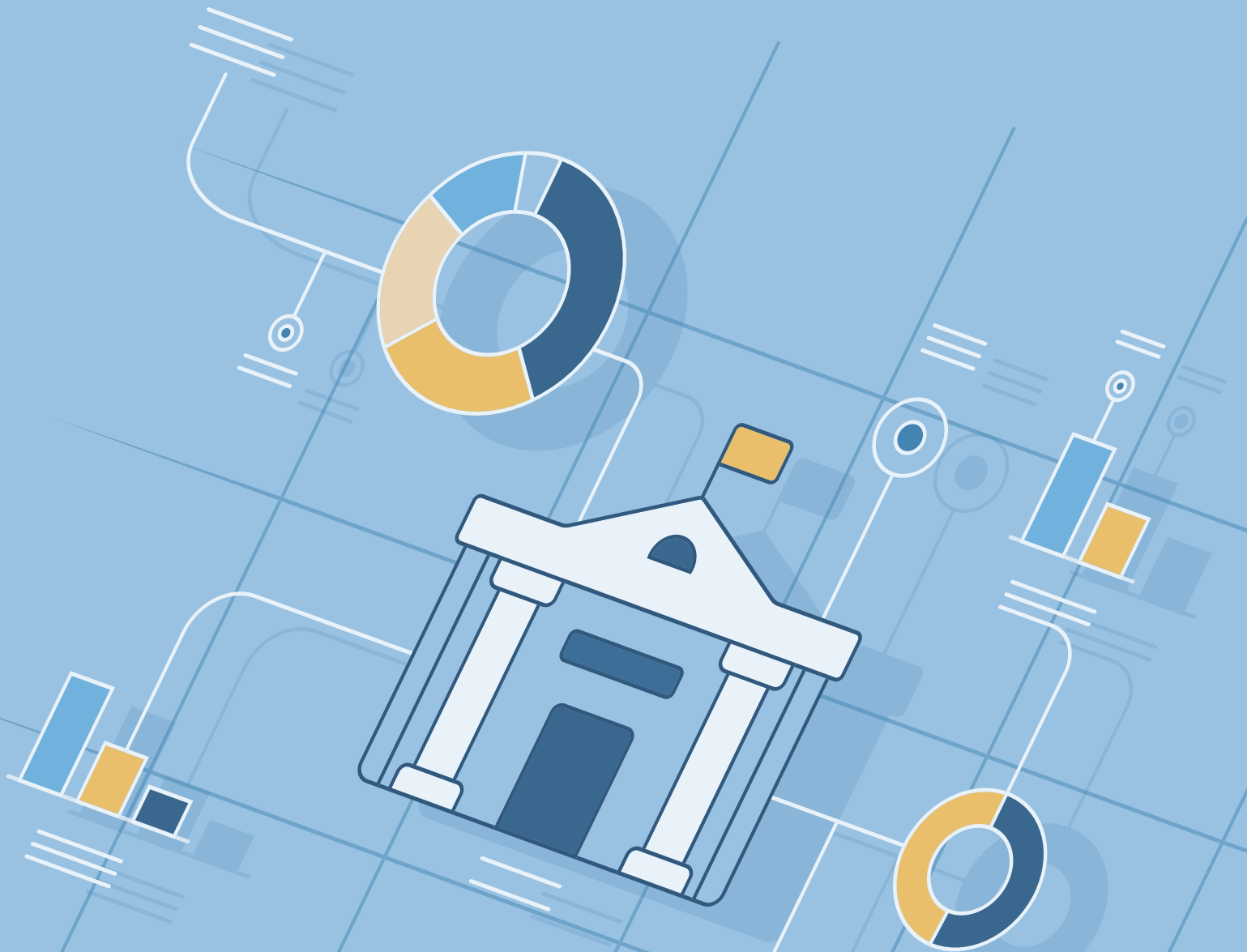


ACCESS TO PUBLIC INFORMATION IN GEORGIA



2020

ACCESS TO PUBLIC INFORMATION IN GEORGIA

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Key Findings

- ▶ Out of 6,258 requests sent to 285 public institutions in 2020, IDFI received a response to 5,000 (80%);
- ▶ Out of 6,258 requests sent to public institutions in 2020, IDFI received information within the prescribed 10-day period in 3,043 cases;
- ▶ In 2020, a significant part of public institutions (30%) left unanswered or denied requests for the contracts with the persons employed in the positions of advisor, expert, or consultant. The second most closed information was related to the mileage and average fuel consumption rates of vehicles assigned to public officials;
- ▶ In 2020, the instances of unanswered requests related to the fight against the pandemic, which would understandably be of high public interest, were particularly problematic. For example, copies of ordinances issued by the government, measures taken to promote tourism, etc.
- ▶ In 2020, by category of institutions, the highest percentage of requests were left unanswered or denied by state-owned LLCs and NNLEs (74% unanswered, denied); the highest rate of complete responses (85% complete) was observed in the group of public institutions that includes: the Government and Ministries of the Autonomous Republic of Adjara, the Government of the Autonomous Republic of Abkhazia, and the Administration of South Ossetia.
- ▶ In 2020, 19 public institutions issued public information in full and within a period of 10 days (among these were: the Office of the Public Defender, the National Statistics Office, the Office of the State Inspector);
- ▶ In 2020, IDFI recognized the Administration of the Government of Georgia and the system of the Ministry of Justice as a whole as the most closed public institutions;
- ▶ In 2020, in addition to the agencies within the systems of the Administration of the Government and the Ministry of Justice, another 13 institutions (including the State Treasury) were found to have left all IDFI requests without response;
- ▶ Among the central public institutions, the highest rates of access to public information were observed in the Ministry of Environment Protection and Agriculture of Georgia - 98.14%, and the lowest indicators were observed in the Ministry of Justice (5.45%) and the Ministry of Finance (12.91%);

- ▶ In 2020, 10 out of 14 central public institutions in Georgia had a worse indicator of access to information as compared to the previous year. Among these were the Ministry of Finance (-45.7%), the Ministry of Economy and Sustainable Development (-35.84%), the Ministry of Internal Affairs (-30.26%), the Administration of the President (-26.18%);
- ▶ The rate of responses received from public institutions in 2020 (80%) was the lowest since 2013;
- ▶ In 2020, the percentage of complete responses decreased by 6% compared to the previous year, while the percentage of unanswered requests increased by 4%;
- ▶ In 2020, the rates of fully answered (47%) and unanswered requests (41%) of the agencies subordinated to the ministries were the worst in the last 10 years;
- ▶ For the first time since 2012, the number of responses that missed the 10-day deadline exceeded the number of responses that were issued in accordance to the deadline. The complication of the public sector work process during the coronavirus pandemic (switching to remote working conditions, engaging in pandemic control, etc.) was a significant contributing factor to this.

The NNLE “Institute for Development of Freedom of Information” (IDFI) has been monitoring access to public information in Georgia since 2010. IDFI's systematic monitoring has made a significant contribution in identifying key trends and problems in access to public information, implementation of effective public control mechanisms, and development of public sector accountability and open governance.

In the year 2020, given the crisis situation created by the COVID-19 pandemic in the country, the importance of access to public information became especially clear. Against the background of the pandemic, the risks of opaque and irrational management of budget funds increased significantly, which was due to the existing challenges related to access to information, significant increase in funding received from abroad, procurement without tender procedures, and more.

In the context of the Coronavirus pandemic in 2020, the following major challenges pertaining to the restrictions on access to public information were in evidence:

Challenge N1 – Legislative restriction on the disclosure of public information - Beginning March 21, 2020, a state of emergency was declared on the entire territory of Georgia, as part of which certain rights guaranteed by the Constitution were restricted. Among them, the deadlines for issuing public information were suspended. The suspension also extended to cases where the public information was requested prior to the declaration of the state of emergency and the deadline for issuing the information had not yet expired. The state of emergency lasted until May 22, and as a result access to public information was suspended for 2 months in 2020.

Challenge N2 – Complications arising due to the pandemic - As part of the fight against the coronavirus pandemic, a part of public servants switched to remote work mode. Consequently, the question of how effectively public institutions would be able to coordinate the proper process and ensure access to information in such working conditions became a risk. Additionally, the possible spread of the virus in various agencies, the direct involvement of a particular agency in the fight against the pandemic, and other similar factors threatened the ability to mobilize the necessary labor resources needed to guarantee access to information.

Challenge N3 - Dishonest attitude of public institutions - The situation created by the coronavirus pandemic may have become an additional motive for the unscrupulous restriction of public information among the public institutions with a lack of accountability.

Despite the challenges posed by the pandemic, IDFI monitored access to information for public institutions in 2020. The long-standing practice of recognizing public institutions as the most open or closed agencies helps maintain the high standards of accountability in similar extraordinary situations and promote healthy competition in the public sector.

The following report presents an assessment of the state of access to public information in Georgia based on 2020 data. The report also includes an analysis of the trends in the release of public information in 2010-2020 and the rating of access to public information in public institutions.

IDFI information accessibility methodology and criteria developed in 2011 were used in compiling the ratings. While compiling the ratings, we used the methodology and criteria for assessing access to information developed in 2011 by IDFI¹.

¹ See *IDFI Report – Access to Public Information in 2017* - p 3; p 17.



ACCESS TO PUBLIC INFORMATION IN GEORGIA IN 2020

- ▶ REQUESTED PUBLIC INFORMATION
- ▶ STATISTICS OF PUBLIC INFORMATION RECEIVED IN 2019
- ▶ THE MOST CONCEALED INFORMATION - 2020
- ▶ TIMEFRAMES OF DISCLOSING PUBLIC INFORMATION

In 2020, the quality of access to public information in Georgia was assessed by the Institute for Development of Freedom of Information based on the responses to requests sent to 285 public institutions. Institutions where IDFI sent public information requests can be grouped as follows:

- ▶ 14 central public institutions (Parliament of Georgia, Administration of the President and Government, Ministries/Office of the State Minister);
- ▶ 8 Supreme Council of the Autonomous Republic of Adjara, Government and Ministries, Office of the Government of the Autonomous Republic of Abkhazia, South Ossetian Administration;
- ▶ 73 LEPLs and agencies subordinated to the ministries;
- ▶ 33 independent bodies (independent LEPLs, regulatory commissions, etc.);
- ▶ 128 Local self-government representative and executive bodies (City Halls, City Councils);
- ▶ 9 Administrations of the Governor;
- ▶ 13 administrative bodies within the judiciary;
- ▶ 7 state Ltds, JSCs, NNLEs.

REQUESTED PUBLIC INFORMATION

In 2020, IDFI sent a total of 6,258 requests to 285 public institutions. A majority of the requests sent to public institutions were requests with standard content related to issues pertaining to public administration such as: management of administrative expenses and state property, staffing, etc. In drafting the standard questions for public information requests in 2020, IDFI took into account the specifics of the expected changes in the operations of public institutions as a result of the Coronavirus pandemic. Consequently, the standard content requests were supplemented by requests for various information related to workflow management and financial management in a pandemic.

The standard content of the requests sent by IDFI to public institutions in 2020 covered the following issues:

- ▶ **Changes in the budget of the public institution during the Covid-19 pandemic;**
- ▶ **Internal legal acts related to the management of the work process in the conditions of the Covid-19 pandemic;**
- ▶ **Number of employees transferred to remote work mode due to Covid-19 pandemic;**
- ▶ **Number of cases of violation of regulations to prevent the spread of coronavirus in the workplace by employees;**
- ▶ **Information about the state vehicle fleet;**
- ▶ **Fuel expenses, monthly limits and mileage;**
- ▶ **Advertising expenses (including Facebook expenses);**
- ▶ **Business trip expenses;**
- ▶ **Representative expenses;**
- ▶ **Existing staff lists and salaries;**
- ▶ **Information on bonuses and salary supplements issued to officials;**
- ▶ **Remuneration costs of staff and contract employees;**
- ▶ **Registry of positions and amounts of remuneration of persons employed under administrative and labor contracts;**

- ▶ **Copies of the contracts of part-time employees employed in the positions of advisor, expert, or consultant;**
- ▶ **Copies of emails sent and received for official market research as part of simplified procurements;**
- ▶ **Statistics on whistleblower complaints and responses to them;**
- ▶ **Methodological documents developed for the registration/processing of whistleblower complaints.**

The following standard requests were additionally submitted to local governments:

- ▶ **List of NNLEs and LLCs established by the municipality;**
- ▶ **Number of employees in NNLEs and LLCs established by the municipality, staff list, and remuneration budget;**
- ▶ **Information on expenditures from the Mayor's Reserve Fund;**
- ▶ **Information on memorials and monuments in the municipality;**
- ▶ **Rules for submitting a petition electronically in the municipality;**
- ▶ **Documents related to the petitions registered with the City Council, as well as documents for determining their expediency.**

Since 2011, IDFI has been sending standard content requests pertaining to the management of administrative expenses to public institutions annually. As a result, the practice of processing information based on IDFI standard content requirements has developed in government agencies over the years. Consequently, there is a willingness on their part to give more complete answers to such requests compared to the so-called non-standard requests.

