information*

The Internet has rapidly penetrated our lives and also affects access to public information. Today, all public authorities in Moldova have web pages. On 19 June 2006 the government approved the Regulation on the Official Websites of Public Administration Authorities,<sup>12</sup> and in April 2012 the government decided that all websites of public authorities should operate based on a single model and common rules.<sup>13</sup> The regulation accompanying this decision describes the minimum mandatory requirements for official websites and contains a detailed list of the types of information that must be posted. The websites of public institutions must have a common structure and design and must be user friendly.

Also, with the aim of, "...ensuring transparency in decision making and citizens' participation in governance and the access of citizens and businesses to public government data," on 29 April 2011 the website [www.date.gov.md](http://www.date.gov.md) was launched by order of the government. Thus, Moldova became the 16th country to launch a one-stop desk of open data held by government institutions and thus joined the global movement "Access to Public Government Data." By the end of 2015, there were 876 data sets on the platform.

<sup>12</sup> <http://lex.justice.md/md/316361/>

<sup>13</sup> <http://lex.justice.md/md/342699/>

### USEFUL

for Journalists

In the search for information, the journalist is entitled to rely on these official decisions, including the failure to comply with them; however, even if the official websites of public institutions are not operating as “one click away,” make sure that the information you’re looking for is not available on the website. It is a matter of image and professionalism; you should avoid being told you don’t know how to search. And if you do not know—and not knowing everything is normal—it’s unnatural to not want to learn. Today there is a lot of training available on data journalism, all just a click away!

### USEFUL

for Officials

Do not ignore the power of the Internet! Make sure the information is up to date and covers the whole range of topics, including sensitive ones that journalists would be interested in. Insist that technical teams make the web pages as easily accessible to everyone as possible so that citizens and journalists do not have to go through dozens of steps to find the information they are seeking. If access is not simple, the journalist will keep bothering you on the phone, and do not forget about social networks. An institution that wants to communicate effectively must be present there too.



## II. IN THE MIRROR: FRIENDLY AND PROFESSIONAL RECOMMENDATIONS

### 1. *Extracts from Interviews with Journalists and Communication Officials at Public Authorities (Annex 3)*

#### 1.1. *For Communication Officials from Journalists*

- Do not leave for tomorrow what you can communicate today! Do not be indifferent to requests from the press! The response to a request from a journalist is no less important than a report.
- Avoid technical language. Try for a style more appropriate for public consumption. The more comprehensible your answer is, the less the journalist will have to interpret it.
- Ensure there is contact between journalists and the representatives of the institution where you work if they can be more helpful than you can be and if the journalist's request is not addressed to the head of the institution. Try to arrange an interview or meeting between a colleague and the journalist independently. Prepare the specialists who will talk to the journalist. Make sure they have all the necessary information. It is not enough to refer a journalist to an official.
- Checking the information intended for the media with the head of the institution is a good practice. This, however, should not take too much time. A journalist must provide information promptly, so if you do not want to be mentioned in the news with phrases such as “the institution has not provided an answer yet” or “the institution ... has not confirmed or denied the information,” it is better to ensure robust communication with your head so that you and the journalist receive the information in a timely manner.
- Answer phone calls from journalists after 17:00 and on the weekends too! Give them your mobile number. In most cases, if you are not

available, the journalist will try to call the head of the institution directly. Journalists are used to working at all times and expect the same from those responsible for press relations.

- Provide more detail in press releases. Use plain language. According to the latest trends in corporate communication, press releases should be similar to news items. The journalist will have less to interpret in such a press release which means that you have achieved your goal: Your release has reached the public with minimal interventions.
- Do not treat the journalist like a petitioner! The latter defends personal or group interests. The journalist informs the masses. The later you provide an answer to a journalist’s request, the greater the chance that the material will be published without consulting the opinion of the institution to which you belong.
- Place as much information as you can on your institution’s website and thus save time by directing journalists to it.
- Observe the legal deadline for providing answers to requests! The failure to comply can result in a lawsuit or worse, an image crisis!
- Provide complete answers! Silence is also an answer; the fact that you hesitated to give answers to all questions will not go unnoticed.
- Use a template for providing answers to journalists with a letterhead, contact data of persons who can provide details, etc.
- Study the smallest details of your institution’s profile and the type of information used. The phrases “I do not think we can give you such information” or “I do not know whether or not to allow you to make a copy of the document” must be avoided!

