



7th GONG's Annual Research

**IMPLEMENTATION OF THE
FREEDOM OF INFORMATION ACT**

- results and analysis -

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Zagreb, Croatia

SUMMARY

Over the last years, the access to information has been increasingly acknowledged as a **basic tool** in the prevention of corruption. However, since the first adoption of the Freedom of Information Act (FoIA) in 2003, through its amendments in 2010 which did not lead to the desired impact, until present, when the Act is in the amendment procedure, **there has been no clear and coherent message to the government about its purpose, which should primarily be identification and decrease of corruption risks.** Even this, the seventh **research on implementation of the Freedom of Information Act**, showed that despite **the awareness on the need to provide information in most institutions, there is no uniform policy of openness of institutions or the coherent implementation of the Act** by the institutions at the state level.

The research focused on two areas:

- a) to which extent the institutions **actively publish information at their web pages;**
- b) the readiness of the institutions to **provide answers to the inquires on „sensitive matters“**, e.g. contracts between public authorities and private companies regarding provision of certain services to the citizens.

Active publication of data

An **important and often neglected aspect of right to information** – the active publication of information on the Internet – is especially efficient in raising the level of transparency of institutions. It thus **facilitates the work of institutions** because it reduces the need for responses to individual requests for access to information.

Although there is a certain **level of awareness of the institutions on the need for active publication of data**, but all institutions have **considerable room for improvement of their Web pages.**

Transparency Categories	No. of institutions (54)
Very transparent (more than 76% of points)	4
Transparent (51 – 75% points)	36
Insufficiently transparent (26-50% of points)	14
Very non-transparent (less than 25% of points)	0

The institutions have **recognized the need for publishing information on their work and their open competitions**, but what **raises concern** is the fact that **the ways for exercising the rights to data access are rarely published**, which is one of the preconditions for transparency of an institution.



The findings of the proactive publication of data for public procurement also raise the concern – that area is especially susceptible to corruption and favouring particular interests, such as **detailed information on public procurement, on financial costs and budget of the institution** etc.

Finally, the institutions should also **introduce the additional publication of certain data sets** in **searchable formats**, e.g. databases or registries.

Providing Sensitive Content Data

The research showed that **the awareness of the institutions on the need to provide responses is present, but often numerous procedural deficiencies** (replies after the due term or non-forwarding the inquiries to the competent institution) are still present, as well as **incoherent contents or illegal responses in case of refusal**.

(e.g. information denials by the institutions were annulled for illicit reasons for data classification or insufficient ground for declaration of a business secret.).

In approximately 70 requests sent on behalf of GONG, **37% of the responses were received out of the legal term**.

Types of responses	Percentage of received substantial responses (both within and outside the legal term) (n=67)
Complete, substantial and positive responses	66%
Partial substantial and positive responses	9%
Requests denied due to limitations	13%
Requests denied due to lack of data	12%

The problematic areas for obtaining substantial answers include:

- contract agreements with private business entities,
- information on concession and studies,
- information on financial transactions.

The research again pointed out to the **need for introducing an independent institution (commissioner) which would apply the public interest test within the reasonable term, for all sorts of exceptions to the right to data access** – the assessment of all arguments and making a decision which arguments prevail - those against the publication of data or those in favour of publication of data. **The present body is not competent for applying the public interest test in the most important cases – when data are classified**. In addition, the problems include **insufficient capacity, insufficient financial resources and inadequate position and competences of the present supervisory body**, while the court practice shows lack of understanding of the essence of this Act and **avoidance of applying the public interest test** in the cases of its competence.

INTRODUCTION AND THE CONTEXT

In 2012, GONG conducted the **seventh cycle of the annual research on application of the Freedom of Information Act** (hereinafter: FoIA) by the public authorities. The research was conducted in the same legal and institutional frame compared with the previous year. In other words, **FoIA which is still in force is unconstitutional**, since the Act continuously defines that the data access can be limited even if it received the level of secrecy based on the "general act", which is contrary to the Constitution, which defines in the Article 38 that such limitations to the data access can be only defined by law. In addition, the **application of the public interest test by the appellate body (Croatian Personal Data Protection Agency) was prevented for all documents defined with any level of secrecy** by all public officials.

Furthermore, since **the indispensable amendments of the Freedom of information Act were not proposed**, the appellate body in the procedure pursuant **FoIA** still has no right to check the possible abuses of the public bodies officials when they signify certain information as secret. The linearity test, pursuant Freedom of Information Act, is done by the same body which previously classified the information. **FoIA offers the possibility of the public interest test in the case of secret information only at the Administrative Court**, which actually prevents the substantial appeal procedure at the second instance and prolongs the procedure and the cost of the citizens.

