

Access to Public Information in Georgia



2018



GEORGIA

EAST · WEST
MANAGEMENT
INSTITUTE

საერთაშორისო საზოგადოების განვითარებისა
და მშობლიურ სამსახურის ჩართულობის პროექტი
ADVANCING CSO CAPACITIES AND ENGAGING SOCIETY
FOR SUSTAINABILITY (ACCESS)



Institute for Development
of Freedom of Information

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INTRODUCTION

The Institute for Development of Freedom of Information (IDFI) has been monitoring the access to public information in Georgia since 2010. Years of work in this area by IDFI has played an important role in strengthening freedom of information in Georgia, identifying the key trends and problems related to access to public information, developing effective civic oversight mechanisms, and raising the level of accountability and governance in the public sector.

In 2011, IDFI began awarding symbolic certificates to public institutions with the highest level of compliance with freedom of information regulations. This practice of naming (and shaming) the most and least open public institutions has encouraged competition in the public sector to maintain and improve accountability standards.

IDFI is actively engaged in legal disputes with public institutions that refuse to disclose public information in order to set legal precedents for higher standards of freedom of information in Georgia. In 2018, IDFI filed 8 such administrative complaints, of which only one was not granted and subsequently taken to court.

The following is an analysis of access to public information in Georgia in 2018, trends and issues related to freedom of information in 2010-2018 and the rating of public institutions.

The rating was compiled based on the methodology and criteria for assessing access to public information developed in 2011 by IDFI.

ACCESS TO PUBLIC INFORMATION IN GEORGIA

The quality of access to public information in Georgia in 2018 was measured by IDFI based on responses provided to Freedom of Information (FOI) requests sent to 282 public institutions, which can be grouped into the following categories:

17

Central Public Institution (Parliament of Georgia, Administration of President and Government, Ministries)

7

Government and Ministries of the Autonomous Republic of Adjara, Administration of the Government of the Autonomous Republic of Abkhazia, South Ossetia Administration

72

Legal Entities of Public Law (LEPL) and other institutions under Ministries

30

Independent bodies (independent LEPLs, regulatory commissions and others)

138

Local Government Representative and Executive Bodies (City Halls, Municipal Administrations and Councils)

9

Governor Administrations

7

Administrative bodies of the judicial system

2

Sports federations

Requested Public Information

In 2018, IDFI requested public institutions to disclose the following pieces of public information (through standardized FOI request letters):

- State-owned vehicles and fines issued to them
- Fuel expenses and monthly limits
- Advertising expenses
- Bonuses
- Salary supplements
- Business trip expenses
- Roaming expenses
- Representative expenses
- Telephone expenses and monthly limits
- Full staff lists and their remuneration
- Remuneration of supernumerary employees
- Number of full and supernumerary employees
- Number of dismissed employees by reason thereof
- Amounts imposed through labor disputes
- Amount of damages requested and compensated
- Reports on bonuses and salary supplements issued to officials
- List of databases and registries created in 2016-2017

The following additional standard requests were sent local government bodies:

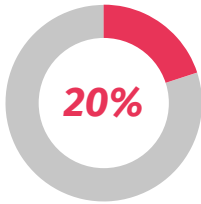
- *List of Non-entrepreneurial (Non-commercial) Legal Entities (N(N)LE) and state-owned enterprises (LTD) established by the Municipality;*
- *List of N(N)LEs and LTDs abolished by the Municipality;*
- *Financial reports of N(N)LEs and LTDs;*
- *Expenses incurred from the Mayor's reserve fund;*
- *Municipal Council Member Performance Reports.*

Along with standard freedom of information requests, IDFI also sent letters requesting information on issues of high public interest to relevant public institutions. For example: employment data for persons with disabilities, funding for sport federations, financial assistance provided to IDP families, official correspondence on a pre-election promise to write off bank loans, number of invalid ballots during the presidential election, etc.

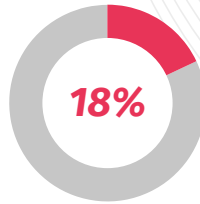
The Most Withheld Categories of Public Information

In 2018, as in previous years, the request most frequently ignored by public institutions (20%) had to do with disclosing reports on bonuses and salary supplements issued to officials.