### **1.2. *For Journalists from Communication Officials***

- Do your research! Thus, when requesting information, make sure that you receive a prompt response from the appropriate institution so that when you publish the material no errata will be required. A poorly documented journalist is easily manipulated/misinformed.

- Request information via email! The law does not prohibit this, and communication officials welcome it. For many journalists a written communication is a “bureaucratic manifestation” of institutions. The official also needs to coordinate the response with other departments, and the search starts here. The letter will help the officer to quickly identify the right person within the institution to give you the answer. Moreover, a written response will make sure you are using confirmed/truthful data which cannot be said about a telephone conversation.
- Request confirmation of the receipt of a request for information submitted via email. You will thus make sure that the official did not “miss” your email and that legal deadlines are respected. The legislation on access to information does not refer to online requests, but officials are willing to accept requests submitted online instead of printed requests. For safety, you can “cc” your editor and/or the head of the institution from which information is requested.
- Be a specialist, even if the media institution you belong to does not insist on it. This way you will earn the respect of both of colleagues and public officials. The chances that an officer will favor a specialized journalist are very high.
- Be persistent but also patient! Communication officials need time to research. They are responsible for the image of the institution where they work. They are required to coordinate communication with the media with the heads of the institutions. In these circumstances, instantaneous replies are unlikely.
- Try to anticipate as far as possible requests to public institutions! Few public communication officials are likely to respond to requests from the press outside office hours.
- If you decide to publish news without the institution’s response, mention it in your article. Avoid phrases like “the institution has not provided a response” or “the institution did not confirm or refute the information” if the statutory period has not expired. Indicate that you submitted a request to the institution and are waiting for a response. Later you can return to the article either based on the institution’s reply or in its absence.

### 2. *How to Avoid or Manage Crises*

*Extracts from the “LegalLeaks toolkit”: a guide about legal access to government information<sup>14</sup>*

For a public institution, one of the greatest challenges is preventing or managing a crisis. Crises can be classified into three categories:

- **An image crisis** occurs as result of the attitude or behavior of a person holding a representative position, but not only in such cases (corruption, fraud, incompetence, misconduct).
- **A functional crisis** occurs as a result of problems in the functioning of the institution (inefficiency, lack of financial and human resources, accidents, bad weather).
- Crises due to **negative campaigns** are generated by third persons/institutions with a view to attacking the results, policies or integrity of the institution you belong to.

All these types of crisis may affect the image of the institution and can prevent it from operating normally. Both the functional crisis and the one caused by negative campaigning can degenerate into an image crisis if not handled properly. A crisis can also be caused by a poorly organized information exchange among the media, the institution and the public.

A public official has to manage a crisis in the event of:

- A circumstance the severity or magnitude of which may create unrest and strong reactions among the public (major tragic events, weather, accidents, radical decisions that affect the lives of citizens etc.);
- A major event resulting in a large number of requests for information from the media or occurring outside office hours.

<sup>14</sup> “LegalLeaks toolkit”. A guide about illegal access to government information, Access Info and n-ost Legal Leaks Toolkit 2011, [http://www.access-info.org/wp-content/uploads/LL\\_toolkit\\_Moldova.pdf](http://www.access-info.org/wp-content/uploads/LL_toolkit_Moldova.pdf)

## ***Recommendations for Officials:***

1. Establish a crisis cell at your institution and, if necessary, with the participation of other institutions involved or in charge. Appoint at most two persons responsible for relationships with the media during the crisis: a leader and a spokesperson. In a crisis, it is extremely important to have people who effectively manage the relationship with journalists and express the official position.
2. Inform colleagues from the institution about the crisis cell and the persons responsible for media relations. It is important that all colleagues redirect the press to those persons.
3. Answer phone calls from journalists. Even if you have no information to disclose, assure them that they will shortly receive the information they need, i.e., an official position concerning the situation/measures taken by the institution.
4. Be prompt! The journalist will try to obtain information from other sources that can be subjective and could have an impact on the crisis.
5. Use all channels for the transmission of information to the media and the public:
  - journalists' electronic addresses;
  - institution's website;
  - social networks;
  - phone.
6. Avoid denying or distorting the scale and consequences of the event identified as a crisis.
7. Note that citizens are the main beneficiaries of the institution to which you belong and that communication with them is ensured by the relationship you have with the media. In this context, adopting a collegial attitude towards the media and your availability to provide details at any time are indispensable.

