

Institute for Development of Freedom of Information



The Practice of Administrative Silence (Ministries and Their Sub-Entities)

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Introduction

In March 2015 IDFI referred to every Ministry and their Sub-entity with FOI requests. The administrative bodies were sent standard requests, on the issues such as bonuses and salary supplements of high officials received during the year of 2014, representational expenses, funds spent on business trips abroad, roaming costs, audit check reports, lists of urgent procurements, vehicle fleet, replaced vehicles and IT equipment, lists of employees (indicating number of non-staff employees and the ratio of male/female employees), number of employees dismissed and information on the work experience of high public officials (CV). In addition based on the sphere of activities of the Ministries non-standard questions were sent to the entities. E.g. statistical Information on road accidents as well as on the number of persons fined for administrative offences was requested from the Ministry of Internal Affairs. The Ministry of Defense was requested to provide us with the information on the number of Georgian soldiers being killed or injured in the course of the armed conflicts in Iraq, Afghanistan and Ukraine, as well as financial assistance provided to their families.

In total 1185 requests were sent to 19 Ministries and 49 Ministry Sub-entities. IDFI received complete responses on 51.8% of the requests; incomplete responses were received on 2.9% of the questions; in 1.6% of the cases public entities refused to disclose information, while in 20.8% administrative bodies explained that information was not kept in the institution. In addition **22.9% of the requests were ignored by the public institutions.**

The unprecedented low level of complete responses is explained by the fact that three Ministries and nine Sub-entities did not respond to any of our requests. IDFI has filed administrative appeals to all the mentioned institutions. In case if these entities refuse to provide us with the information even after filing an administrative appeal, IDFI will refer the case to the court with the aim of protecting its rights and interests. It should also be emphasized that the Ministry of Internal Affairs, the Ministry of Defense as well as Treasury Service of the Ministry of Finance and MoF Service Agency provided us with incomplete information only after administrative appeals.

Ministries Ignoring FOI Requests



Ministry of Finance



Ministry of Justice



Ministry of Economy and Sustainable Development

Ministries providing information after the submission of an administrative appeal