Finally, the bodies continually don't make decisions when they reject the requests. Pursuant **FoIA**, the appeal is declared against first instance decision of the public authority. However, in practice **the responses of the bodies do not represent the decisions** (whose constituent parts are determined by the General Administrative Procedure Act), which means that the competent body in the appellate procedure (**Croatian Personal Data Protection Agency**) does not take into account the fact that the information was withheld, but on the fact that that was not the decision of the first instance – and asks the body to deliver the decision to the applicant within 15 days in the conclusion. **This prolongs the period for withholding the information for the public authorities, at citizens' cost**. Should the body default to the conclusion of **Croatian Personal Data Protection Agency**, a citizen can send a rush note to the **Croatian Personal Data Protection Agency** – which alienates the whole procedure from the citizen who seeks the information and it questions its control over the process (s)he started. One must also have in mind the fact that the correspondence regarding the appeal between the **Croatian Personal Data Protection Agency** and the public authority that withholds the information stays out of reach from the citizen, who is thus also denied the complete track of the procedure.

In this year's report, we focused on two aspects of practicing right to information:

From one hand, we did a research on **to which extent the institutions actively publish the information on their web pages**. At the global level, **the access to information is increasingly confirmed as a basic tool for corruption prevention at all levels and thus in the previous years, the significance of availability of public data in a quick and efficient way is growing extremely**. At the moment, there are more than 260 open data portals which provide additional contribution to transparency of management. Besides, such portals enable the interested public (the media, civil society organisations, researches, entrepreneurs) further usage and grouping of data, participation in information exchange and making new values. **Such practice has still not taken hold in Croatia and the additional effort is needed on order to achieve the already set European standards**. We are witnesses of legal proceedings and criminal investigations in Croatia, and all of them had the mutual element in their beginnings – hidden information, unavailable information on public affairs and secret deals at the closed meetings or sessions of the governmental institutions.

From the other hand, we wanted to establish **the agility of the institutions at their responses to FoIA's inquiries for insight into "sensitive content" information, e.g. contracts of public authorities with private companies on provision of certain services to the citizens**.

Since it involves two methodologically completely different research approaches, in the part of the report which provides the results of the research, first the **methodology and the research results** of the so-called proactive research are given, followed by the description of the methodology and the results related to the acquisition of „sensitive“ information. At the end, we are providing the **conclusion and the recommendations for improvement of the implementation of the Act**. Both aspects of the right to information access are interlaced through the implementation of the Act and they should be additionally encouraged and promoted.

1. GOALS, METHOD AND RESULTS OF THE INFOMRATIVENESS NAD TRANSPARENCY OF WEB PAGES RESEARCH

By researching the quality of the so-called proactive information publishing (publishing information without enquiries), we wanted to check **to what extent the official web pages were from one hand informative and from the other, how much they contribute to the transparency of the work of certain institutions at the state level**. Such approach is in line with the world trends which recognized that the **active data publication is an important and often neglected aspect of the right to information access**, which is especially efficient as a tool in the combat against corruption. Besides, such access significantly facilitates the work of the institutions, decreasing the amount of work in the part which is related to the answers to specific requests for access to information.

FoIA which is still effective orders all public authorities the obligatory active publishing of information on their work at the IT medium, regardless of the individual requests for information. It especially relates to:

- a) decisions and measures which affect the users' interests, with reasons for their adoption,
- b) information about work, including the data on the activities, organisation, costs and sources of financing,
- c) information on submitted requests, submissions, petitions, suggestions and the other activities that the users took against the public authority.
- d) information on the competition and the tender documentation for public procurement, and execution on contracts pursuant Public Procurement Act.

The research was conducted in June and July 2012, with the total of **62 institutions involved, including the legislative power, executive power and judiciary power, judicial institutions, independent bodies and some state administrative organisations and agencies**. Those institutions are included into research with respect to the number and the importance of decisions made at the national level, with the respect to their importance for exercising some basic rights of Croatian citizens and in order to serve as an example to the other public authorities in the Republic of Croatia¹.

The indicators² we used to assess the informativity and transparency i.e. active publication of documents at the web pages represent the combination of the legal requirements from the **FoIA**, as well as the other relevant laws (e.g. the Public Procurement Act) and the developed international standards.³

The total of 31 indicators relate to the following data:

- technical data that show updates and accessibility (date of the last update of the web page, existence of the functional search engine, enabled access to persons with disabilities);
- information which represent the basic structure and the method of work of the institution due to easier orientation of the user (legal framework, work organisation, work information);
- instructions for exercise the right to information access which are the legal precondition for publication;
- information on costs and financial resources for the institution which show the level of responsibility of the institution towards the budget resources;
- information on various competitions and information on public procurement, which show the additional level of transparency on business agreements of the institution;

¹ The list of the institutions can be found in the Annex 1 of this report.

² A list of indicators can be found in the Annex 2.

³ An Emerging Minimum Standard for Proactive Disclosure - Proactive Transparency: The future of the right to information? Helen Darbishire, for World Bank Institute, 2011.

- information on grant or donation allocation – if applicable; they inform the users on transparent allocation of the budget ;
- information on counselling the interesting public – if applicable; they allow the users to participate in decision-making;
- information on registries and databases – if applicable; they facilitate the access to groups of data.

However, it must be mentioned that the research of the web pages did not include the systematic monitoring of the above stated information (such as information on counselling the interested public or publishing of competitions), but the information that were available at the web page in a given moment in two visits to a web page were actually the ones that were registered for the needs of the research.