The category of non-standard requirements includes the requests on issues of high public interest that are directly related to the scope of activities of the institutions, as well as the requests that IDFI sends to the relevant public institutions on behalf of other interested parties. In 2020, public interest was largely focused on the challenges posed by the coronavirus pandemic, hence a large part of non-standard requests was sent to agencies responsible for anti-crisis measures. Examples of such non-standard requests are: copies of government decrees issued during the pandemic, information on purchased rapid tests, costs for medical infrastructure training and medical staff training, expenditures for quarantine areas, measures taken to promote tourism, measures for transition to distance learning and indicators on the use of the Teams program, funds provided by international partners to fight the pandemic, etc.

In addition to public information requests related to the pandemic, a number of other non-standard requests were sent in 2020, some examples of which are: funding for oncologists, contracts with lobbying companies, copies of court decisions, etc.

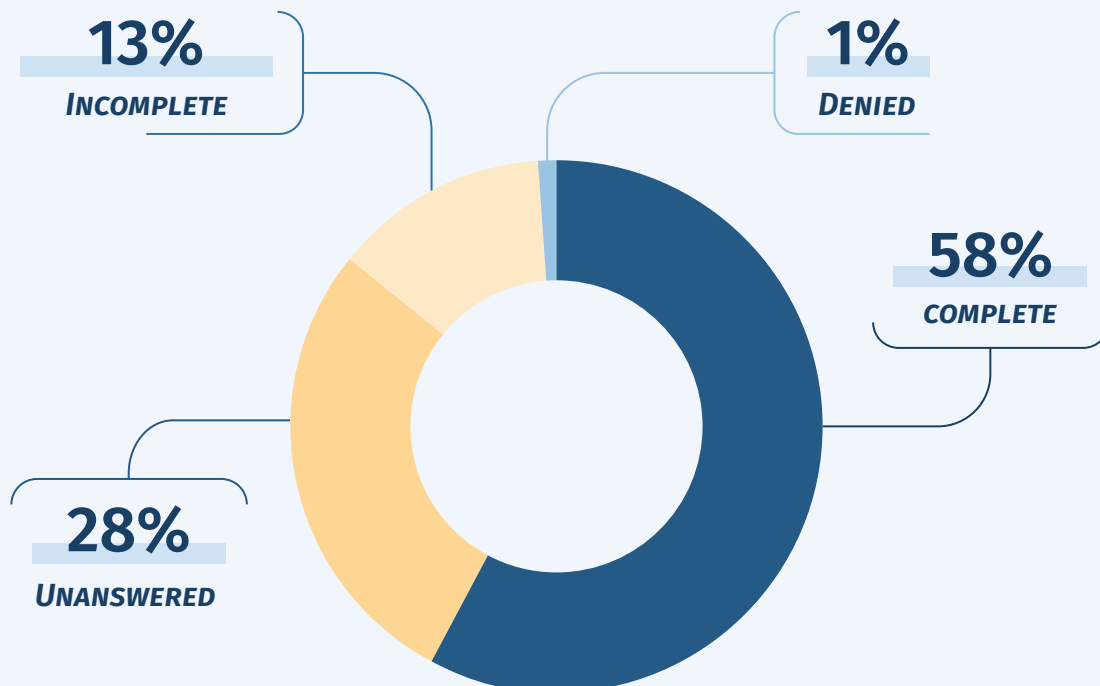
STATISTICS OF PUBLIC INFORMATION RECEIVED IN 2019

Out of 6,258 requests sent to 285 public institutions, IDFI received a complete response to 2,622 requests, incomplete - 581 requests, 62 requests were denied while 1,258 requests were left unanswered, and in 1,735 cases, institutions informed us that they did not take the specified action or did not have the requested information.

The percentages in the diagrams below and the percentage indicators of access to public information do not reflect the responses received from public institutions, according to which the institutions do not have the requested information or have not taken the specified action. Therefore, in the case of 285 agencies, the data is presented according to the responses received from the 4,535 applications submitted by the Institute.



Responses to the Requests

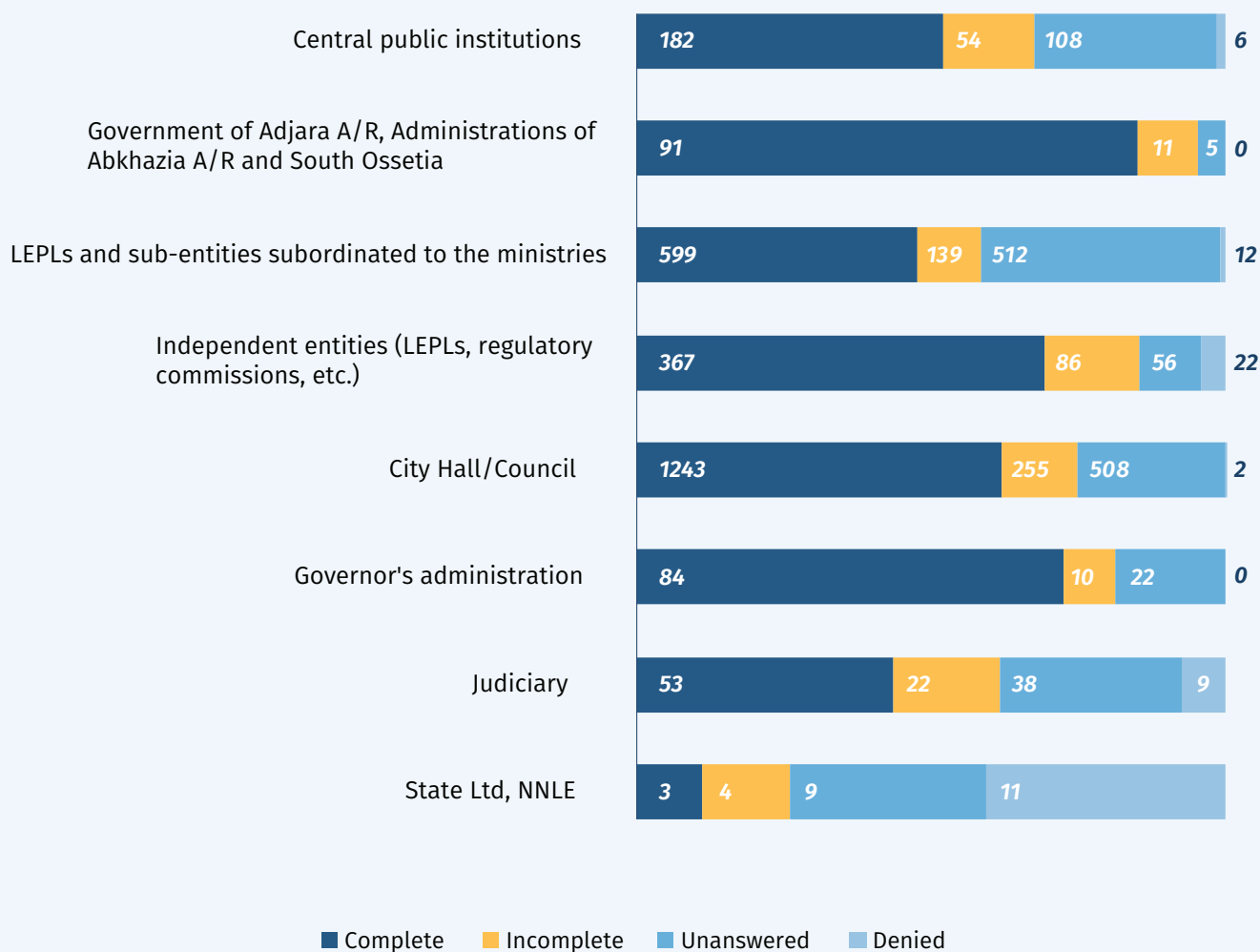


According to the categories of institutions, the highest percentage of requests left unanswered were by state-owned LLCs and NNLEs; in 2020, a total of 27 requests were sent to these agencies, of which 20 questions were left unanswered.

In 2020, the highest rate of complete responses was recorded in the group of public institutions that includes: the Government and Ministries of the Autonomous Republic of Adjara, the Government of the Autonomous Republic of Abkhazia and the Administration of South Ossetia. More specifically, out of 107 requests sent to them, we received a complete response in 91 cases.



Responses to Requests According to the Types of Institutions



THE MOST CONCEALED INFORMATION - 2020

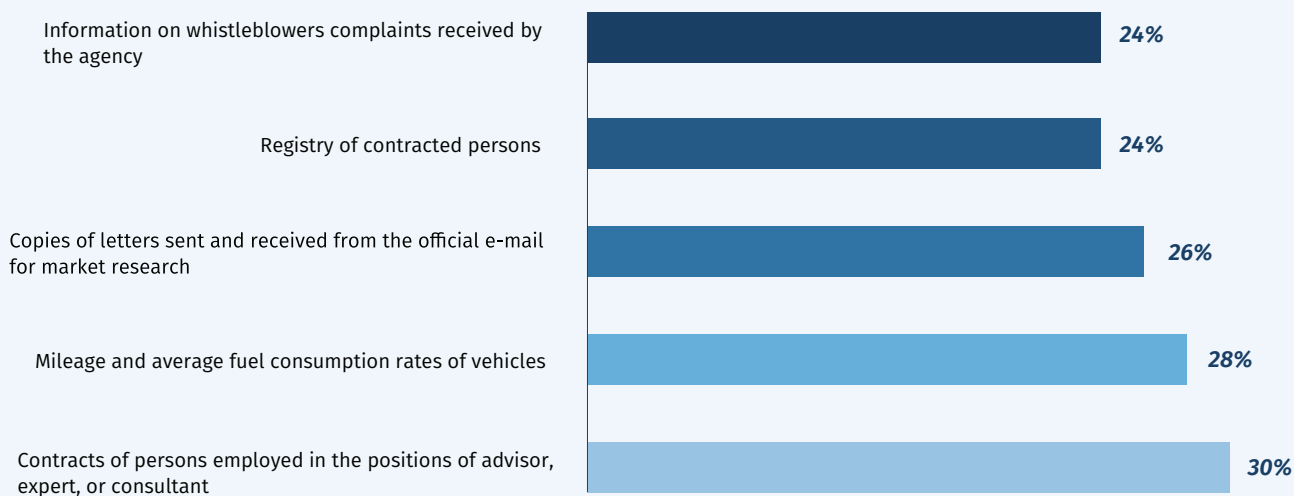
In 2020, a very large share of public institutions (30%) left unanswered or denied requests for information on the copies of contracts with part-time employees in the positions of advisor, expert, or consultant. Public institutions often appealed to personal data contained in the requested documents as a reason for refusing to provide this information. According to IDFI's assessment, in accordance with existing legislation, in response to this request, the public institution should at least provide copies of contracts concluded with advisors, experts and consultants with personal data covered.

The second most concealed information was related to the provision of data on mileage and average combustion rates per 100 km by officials' personalized vehicles. Local self-governments especially avoided disclosing this kind of information. This data, based on its content, contains less controversial elements related to privacy. Consequently, the high rates of leaving them unanswered were probably due, on the one hand, to the lack of an accounting system in public institutions and to refrain from providing appropriate explanations, and on the other hand, due to the desire to cover up existing irrational fuel management practices.

Requests for information on copies of letters sent and received by e-mail for market research within the framework of simplified procurements, the registry of the subjects of the contract and the amounts of the salaries of employees, as well as disclosure statements submitted to the agency were also problematic for public institutions in 2020.