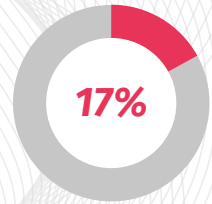
REQUESTS LEFT UNANSWERED BY MOST PUBLIC INSTITUTIONS



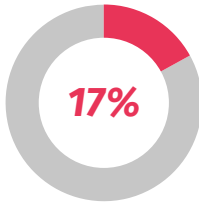
*Reports on
bonuses and salary
supplements*



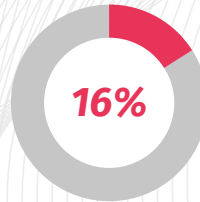
*Planned amounts of
bonuses and salary
supplements*



*Fuel limits and
expenses*



*Completed legal disputes
against the public
institution*



*Restaurant
expenses*

During the monitoring period, a number of public institutions either ignored IDFI's freedom of information requests or offered unsubstantiated refusals to disclose public information related specifically to their authority.

For example:

- **State Services Development Agency** ignored IDFI's request to disclose statistics on name and family name changes;
- **Data Exchange Agency** ignored the request to disclose information about algorithms developed by the Agency and being used by public institutions;
- **Administration of the Government of Georgia** ignored the request to disclose information about the funds allocated to municipalities from the Government Contingency Fund and municipal applications submitted to the Fund requesting funding;
- **Prosecutor's Office** ignored the request to disclose information about an ongoing reorganization;
- **National Archives of Georgia** ignored the request to disclose information about the refusals to grant access to the reading halls;
- **Ministry of Culture** refused to disclose information about the expenses covered using funds allocated to sports federations from the Government Contingency Fund, citing personal data protection;
- **Tbilisi City Hall Property Management Agency** refused to disclose reports by LTD CT Park, stating that the documents did not constitute public information;
- **Tbilisi City Court** refused to disclose information on court decisions and trial dates, citing personal data protection.;
- **Tbilisi City Court** also refused to disclose the number of disputes pending review and those where parties had yet to receive the court decision, stating that these data had not been processed.

The Most Accountable Public Institutions

A total of 42 public institutions complied fully (complete responses within the 10 day period) with public information requests sent by IDFI in 2018. The Ministry of Environment Protection and Agriculture of Georgia also exhibited almost perfect (99.9%) compliance with freedom of information regulations.

THE MOST OPEN PUBLIC INSTITUTIONS



Public Institutions		Number of FOI Requests	Complete	10 Day Timeframe Compliance	Access to Information
1	Civil Service Bureau	27	27	27	100%
2	National Statistics Office	23	23	23	100%
3	Land Transport Agency	22	22	22	100%
4	National Environmental Agency	22	22	22	100%
5	Informational System of Education Management	21	21	21	100%
6	National Food Agency	21	21	21	100%
7	Levan Samkharauli National Forensics Bureau	21	21	21	100%
8	National Intellectual Property Center - Sakpatenti	21	21	21	100%
9	State Audit Office	21	21	21	100%
10	Enterprise Georgia	20	20	20	100%
11	Standards and Metrology National Agency	19	19	19	100%
12	Technical and Construction Supervision Agency	19	19	19	100%
13	Public Defender (Ombudsman)	19	19	19	100%
14	Electoral Systems Development, Reforms and Training Center	19	19	19	100%
15	Competition Agency	19	19	19	100%

16	Tkibuli Municipal Administration	19	19	19	100%
17	Tskaltubo Municipal Administration	19	19	19	100%
18	Zugdidi Municipal Administration	19	19	19	100%
19	National Center of Children and Youth	18	18	18	100%
20	National Probation Agency	18	18	18	100%
21	Office of Personal Data Protection Inspector	18	18	18	100%
22	Ministry of Agriculture of Autonomous Republic of Adjara	18	18	18	100%
23	Ministry of Education, Culture and Sports of Adjara	18	18	18	100%
24	Educational and Scientific Infrastructure Development Agency	17	17	17	100%
25	Ministry of Healthcare of Adjara	17	17	17	100%
26	Laboratory of the Ministry of Agriculture	16	16	16	100%
27	State Fund for Protection and Assistance of Victims of Human Trafficking	16	16	16	100%
28	Samtskhe-Javakheti Governor's Administration	16	16	16	100%
29	State Regulation Agency for Medical Activities	15	15	15	100%
30	Legal Aid Service	15	15	15	100%
31	Zugdidi Municipal Council	15	15	15	100%
32	Olympic Center	13	13	13	100%
33	Kareli Municipal Council	13	13	13	100%
34	Akhalsikhe Municipal Council	13	13	13	100%
35	Eurasian Transport Corridor Investment Center	12	12	12	100%
36	Sachkhere Municipal Council	12	12	12	100%
37	Kvareli Municipal Council	12	12	12	100%
38	Dmanisi Municipal Council	10	10	10	100%
39	Tianeti Municipal Council	10	10	10	100%
40	Chiatura Municipal Council	10	10	10	100%
41	Khobi Municipal Council	10	10	10	100%
42	Chokhatauri Municipal Council	10	10	10	100%
43	Ministry of Environment Protection and Agriculture of Georgia	39	39	33	99,8%

The Least Accountable Public Institutions

Based on monitoring results, IDFI has been naming the least open public institution since 2011. In 2018, the least accountable public institution was the Ministry of Justice, together with all of its subordinate agencies.