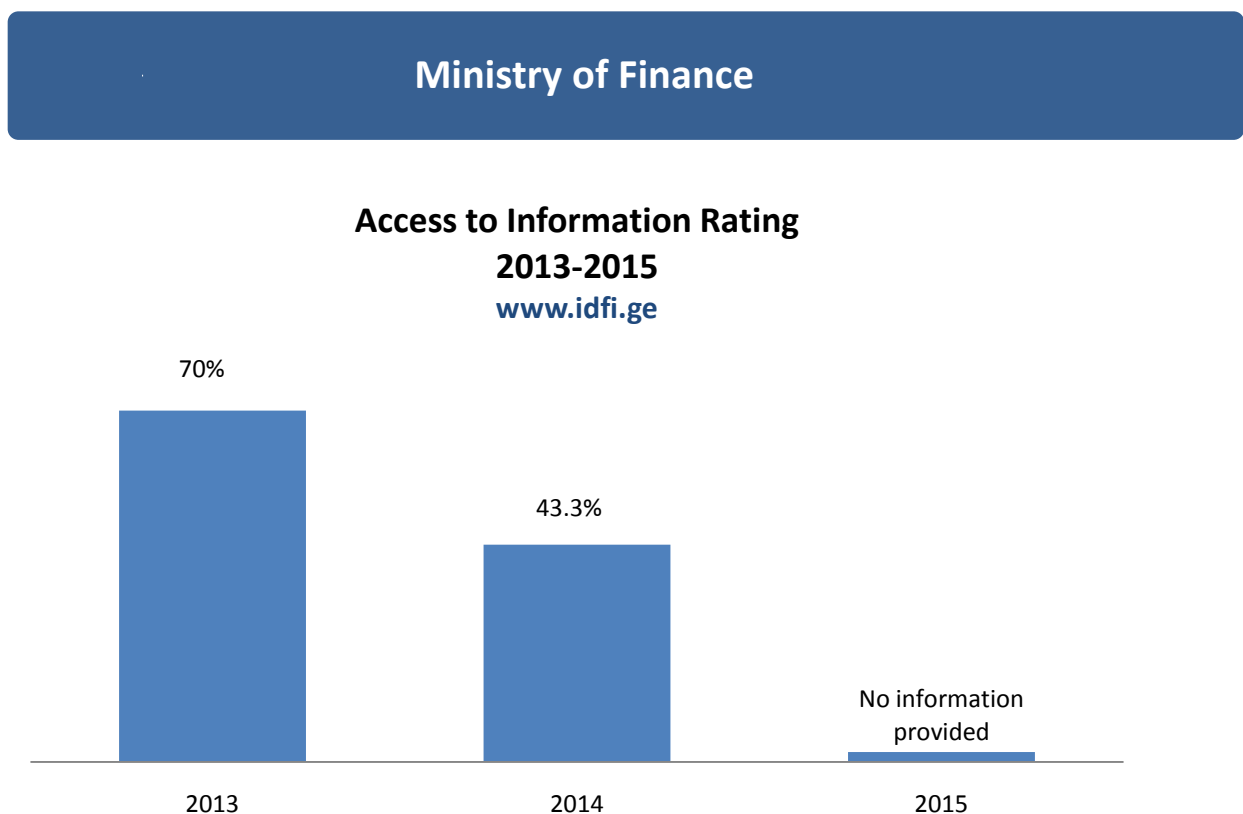


Ministry of Internal Affairs



Ministry of Defense

Ministry of Justice, Ministry of Finance, Ministry of Internal Affairs and Ministry of Economy were the entities which ignored our FOI requests (Ministry of Internal Affairs and Ministry of Defense provided us with incomplete information only after IDFI filed administrative appeals against the institutions). It should be highlighted that all these ministries distinguished themselves with high level of accountability in the period immediate to the 2012 Parliamentary Elections, when information requested concerned administrative expenses spent by the previous governing party. Nevertheless in the following years when the case concerned the issue of disclosing information on the administrative expenses of the existing government the access to information rating of the given public institutions was gradually decreasing. The trend of access to information ratings in the given public institutions following the period of October 2012 will be discussed in details below. At this stage it should be emphasized that, during the period of October 2012 September 2013 complete responses received from public institutions (all administrative bodies) equaled to 81%, while beginning from 2013 the rate of complete responses was gradually decreasing and fell to 66% by the end of December 2014.



It should be highlighted that in the period immediate to the 2012 Parliamentary Elections the Ministry of Finance distinguished itself with high access to information rating. Nevertheless, in the following years the level of transparency at the given institution decreased. **Namely, in 2013 access to**

information rating at the Ministry of Finance equaled to 70%, whereas in 2014 the figure decreased to 43.4%. As for 2015, to date the entity has not provided us the information on any of the 17 topics foreseen by our FOI letter, hence to date the access to information rating of the Ministry of Finance equals to 0%.

Decreased access to public information rating at the Ministry of Finance is well demonstrated by the fact that on December 25th, 2012 IDFI received complete information on salary supplements and bonuses, indicating names and surnames of the employees, while on March 5th, 2014 we received data on the summed amount of salary supplements and bonuses received by high public officials, without indication of their names and surnames.