## NO “BARRICADES” IN ACCESS TO INFORMATION

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8. Treat the media equally. Each media source has its audience. Equal treatment of journalists helps avoid or minimize the scope and impact of interpretation and speculation.
9. You must be the one to announce the bad news; do not let others do it for you. If you are sure that a crisis will become public knowledge even without your participation, announce it. The one who communicates negative news has the privilege of interpreting it and of providing solutions to solve it.
10. Avoid pent-up emotions! Keep calm and have a positive attitude. Avoid negatives. Transform expressions with negative connotations into positive ones. Thus, instead of saying, “These allegations are false and malicious,” you should say, “We have started an investigation and will comment on our official position based the results.”

## ***Recommendations for Journalists:***

- 1.** Keep calm! The communication official needs time to research in a crisis.
- 2.** Ask for information about mitigating the impact of the crisis, not just comments.
- 3.** Get information from reliable sources, and be careful what information you distribute as it may have a negative impact on society.
- 4.** Give the right of reply. It is your ethical and professional duty.
- 5.** Beware of numbers! Most often in crises the figures are incorrect. It happens because of stress and a lack of time. When it comes to human lives, do not rush to come up with figures; instead emphasize other aspects of the news.
- 6.** Ask to have technical expressions explained. This will allow you to operate with accurate information and to avoid situations where you are forced to interpret technical language used by an official.
- 7.** Avoid stereotypes! Do not hurry to draw conclusions. Observe professional ethics. Stereotypes can exacerbate the situation and escalate the conflict.
- 8.** Check your sources. Do not allow yourself to be used by third parties/institutions in negative campaigns.
- 9.** A crisis is not a reality show. Every time a journalist reports on a crisis, he/she must choose what behavior to adopt: impact mitigation or escalation.
- 10.** Avoid tensions with officials responsible for media relations. It's a valid rule anytime, but especially in times of crisis. Laws and common sense do not vanish in times of crisis.

# ANNEX 1.

## Example of information request

Name of the public institution

### Request

Referring to the Law on Access to Information No. 982/2000, the undersigned, ..... reporter from the newspaper / TV channel / portal ....., kindly ask you to tell us.....

We respectfully request a copy of the following documents (list the requested documents or information): .....

Please send the requested information in electronic format/hard copy/by fax to the following email/post office address/fax number: .....

The editorial staff will pay any fees for the services related to copying the requested documents.

Thank you,

Date

Signature

Address of the media institution

Contact data: telephone number, e-mail address



## ANNEX 2. Case study

### ***Public interest vs. personal data protection***

One of the most prominent cases of limiting access to information in Moldova refers to data about the founders of enterprises owned by the State Registration Chamber.

The story began in August 2014 when the government issued a decree by which all data about the founders of enterprises owned by the State Registration Chamber, i.e., *the date of registration, list of managers, legal form of organization, the status and the address*, were deemed public and were to be available online free of charge. Although this kind of information falls within the definition of public data, access to it was limited until then. The information could be obtained after paying a fee ranging between 36 and 540 lei.

According to the authors of the initiative—members of the Prime Minister’s Economic Council—free access to such data helps increase the transparency of business and helps existing entrepreneurs and new investors to identify potential customers and partners when conducting market research and competition analysis. Likewise, the measure is designed to improve public services in the industry, providing open and free access to basic information on economic agents registered in Moldova.

Free access to that data did not last long. In March 2015, the National Center for Personal Data Protection (NCPDP) declared that the publication of such data would be illegal because it provided access to personal data of the founders of businesses. At the same time, the information was still available for a fee... This situation changed thanks to strong pressure from civil society and to journalists’ solidarity.

In June 2015, the Prime Minister’s Economic Council launched an online petition for the immediate publication of the information on the full name of companies’ founders. The main arguments included the prevailing public interest over the alleged privacy of the data:

- *Consumers have the right to know who owns the companies from which they buy everyday goods and services with the money earned from their hard work.*

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- *Entrepreneurs have a right to know who the owners of the companies with which they do business or may do business are.*
- *Potential foreign investors need the data to study the market and to be better informed about the sector in which they could invest.*
- *The press has the right to unlimited, immediate, unimpeded access to the full name of the founders in order to do their job more easily and efficiently.*
- *Civil society has the right to know who the founders of the companies are: potential partners or donors from the private sector.*
- *Honest entrepreneurs know that their work is their pride and do not hide this information from the public. The only persons who are uninterested in publishing this information are those who want to hide their obscure business interests or their influence peddling.*
- *We believe that the publication of the full names of the founders is an effective measure to prevent corruption at all levels.*

According to Dumitru Alaiba, Secretary of the Prime Minister’s Economic Council, the petition was strongly supported by civil society, the media and businesses. Media organizations and non-government organizations requested the cancellation of all limitations on access to public information noting that journalists have access to the data register of companies in EU countries but not to those in Moldova. According to the signatories of the request, actions to limit access to information on founders and shareholders of companies and requesting payment from journalists who use the data in the public interest to conduct journalistic investigations are abusive.