Requests Left Unanswered by a Large Share of Institutions



Within the framework of the monitoring carried out in 2020, some agencies left unanswered requests or refused to provide information that was directly related to the specifics of their activities with no sound legal justification. The unanswered requests on information pertaining to the fight against the pandemic, and therefore of high public interest, are especially problematic in 2020.

For instance:

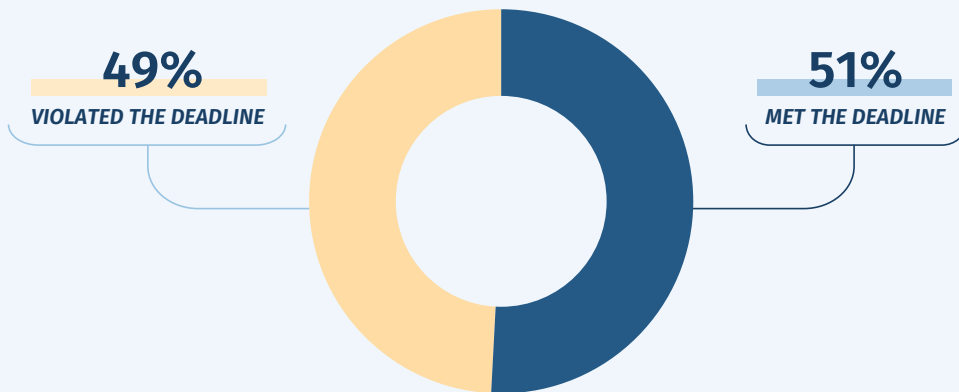
- ▶ The **Administration of the Government of Georgia** left the request for information on the decrees issued by the Government of Georgia without a response;
- ▶ The **National Tourism Administration** left IDFI's request for measures and expenditures under the Anti-Crisis **Tourism** Action Plan unanswered;
- ▶ The **Ministry of Health** did not respond to a request for information about confirmed coronavirus (Covid-19) cases among citizens during their quarantine period;
- ▶ The **Chamber of Notaries** left the request for information on the initiation of disciplinary proceedings against notaries unanswered;
- ▶ **JSC Georgian Oil and Gas Corporation** refused to reveal the contracts with lobbying companies;
- ▶ The **Supreme Court of Georgia** refused to provide the full text of the verdict against Gigi Ugulava (according to the standard established by the Constitutional Court of Georgia) as a result of an open trial.

TIMEFRAMES OF DISCLOSING PUBLIC INFORMATION

Among the 6,258 requests sent to public institutions in 2020, IDFI received information in 3,043 cases within a 10-day deadline. If we include the requests that received no response, the deadline was violated in 3,215 cases.



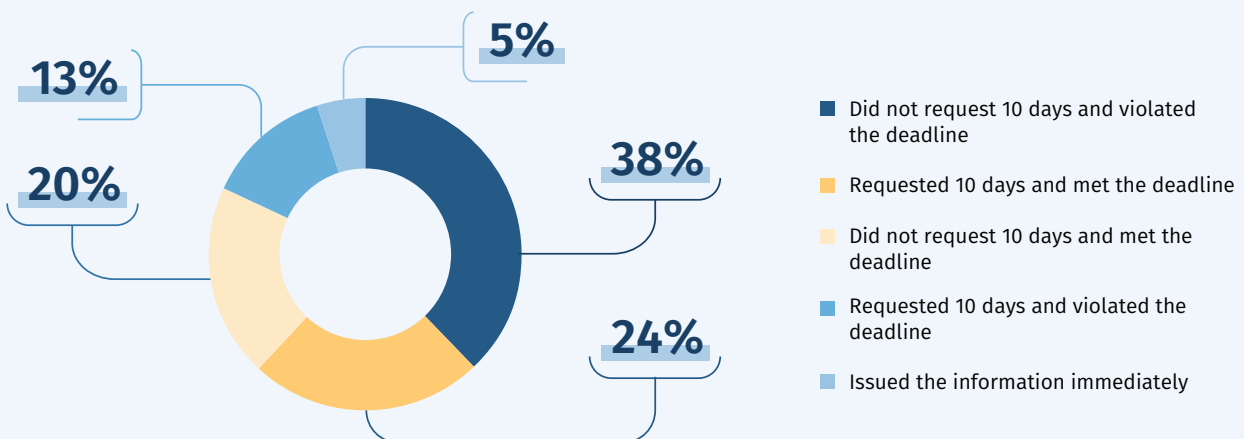
10-Day Period Breach Indicator (includes unanswered requests)



If we assume that the immediate response to a request for public information involves the issuance of information within 3 days, then the number of requests immediately issued by central public institutions amounted to only 313. In 1,502 cases, public institutions requested a 10-day period to provide information and fulfilled the request in the given timeframe, while in 813 cases public institutions requested the 10-day period for providing information, but then proceeded to leave the requests unanswered or issued the information in violation of the deadlines. In 1,228 cases, the 10-day period was not requested, although the information was issued within a period of 4 to 10 days, while in 2,402 cases, the statutory time limits were violated without requesting the 10-day period.



10-Day Period Requests



In 2020, the situation created by the coronavirus pandemic was often cited by public institutions as the reason for the violation of the 10-day deadline set by law. IDFI received similar explanations from agencies directly involved in the fight against the pandemic as well as from public institutions whose activities were not directly related to the management of the events taking place in the country. In particular, some agencies noted that as a result of the transfer of employees to remote working conditions, the institutions could not function at full capacity, which hindered the process of providing information.

The fact that the deadlines for issuing public information were suspended for 2 months after the declaration of the state of emergency should be highlighted (during this period, IDFI did not request public information from public institutions). Consequently, public institutions had a significant preparatory period to develop effective coordination of the appropriate process under remote working conditions, thereby ensuring unhindered access to information.



RATING OF ACCESS TO PUBLIC INFORMATION - 2020

- ▶ THE MOST ACCOUNTABLE PUBLIC INSTITUTIONS - 2020
- ▶ THE LEAST TRANSPARENT PUBLIC INSTITUTIONS - 2020

THE MOST ACCOUNTABLE PUBLIC INSTITUTIONS - 2020

The monitoring of access to public information conducted by IDFI during 2020 demonstrated that 19 public institutions provided complete information on our FOI requests within a period of 10 days. During the same period, the number of public institutions with a 100% rating has decreased by six compared to the previous year (25 public institutions).

In 2020, 6 public institutions provided complete information on our FOI requests, although they simultaneously violated the timeframe of 10 days. Therefore, taking into consideration the methodology of the monitoring project, they received a rating of 99%.

In 2020, the Ministry of Environment Protection and Agriculture of Georgia also received a high assessment of access to public information (98.1%), as it gave a complete response to 27 requests during the reporting period, although one of the requests was answered incompletely.

Highest Ratings of Access to Public Information

	Public Institution	Number of Requests	Complete	Compliance with the 10-Day Timeframe	Access to Information
1	State Inspector Service	33	33	33	100%
2	Public Defender's Office	17	17	17	100%
3	National Statistics Office	16	16	16	100%
4	Roads Department of Georgia	15	15	15	100%

5	National Competition Agency	15	15	15	100%
6	Department of Environmental Supervision	14	14	14	100%
7	Poti Municipality City Council	14	14	14	100%
8	Georgia's Innovation and Technology Agency	13	13	13	100%
9	Electoral Systems Development, Reforms and Training Centre	13	13	13	100%
10	Ministry of Agriculture of Adjara A/R	13	13	13	100%
11	Supreme Council of Adjara A/R	13	13	13	100%
12	Khobi Municipality City Council	12	12	12	100%
13	Samegrelo-Zemo Svaneti Governor's Administration	12	12	12	100%
14	Kvemo Kartli Governor's Administration	12	12	12	100%
15	Kareli Municipality City Council	10	10	10	100%
16	Chiatura Municipality City Council	10	10	10	100%
17	Kashuri Municipality City Council	10	10	10	100%
18	Telavi Municipality City Council	10	10	10	100%
19	Zugdidi Municipality City Council	10	10	10	100%
20	National Environmental Agency	19	19	0	99%
21	National Center for Educational Quality Enhancement	18	18	0	99%
22	LEPL Enterprise Georgia	15	15	0	99%
23	Tsalendjikha Municipality City Council	12	12	0	99%
24	Lagodekhi Municipality City Council	10	10	0	99%
25	Racha-Lechkhumi Governor's Administration	10	10	0	99%
26	Ministry of Environmental Protection and Agriculture	28	27	26	98,1%

THE LEAST TRANSPARENT PUBLIC INSTITUTIONS - 2020

Since 2011, IDFI has been naming the most untransparent public institutions based on the results of the monitoring. IDFI, in identifying the most closed public institution, takes into account a number of complex factors in combination with statistics on responses to public information requests. Among these are the importance of the activities of the public institution and the information covered by it, the practice of litigation, the degree of proactive access to information, and more.

For 2020, IDFI revealed the **Administration of the Government of Georgia and the whole system of the Ministry of Justice** as the least transparent.

The Least Transparent Institutions 2020

Administration of the Government of Georgia

System of the Ministry of Justice

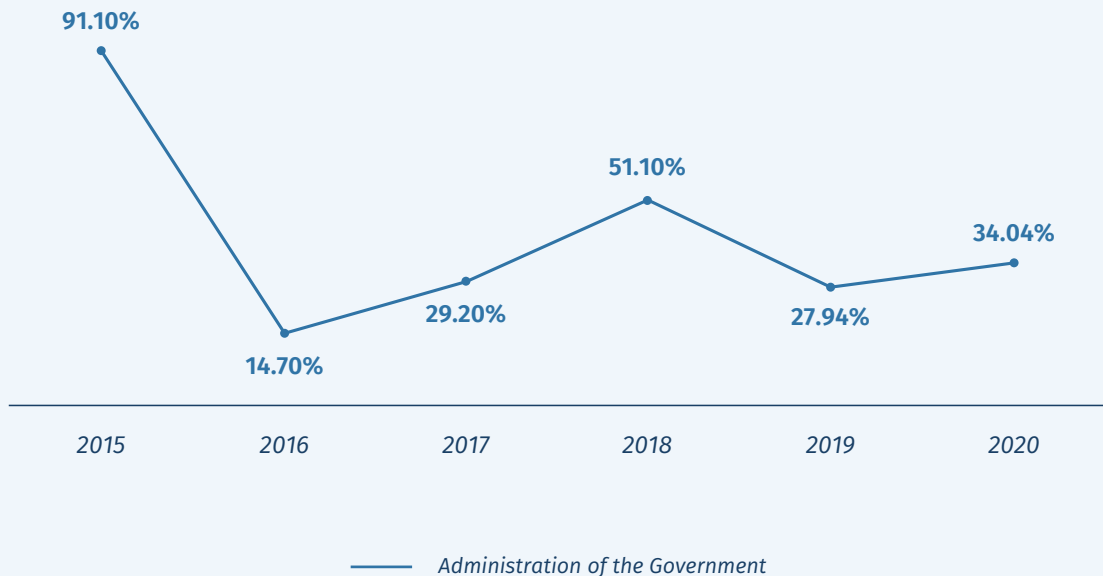
The assessment of the Government of Georgia as the most closed agency in 2020 is based on the following key circumstances:

- ▶ **Statistics of the Responses to the Requests Sent to the Administration of the Government**

In 2020, a total of 52 requests for public information were sent to the Administration of the Government of Georgia, of which 31 were left unanswered, resulting in the accessibility of information to the Government Administration being evaluated at only 34%. Administration of the Government indicators in terms of access to public information have declined significantly since 2016.



Access to Public Information Indicators of the Administration of the Government



► Information Concealed by the Administration of the Government

After 2016, the Administration of the Government of Georgia has been restricting access to information related to the management of the administration's finances and its activities to a significant extent, all of which is part of the IDFI standard content public information requests. Additionally, it is noteworthy that after 2014, the Administration of the Government no longer proactively publishes mandatory financial information on the website, as prescribed by a government decree.

In 2020, the restriction of access to Georgian government ordinances after the outbreak of the pandemic was of particular note. More specifically, after March 19, 2020, the publication of the decrees on the website of the Government of Georgia was stopped (a small number of decrees issued by the Government of Georgia in 2020 is also available on the website of the Legislative Herald), while IDFI's request for said information was left without a response. Following this lack of response, IDFI engaged the appropriate judicial mechanisms.