Out of 62 of the chosen institutions, 8 of them had no active functional web page (High Misdemeanour Court, Office for Internal Supervision, General Administration Office of the Croatian Government and Parliament, Office for Protocol, Office for Proofreading, Ministry of Labour and Pension System, State Office for Trade Policy and Office for State Property Management). That fact places them in a group of very non-transparent public authorities, but they were exempted from processing for the needs of further interpretation of results.

The results of the research showed the span of the awarded possible points, from the worst 28% to the best 77%. On average, at the aggregate level, all bodies in the sample satisfied 56% of the researched indicators.

Categories of transparency	No. of institutions (54)
Very transparent (more than 76% of points)	4
Transparent (51 – 75% of points)	36
Insufficiently transparent (26-50% of points)	14
Very non-transparent (less than 25% of points)	0

Out of 54 institutions with active web pages, the four of them are in the category of very transparent (more than 76% of points received); 36 of them belong to the category of transparent ones (51–75% of points); and 14 of them is in the category of insufficiently transparent (26-50% of points). At the same time, the finding that none of them belong to the category of extremely non-transparent ones, with the less than 25% of the points, is encouraging. The best ranked and the worst ranked institutions are stated in the following tables:

Best ranked institutions per points received:

Institution	% of points received
Government of the Republic of Croatia	77%
Office for Cooperation with NGOs; Croatian Employment Institute; Ministry of Justice	76%
Ministry of Administration	74 %

Worst ranked institutions per points received:

Institution	% of points received
Office for State Property Management	28 %
State Judiciary Council	30 %
Office for Social Partnership	33 %

In this part of the report, it is important to stress out that it raises concern that the web page of the institution competent for monitoring of the implementation of FoIA, the **Croatian Personal Data Protection Agency**, was according to its results included into the group of the insufficiently transparent web pages (48%), instead that, due to its function, it is a leader in setting high standards of openness towards public.

In the Annex 3 you can find the rankings of all included institutions, with percentages of points received, while at the web page of GONG one may find a table with detailed data on individual points and indicators for every institution (www.gong.hr).

