

Active Transparency Rating 2020

Recommendations related to the access to information legal framework

The National Assembly should take the steps necessary as to ensure actual transparency in the legislative process, including through changes in the rules of its organization and activity. Draft legislation should always be accompanied by analysis of the need for [new] regulations; published in an user-friendly format; subject to mandatory public discussion; and relevant to the stage of the current legislative procedure.

- The Government should take the steps necessary as to accede to the Council of Europe Convention on Access to Official Documents (CETS No. 205).
- A legislative ban should be introduced as to ensure that no secret information that reveals violations, crimes and corruption be declared as legally protected classified information.
- An obligation should be introduced for institutions to publish on their websites consolidated versions of the amended normative or general administrative acts they have issued.
- Along with the main documents, short explanatory documents in a non-technical language that is accessible to the ordinary citizen should be prepared and published on the institutions' websites, if possible using visual representations (graphics, tables, etc. user-friendly visualizations). They should accompany the main budget documents - the annual (draft) budget, the annual financial report and the draft debt assumption decisions.
- The institutions' annual reports required under the APIA should include statistics of the access to information court cases and of data on judicial acts following the court rulings on these cases.
- An independent body should be designated to set common models and to support authorities in following these models in what it concerns the publishing of public information and the work with electronic access to information requests.

Recommendations regarding the right of access to information and its restrictions

- Measures should be taken as to ensure a precise balance between the right of access to public information and the right to protection of personal data in the handling of access to information requests by public authorities, so as to preserve the equivalence of the two fundamental rights.
- Measures should be taken as to ensure a precise balance between the right of access to public information and the protection of trade secrets in the handling of requests by public authorities. In these cases, the right to information should be considered as a principle, and its restriction - as an exception to the principle. The application of the exemption should not undermine priorities such as openness, transparency and accountability of public bodies and administrations before the citizens.

Recommendations regarding publication obligations

- The "Access to Information" sections in public authorities' websites should be maintained according to APIA requirements as to perform their main function - to facilitate information seekers.
- Although the registration of the request is mandatory and 69% of the administrations report that they have electronic registers of access to information requests, data from our study show that only 50 out of 562 institutions have set up a system for notifying the requestor that their e-request was registered. Notifying the requestor for the registration of the electronically submitted request is of particular importance for the efficiency of the Access to information platform. The requestor must have the certainty that the submitted request has been received and registered.

The electronic requests registration system should include the following functionalities:

- ❖ A valid e-mail address in the "Access to Information" section to which requests can be sent;
- ❖ Mandatory registration of electronic requests;
- ❖ Notification of the requestor about the date of registration of their request;

- ❖ Sending the decision for provision of information and the provided information itself to the e-mail address indicated by the requestor;
 - ❖ Sending a decision for refusal to the postal address indicated by the requestor.
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- There should be a unified model of the institutional websites. In most of them the requested information has been published, but the publication is formal and not user-friendly.
 - Institutional Internal Rules should be updated as per APIA obligations. Although 84% of the institutions have adopted and published internal rules, only 65% of them have updated their internal rules in accordance with the recent changes in the law.