► Importance of Access to Information of the Administration of the Government

In 2020, the Administration of the Government of Georgia was one of the main coordinating bodies in the fight against the pandemic and, consequently, one of the most important sources for informing the public. At the same time, beginning with 2019, the function of the Government of Georgia has been to coordinate Georgia's membership in the Open Government Partnership (OGP) at the national and international levels. These circumstances gave the Administration of the Government of Georgia a special responsibility to uphold the principles of accountability and transparency.

In 2020, among the list of the most closed public institutions, the entire system of the Ministry of Justice was still prominent, much like in previous years. **A total of 281 requests were sent to the Ministry of Justice and its agencies, of which 269 requests were left unanswered.** The ratings of access to information among the agencies within the system of the Ministry of Justice range from 0% to 12%. Among them, 8 LEPLs subordinated to the Ministry left all IDFI requests unanswered and, consequently, their rating was 0%. The Ministry of Justice left 20 out of 22 requests unanswered, while for the other two requests IDFI received a response only 194 and 90 days after the submission of the letters. As a result, the Ministry's access to information rating was only 5.22%.

A significant deterioration in access to information in the system of the Ministry of Justice has been noticeable since 2014, when the 95.6% rate of the previous year began to decline annually and reached 48.4% in 2014, 3.9% in 2015, and 0% in 2016. In 2017, some progress was observed and the overall rating of the Ministry's system reached 46.28% (this year the rating of the Ministry of Justice increased to 74.9%), although in 2018 the average rating decreased again to 5.36%, then 7.94% in 2019 and in 2020 - 2.17%.

Since 2014, a total of 2,209 requests have been sent to the agencies within the system of the Ministry of Justice, of which 1,778 requests (80%) met no response. Considering these results, the Ministry of Justice and its subordinate agencies play a particularly negative role in Georgia's overall quality of access to information.

In recent years, the quality of access to public information among the agencies within the Ministry of Justice system has not been affected by the lawsuits filed by IDFI against them, which in a number of cases represented an important precedent.

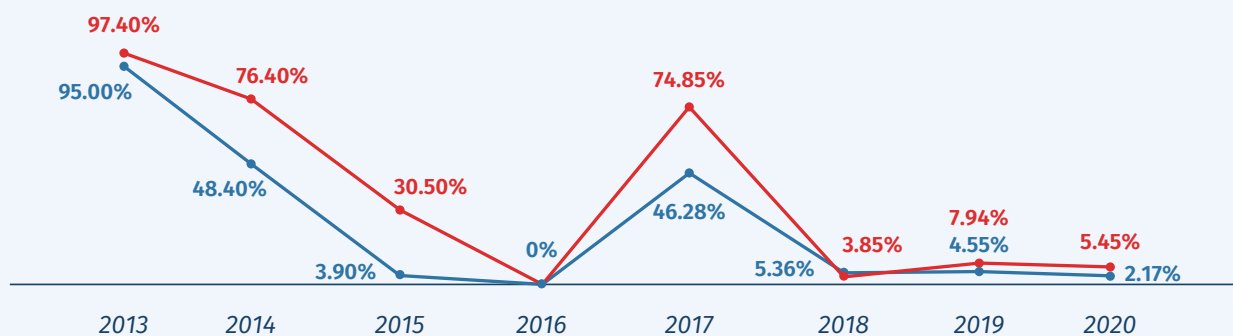
System of the Ministry of Justice

Public Institution		Number of Requests	Unanswered	Access to Information
1	Ministry of Justice*	22	20	5,45%
2	Chamber of Notaries	23	23	0%
3	National Probation Agency	20	20	0%
4	Training Center of Justice	20	20	0%
5	National Archives of Georgia	20	20	0%
6	National Bureau of Enforcement	20	20	0%
7	Legislative Herald	20	20	0%
8	Convicts' Vocational Training and Retraining Center	20	20	0%
9	Special Penitentiary Service	20	20	0%
10	Public Service Development Agency*	28	27	2,14%
11	Public Service Hall*	21	20	2,86%
12	National Agency of Public Registry*	23	21	5,22%
13	Digital Governance Agency*	24	18	12,5%

* Certain information was provided after the administrative complaint or without notice with a one month delay



Average Rating of Access to Information in the System of the Ministry of Justice



— Average indicator of the System of the Ministry of Justice

— Ministry of Justice

In 2019, in addition to the agencies within the system of the Ministry of Justice, 13 more institutions were found to have completely disregarded their legal obligations and left unanswered all IDFI public information requests. Among these were the sub-agency of the Ministry of Finance, the State Treasury, which in 2019 was named the most closed public institution by IDFI together with the system of the Ministry of Justice. The rest of the agencies include the MIA Health Service, the National Academy of Sciences and 12 local self-governments and city councils.

The Least Accountable Public Institutions of 2020

	Public Institution	Requests	Unanswered	Result
1	State Treasury	20	20	0%
2	MIA – Healthcare Service	20	20	0%
3	State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking	20	20	0%
4	National Academy of Sciences of Georgia	19	19	0%
5	City Hall of Akhmeta Municipality	24	24	0%
6	City Hall of Bolnisi Municipality	24	24	0%
7	City Hall of Tetriskharo Municipality	24	24	0%
8	City Hall of Lentekhi Municipality	24	24	0%
9	City Hall of Sighnaghi Municipality	24	24	0%
10	City Hall of Akhalqalaqi Municipality	24	24	0%
11	Shuakhevi Municipality City Hall	19	19	0%
12	Bolnisi Municipality City Hall	19	19	0%
13	Adigeni Municipality City Hall	19	19	0%



ACCESS TO PUBLIC INFORMATION RATINGS BY CATEGORY OF INSTITUTIONS

- ▶ CENTRAL PUBLIC INSTITUTIONS
- ▶ LEGAL ENTITIES OF PUBLIC LAW, SUB-ENTITIES, AND OTHER PUBLIC INSTITUTIONS
- ▶ GOVERNMENT, MINISTRIES, AND SUPREME COUNCIL OF ADJARA A/R, GOVERNMENT ADMINISTRATION AND SUPREME COUNCIL OF ABKHAZIA A/R, ADMINISTRATION OF SOUTH OSSETIA
- ▶ CITY HALLS AND COUNCILS OF LOCAL MUNICIPALITIES
- ▶ STATE GOVERNOR ADMINISTRATIONS

CENTRAL PUBLIC INSTITUTIONS

According to the monitoring results conducted in 2020, the Ministry of Environment and Agriculture of Georgia received the highest rating in terms of access to public information among the central public institutions of Georgia (Parliament, Presidential Administration, Government Administration, and current ministries) – at 98.11%. The Ministry of Foreign Affairs of Georgia and the Office of the Parliament of Georgia also received high ratings at 92.33% and 92.11%, respectively.

The lowest ratings of access to information among central public institutions were observed in the cases of the **Administration of the Government (34.04%), the Ministry of Finance (12.91%), and the Ministry of Justice (5.45%).**

In 2020, 10 out of the 14 central public institutions in Georgia had worse quality of access to information compared to the previous year. Among them, the Ministry of Finance of Georgia stands out, dropping from a 58.6% rating in 2019 by 45.7% and receiving a rating of only 12.9% for 2020. In 2020, the Ministry of Finance left unanswered all the requests of standard content from IDFI related to the administrative expenses incurred by the Ministry, personnel policy, etc. Particularly problematic is the restriction on the release of public information by the Ministry of Finance on the management of public finances, at the time when the Ministry itself should be a guarantor of financial transparency in the public sector, especially in the light of the crisis that has arisen due to the pandemic.

Access to Information Ratings of Central Public Institutions

	Public Institution	Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Period	Access to Information
1	Ministry of Environmental Protection and Agriculture	28	27	1	0	0	26	98,14%
2	Ministry of Foreign Affairs	15	13	2	0	0	0	92,33%
3	Office of the Parliament	19	17	1	1	0	19	92,11%
4	Ministry of Regional Development and Infrastructure of Georgia	19	15	4	0	0	4	88,68%
5	Office of the State Minister for Reconciliation and Civic Equality of Georgia	14	8	6	0	0	14	78,57%
6	Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs *	33	22	8	0	3	9	74,03%
7	Ministry of Education, Science, Culture and Sports	27	15	1	0	11	16	57,41%
8	Administration of the President*	18	16	1	1	0	2	57,22%
9	Ministry of Defense	24	10	6	0	8	12	53,50%
10	Ministry of Economy and Sustainable Development*	25	9	7	2	7	2	49,36%
11	Ministry of Internal Affairs*	34	13	13	1	7	1	45,24%
12	Administration of the Government*	52	16	5	0	31	19	34,04%
13	Ministry of Finance	23	3	0	0	20	0	12,91%
14	Ministry of Justice*	22	2	0	0	20	0	5,45%

* Certain information was provided after the administrative complaint or without notice with a one-month delay

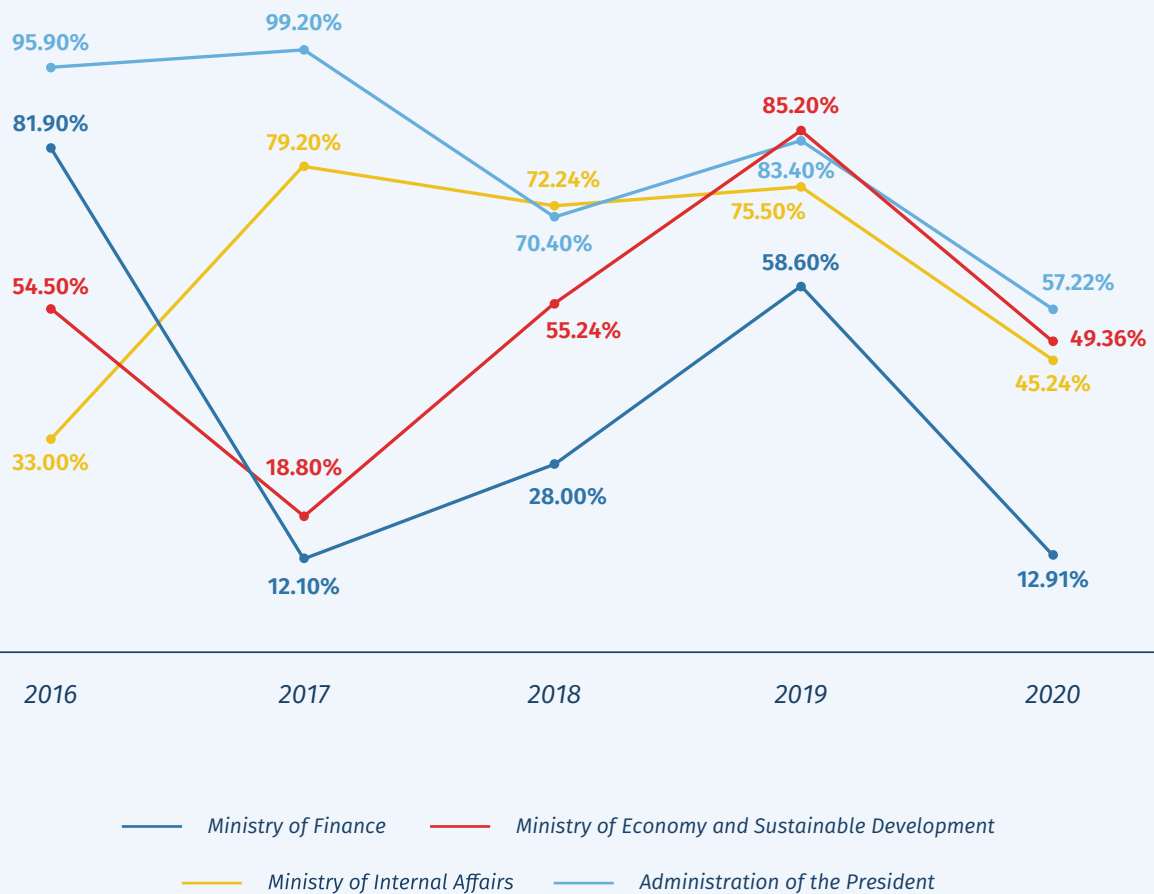
Apart from the Ministry of Finance, among the central public institutions, the ones that saw worse performance in terms of access to information were the Ministry of Economy and Sustainable Development (-35,84%), the Ministry of Internal Affairs (-30,26%), the Administration of the President (-26,18%), and the Ministry of Defense (-26,2%). The worsening in the ratings of these ministries, along with the unanswered requests, was significantly facilitated by the problems related to meeting the deadlines for issuing information. For example, the Ministry of Economy and Sustainable Development delayed a response to a part of IDFI's requests more than 100 days instead of the 10 days prescribed by law, and the Presidential Administration delayed up to 80 days. In addition, in the

case of the Ministry of Internal Affairs, the contracts on specific state procurements were submitted to IDFI only after the filing of an administrative claim in the Tbilisi City Court. Taking into account the coefficients set for responding (in case of providing information after 1 month delay or after submitting an administrative complaint, the coefficient for the complete answer is -0.6, and for the incomplete answer - 0.3), such instances had a significant negative impact on the final assessment.