***“Transparency on the founders of companies is a mandatory part of the regulations related to open data, access to information and freedom of expression in all EU member states which gives all citizens, including journalists, the freedom to be informed and to inform the public correctly with arguments about the involvement of any economic entity in financing political areas, money laundering, fraud etc. In a state that has high levels of corruption such as Moldova, access to data about the founders of companies is essential,”*** the request noted.

In August 2015, after half a year of resistance from the NCPDP, data on the full names of founders of companies in Moldova became public and free again. Now information about the approximately 200,000 registered companies is open and can be accessed on the government portal [www.date.gov.md](http://www.date.gov.md).

This case shows that even resistance from state institutions in terms of access to information can be defeated by solidarity and pressure from civil society.

**NOTA BENE!**

Personal information is part of the official information with limited accessibility and consists of data related to an identified or identifiable natural person, the disclosure of which would constitute a violation of privacy, intimacy and family. Access to personal information shall be in accordance with the legislation on protection of personal data.

## ANNEX 3. Interviews

### *Three journalists and three communication officials discuss access to information*



**Mariana  
GALBEN,**

reporter  
Info-Prim NEO

— *What problems do you encounter most often when requesting information from state institutions?*

— Most often, it is the indifference of officials who can refuse to provide an answer because they do not have time. Another problem is that information is sometimes too technical, so the answers are full of remarks like: “According to Government Decision number ... dated ...” etc. and when you start throwing this stuff away, you have nothing. Or, worse, they cite a law, and to be able to prepare an article you have to look through all these laws ...

— *How open are the officials responsible for press relations, and to what extent do they comply with the Law on Access to Information?*

— Most of them are rather open if they are not too lazy to help you. There are also press officials who, when you contact them, suggest you should look for one official or another without even trying to do anything to find the necessary information. There are also cases when press officials do not provide information without checking it with their superiors, and as the superiors are always extremely busy, an urgent piece information comes too late. Finally, if I am not able to get the information I need from the press official, I start contacting the officials responsible for the relevant areas; I sometimes contact the minister or the head of the institution directly.

— *What should be done in order to improve the access to information at state institutions?*

— To have easier access to information, press officials should be more accessible. I think it is not ok when a press official ends his or her working hours exactly at 17:00. We have recently had the following case. A press official sent some information, a kind of press release, that contained two sentences. To make a news item out of it, we needed details. The official sent the release at 16:45, I saw it at 17:00, I called the institution at 17:03 and got no answer.

Media outlets should be provided with the mobile phone numbers of the press officials, and the latter should answer the calls. I know they also have personal lives and need recreation time, but when I chose to be a journalist I was aware that I would have to work at all hours. The same applies to the press officials. And I also have another recommendation: They should include more details in their press releases. Maybe some training courses should be organized for press officials about what details must be included in press releases. The more details in the releases, the less need to be disturbed by journalists.



**Dumitrița  
CIUVAGA,**

*reporter, news  
presenter  
Publika TV*

— *What problems do you encounter most often when requesting information from state institutions?*

— After 17:00 there is rarely any official available to answer the phone (with the exceptions that prove the rule, of course). In my opinion, the most problematic ministries in terms of transparency are the Ministry of Economy and that of finance. Regarding the latter, I sometimes think it is a jail rather than a state institution that should be transparent. There is no visible spokesman known to the media. It's also hard with the Ministry of Health which sends responses to formal requests for information in 30 days, and with the State Chancellery which is also very formal. The information given to us is often useless because it is superficial.

— *How open are the officials responsible for press relations and to what extent do they comply with the law on access to information?*

— It depends on the information I need. If it is about a bill or judgment, I receive it with no problem. If it takes more effort from the official, various reasons are presented. In order to prepare a news item more quickly, I often contact the MP directly, or the minister, the head of department etc.