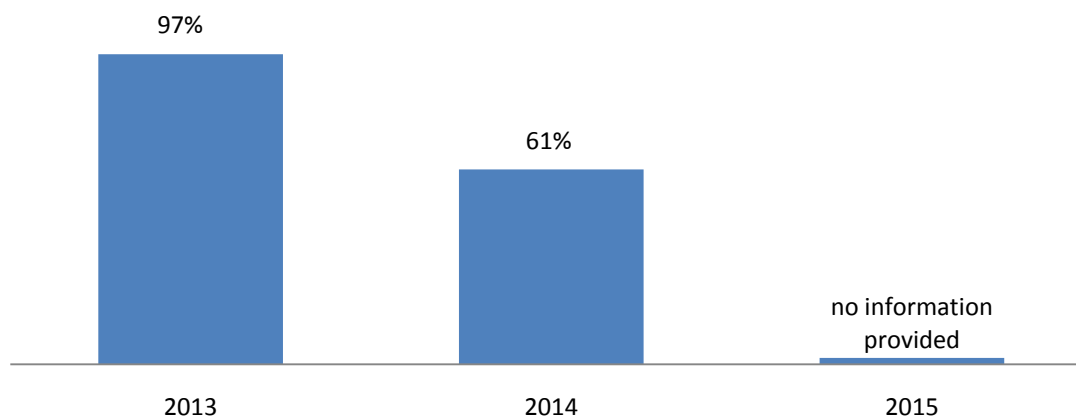
As in the case of salary supplements and bonuses in 2014 the Ministry of Finance provided us with incomplete information on the topics such as: business trip costs abroad, list of urgent procurements, list of replaced vehicles and IT equipment etc. Hence the response of the entity was appealed by IDFI at Tbilisi City Court. **The Judge granted our request and unambiguously highlighted that the Ministry of Finance had the obligation to provide us with complete, in-detailed information on the administrative expenses mentioned above, as requested by IDFI.** Nevertheless the entity still refused to disclose the information and referred the case to the Appellate Court. The position of the Ministry of Finance was not shared by the second instance court either. **To date the Ministry has still not disclosed information regarding the administrative expenses of 2013. Moreover the Ministry ignored our FOI request of 2015, where we requested information on the administrative expenses of 2014.** After filing an administrative appeal against the refusal of the Ministry to provide us with the information the entity refused to accept our appeal and directed us to refer to the court.

Ministry of Economy

Access to Information Rating

2013-2015

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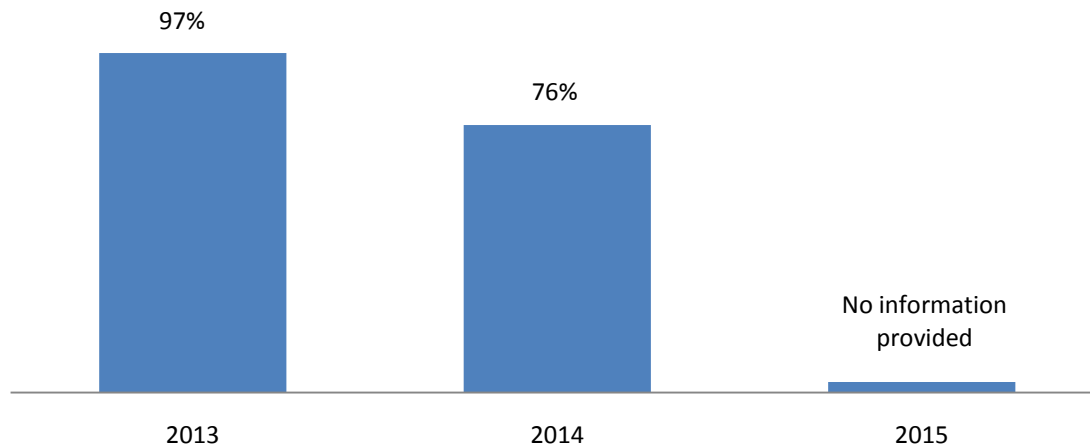


The Ministry of Economy and Sustainable Development ignored our FOI letter of March 2015, hence we were not provided with the information on any of the 17 requests included in the request. **It should be noted, that the Ministry did not disclose information in the year of 2014 either, regardless of the fact that special recommendation was issued on the case by the Ombudsman of Georgia.** Precisely, the recommendation unambiguously highlighted that the practice of ignoring our request by the Ministry constituted in itself the violation of the obligation to duly respond to the FOI letter. Moreover the recommendation made it clear that all the information requested by IDFI was open public information and the Ministry was responsible to provide us with complete data.

It should be highlighted that high level of access to information was observed at the Ministry of Economy in the period following the 2012 elections (97%). Nevertheless, unfortunately, in this case the transparency trend was also explained by the fact that information concerned activities undertaken by the former governing party. The practice of the following years clarified that the entity was highly reluctant to disclose information on the same topics in the following years.

Ministry of Justice

Access to Information Rating 2013-2015 www.idfi.ge



In 2013 the access to information rating at the Ministry of Justice equaled to 97.4%, in 2014 to – 76.4%. Unfortunately the entity ignored our FOI letter of 2015, where information on the issues such as replaced vehicle fleet and IT equipment, list of urgent procurements, representational, business trip and roaming expenses etc. (17 topics in all) was requested. With the aim of receiving the requested information IDFI filed an administrative appeal at the Ministry of Justice. As to date no response on the appeal has been received from the Ministry.