In 2020, the access to information rating saw a slight improvement in 4 central public institutions. Among them, the Ministry of Regional Development and Infrastructure of Georgia stands out, having improved its rating by 9% compared to the previous year and receiving a rating of 89.47% for 2020.



Central Public Institutions with the Most Significant Drop in the Quality of Access to Information



Trends in Access to Information Among Central Public Institutions

	Public Institution	2020	Change	2019	Change	2018	Change	2017	Change	2016
1	Ministry of Environmental Protection and Agriculture	98,14%	3,54%	94,6%	-5,20%	99,8%	+14,6%	85,2%	-2,3%	87,5%
2	Ministry of Foreign Affairs	92,33%	-6,67%	99%	+1,57%	97,43%	-1,57%	99%	+5,4%	93,6%
3	Office of the Parliament	92,11%	-6,19%	98,3%	+15,6%	82,69%	-11,31%	94%	-6%	100%
4	Ministry of Regional Development and Infrastructure	88,68%	8,28%	80,4%	-12,2%	92,59%	9,29 %	83,3%	-16,7%	100%
5	Office of the State Minister for Reconciliation and Civic Equality of Georgia	78,57%	-13,13%	91,7%	-5,39%	97,06%	-0,64%	97,7%	+5,5%	92,2%
6	Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs	74,03%	-14,27%	88,3%	-1,07%	89,37%	-7,73%	97,1%	+2,7%	94,4%
7	Ministry of Education, Science, Culture and Sports	57,41%	-13,29%	70,7%	-18%	88,64%	-6,56%	95,2%	+3,3%	91,9%
8	Administration of the President	57,22%	-26,18%	83,4%	+12,9%	70,40%	-28,8%	99,2%	+3,3%	95,9%
9	Ministry of Defense	53,50%	-26,20%	79,7%	+10%	69,63%	-20,67%	90,3%	+11,4%	78,9%
10	Ministry of Economy and Sustainable Development	49,36%	-35,84%	85,2%	+29,9%	55,24%	+36,4%	18,8%	35,7%	54,5%
11	Ministry of Internal Affairs	45,24%	-30,26%	75,5%	+3,21%	72,24%	-6,96%	79,2%	+46,2%	33%
12	Administration of the Government	34,04%	+6,14%	27,9%	-23,2%	51,10%	+21,9%	29,2%	+14,5	14,7%
13	Ministry of Finance	12,91%	-45,69%	58,6%	+30,6%	28,00%	+15,9%	12,1%	-69,8%	81,9%
14	Ministry of Justice	5,45%	0,85%	4,6%	+0,7%	3,85%	-71,05%	74,9%	+74,9%	0 %

LEGAL ENTITIES OF PUBLIC LAW, SUB-ENTITIES, AND OTHER PUBLIC INSTITUTIONS

According to a survey conducted in 2020, 9 entities showed a 100% rate of access to information among these types of public institutions. It should be noted that this category includes both legal entities under the ministries, as well as independent legal entities under public law, regulatory commissions, and others (106 public institutions in total).

Among the 106 public institutions, **12 entities** left all IDFI requests without a response. Among them, 8 agencies are subordinated to the Ministry of Justice, 1- the Ministry of Finance, 1- the Ministry of Internal Affairs, and 1- the Ministry of Health. These agencies also included the Georgian National Academy of Sciences.

Best Ratings Among LEPL, Sub-Entities and Other Public Institutions

	Public Institution	Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	State Inspector's Service	33	33	0	0	0	33	100%
2	Public Defender's Office	17	17	0	0	0	17	100%
3	National Statistics Office	16	16	0	0	0	16	100%
4	Roads Department	15	15	0	0	0	15	100%
5	National Competition Agency	14	14	0	0	0	14	100%
6	Department of Environmental Supervision	14	14	0	0	0	14	100%
7	Georgia's Innovation and Technology Agency	13	13	0	0	0	13	100%
8	Electoral Systems Development, Reforms and Training Centre	13	13	0	0	0	13	100%
9	National Environmental Agency	19	19	0	0	0	0	99%
10	National Center for Educational Quality Enhancement	18	18	0	0	0	0	99%

The Least Accountable LEPLs, Sub-Entities and Other Public Institutions

Public Institution		Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	Chamber of Notaries	23	0	0	0	23	0	0%
2	Training Center of Justice	20	0	0	0	20	0	0%
3	National Archives of Georgia	20	0	0	0	20	0	0%
4	National Bureau of Enforcement	20	0	0	0	20	0	0%
5	Legislative Herald	20	0	0	0	20	0	0%
6	Convicts' Vocational Training and Retraining Center	20	0	0	0	20	0	0%
7	Special Penitentiary Service	20	0	0	0	20	0	0%
8	National Probation Agency	20	0	0	0	20	0	0%
9	MIA – Healthcare Service	20	0	0	0	20	0	0%
10	State Treasury	20	0	0	0	20	0	0%
11	State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking	20	0	0	0	20	0	0%
12	National Academy of Sciences of Georgia	20	0	0	0	20	0	0%

GOVERNMENT, MINISTRIES, AND SUPREME COUNCIL OF ADJARA A/R, GOVERNMENT ADMINISTRATION AND SUPREME COUNCIL OF ABKHAZIA A/R, ADMINISTRATION OF SOUTH OSSETIA

The Government and ministries of Adjara A/R have always been distinguished by a high level of access to public information and have been providing complete information requested by IDFI. According to the 2020 evaluation, their ratings of access to public information fluctuated between 84%-100%. The Ministry of Agriculture and the Supreme Council of Adjara A/R have demonstrated 100% accountability during the reporting period.

This group of public institutions also includes the Administration of South Ossetia (95.45%) and the Government Administration of the Autonomous Republic of Abkhazia (64.71%).

Ratings of the Government and Ministries of Adjara A/R

	Public Institution	Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	Ministry of Agriculture of Adjara A/R	13	13	0	0	0	13	100%
2	Supreme Council of Adjara A/R	13	13	0	0	0	13	100%
3	Ministry of Education, Culture and Sports of Adjara A/R	13	12	1	0	0	13	96,15%
4	Administration of South Ossetia	11	10	1	0	0	11	95,45%
5	Ministry of Finance and Economy of Adjara A/R	12	11	1	0	0	0	94,83%
6	Office of the Government of Adjara A/R	14	12	2	0	0	11	92,86%
7	Ministry of Health and Social Protection of Adjara A/R	14	10	4	0	0	14	84,71%
8	Administration of the Government of Abkhazia A/R	17	10	2	0	5	12	64,71%

CITY HALLS AND COUNCILS OF LOCAL MUNICIPALITIES

According to the results of the monitoring conducted in local self-governments in 2020, out of 128 public institutions (City Halls and Councils), 7 municipal councils had 100% rating in access to public information. It is noteworthy that none of the city halls were included in the top ten of the rating of city halls and city councils, meaning that none of the municipal halls in 2020 fully responded to all the requests from IDFI.

Over the course of the monitoring, 6 City Halls and 3 Municipal Councils left all IDFI requests without a response.

In 2020, the rate of access to information of the Tbilisi City Council has slightly improved compared to the previous year and amounted to 91.67%, while in the case of the Tbilisi City Hall it has decreased by 7.1% and amounted to 70.45%.

Top 10 Ratings of City Halls and Councils

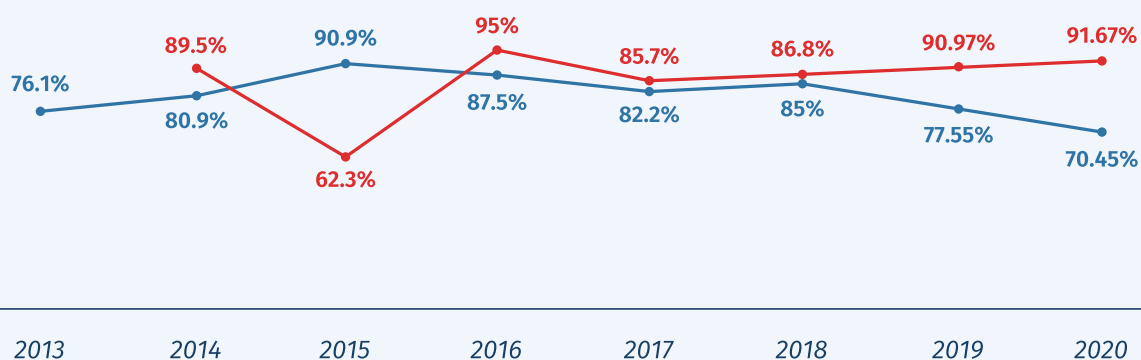
	Public Institution	Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	City Council of Poti Municipality	14	14	0	0	0	14	100%
2	City Council of Khobi Municipality	12	12	0	0	0	12	100%
3	City Council of Kareli Municipality	10	10	0	0	0	10	100%
4	City Council of Chiatura Municipality	10	10	0	0	0	10	100%
5	City Council of Khashuri Municipality	10	10	0	0	0	10	100%
6	City Council of Telavi Municipality	10	10	0	0	0	10	100%
7	City Council of Zugdidi Municipality	10	10	0	0	0	10	100%
8	City Council of Tsalenjikha Municipality	12	12	0	0	0	0	99%
9	City Council of Lagodekhi Municipality	10	10	0	0	0	0	99%

Bottom 10 Ratings of City Halls and Councils

Public Institution		Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	City Hall of Akhmeta Municipality	24	0	0	0	24	0	0%
2	City Hall of Bolnisi Municipality	24	0	0	0	24	0	0%
3	City Hall of Tetriskharo Municipality	24	0	0	0	24	0	0%
4	City Hall of Lentekhi Municipality	24	0	0	0	24	0	0%
5	City Hall of Sighnaghi Municipality	24	0	0	0	24	0	0%
6	City Hall of Akhalkalaki Municipality	24	0	0	0	24	0	0%
7	City Council of Shuakhevi Municipality	19	0	0	0	19	0	0%
8	City Council of Bolnisi Municipality	19	0	0	0	19	0	0%
9	City Council of Adigeni Municipality	19	0	0	0	19	0	0%



Access to Information in the City Hall and Council of Tbilisi



STATE GOVERNOR ADMINISTRATIONS

In 2020, within the category of state governor administrations, Samegrelo-Zemo Svaneti and Kvemo Kartli governor administrations provided complete responses to the FOI requests of IDFI within the 10-day timeframe.

The other governor administrations, for the most part, demonstrated a high level of access to information, and their rating percentages exceeded the 80% mark.

Ratings of State Governor Administrations								
	Public Institution	Number of Requests	Complete	Incomplete	Denied	Unanswered	Compliant with the 10-Day Deadline	Access to Information
1	Samegrelo-Zemo Svaneti Governor's Administration	12	12	0	0	0	13	100%
2	Kvemo Kartli Governor's Administration	12	12	0	0	0	12	100%
3	Racha-Lechkhumi and Kvemo Svaneti Governor's Administration	10	10	0	0	0	0	99%
4	Guria Governor's Administration	11	10	1	0	0	11	95,45%
5	Samtskhe-Javakheti Governor's Administration	12	10	2	0	0	0	90,67%
6	Imereti Governor's Administration	13	10	3	0	0	13	88,46%
7	Mtskheta-Mtianeti Governor's Administration	14	12	1	0	1	0	88,36%
8	Kakheti Governor's Administration	12	8	3	0	1	0	78,25%
9	Shida Kartli Governor's Administration	12	6	3	0	3	0	37,50%



STRATEGIC LITIGATION CASES

- ▶ IDFI V. “MEDIA ACADEMY”
- ▶ NATIONAL ARCHIVES OF GEORGIA
- ▶ IDFI V INDEPENDENT INSPECTOR’S OFFICE
- ▶ PUBLIC DEFENDER’S RECOMMENDATION ON RELEASING PUBLIC INFORMATION

In 2020, IDFI undertook significant efforts to ensure transparency of public institutions and access to public information. Out of 3 strategic litigation cases, the Tbilisi City Court ruled in favor of IDFI in the first case, the Tbilisi Court of Appeals in the second case, and in one case the administrative appeal was partially upheld. It can thus be stated that the administrative body and the common courts shared IDFI's vision regarding access to public information.