In 2018, the Ministry of Justice and its agencies ignored 316 of the 345 requests sent by IDFI. The Ministry of Justice itself ignored 25 of the 26 requests, resulting in an openness level of only 3.85%. 7 LEPLs under the Ministry ignored all of IDFI's requests. The highest response rate was demonstrated by LEPL Smart Logic - 48.3%, which ignored only 2 requests, but took 140 days to reply to the rest. Over the last 5 years, the Ministry of Justice and its sub-units ignored 1,210 (75.6%) of the 1,600 requests sent to them by IDFI.

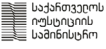











Deterioration of access to public information in the Ministry of Justice and its sub-units started after 2013, when the 95.6% openness rate decreased to 48.4% in 2014, down to 3.9% in 2015, and 0% in 2016. There was some progress in 2017 - openness level increased to 46.28% (the Ministry of Justice without its sub-units demonstrated an openness level of 74.9% that year), but in 2018 the average rate dropped significantly to 5.36%. As a result IDFI had to name the Ministry of Justice and its sub-units as least open public institutions for the second time in the last three years.

IDFI has been unable to affect the openness of public institutions under the Ministry of Justice, even through precedential court cases. For example, in 2017 the Supreme Court declared that official e-mail correspondence constituted public information and obligated the Ministry of Justice to disclose information requested by IDFI. In 2017, based on IDFI's appeal, Tbilisi City Court also declared the Minister of Justice and heads of 10 LEPLs under the Ministry as administrative offenders. Despite these rulings, the Ministry of Justice and its subordinate bodies have yet to comply and disclose public information.

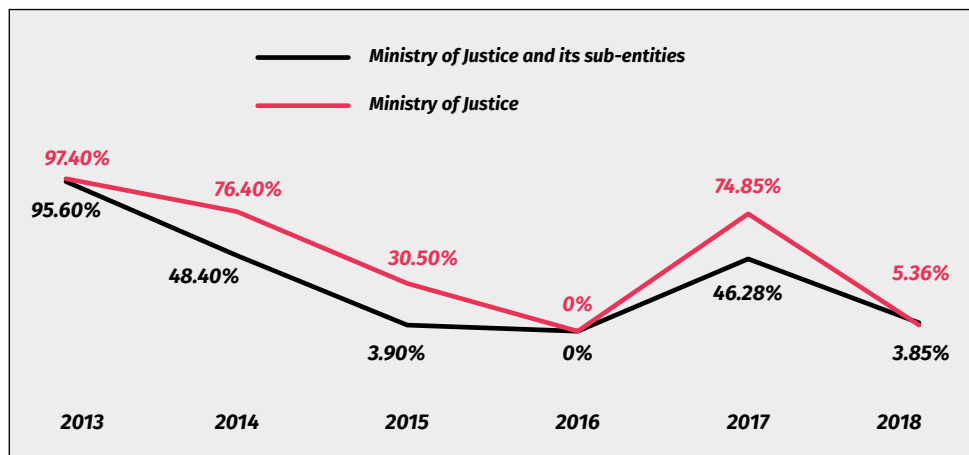
In 2018, IDFI submitted an administrative complaint to the Ministry of Justice on the decision of the National Archive to ignore a FOI request. The Ministry responded that it was not a superior administrative body to a legal entity that was part of its system and was therefore not authorized to examine the administrative complaint filed against the National Archive. IDFI took the case to Tbilisi City Court, which, on April 5, 2019, fully satisfied the claim and ordered LEPL National Archive to disclose the requested information.