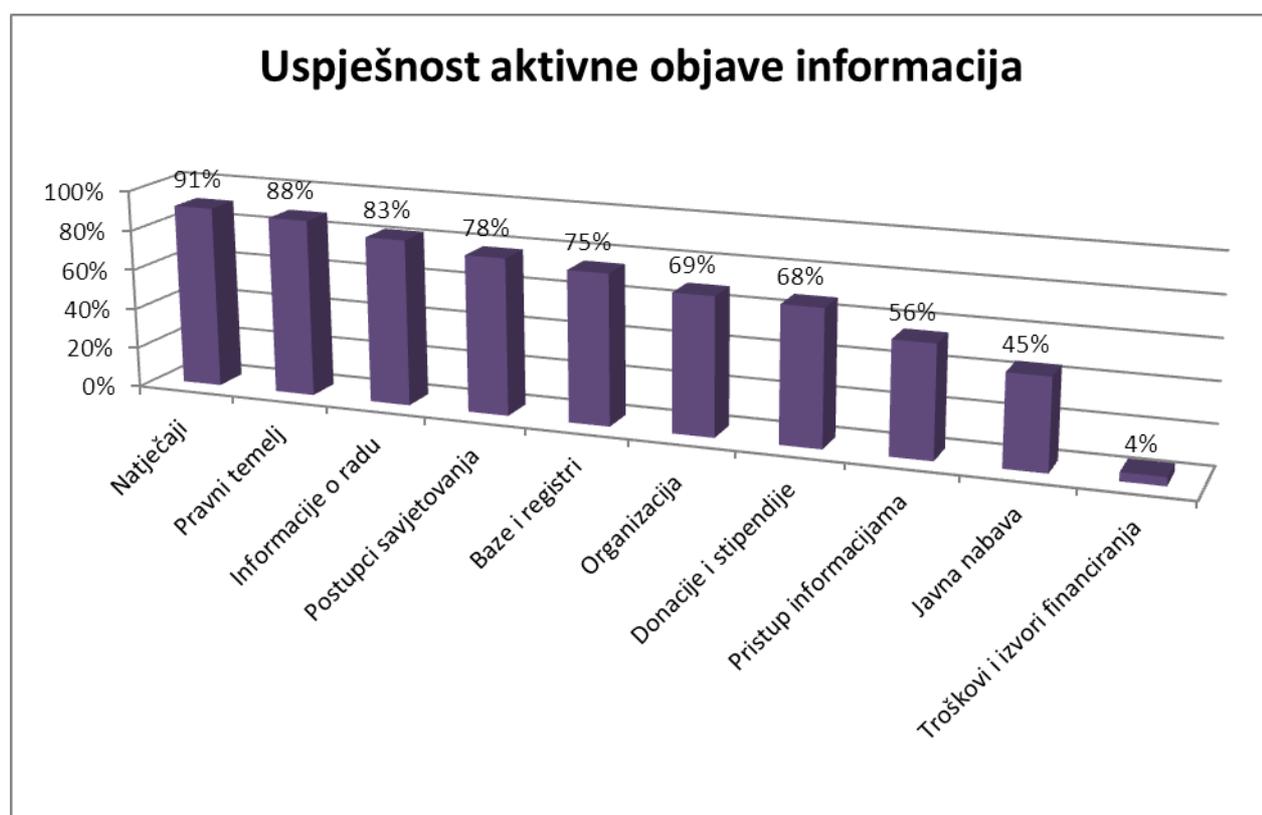
Result Analysis

The results of the analysis with the aim of checking the informativeness and transparency of the web pages of public authorities at the state level **showed the presence of certain level of awareness of the institutions regarding the need of the active publication of information, but all institutions have a considerate room for improvement of their web pages and information they actively publish**, since the greatest percentage of the points received was 77%. A small number of institutions satisfy the criteria of being very transparent (the total of 3), and the largest number of institutions received between 40 – 60 % of possible points. Such results point out to the need of further involvement of institutions in the active publication of information.

The categories of indicators which the institutions fulfil best are the publication of various competitions (91% success), explanation on the legal grounds of the institution,

which includes the publication of the sub-legal acts and the description of competences (88% success) and information on the work of the institution, including the publication of strategic documents and activities of the institution (83% success).

The categories of the indicators which institutions fulfil least are the publication of costs and financial sources, which includes the budget for the present year, the report on execution of the budget, as well as the audit report (4% success), more detailed publication of the public procurement data which includes the plan of the public procurement procedure, a list of jobs agreed, the statement on the non-existent conflict of interest, publication of contracts and annexes to the contracts and reports on the execution of contracts (45% success) and the manner of execution of the right to information, which includes the publication of the information catalogue, contact of the information officers, a web form for inquiries and the FAQ list (56 % success).



EFFICACY OF THE ACTIVE INFORMATION PUBLISHING

Competitions-Legal ground-Information on work-Counselling procedures-Databases and registries-Organisation-Donations and grants-Access to information-Public procurement-Costs and information resources

It is positive that the institutions recognised **the need for publishing information on their work and competitions they have**, as a part of openness to the citizens. However, **what raises the concern** is the fact that **se the manners for realization of the rights to**



access information are published with less success, which is one of the preconditions for transparency of the institution.

In addition, **the findings of the proactive publication of information for public procurement also raise concern** – which is the area that is very susceptible to corruption and satisfaction of particular interests. **Therefore, a special effort** must be given to publication **of information which can serve as the most efficient prevention of corruption**, e.g. **financial information**, which includes the detailed information on public procurement, information on tender documentation, information on financial costs of the institution and the budget, etc.

Beside the above stated, although the relatively high percentage of institutions publish databases and registries at their web pages (75%), these information should be published in **easily searchable formats** which the users may **process further according to their own interests and needs**, without any burden of producing new information to public authorities.



2. GOALS, METHODOLOGY AND RESEARCH RESULTS OF AVAILABILITY OF SENSITIVE DATA

In order to check in what way the public authorities respond to the content-sensitive inquiries and the availability of information with public interest, the inquiries to the institutions (mostly at the state level) were sent on behalf of GONG. The questions were chosen based on the topics that were discussed in the public and media space, and all information necessary for quality discussion were not available. The total of 70 inquiries were sent (by fax or e-mail of the institution).⁴

Respecting the FoIA procedure:

The results in the sense of **respecting the FoIA procedure** showed that **63% of the submissions were responded to within the legal term (15 days)**. In other words, as many as **37% of the public authorities did not adhere to the legal term for delivery of responses**.

For the requests to which the public authorities did not respond within the legal term, GONG sent the **appeals for so-called „administrative silence“**, when the public authority would usually reply. The total of **18** of those appeals were sent. The following Table shows the number and the percentage of the received answers, with the indication of the term when the response was received. By the time of writing this report, the total of **3 requests remained unanswered – these are the two requests sent to the Ministry of Social Policy and Youth and one request sent to the Ministry of Agriculture**.

Number of requests sent on behalf of GONG	70	100,00 %
The number of requests that received timely response	44	62,8%
The number of requests that received late response	23	32,9%
The number of requests that received no response	3	4,3%

The total number of responses up to and later than the legal term is 67. However, **the received response to the authority does not necessarily mean that the content of the response was satisfactory**, since some of the responses included the notification that the body had no information or they instructed to the other bodies that would respond to the request, and supplements were needed for some responses. The following table shows the numbers of such responses. Besides, the responses were sometimes very short and scarce, which raises the doubt of the applicant whether the institution fully replied to the question.

⁴ The Addendum 4 includes the list of the institutions that received the requests.

The number of supplements sought from GONG	3
The number of the requests sent over to the other bodies	3
The number of requests which should have been sent over to the other bodies, and they weren't	6
The number of requests denied for having no information	8

Substantial answers:

The results in the sense of **acquiring substantial answers based on FoIA** showed that out of **67 received answers**, GONG received a **full and substantially positive response to 44 requests**, and the partially positive answer to 6 requests. The other **17 were denied** – **8 of them for lack of information**, and **9 of them due to limitation** (with the reference to personal data, business secret, secrecy label, business secret).