IDFI addressed the Office of the Public Defender with the goal of studying the issues. The Public Defender shared IDFI’s position in one case and issued a recommendation for public information to be issued, while the second request is still being considered.

Below we present detailed information on the 3 strategic litigation cases and the recommendation issued by the Public Defender.

IDFI v. “MEDIA ACADEMY”

On August 2, 2018, the Georgian National Communication Commission (the Commission) established NNLE “Media Academy” with the purpose of fulfilling its mandate of promoting media literacy in Georgia. On January 24, 2020, IDFI addressed Media Academy with a letter requesting various types of information about its activities. Media Academy did not provide the public information on the basis of the explanation that it was not a legal entity under public law, neither in an organizational nor in a functional definition, and thereby tried to avoid fulfilling its obligations as prescribed by the law.

On February 28, 2020, IDFI appealed to the National Communications Commission against the denial from Media Academy. Although the Commission is the oversight and founding body of Media Academy, it refused to consider the administrative complaint thoroughly on the grounds that it was not a superior administrative body of Media Academy.

On April 7, 2020, IDFI filed a lawsuit in the Tbilisi City Court, requesting that the NNLE Media Academy be recognized as an administrative body and instructed to issue the public information requested by the letter dated January 24.

Tbilisi City Court, by its decision of February 25, 2021, fully satisfied the lawsuit of the Institute for Development of Freedom of Information against the Media Academy, recognized the latter as an administrative body in the functional sense, and ordered it to issue the requested public information.

The February 25, 2021 judgement of the Court emphasized the importance of freedom of information and explained that the law imposes an obligation to provide information not only on government agencies but also on public institutions, the concept of which is broader and includes administrative bodies as well.

The Court shared IDFI's position and clarified that the legal definition of an administrative body (Article 2, part 1, paragraph "a" of the GAC) consists of two parts, namely the first part deals with the organizational-legal concept of an administrative body, which includes all state and local self-government bodies and institutions, while the functional understanding of an administrative body, which is given in the second part of the concept, combines natural and legal persons, including legal entities of private law, which are not subjects of the system of state governing bodies, but exercise public legal authority based on the law. According to the Court, a functional understanding implies that "any other person" exercises public legal authority on the basis of delegation, i.e. the transfer of authority from the state.

The Court found that the Media Academy is an administrative body in the functional sense, insofar as it is established on the basis of the delegated authority of the National Communications Commission to exercise public legal authority, in particular to promote media literacy in the community.

The Court clarified that since the Media Academy exercises public-legal authority as a result of the delegation and functions functionally as an administrative body within that framework, the activities related to the performance of administrative functions by Media Academy are covered by Chapter 3 of the General Administrative Code, and it is therefore obligated to provide public information requested by IDFI.

The February 25, 2021 decision of the Tbilisi City Court is of special importance for the provision of the right of access to information in the country. With this decision, the Court prevented an attempt of a public institution to deny the realization of the right of access to information by creating artificial obstacles.

The Court did not base its definition of public legal authority on the defendant's arbitrary criteria, reiterating that the exercise of public authority means exercising the powers within the scope of the law and for its fulfillment and declaring that Media Academy's refusal to provide information violates the Constitution and legislation of Georgia.

The Court's decision is also notable in terms of preventing similar actions by public institutions. It is important that they do not expect that they will be able to manipulate such activities, in particular by delegating public authority to organizations in a non-transparent manner and in disregard of the requirements of publicity and transparency imposed by the law.

NATIONAL ARCHIVES OF GEORGIA

According to the January 16, 2020 decision of the Tbilisi Court of Appeals, the LEPL National Archives of Georgia (National Archives) was once again instructed to provide the public information that has repeatedly been requested by the NNLE Institute for Development of Freedom of Information (IDFI) since June 29, 2018. In particular, IDFI aims to obtain information on how many applicants have been denied access to National Archives documents and on what grounds. Initially, the obligation to provide information was imposed on the National Archives by the Tbilisi City Court. The National Archives did not accept this judgement and appealed to the Tbilisi Court of Appeals, albeit unsuccessfully.

During the trial at the Tbilisi Court of Appeals, the court held a final decision on the case and ruled that the appeal of the National Archives was unsubstantiated and therefore should not be upheld.

While disputing the appeal, IDFI pointed out to the Court that the appeal of the National Archives did not meet the grounds for an appeal established by the Administrative and Civil Procedure Code of Georgia. Specifically, in the part of the appeal where the appellant should have indicated the factual inaccuracies of the appealed decision, the appellant did not question the factual circumstances established by the initial judgement of the court. Additionally, the National Archives did not explain which part of the decision of the Tbilisi City Court was legally unsubstantiated.

The appellant stated in the appeal that the information could not be provided since the requested information had not created, processed, and/or preserved in the National Archives. At the same time, it emphasized the fact that a number of administrative acts, however small, was kept in the National Archives, on the basis of which the applicants were denied access to the documents kept in the National Archives.

In its decision, the Court of Appeals underlined the importance of the right of access to information as defined in paragraph 2 of Article 18 of the Constitution of Georgia and clarified its scope. At the same time, the Court pointed to the legal grounds for restricting the information provided for in the Constitution of Georgia and the General Administrative Code and found that the information requested by IDFI did not contain any information on state secrets, as well as commercial or personal data. Therefore, the requested information was public information, and the National Archives was responsible for issuing it.

In its decision, the Court of Appeals states:

“The information requested by the plaintiff (IDFI) does not include state or commercial secrecy and is not linked to disclosing personal data...on the other hand the argument of the opposing party (the National Archive) that the information kept at the entity is of such insubstantial volume that it does not reflect the full picture of everyday communication/consultation with interested parties, does not exclude the obligation of the administrative body to disclose the information which is kept at the entity in line with the applicable legislation.”

The Court of Appeals highlighted the Law of Georgia on the National Fund and National Archives and, given the role of the National Archives, attached special importance to the disclosure of statistical information on researchers' access to archival funds.

IDFI v INDEPENDENT INSPECTOR'S OFFICE

On June 15, 2020 the Independent Inspector partially granted the administrative complaint of the Institute for Development of Freedom of Information, instructing the person responsible for issuing public information regarding the reasoned conclusions and opinions obtained as a result of preliminary examination and research of the disciplinary case directed at judges, with identifying data covered.

On February 4, 2020 IDFI requested public information from the Independent Inspector's Office on the substantiated conclusions delivered as a result of preliminary examination of disciplinary cases against judges pursuant to paragraph 6 of Article 75 of the Organic Law of Georgia on Common Courts. This information was requested without revealing personal data of a judge in accordance with the law on Personal Data Protection. On February 14, 2020, the person responsible for issuing public information of the Independent Inspector's Office refused to provide the requested information to IDFI on the grounds that the disciplinary proceedings are confidential and the Organic Law of Georgia on Common Courts does not envisage the release of the substantiated conclusions (interim decisions) delivered as a result of preliminary examination, even without revealing personal data.

IDFI appealed this decision and requested the Independent Inspector to abolish the illegal administrative act and instruct the person responsible for releasing public information to provide the requested information, on the grounds that the decision violated IDFI's right to access to public information. IDFI fully recognizes the importance of the confidentiality of the disciplinary proceedings and therefore requested the above-mentioned information be issued without disclosing the personal data of judges.

IDFI considers that the Independent Inspector's Office incorrectly interpreted the law when they pointed out that the law does not provide the legal grounds for the publication of interim decisions, thereby concluding that they should not be released. The determination of the obligation to publish certain decisions/information by the law does not in itself imply that other public information existing in a public institution should not be accessible.

The Independent Inspector issued order N2 on June 15, 2020, partially granting IDFI's complaint. According to the order, "taking into account the interests of the court, the particular judge and the confidentiality of disciplinary proceedings, only such conclusions can be released that do not violate the legitimate aim of the law to protect the interest of the judges at the initial stage of the disciplinary proceedings... It is rational to issue the conclusions of the Independent Inspector in a generalized form, without identifiable data so as not to violate the requirement of the law on the confidentiality of disciplinary proceedings, taking into account the peculiarities of disciplinary proceedings and the confidentiality of cases as well as the interests of judges and the public."

On June 25, 2020 the Independent Inspector issued five conclusions related to disciplinary complaints. The disclosure of certain conclusions without personal data of judges has clearly confirmed that the accessibility of these documents does not contradict the principle of confidentiality of disciplinary proceedings and does not violate existing legislation.

In recent years, IDFI has paid significant attention to the importance of publishing the conclusions of the Independent Inspector. The system of disciplinary liability serves the interests of protecting the authority of the judiciary and the public trust in the court system but, on the other hand, contains a potential threat, in case of its improper use, to turn into a tool for leverage against individual judges. Therefore, it is essential to ensure the proper transparency of the work of the Independent Inspector's Office, which is one of the most important elements of the disciplinary liability system. The accessibility of conclusions is crucial in order to assess the degree of the Inspector's independence, the impartiality of the disciplinary proceedings, and the consistency of the practice.

Taking into consideration the fact that it was impossible to obtain conclusions from the Independent Inspector's Office on the grounds of confidentiality, partial satisfaction of the complaint and releasing the documents in a generally formulated manner, without identifiable data, should be positively assessed. However, in order to achieve the proper transparency of the work of the Independent Inspector's Office, it is essential to ensure that all conclusions delivered by the Inspector are accessible.

PUBLIC DEFENDER'S RECOMMENDATION ON RELEASING PUBLIC INFORMATION

On July 8, 2020, IDFI sent a FOI letter to the Ministry of Economy and Sustainable Development of Georgia requesting biographical data of the persons employed as advisors to the Minister and Deputy Ministers in 2018-2020, as well as copies of the labor contracts concluded with them.

On July 16, 2020, the Ministry of Economy and Sustainable Development denied the request by referring to the protection of personal data of the people concerned and Article 44 of the General Administrative Code of Georgia.

IDFI considered that the requested information was of high public interest, considering the fact that the purpose and specifics of the activities of the advisors. Therefore, pursuant to the Article 18(3) of the Constitution of Georgia, the Ministry was obliged to release it. In order to examine the issue, on July 27, 2020, IDFI submitted an application to the Public Defender of Georgia.

Based on the IDFI's application, on February 11, 2021, the Public Defender established the fact of violation of the requirements established by the legislation of Georgia regarding the provision of public information and issued a recommendation to the Ministry to provide the information requested by the July 8 letter.

According to the assessment of the Public Defender, when the administrative body has such wide discretion granted by the legislator – to appoint a person to exercise public powers provided for by law without competition and special qualification requirements as well as in some cases grant him/her salary higher than the set amount from the state budget, the public institution is obliged to provide information related to contracts and biographical data of advisors of state/political officials in order to achieve a legitimate goal, as public trust in state institutions is determined by the level of transparency of their activities.

The Public Defender considers that the information requested by the Institute for Development of Freedom of Information from the Ministry of Economy and Sustainable Development of Georgia on July 8, 2020, while containing personal data, to be of high public interest, and therefore, the administrative body had a positive obligation to release this information.

Considering that the precedent of providing information based on public interest is rare and the mentioned legal ground enshrined in Article 18(3) of the Constitution and Article 44 of the General Administrative Code of Georgia, which came into force after the amendment of the Constitution, has been ignored by the administrative bodies, the recommendation and legal substantiation issued by the Public Defender is essential in terms of improving the wrongful practice.