THE MOST CLOSED PUBLIC INSTITUTIONS OF 2018
System of the Ministry of Justice

Public Institution	Number of FOI Requests	No Answer	Access to Information
 Ministry of Justice of Georgia	26	25	3.85%
 Training Center of Justice of Georgia	47	47	0%
 National Archives of Georgia	29	29	0%
 National Agency of Public Registry	27	27	0%
 Center for Crime Prevention	26	26	0%
 Notary Chamber of Georgia	26	26	0%
 Legislative Herald of Georgia	26	26	0%
 Public Service Hall	26	26	0%
 Public Service Development Agency	28	27	1.75%
 Data Exchange Agency	30	29	3.3%
 National Bureau of Enforcement	28	26	7.14%
 Smartlogic	26	2	48.3%

AVERAGE ACCESS TO PUBLIC INFORMATION IN THE MINISTRY OF JUSTICE AND ITS 11 LEPLS



In addition to the Ministry of Justice and its sub-entities, 8 more institutions completely ignored IDFI's freedom of information requests in 2018. Among them are two agencies under the Ministry of Finance - Service Agency and the State Treasury.

The following public institutions ignored all of IDFI's freedom of information requests:

Public Institution	Number of FOI Requests	No Answer/Refusal	Result
Service Agency of the Ministry of Finance	26	26	0%
State Treasury of the Ministry of Finance	26	26	0%
State Agency of Oil and Gas	26	26	0%
Tsalenjikha Municipal Administration	23	23	0%
Mestia Municipal Administration	23	23	0%
Racha-Lechkhumi and Kvemo-Svaneti Governor's Administration	20	20	0%
Kaspi Municipal Council	17	17	0%
Vani Municipal Council	17	17	0%

Central Public Institutions

The highest level of access to public information among central public institutions in 2018 was demonstrated by the Ministry of Ministry of Environment – 99.8%, which responded to all requests sent during the year, in most cases within the 10-day period.

The worst performing entities among central public institutions were the Ministry of Justice (3.85%) and the Ministry of Finance (28%).

RATING OF ACCESS TO PUBLIC INFORMATION OF CENTRAL PUBLIC INSTITUTIONS

Public Institution		Number of FOI Requests	Complete	Incomplete	Refusal	No Answer	10-Day Timeframe Compliance	Access to Information
1	Ministry of Environment Protection and Agriculture of Georgia	39	39	0	0	0	33	99.8%
2	Ministry of Foreign Affairs	30	29	1	0	0	3	97.43%
3	State Ministry for Reconciliation and Civil Equality	17	16	1	0	0	17	97.06%
4	Ministry of Regional Development and Infrastructure	27	24	2	1	0	27	92.59%
5	Ministry of Internally Displaced Persons from the Occupies Territories, Labour, Health and Social Affairs of Georgia	33	28	3	1	1	31	89.37%
6	Ministry of Education, Science, Culture and Sports of Georgia	22	19	1	1	1	21	88.64%
7	Office of the Parliament	26	21	1	0	4	22	82.69%

8	Ministry of Internal Affairs	42	26	9	0	7	19	72.24%
9	President's Administration *	47	40	3	0	4	0	70.40%
10	Ministry of Defense	27	18	2	0	7	0	69.63%
11	Ministry of Economy and Sustainable Development *	34	26	4	0	4	3	55.24%
12	Administration of Government	29	12	6	0	11	1	51.10%
13	Ministry of Finance	39	10	2	1	26	4	28%
14	Ministry of Justice	26	1	0	0	25	0	3.85%

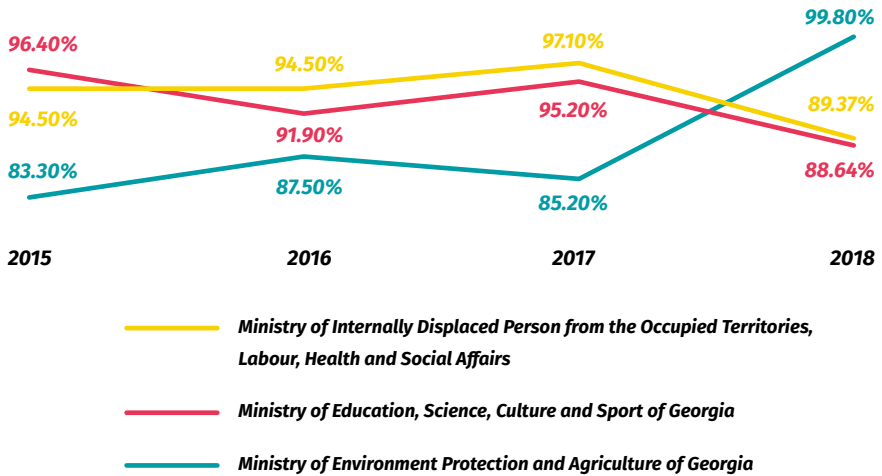
* Some information has been provided after filing of administrative complains and/or after a delay of one month.