Types of answers	Percentage of received substantial responses (within and after the legal term) (n=67)
Full substantial and positive answers	66%
Partial substantial and positive answers	9%
Requests denied due to limitation	13%
Requests denied due to lack of information	12%

Due to denial of the requests, GONG sent the total of 6 appeals to the competent body, the **Croatian Personal Data Protection Agency** (hereinafter: CPDA), with 4 of them solved, and two of them still in the procedure. In the four solved appeals, **CPDA** annulled the responses of the institutions and ordered repeated execution of the GONG's requests, since the responses of the institutions were not in accordance to the Act. These concern the requests sent to the Ministry of Justice, Ministry of Maritime Affairs, Transport and Infrastructure, HEP and HRT (Croatian National Television)⁵. The **CPDA** 's decisions which order solving of the requests on GONG's behalf state the **illicit reasons for classification of data or insufficient ground for proclaiming the business secret**. Despite the **CPDA** 's order and the expiration of all legal terms, not a single response was received by the time of writing this report.

⁵ Details on these requests can be found in the part of the report which brings the overview of the most interesting examples.



Although GONG received responses to most inquiries when it sought sensitive data, a **significant number of responses followed only after certain legal steps from GONG** (e.g. the appeal due to "silent administration", asking for the amendment of the response, forwarding to some other authority, etc.). Apart from that, the institutions sometimes provided **contradictory answers**, pointing out to the competence of some other body, which would point out back at the competence of the first institution. For example, the Ministry of Social Policy and the Ministry of Justice were unable to agree which of them kept data on the number of institutions of the Catholic Church.

In addition, **different institutions had completely different access to the same types of requests**, as if it didn't mean to simply apply the same Act. For example, the **Government of the Republic of Croatia** provided certain types of information to a request, while her ministries acted just the opposite on similar requests. **This incoherent application of FoIA is, in our opinion, the result of the non-existing clear political message to the public authorities that the openness towards public is the principle that all institutions should follow.**

The overview of the most interesting examples

The sequent of this report describes the most interesting current cases and defines the **areas in which the implementation of the Act needs further improvement.**

i. Contracts with private legal entities

GONG requested the **photocopies of the contacts between the Croatian Institute for Health Insurance and Medikol Polyclinic from 2007 and 2010** relating to the scheduling of additional PET/CT services. The **Croatian Institute for Health Insurance** first allowed GONG's employees only the personal insight into all contracts and their annexes, without special measures of protection of personal data, but without right to photocopy the contracts. Such response was contrary to the court practice of the Administrative Court which determined that the information which was once made public must be available to the users in any format (therefore, if it was made available through insight, it must be also available through photocopies). GONG repeated the request for photocopies allowing more time for receiving the answer than it is defined in **FoIA**, while the **Croatian Institute for Health Insurance** consulted the body competent for monitoring **FoIA** and it finally delivered all requested photocopies of the contract, with the protection of personal data from the contracts. In addition, the **Croatian Institute for Health Insurance** started with the practice of publication of all its contracts with private entities on their web pages.

Furthermore, GONG requested the **photocopies of the contracts between the Ministry of Justice and the American law firm Patton Boggs LLP** in relation to the services of the law firm that were provided for the purposes of the Republic of Croatia (the legal counsel

in the defence of the general Gotovina before the ICTY). The Ministry denied GONG's request referring to the confidentiality of the contract (the level of confidentiality „confidential“ due to protection of the interests of the parties to the contract). However, the **CPDA annulled the response of the Ministry and returned them the request for the repeated procedure after they established that the stated marking of the confidentiality of the agreement was contrary to the internal Rulebook of the Ministry of Justice on the criteria for establishing the level of data confidentiality.** However, the Rulebook does not provide for the "protection of the parties to the contract" as the reason for classification of documents. In addition, the Ministry did not consider of applying the proportionality test, set by the Data Confidentiality Act, in order to establish if the access can be given to the whole or some parts of the contract, since it involves the representation of interests of the Republic of Croatia and the budget expenditure. At the time of writing this report, the Ministry of Justice still delays passing the new decision upon GONG's request, despite the clear deadlines from the decision of the CPDA.

As a total opposite to the case of the Ministry of Justice, GONG requested, and received without filing an appeal, **the photocopies of the contract which the Government of the Republic of Croatia made in 2012 with the consulting companies on procurement of the present state analysis in the state bodies and public organisations with the concept of improvement of the efficiency of management.**

The most bizarre case of denial of information was noted when GONG **requested from the Croatian National Television(HRT) to provide the list of law firms that are attorneys of HRT as well as the fees that the HRT paid to the law firms in the period between 01 January 2010 and 11 May 2012.** Although HRT previously regularly responded to the GONG's requests pursuant **FoIA**, and even submitted the report on implementation of **FoIA** for 2011 to the competent body, in response to GONG in May 2012 **HRT established that "it was no longer a body of public authority" and thus had no obligation to provide the answer.** In addition, HRT established that the information requested by GONG represent the business secret. After the appeal, the CPDA annulled the HRT's response and established that there was no doubt that HRT was a public authority body and ordered delivery of the new response to GONG, which would include the requested information. At the time of writing this report, HRT did not make a new decision about the GONG's request, despite the clear deadline set by the Croatian Personal Data Protection Agency.