ACCESSIBILITY OF PUBLIC INFORMATION IN 2010-2020

▶ TIMEFRAMES FOR DISCLOSING PUBLIC INFORMATION IN 2010-2020

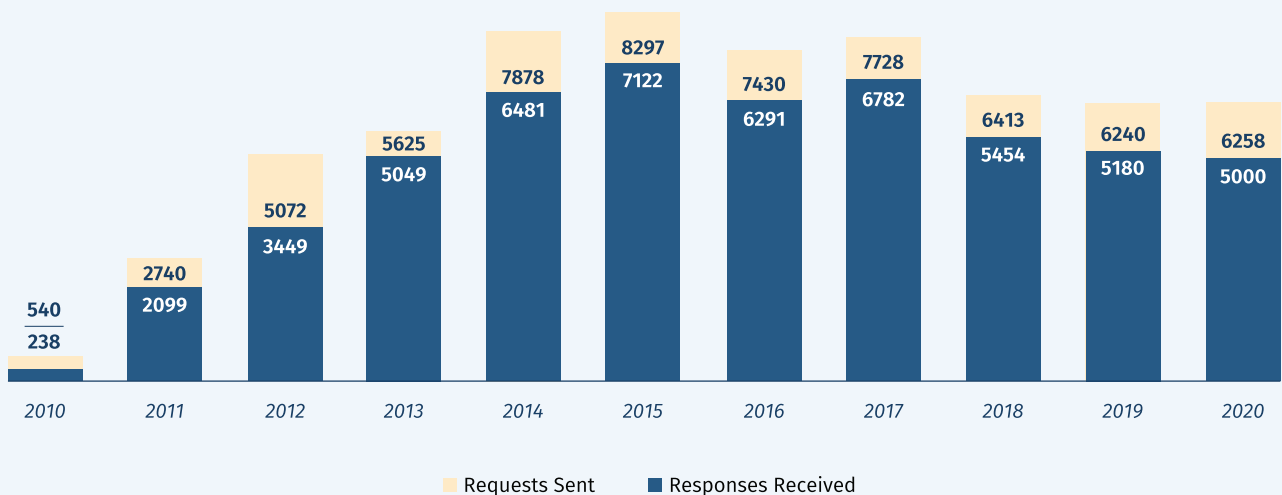
Monitoring conducted by IDFI in 2010-2020 allows us to consider the 10-year dynamics of access to public information, categorized according to groups of public institutions. At the same time, comparisons with data from previous years with data from 2020 allow us to assess the impact of the coronavirus pandemic on access to public information.

In 2010-2020, IDFI sent a total of **64,221** requests for public information to public institutions, of which **53,074** received a response.

According to the statistical data maintained by IDFI over a period of 11 years, the dynamics of the percentage ratio between the requests sent and the responses received was characterized by high variability. In 2010-2020, **the highest percentage rate (90%) of FOI requests that received a response was observed in 2013**. This figure was also high at 88% in 2017, but has been declining every year after 2018 and decreased to 80% in 2020. It should be noted that the rate of responses to letters sent in 2020 is the lowest since 2013.

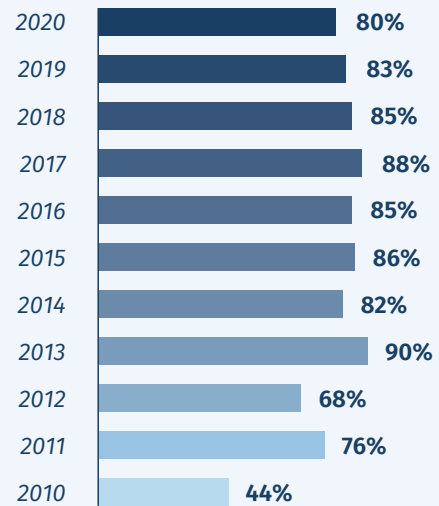


Responses to FOI Requests in 2010-2020



Year	Public Institution	Requests Sent	Responses Received
2020	285	6258	5 000
2019	284	6 240	5 180
2018	282	6 413	5 454
2017	289	7 728	6 782
2016	294	7 430	6 291
2015	307	8 297	7 122
2014	308	7 878	6 481
2013	224	5 625	5 049
2012	229	5 072	3 449
2011	154	2 740	2 099
2010	21	540	238

Percentage Comparison of the Responses Received by Year

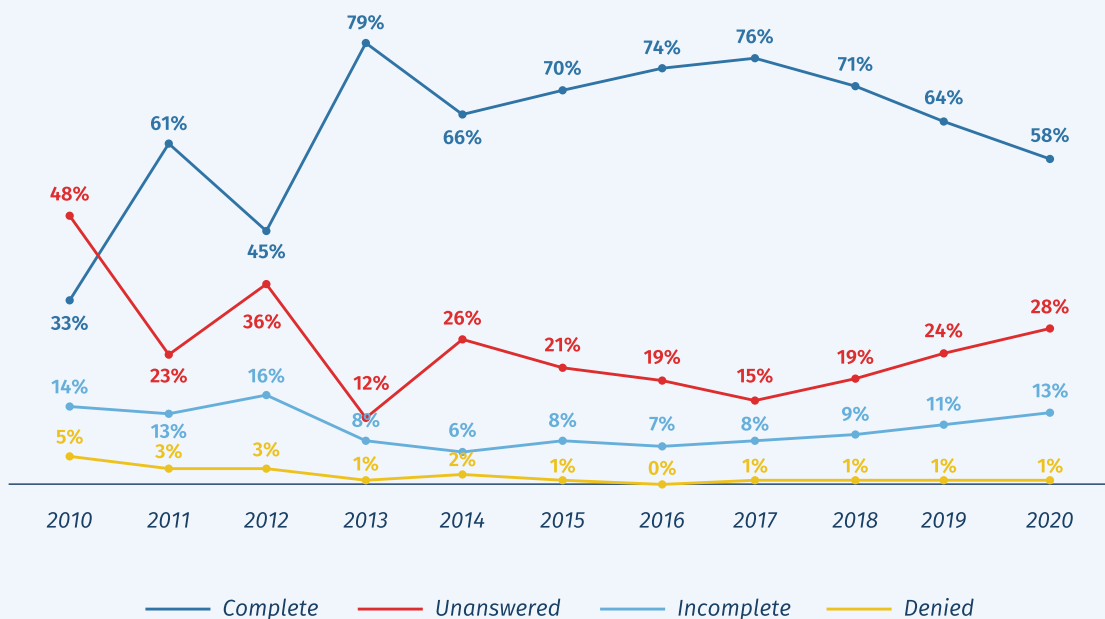


Between 2010 and 2020, the highest rate of complete responses received from public institutions (79%) and the lowest rate of unanswered requests (12%) was in 2013. In 2020, the percentage of complete responses decreased by 6% compared to the previous year, while the percentage of unanswered requests increased by 4%. The share of incomplete responses also increased by 2%.

The percentage data in the diagrams below do not reflect the responses received from public institutions, according to which the agencies did not have the requested information or had not conducted the specified actions.



Responses from Public Institutions



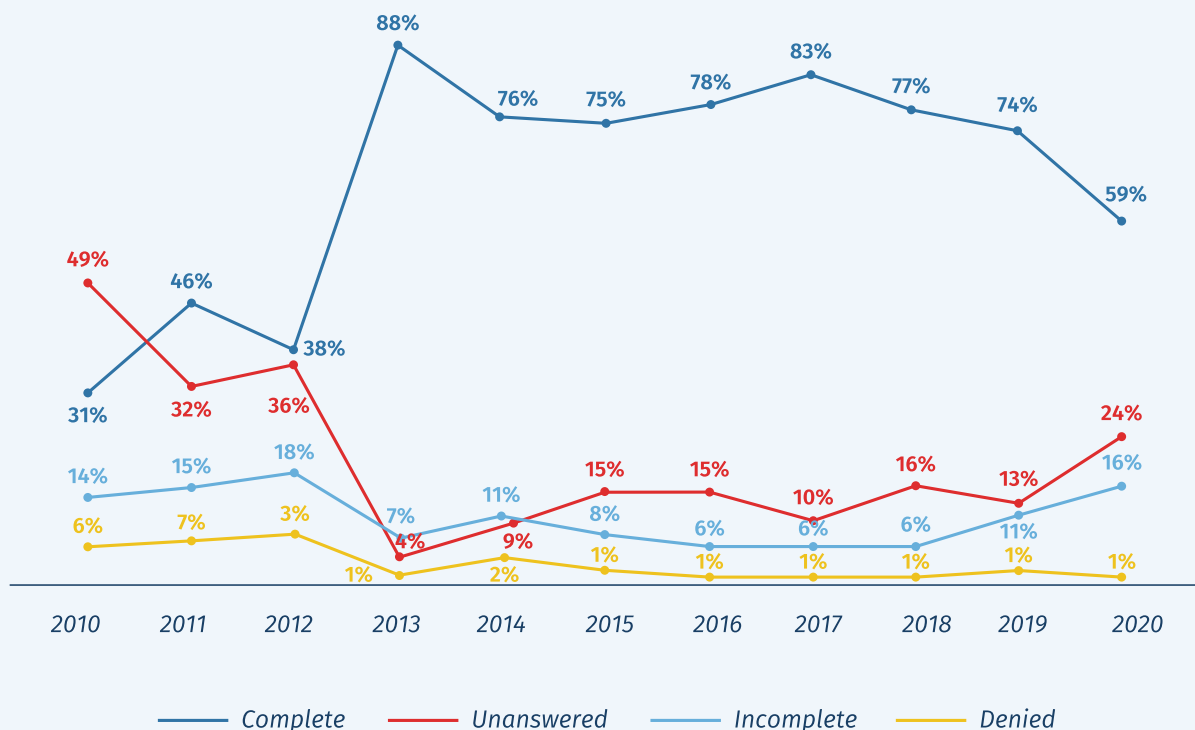
The decreasing rate of responses from public institutions in 2020, on the one hand, can be assumed to be as a result of the impact of the pandemic situation created in public institutions, and on the other hand, the continuing trend of decreasing access to information that has been in evidence since 2017.

In 2010-2020, trends in terms of access to public information have varied according to the categories of public institutions. However, it is noteworthy that in the main groups of public institutions, the situation in terms of access to public information in 2020 has deteriorated compared to the previous year. **For instance, complete responses from ministries decreased by 15%, while unanswered requests increased by 11%, complete responses from entities subordinated to the ministries decreased by 7%, and unanswered requests increased by 8%.**

The highest share of comprehensive and complete responses (88%) received from ministries during the monitoring conducted in 2010-2020 was in 2013. In the following years this indicator fluctuated between 74% and 83%. Since 2013, the lowest percentage (59%) was observed precisely in 2020. Prior to 2013, the highest rate of complete responses was only 46%.



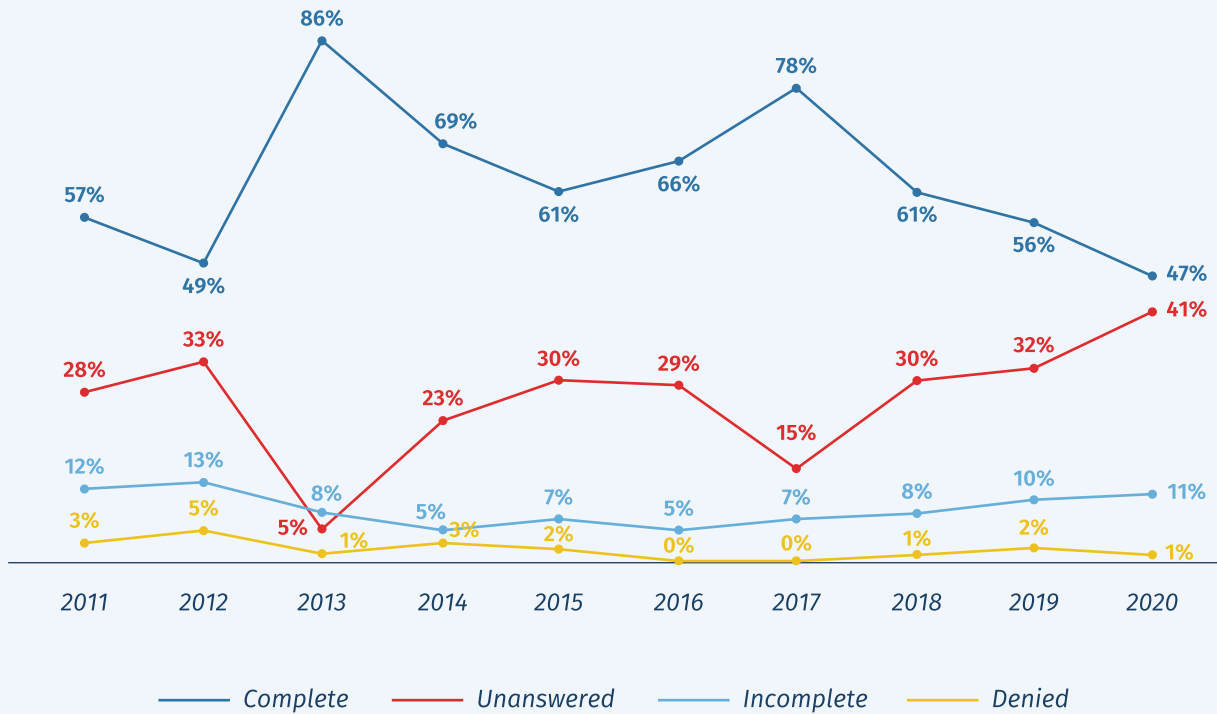
Responses from Ministries (Including Offices of State Ministers and Ministries of Adjara A/R)