— *What should be done in order to improve the access to information at state institutions?*

— I understand that the working hours of the civil servants end at 17:00, but the media work late. I wish officials were useful after 17:00 too if they are in charge of media relations. I wish there were more useful documents, projects, procurement plans, budgets, reports etc. placed in due time on the websites of the institutions. I want to see more releases from institutions subordinated to the government, not only on behalf of the government



**Iurie  
SĂNDUȚĂ,**

*investigative  
journalist,  
director of  
RISE Moldova*

— *How often do you access the portal <http://www.date.gov.md/>?*

— At least once a month.

— *Since it has been providing online information free of charge, how many investigations have made based on the information it provides?*

— I have not made any research based on information placed on <http://www.date.gov.md/>.

— *What did you do when the NCPDP resorted to the old practice of providing information about the founders of companies for payment?*

— We obtained information about the founders by paying a subscription fee, as this was how we got detailed information (e.g. what is the share or interest of the founder/shareholder).

— *What problems do you encounter most often when requesting information from state institutions?*

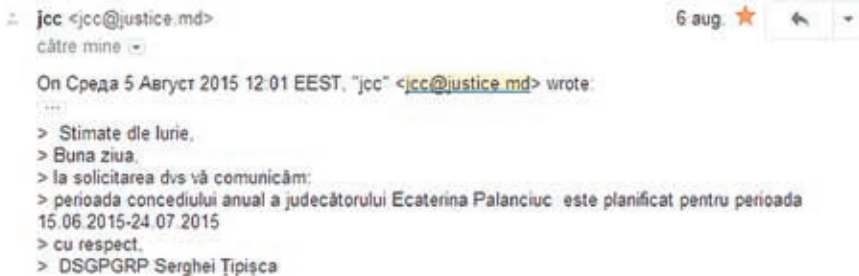
— Exceeding the legal deadline. For example, we have been waiting for 7 months for an answer from the Tax Inspectorate and 1.5 months from Parliament and the Agency Moldsilva. We also have some incomplete answers (if we ask for clarifications on eight questions, we sometimes get clarifications on just six of them ...).

— *How open are the officials responsible for press relations and to what extent do they comply with the Law on Access to Information?*

— In the last two years, I have had no unusual interactions with persons responsible for communicating with the media. It's just that sometimes some officials forget to return a call for clarification after a previous discussion, or because of a "lack of time" they send the information requested via a simple email message although you asked for the information to be on institution letterhead and to be signed by the person in charge. If, however, we do not receive the answer from those responsible for media relations, we contact

the management of the institution or request official explanations or the reason for a refusal.

An example of a response from the Central District Court, Chisinau



— *What should be done in order to improve the access to information at state institutions?*

— First of all, detailed information from cadastre of the State Registration Chamber and information about pledged assets must be provided to journalists free of charge because we are asking for it in the public interest. By the way, in Romania and other EU countries we get this information for free, so, all public information should be published on the websites of state institutions. Those responsible for media relations thoroughly know the profile of the institution they represent and must provide the information requested within the terms provided by law. More than once, however, we have heard answers like, “I do not know whether or not to allow you to make a copy of the document” or “I do not think we can give you such information.” When a state institution cannot respond or provide the public the information requested by journalists it should explain the reasons in an official response or should state which institution is competent to provide an answer.





**Tatiana  
CAZACU,**

*Deputy  
Director of the  
Communications  
and Media Bureau  
of the State  
Chancellery*

— ***How open are state institutions to journalists?  
What about press services?***

— They are open as much as the law asks them to be to ensure decisional transparency and access to information. Press services are open and willing to better cooperate with journalists.

— ***As a public official responsible for media relations, what are the most frequent mistakes made by journalists?***

— Some journalists do not do enough research on the issue and misunderstand or even distort information, including that provided by officials/public servants/media relations officers in the stories/press material they disseminate.

— ***Would you prefer to receive inquiries in writing or by phone?***

— In answering this question, it should be noted that the information received from public institutions is often misinterpreted or distorted because the journalist, having superficial knowledge in the area, may misunderstand the message which is sometimes presented quite technically by public servants. To avoid such situations and to provide correct information to the public, the question and the answer should preferably be written. The journalist will thus express the question more clearly and the officer responsible for media relations will provide a more specific answer. And if one of them for some reason does not perform according to standards, it can be seen in the correspondence what the problem is and later misunderstandings can be avoided which is quite difficult to achieve in phone conversations.

— ***Does it have to be printed or is it enough to be sent online? Who decides?***

— My opinion is that it should be enough to send the petition online. There is not a specific person

who decides; it is important that the provisions of the law and the rules of ethics in this regard are complied with.