ii. Concessions and Studies

In the research area of availability of concessions and studies, GONG requested from the **Ministry of Maritime Affairs, Transport and Infrastructure the photocopies of the concession agreement for financing, construction, administration and maintenance of "Jadranske autoceste" (Adriatic Motorway) of 25 September 1995 (BINA-ISTRA) and the concession agreement of 11 July 2003 (ZAGREB -MACELJ MOTORWAY).** The Ministry denied the request explaining that certain data from the requested contracts were



classified as confidential. After the appeal, the **CPDA annulled the reply of the Ministry and ordered the Ministry to deliver the photocopies of the non-classified parts of the agreement within 8 days**, and the parts that were classified were delivered the classified parts to repeated fulfilment of GONG's request. Despite the expired deadline from the decision of the Croatian Personal Data Protection Agency, the Ministry failed to deliver the stated non-classified parts of the document at the time of writing this report.

A negative example was also noted when GONG requested **from the Ministry of Agriculture a photocopy of the concession agreement for extraction of thermal water in the production, made between the Ministry of Regional Development, Forestry and Water Management and Coca – Cola Beverages Hrvatska d.d.** The Ministry never responded to the request, despite the fact that the CPDA, pursuant GONG's appeal, ordered the response within 15 days. No response has been received until the writing of this report.

At the same time, the completely opposite practice was shown in the request for **concession agreement for the Project of infrastructural facilities for the purpose of construction of the central waste water purification plant of the City of Zagreb (CUPOVZ) of 16 February 2000** that was requested from the Zagreb Mayor's Office. The photocopy of that agreement was delivered without exceptions.

An interesting practice was shown by the **Ministry of Finance, which delivered the response to the inquiry on the number, the total amount of unpaid concession fees and the number of late payments, with the note that these data were not public**, but they were delivering them due to public interest and transparency. We are wondering why these data aren't treated as public? By the way, after the insight into the data of the Registry of Concessions, it appeared that the total debt for due but unpaid concession fees on 08 June 2012 was 214.9 mil. HRK.

Finally, GONG requested from **Hrvatska elektroprivreda [Croatian Electrical Utility Company] (HEP) a photocopy of the study on economic profitability of the hydroelectric power plant Ombla made by the consultants of the European Bank for Reconstruction and Development** (The final report on due diligence of technical issues, Version F, November 2011). HEP refused the request due to the business secret and the business practice of the commercial banks. After the appeal, the Croatian Personal Data Protection Agency annulled HEP's decision and sent HEP the request for repeated action. HEP has not delivered the new reply at the time of writing this report, although more than 15 days have passed.

iii. *Financial transactions and absolution of debts*

An interesting case was noted when GONG requested a **list of persons who received absolution of interests on debt in the period between 2007 and 2012 from the Ministry of Finance, Tax Administration.** The Ministry denied that request due to tax

confidentiality, as if the tax procedure was still ongoing. After that, GONG requested a **list of tax payers to whom the Government of the Republic of Croatia sold or deducted tax debt as well as the amount of deducted or sold debt for individual tax payers in the period between 2007 and 2011** from the Croatian Government. The government delivered 25 decisions which were mostly made at the closed parts of Government's sessions.

CONCLUSION

The implementation of the Freedom of Information Act even in the year 2012 **requires considerable further improvements regarding the active publication of information by the institutions as well as regarding the coherent application of the Act at the requests for sensitive data on disposal of the budgetary resources.**

Although the awareness on the importance of informing the citizens through the web pages is present, **they are still not prone to publication of detailed financial information, in the area of the detailed publication of contracts on public procurement as well as in the part of publication of their budget and the responsible spending. Such finding indicates that FoIA was still not perceived as a key tool for prevention of corruption in the public sector in Croatia.**

The amendments of the act from 2010 set the competence at the second instance and introduced the limited public interest test, **however, the practice has shown that the dilemmas and the legal non-harmonization of this Act and the Constitution and especially with the Freedom of Information Act.**

The research again indicated the **need for introduction of the independent institution (commissioner) who would apply the public interest test for all types of exceptions from the right to information access in a reasonable time frame** – the assessment of all arguments and making a decision which arguments prevail - those against the publication of data or those in favour of publication of data. **The CPDA is not competent for implementation of the public interest test in the most important cases – when data are labelled with a certain level of confidentiality. In addition, the CPDA has no mechanism for efficient implementation of their own orders delivered to the public authorities. Besides, when appointing the head of the CPDA, the Croatian Parliament still depends on the candidate which is exclusively proposed by the Government, and which is elected with only the majority of the present MPs, as if they were not deciding on implementation of constitutional civil rights.**

Finally, even in 2012 there was no systematic and detailed education of the public authorities, especially their officials, regarding their obligations in delivery of information to the citizens, as well as regarding the active publication of information. This



is especially evident in founding new institutions or changes in leadership in the existing institutions, when **a part of the institutions is faced with the lack of knowledge on the quality implementation of the Act, despite the declarative existence of the political will.**

ANNEX 1: Categories* and Government's institutions included into the research of informativeness and transparency of Web Pages