Comparison of access to information in central public institutions was made more complicated as a result of structural changes in 2017-2018, when the number of ministries was reduced from 18 to 11. The diagram below shows the results of these consolidated ministries. The consolidation of ministries have in some cases resulted in improvement of access to public information. For example, the 2018 result of the consolidated Ministry of Environment and Agriculture is 14% higher than that of the Ministry of Agriculture in the previous year.

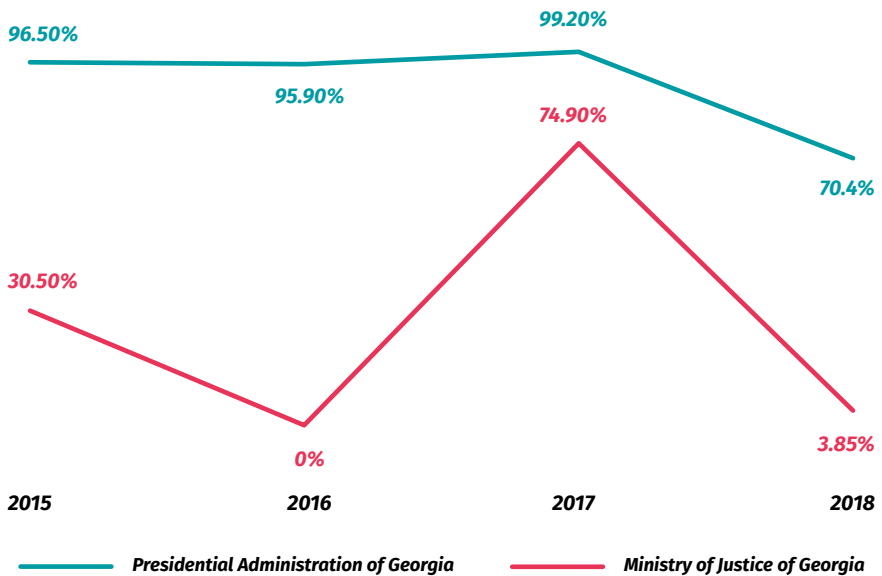
The Ministry of Justice demonstrated a dramatic deterioration of access to public information - from 71.9% in 2017 down to only 3.85% in 2018. The Administration of the President of Georgia also lowered its result by 28.8%. The President's Administration took 100 days to reply to a FOI letter sent during the transition period after the 2018 presidential elections. While the delay was most probably a result of major changes in the President's Administration following the elections (staff changes, change of presidential palace building, etc.), it nevertheless points to institutional instability of the Administration when it comes to access to public information.

In 2018, two public institutions that demonstrated the largest improvement were the Ministry of Economy and Sustainable Development (+36.44%) and the Administration of the Government (+21.9%). Despite this progress, access to information in these institutions remains low - between 50-55% in 2018.