— *What recommendations would you have for journalists in their daily work when they have to call the press service of a state institution?*

— Each journalist should have experience (even for a short period) or carry out an internship at a public institution as the person responsible for press relations. I think many problems that exist in relations with journalists would then go away ...



**Ana  
TABAN,**

*Head of the  
Press Service of  
the Ministry of  
Foreign Affairs  
and European  
Integration*

— ***How open is the institution you represent towards journalists today?***

— We try to give prompt answers every time, even when we have just provisional information because we understand the journalists' need to complete the news with a reaction from the institution.

— ***As a public official responsible for relations with the press, what are the mistakes made by journalists most often?***

— In some instances the journalists do too little research before requesting information on a topic.

— ***Do you prefer questions in writing or by phone?***

— According to the Law on Access to Information, the request can be made based on a written or verbal request. A written request is proof of the date when the request was submitted if the institution fails to provide an answer within 15 working days, as the law says. However, I would say there are two main reasons for a press official to ask questions in writing: One is to facilitate coordination of responses with the competent departments of the institution and another is to delay the answer.

— ***Does it have to be printed or is it enough to be sent online? Who decides?***

— The Law on Access to Information does not contain specific provisions about that; therefore, the online version is also accepted. In our institution it is a current practice.

— ***What recommendations would you have for journalists in their daily work when they have to call the press service of a state institution?***

— Before calling the press service of an institution, I would advise them to check the legal framework on the subject they are interested in. It would help them ask more accurate questions and receive more specific answers.



**Daniela  
MÂNZATU,**

*(former) Head of  
the Press Service  
of the Border  
Police*

— ***How open is the institution you represent towards journalists today?***

— Our press service tends to be an open entity, regardless of the editorial policy of the media. I think we are a transparent institution. Of course it all depends on the relationship the head of the institution has with the press official: the better the management team understands and appreciates the role of the press service of the institution and helps this service to be informed about everything that happens, the better the image of the institution.

— ***As a public official responsible for relations with the press, what are the mistakes made by journalists most often?***

The most difficult situation is when journalists ask to be given the answer “here and now” without allowing you to do your research. And then you read in the news that the press official or the press service could not comment and did not know the situation... Another problem is that many journalists do not differentiate among authorities responsible at the border confusing border police with Customs, i.e. they are not documented.

— ***Do you prefer questions in writing or by phone?***

— In practice, the “in writing” method is used very rarely, only when it is about a journalistic investigation and I want to make sure we understood each other correctly, but that does not mean I wait for 15 days to come back with the answer. I give it as soon as I have the full information coordinated with the management. A request in writing is good particularly in cases in which in turn you must request information from the heads of the institution and they want to receive an official letter. In addition, when the press service is not regarded as a major subdivision, the official letter to the press officer can be a lifeline in the fight against internal bureaucracy.

— ***Does it have to be printed or is it enough to be sent online? Who decides?***

— How the request was sent is not a matter of principle to us. It can be either printed or online.

— ***What recommendations would you have for journalists in their daily work when they have to call the press service of a state institution?***

— It would be great if there were specialized journalists responsible for law enforcement agencies whom we could train to help them understand each segment of the institution's activity and with whom we could organize seminars and informal meetings, but I know there are few media outlets that can afford such a luxury. I also know that not every press officer has the luxury of responding to journalists 24/7, as I do. Most people respect the work schedule and after 17:00 are no longer on the line which upsets journalists ... Unfortunately or fortunately, we have no right to get upset with journalists who put us in a huff, including on social networks, often without trying to find out if indeed we are guilty because we do not provide information or if instead it was a matter of internal discipline.

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5. "Active informing of the public. Civil servant's guide", Acces-Info, <http://acces-info.org.md/index.php?cid=165>

# USEFUL LINKS

- **[www.lex.justice.md](http://www.lex.justice.md)** - State register of legal acts of Moldova
- **[www.date.gov.md](http://www.date.gov.md)** - Governmental portal of open data
- **[www.statistica.md](http://www.statistica.md)** - Statistical data repository of the National Statistics Bureau
- **[www.ccrm.md](http://www.ccrm.md)** - Official website of the Court of Accounts, where one can find the institution's reports
- **[www.bnm.md](http://www.bnm.md)** - Official website of the National Bank of Moldova
- **[www.geoportal.md](http://www.geoportal.md)** - National geospatial data fund
- **[www.cadastru.md](http://www.cadastru.md)** - Official website of the Land Relations and Cadastre Agency, where one can find open data from the Real Estate Register





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