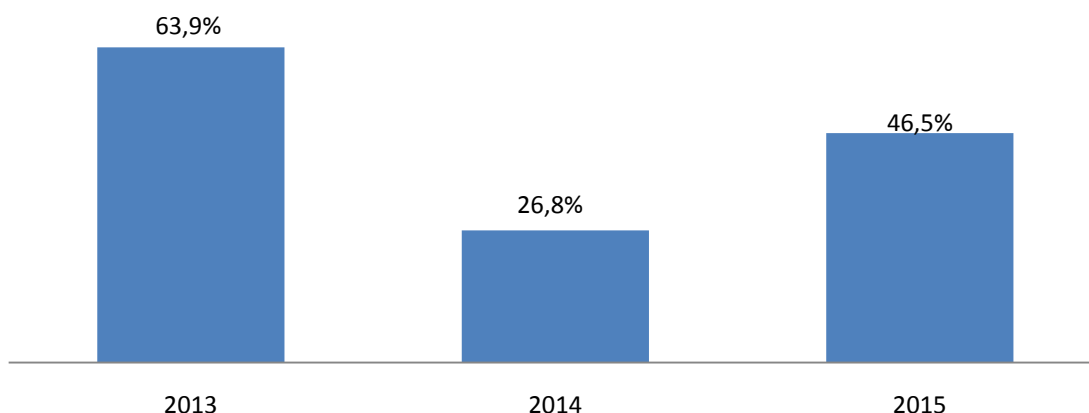
It should also be highlighted that low level of transparency was observed in the sub-entities of the Ministry of Justice. The issue will be discussed in detail below.

Ministry of Internal Affairs

Access to Information Rating

2013-2015

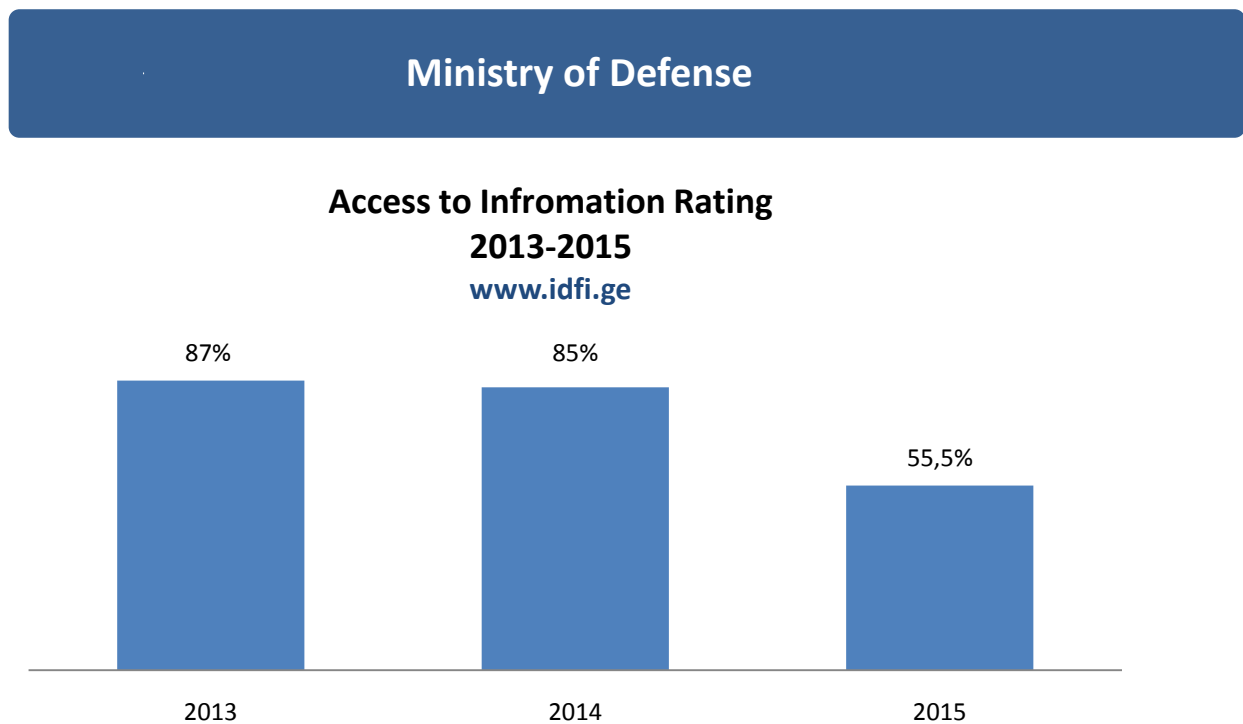
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Problems linked with the access to information is still observed at the Ministry of Internal Affairs. It should be emphasized that the Ministry, similar to many other public institutions showed high level of transparency after the parliamentary elections of 2012. This was demonstrated by the fact that in 2013 the Ministry provided us with the detailed information on salary supplements and bonuses indicating names and surnames of the employees. **Nevertheless the approach to disclosing the same category of information was reversed in the year of 2013, when the entity disclosed information on the salary supplements and bonuses received by high public officials only after the case was appealed at the court, and even in this case only the summed data was disclosed without indicating names of public officials.**