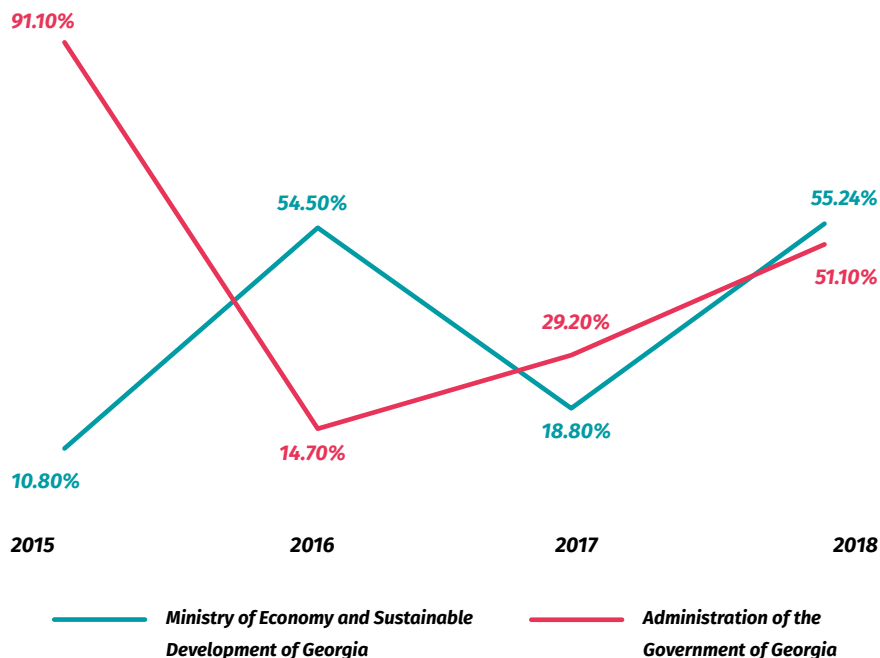
ACCESS TO INFORMATION TRENDS OF CONSOLIDATED MINISTRIES



CENTRAL PUBLIC INSTITUTIONS WITH THE LARGEST DECREASE IN ACCESS TO INFORMATION



CENTRAL PUBLIC INSTITUTIONS WITH THE LARGEST INCREASE IN ACCESS TO PUBLIC INFORMATION

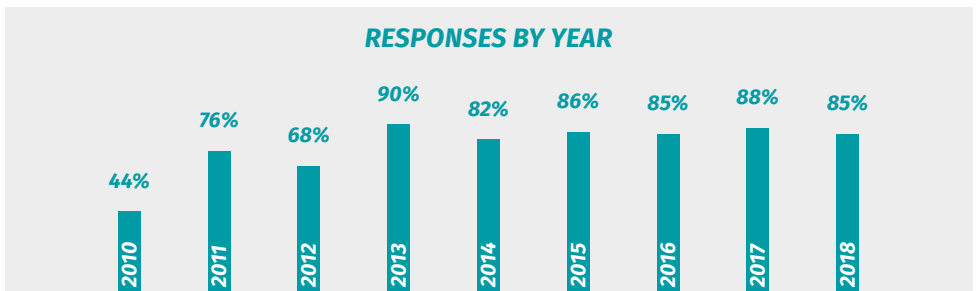
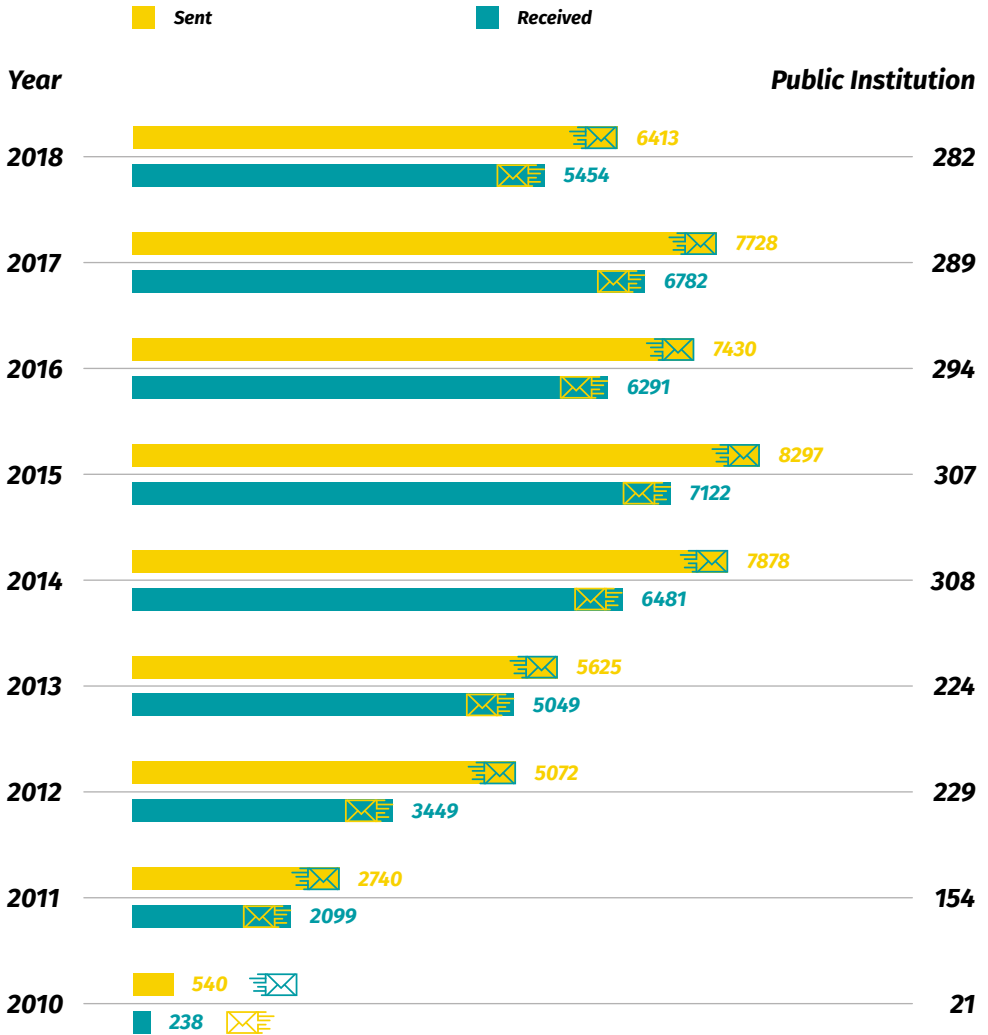