In 2011-2020, like in the case of the ministries, their subordinate agencies (LEPLs and sub-entities) had the highest rate of complete responses (86%) and the lowest rate of unanswered requests (5%) in 2013. Noteworthy is the fact that **in 2020, the 47% rate of complete responses received from ministries and 41% of unanswered requests is the lowest in the past 11 years.**



Responses from Entities Subordinated to Ministries

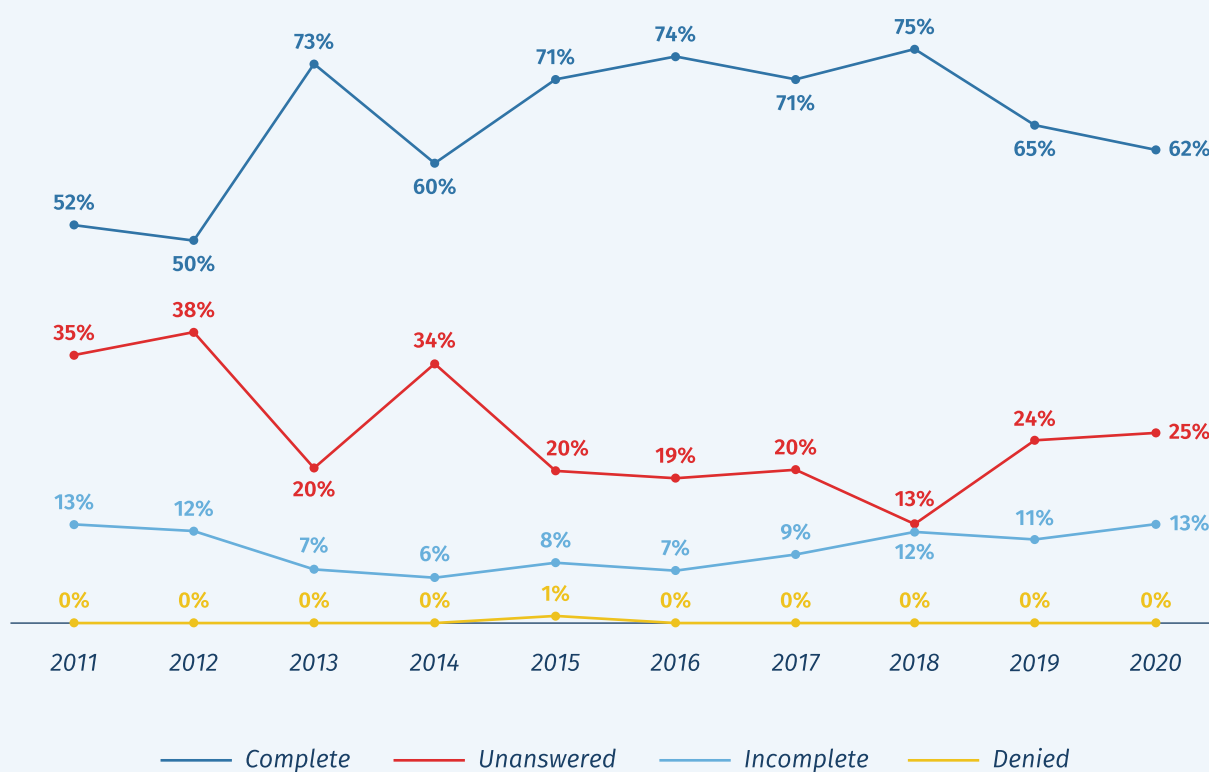


In 2011-2020, the highest rate of fully received responses (75%) and the lowest rate of unanswered requests from local self-government bodies was recorded in 2018 - (13%). In 2020, the rate of complete responses from municipal governments decreased by 3% compared to the previous year, while the number of unanswered requests increased by 1%.

In 2018, the active use of additional legal mechanisms by the Institute played an important role in achieving the highest rate of access to public information among local self-governments. In particular, in 2018, an administrative complaint was sent to all the local self-government bodies demonstrating a low level of access to public information for years, which led to largely positive results. In 2019-2020, IDFI no longer used such mechanisms as actively, and according to the explanations submitted to IDFI in 2020, the transfer of employees in various municipal bodies to remote working conditions has led to significant delays in the effective operation of the institutions.



Responses from Self-Governing Units



TIMEFRAMES FOR DISCLOSING PUBLIC INFORMATION IN 2010-2020

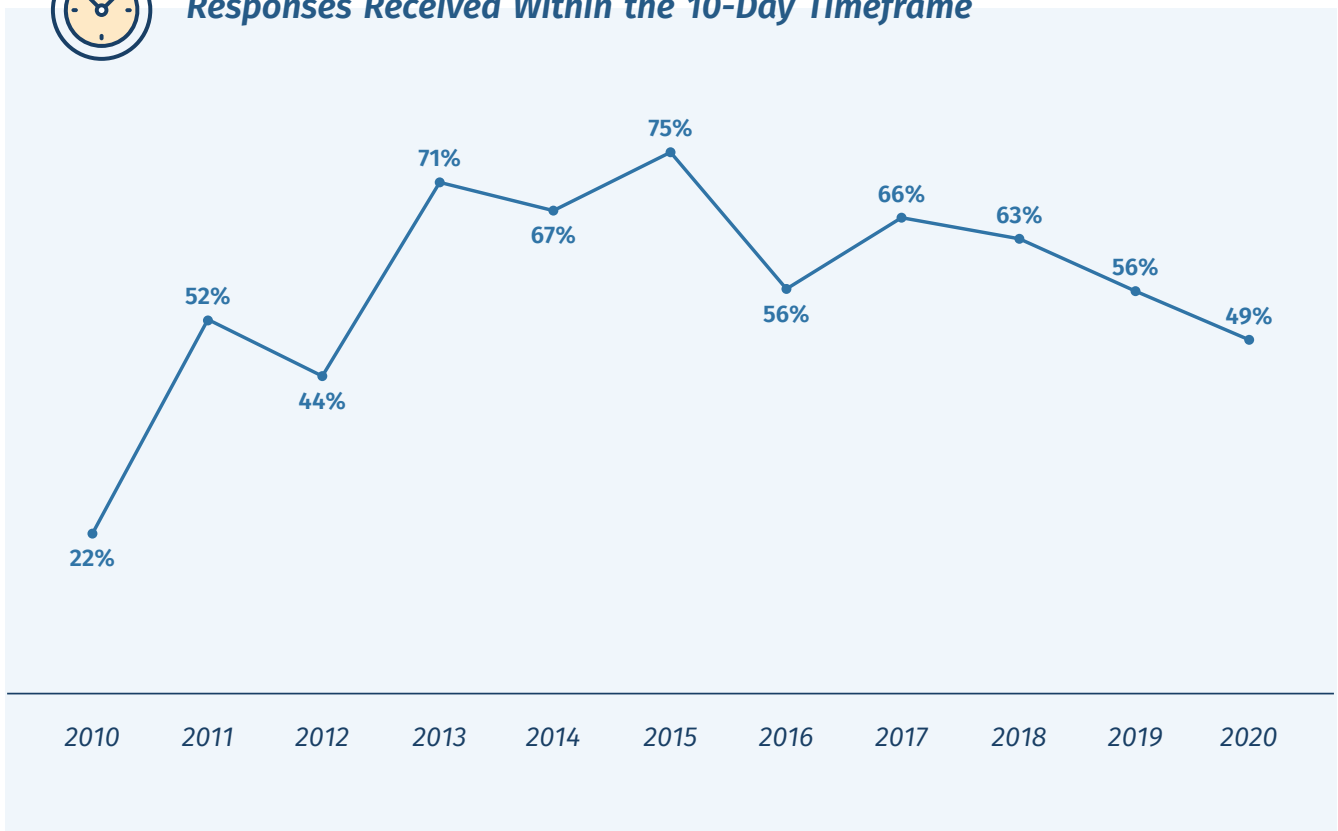
According to existing legislation of Georgia, public institutions are obliged to provide responses without delay to requests for public information. However, they may request a period of 10 days in case if the information requested is of high volume, if a public institution has to collect and process information, or if it has to consult another administrative body. At the same time, public entities are obliged to inform applicants about the need of using the 10-day period immediately.

Because in 2010-2020 IDFI usually requested a high volume of public information for the purpose of the monitoring, the provision of information within the period of 10 days was evaluated as a timely response, regardless of whether a public entity informed us about the need of using the 10-day period.

In 2020, **the rate of timely disclosure of public information decreased by 7% compared to the previous year, achieving only 49%. Since 2012, this has been the first case when the number of violations of the deadline exceeded the number of responses that fell within the 10-day period. This trend, along with the increase in unanswered requests, has been significantly facilitated by the complication of the work process in agencies during the coronavirus pandemic (switching to remote working conditions, involvement in the fight against the pandemic, etc.).**



Responses Received Within the 10-Day Timeframe



According to the results of the monitoring conducted by IDFI in 2020, the quality of access to public information in the country has decreased again compared to the previous year. The deteriorating trend of the past few years was further exacerbated by the crisis situation in the country that arose due to the coronavirus pandemic. In particular, for a number of agencies, the changing working conditions resulting from the pandemic (remote work mode, involvement in the fight against the pandemic, etc.) have been found to be an impediment to the proper provision of access to information. As a result, in 2020, the rate of unanswered requests, as well as responses in violation of the timeframes set by law, has increased significantly. For the first time since 2012, the cases of breaches of the 10-day deadline in 2020 exceeded the percentage of timely responses.

Restricting access to information from public institutions that have a special role to play in promoting democratic values in the country, as well as in ensuring transparency in the fight against the pandemic, should be seen as a particularly problematic aspect of the situation in 2020. For example, the Administration of the Government of Georgia, which is one of the main coordinating bodies in the fight against the pandemic, should be an uninterrupted source of information for citizens. The system of the Ministry of Justice, the main task of which is to promote the development of national legislation in accordance with international standards and to strengthen the rule of law in the country, unfortunately shows disrespect for freedom of speech and expression and neglects the obligations of public institutions under the law in a democratic state. The Ministry of Finance and its subordinate entities, which are supposed to guarantee financial transparency in the public sector, especially in the light of the crisis created during the pandemic, themselves restrict the release of public information related to the management of public finances.

The practice of recent years clearly demonstrates the improper attitude towards access to information among state-owned LLCs and NNLEs. Although these agencies often exercise public legal authority and manage public finances, in the case of requests sent by IDFI, they either leave the requests without a response or explain that they are not an administrative body and are therefore not subject to the obligation to provide public information. In this regard, the strategic dispute between IDFI and NNLE Media Academy in 2020 was of particular strategic importance, as the agency was instructed to provide the requested information as a result of the dispute.

Despite the existing challenges, the rate of responses to letters sent in 2020 (80%) still maintains the 80% critical threshold established after 2014, which is largely due to the high accountability of individual public institutions. Specifically, public institutions such as the National Statistics Office, the Public Defender's Office, the Office of the State Inspector, and others have maintained the best rate of access to public information for a number of years (including in times of crisis) and duly fulfill their statutory public information obligations. Unfortunately, the practice of low accountability established by other institutions (e.g., the Ministry of Justice, the Administration of the Government of Georgia, the State Treasury, etc.) over the years has had a negative impact on the overall rating of access to information in the public sector in Georgia and significantly hinders the process of improving access to information in the country.