IDFI observed problems of access to information when requesting data on the administrative expenses of the Ministry for the year of 2014 as well. The Ministry violated its obligation to provide us with a response on the FOI request and ignored the letter. With the aim of protecting our interests, IDFI filed an administrative appeal at the entity, after which the Ministry provided us with incomplete information. Precisely, information on salary supplements and bonuses was provided without indicating names and surnames of the high officials. To date no data on replaced vehicles and IT equipment, list of urgent procurements etc. was disclosed by the Ministry. Regardless of the above-mentioned it should be highlighted that the Ministry of Internal Affairs provided us with complete statistical information on traffic accidents in 2015. Complete information was also disclosed by the Ministry regarding the issue of the number of persons fined for different administrative offenses. **It can be concluded that we face problems of access to information at the Ministry only in**

the cases when information requested is linked with different administrative expenses. Based on the monitoring activities of the IDFI, the access to information rating at the Ministry in 2013 was assessed to equal to 63.9%, in 2014 the figure fell to 26.8%. As for 2014, to date the rating of the Ministry has increased and equals to 46.5%.



It should be highlighted that the Ministry of Defense distinguished itself with high level of access to information during the years of 2013 (87%) and 2014 (85%). Nevertheless the Ministry ignored our FOI letter of March 2015 and provided us with the requested information only after IDFI filed an administrative appeal against the entity. In addition unfortunately the entity refused to disclose official e-mail correspondence conducted by a relevant high official on the issues of state procurement. Moreover the Ministry failed to provide us with complete information on the FOI letter with which data on the number of Georgian soldiers killed or injured in the armed conflicts of Iraq, Afghanistan and Ukraine was requested.