ACCESS TO PUBLIC INFORMATION IN GEORGIA: 2010-2018

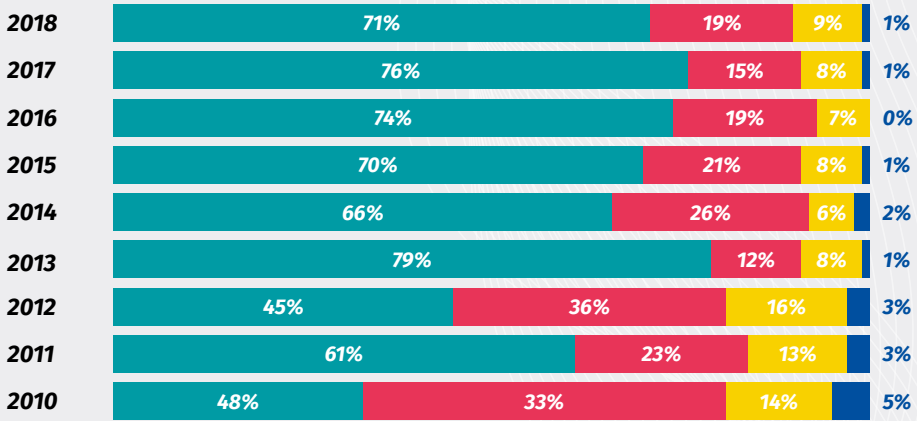
In 2010-2018, IDFI sent 51,723 freedom of information requests to public institutions and received 42,965 responses.

The response rate during this 9 year period has increased overall, with some fluctuations. In 2010, only 44% of requests were answered. This increased to 90% in 2013 (the highest number throughout the monitoring period). In 2014 - 2018, this response rate has somewhat decreased and fluctuates in the 80 to 90 percent range (85% in 2018).

RESPONSES TO PUBLIC INFORMATION REQUESTS IN 2010-2018

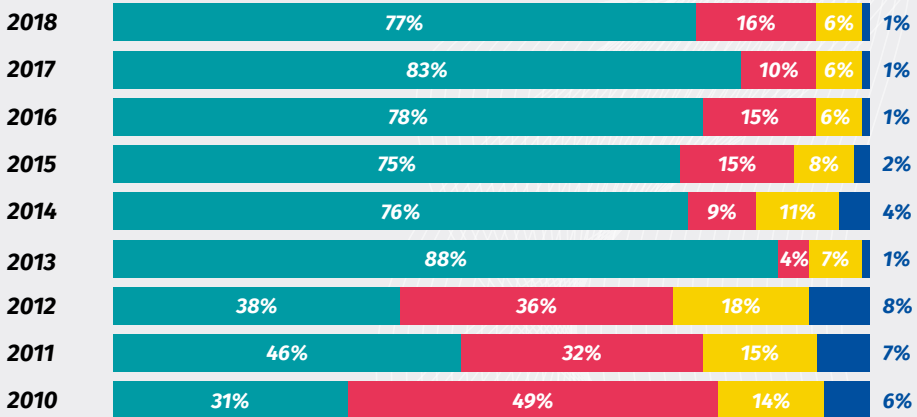


RESPONSES FROM PUBLIC INSTITUTIONS *



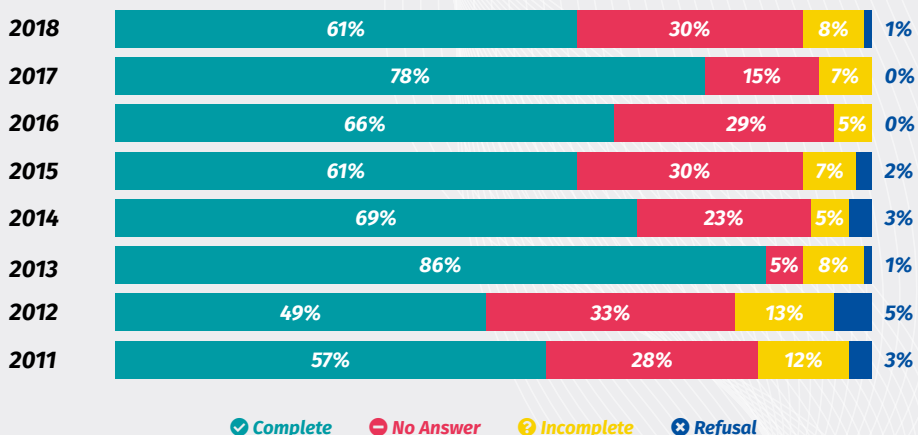
✔ Complete
⊖ No Answer
⚠ Incomplete
⊗ Refusal