1. **Legislative power:** Croatian Parliament;
2. **Constitutional Court and judiciary power:** The Constitutional Court, Supreme Court, the High Administrative Court, The High Misdemeanour Court, High Commercial Court;
3. **Judicial power:** State Judicial Council, State Attorney's Office;
4. **Independent bodies:** State Electoral Commission, the Ombudsperson for Children, Ombudsperson for Persons with Disabilities, Ombudsperson for Gender Equality;
5. **Executive power:** Office of the President of Croatia, Croatian Government; all ministries of the Croatian Government;
6. **Government's professional services:** **Office for Human Rights and National Minorities, Office for Gender Equality, Office for Social Partnership, Office for Combating Narcotic Drug Abuse, Office for Cooperation with NGOs, Legislation Office, Office for Internal Supervision, General Administration Office of the Croatian Government and Parliament, Office for Protocol, Office for Proofreading;**
7. **State Offices:** **State Audit Office, Central Procurement Office, State Office for Trade Policy, Office for State Property Management ;**
8. **State Administrative Organisations:** **State Geodetic Administration, National Protection and Rescue Directorate, Meteorological and Hydrological Service, State Inspector's Office, State Intellectual Property Office, State Office for Metrology, State Office for Nuclear Safety, Croatian Bureau of Statistics;**
9. **Agencies and institutes which are important for exercise or protection of rights of the citizens:** **Croatian Personal Data Protection Agency, Office for State Property Management, Croatian Pension Insurance Institute, Croatian Institute for Health Insurance, Croatian Employment Institute.**

** Categories: HIDRA, overview according to the organizational system of the Republic of Croatia*



ANNEX 2: The list of indicators for the research of informativeness and transparency of the web pages of the public government bodies

Indicator	Possible number of points
Date of the last update of the web page	162
Functional search engine of the web page	54
Enabled access to persons with disabilities	54
Legal acts and sub-acts	54
Competences of the institution	54
Organisational structure of the institution	54
Employees, roles, names and contacts	54
Official's curriculum vitae	54
Data catalogue	54
PR contact	54
Question form	54
FAQ list	54
Strategic documents of the institution	54

Activities of institution	54
Reports / evaluations of institution	54
Current year budget	54
Budget report for the previous year	54
Audit reports for previous years	54
Data on submitted requests, submissions, proposals submitted to the institution by users	54
Competitions and tender documentation	54
Plan for the public procurement procedure for the current year	54
List of business agreements in public procurement	54
Statement on the non-existent conflict of interest	54
Publication of contracts and annexes	54
Reports on execution of public procurement contracts	54
List of grant or donation users (if applicable)	20
Sum of allocated grants per user (if applicable)	20
Publication of data on consultation procedure with the interested public (if applicable)	25
Publication of drafts of regulations	25
Data on available registries / databases and how to access (if applicable)	42
Published registries / databases (if applicable)	42



ANNEX 3: A list of scores for institutions regarding informativeness and transparency of the web pages

No.	Institution	Percentage of scored points
	Very transparent	76-100%
1	Government of the Republic of Croatia	77%
2	Office for Cooperation with NGOs	76%
3	Ministry of Justice	76%
4	Croatian Employment Institute	76%
	Transparent	51-75%
5	Ministry of Administration	74%
6	Croatian Pension Insurance Institute	72%
7	Ministry of Construction and Physical Planning	70%
8	Ministry of Economy	67%
9	National Protection and Rescue Directorate	66%
10	Ministry of Finance	65%
11	Croatian Parliament	65%
12	Ministry of Science, Education and Sport	64%
13	Ministry of Maritime Affairs, Transport and Infrastructure	64%

14	Croatian Institute for Health Insurance	62%
15	Croatian Bureau of Statistics	62%
16	State Intellectual Property Office	62%
17	State Inspector's Office	62%
18	Ministry for Environment and Nature Protection	61%
19	Ministry of Tourism	61%
20	Ministry of Agriculture	61%
21	Ministry of Culture	61%
22	State Geodetic Administration	59%
23	State Audit Office	59%
24	Ombudsperson for Children	59%
25	Ombudsperson	59%
26	Supreme Court	59%
27	Ministry of Social Policy and Youth	58%
28	Office for Human Rights and National Minorities	58%
29	Ombudsperson for Persons with Disabilities	56%
30	State Electoral Commission	55%
31	Ministry of Regional Development and EU Funds	55%

32	Constitutional Court	52%
33	High Commercial Court	52%
34	State Attorney's Office	52%
35	Office for Combating Narcotic Drug Abuse	52%
36	Legislation Office	52%
37	Ministry of Defence	52%
38	Ministry of Entrepreneurship and Crafts	52%
39	Ministry of the Interior	52%
40	State Office for Metrology	52%
	Insufficiently Transparent	26-50%
41	Office of the President of Croatia	48%
42	Ministry of Foreign and European Affairs	48%
43	Ministry of Health	48%
44	Personal Data Protection Agency	48%
45	Ministry of War Veterans	45%
46	Meteorological and Hydrological Service	45%
47	State Office for Nuclear Safety	45%
48	Ombudsperson for Gender Equality	44%