Sub-Entities Leaving IDFI's FOI requests Unanswered

1. Public Service Development Agency (Ministry of Justice)

2. Legislative Herald of Georgia (Ministry of Justice)

3. Public Service Hall (Ministry of Justice)

4. National Enforcement Bureau (Ministry of Justice)

5. Data Exchange Agency (Ministry of Justice)

6. Smart Logic (Ministry of Justice)

7. Revenue Agency (Ministry of Finance)

8. Financial-Analytical Service (Ministry of Finance)

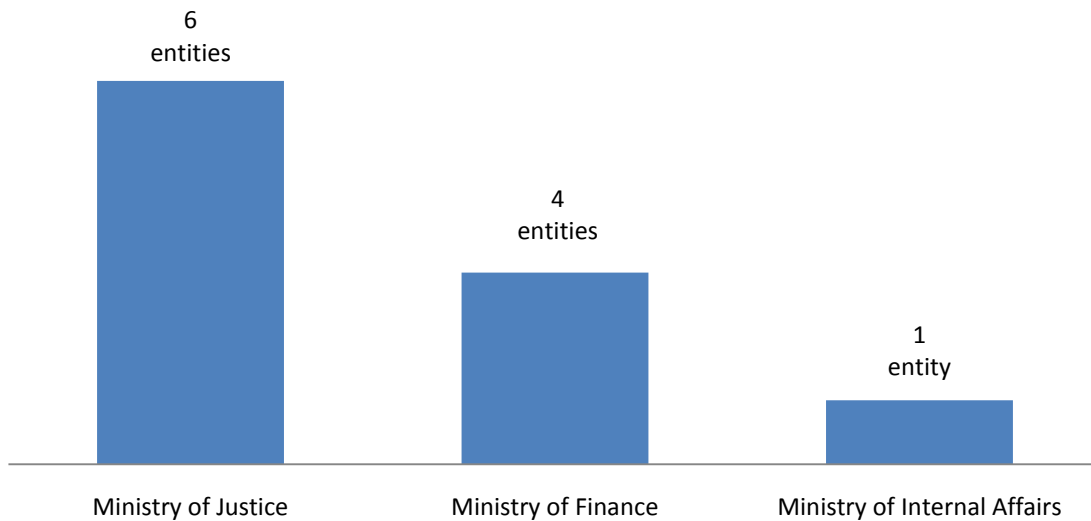
9. Border Police (Ministry of Internal Affairs)

MOF Service Agency (Ministry of Finance) (The entity provided us with incomplete information only after filing an administrative appeal)

MOF Treasury Service (Ministry of Finance) (The entity provided us with incomplete information only after filing an administrative appeal)

Sub-Entities Leaving IDFI's FOI Requests Unanswered

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Our FOI requests were ignored by 6 Sub-entities of the Ministry of Justice, four Sub-entities of the Ministry of Finance and by a single Sub-entity of the Ministry of Internal Affairs (the Treasury Service of the Ministry of Finance and MoF Service Agency provided us with incomplete information only after IDFI filed administrative appeals against the institutions).

As it has already been discussed above, the Ministry of Justice and the Ministry of Finance themselves refused to provide us with the requested public information. Precisely, they ignored our FOI requests. It is unfortunate that the sub-entities of the Ministry of Justice and the Ministry of Finance follow the practice implemented at their supervising ministries. It should also be highlighted that the Treasury Department of the Ministry of Finance and MoF Service Agency provided us with incomplete information with the delay of several months only after filing administrative appeals against the institutions.

In addition regarding the Sub-entities of the Ministry of Justice it should be noted that our FOI letters were ignored in the previous year as well and requested information was provided only after filing administrative appeals against the decisions.

As for the Analytical Department of the Ministry of Justice, the entity clarified that the period of ten days was not sufficient for providing us with the requested information. It should be highlighted that this scenario is not foreseen by the Georgian Legislation and even in case if the requested information is voluminous, needs acquisition and processing of separate documents or requires consultation with a subdivision of a public entity administrative bodies have the maximum period of ten days to disclose information.

Conclusions

Unfortunately, it should be emphasized that the above mentioned central public institutions and their sub-entities fail to duly fulfill their obligation of disclosing requesting information completely within the timeframes set by the Georgian legislation.

Sharp decrease of access to information rating is particularly problematic at the Ministry of Economy and Sustainable Development as well as at the Ministry of Finance. The Ministry of Economy still refuses to disclose information on the administrative costs of the Ministry for the years of 2013-2014. The entity fails to meet its obligations regardless of the fact that the Ombudsman of Georgia has issued a special recommendation, highlighting that the Ministry had the obligation to disclose complete information requested by IDFI.

Regarding the Ministry of Finance, it should be noted that the entity to date has not disclosed information on the amount of salary supplements and bonuses received by high public officials, as well as data on other administrative costs, regardless of the fact that Tbilisi City and Appellate Courts accepted our request and directed the Ministry to disclose information.

It is also worth highlighting that in case of the Ministry of Justice and the Ministry of Finance we face access to information problems in their sub-entities as well, which is explained by the fact that the sub-entities reflect the practice implemented at their supervising ministries.

We hope that the administrative bodies discussed above will accept our FOI requests and will avoid the practice taking place during the previous year, when more than one year later the information on the administrative costs of the public entities of 2013 is still not available. It is crucial for the entities to proactively disclose information on the administrative costs allocated during the year of 2014 without any further delay.