RESPONSES FROM MINISTRIES (INCLUDING STATE MINISTRIES AND MINISTRIES OF THE AUTONOMOUS REPUBLIC OF ADJARA) *

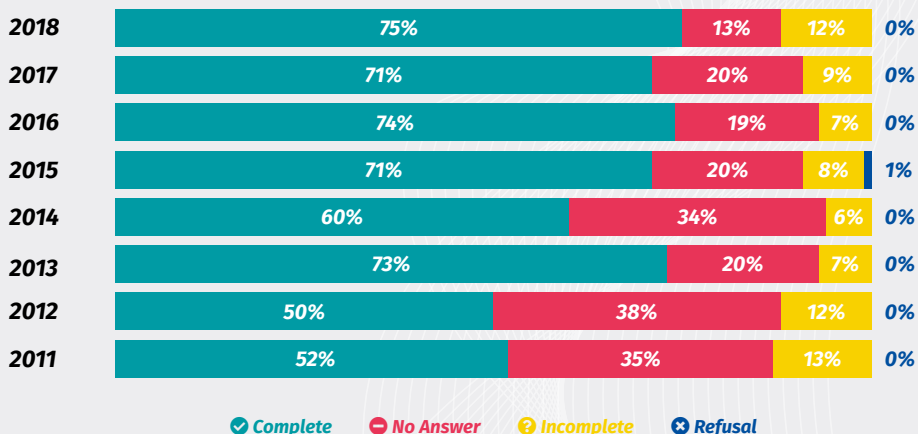


✔ Complete
⊖ No Answer
⚠ Incomplete
⊗ Refusal

RESPONSES FROM MINISTRY SUBORDINATED PUBLIC INSTITUTIONS *

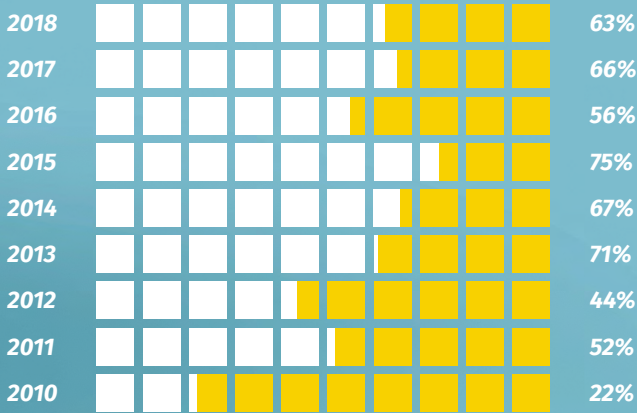


RESPONSES FROM LOCAL GOVERNMENT INSTITUTIONS *



* Data does not include responses from public institutions, which stated that they did not record requested information or that the requested actions had not taken place.

RESPONSES RECEIVED WITHIN THE 10-DAY DEADLINE



CONCLUSION

The 2018 monitoring by IDFI revealed that the quality of access to public information in Georgia has deteriorated slightly compared to the previous year. However, the 80% threshold that was established since 2014 has been maintained, largely due to the high accountability of specific public institutions, such as the Public Defender's Office, Personal Data Protection Inspector's Office and the State Audit Office, all of which have maintained the highest level of access to public information for years. The average result is brought down by public institutions, such as the Ministries of Justice and Finance (together with their subordinate entities) who have demonstrated a low level of accountability.

The 2018 monitoring also found inconsistencies in the institutional stability of internal accountability mechanisms in certain public institutions. For instance, after the change of the head of the Government Administration in 2018, the public institution disclosed public information that was kept closed under the previous leadership. The impact of personalities on the quality of access to public information points to the necessity of introducing more effective mechanisms for ensuring access to information.

Especially problematic is the finding that the Ministry of Justice (with all of its subordinate entities) and the Ministry of Finance were the least open institutions in 2018. It is regrettable that the Ministry of Justice, the primary responsibility of which is to uphold the law, is the one that shows the most disrespect towards legal requirements related to freedom of information. Likewise, the Ministry of Finance and its sub-entities, which are supposed to be the guarantors of financial transparency in the public sector, refuse to disclose information about their public spending.