49	Office for Gender Equality	41%
50	Higher Administrative Court	38%
51	Central Procurement Office	34%
52	Office for Social Partnership	33%
53	State Judiciary Council	30%
54	Office for State Property Management	28%
	Very Non-Transparent	0-25%
	none	
	No Web Page or Web Page Under Construction	
55	High Misdemeanour Court	
56	Ministry of Labour And Pension System	
57	Office for State Property Management	
58	State Office for Trade Policy	
59	Office for Internal Supervision	
60	General Administration Office of the Croatian Government and Parliament	
61	Office for Protocol	
62	Office for Proofreading	

APPENDIX 4: A list of institutions included in the research *

No.	Institution	Responded	Ongoing
1	Agency for Public Private Partnership	Complete answer	YES
2	Agency for Public Private Partnership	Has no information + not forwarded	YES
3	Croatian Institute for Health Insurance	Complete answer	YES
4	Ministry of Defence	Complete answer	YES
5	Ministry of the Interior	Complete answer	NO (appeal)
6	Ministry of Administration	Partial response	YES
7	Ministry of Social Policy and Youth	Complete answer	NO (appeal)
8	Ministry of Social Policy and Youth	Partial response	NO (appeal)
9	Ministry of Justice, Prison System Directorate	Has no information + not forwarded	YES
10	Ministry of Justice	Response denied	YES
11	Ministry of Justice	Complete answer	YES
12	Ministry of Health	Complete answer	YES
13	High Commercial Court	Complete answer	YES
14	Judicial Academy	Complete answer	YES
15	Sector for the Suppression of Corruption, State Attorney's Office	Partial response	YES

16	Sector for the Suppression of Corruption, State Attorney's Office	Complete answer	YES
17	Sector for the Suppression of Corruption, State Attorney's Office	Complete answer	YES
18	State Attorney's Office	Complete answer	YES
19	Croatian Radio Television	Complete answer	YES
20	Tax Administration of the Ministry of Finance	Response denied	NO (appeal)
21	State Intellectual Property Office	Complete answer	YES
22	State Intellectual Property Office	Complete answer	YES
23	State Intellectual Property Office	Complete answer	YES
24	State Intellectual Property Office	Response denied	YES
25	Ministry of Finance	Complete answer	YES
26	Ministry of Finance	Complete answer	NO (appeal)
27	Ministry of Finance	Has no information + forwarded out of term	NO (appeal)
28	Ministry of Finance	Complete answer	NO (appeal)
29	Supreme Court RH	Has no information + forwarded	YES
30	Ministry of Foreign and European Affairs	Has no information	YES
31	Hrvatske vode	Has no information + not forwarded	YES
32	Ministry of Finance	Complete answer	YES

33	Ministry of Economy	Complete answer	NO
34	Ministry of Agriculture	Complete answer	NO (appeal)
35	Ministry for Environment and Nature Protection	Has no information + not forwarded	NO
36	Ministry of Environment and Nature Protection	Has no information + not forwarded	NO
37	Ministry of Justice	Denied / have no information	YES
38	Ministry of Finance	Partial response	NO
39	Ministry of Administration	Denied / have no information	YES
40	Croatian Radio Television	Partial response	NO (appeal)
41	Croatian Radio Television	Response denied	YES (appeal)
42	Ministry of Finance	Has no information + forwarded	NO
43	Croatian Government	Complete answer	YES
44	Croatian Bureau of Statistics	Complete answer	YES
45	Ministry of Defence	Complete answer	NO
46	Office of the National Security Council	Complete answer	YES
47	Croatian Government	Complete answer	NO
48	State Intellectual Property Office	Complete answer	YES
49	State Intellectual Property Office	Complete answer	NO

51	Ministry of Agriculture	Silence	NO (appeal)
52	Ministry of Social Policy and Youth	Silence	NO (appeal)
53	Ministry of Social Policy and Youth	Complete answer	NO
54	High Commercial Court	Complete answer	YES
55	Croatian Government	Complete answer	NO
56	Croatian Government	Complete answer	YES
57	Ministry of Finance	Complete answer	YES
58	High Commercial Court	Has no information	NO (appeal)
59	Agency for Electronic Media	Complete answer	YES
60	Ministry of Economy	Partial response + addendum	NO (appeal)
61	Civil Aviation Agency	Complete answer	YES
62	Hrvatska elektroprivreda d.d	Response denied	YES
63	Ministry of Finance	Complete answer	NO (appeal)
64	Ministry of Environment and Nature Protection	Complete answer	NO (appeal)
65	State Intellectual Property Office	Complete answer	NO (appeal)
66	Ministry of Social Policy and Youth	Silence	NO (appeal)
67	Croatian Government	Complete answer	YES
68	Croatian Institute for Health Insurance	Complete answer	NO (appeal)



69	USKOK Research and Documentation Department	Response denied	YES
70	USKOK Corruption Prevention & PR Department	Response denied	YES
71	Ministry of Maritime Affairs, Transport and Infrastructure	Response denied	YES
72	Office of the Mayor of Zagreb	Complete answer	YES
73	Croatian Government	Complete answer	YES

* Some institutions were submitted the same request which counts as one in the research.