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FREEDOM OF INFORMATION INDEX: Measuring Transparency of Public Institutions in Moldova



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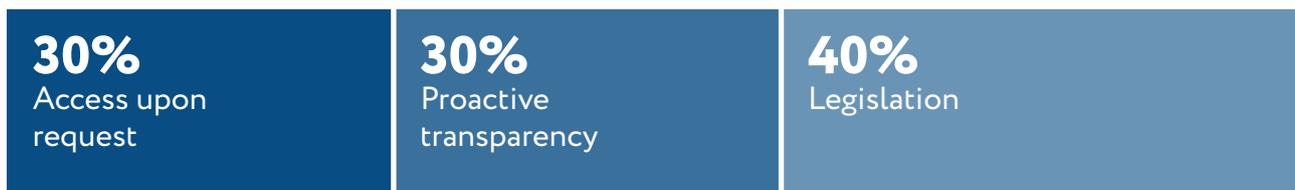
EXECUTIVE SUMMARY

This report describes the results of a comprehensive transparency review of public institutions in Moldova. Based on an original methodological approach developed for this purpose and inspired by international standards and best practices, we collected data and measured three dimensions of transparency:

- Quality of legislative framework safeguarding the constitutional right to public information;
- Performance of public institutions with regard to proactive transparency, i.e., quality and comprehensiveness of public information published on the websites of public institutions;
- Performance of public bodies in handling public information requests.

These three pillars constitute an effective transparency ecosystem. While legislation lays the foundations for open and transparent functioning of public bodies, what counts most is their performance in practice. Therefore, our final assessment of the state of play is based mainly on the review of the legislation's implementation. The major outcome of the assessment is the Freedom of Information Index – a composite indicator based on an assessment of the three above-listed pillars. The contribution of each pillar to the final score is presented in the picture below, reflecting the dominant role of practical performance.

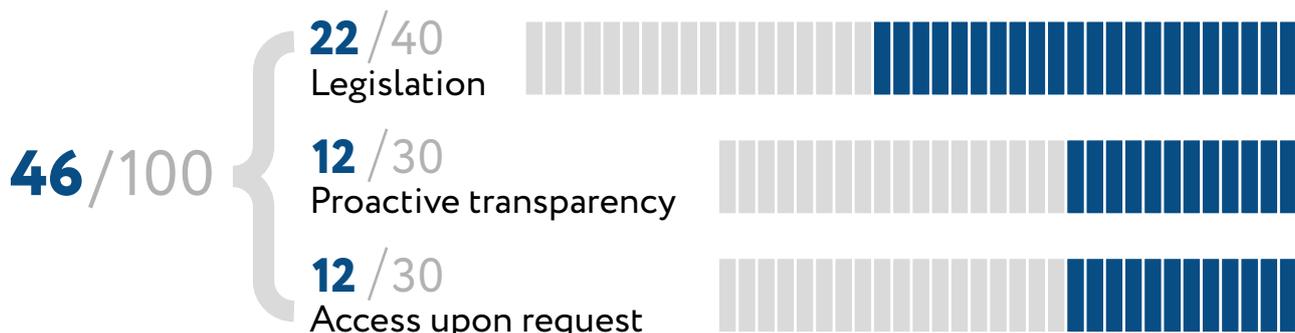
Freedom of Information Index – Composition



Relying on this approach, we conducted an assessment under each pillar. As regards legislation, we focused on the quality of the Law on Access to Information (dated May 11, 2000), referring – when necessary – also to other acts. Proactive transparency was measured through a review of the websites of 50 public institutions from different levels of state administration. The same sample was used for testing the accessibility of public information upon request. In this criterion, 15 state-owned enterprises were also included in the sample. We conducted an assessment of the accessibility of public information upon request through a distribution of standardized requests for public information to respective institutions, followed by an analysis of the quality and comprehensiveness of their replies.

The scores under each criterion served as a basis for calculating the final value of the first Freedom of Information Index for Moldova:

Freedom of Information Index 2021 – Results



This result is alarming, showing significant deficits and shortcomings across all dimensions of transparency ecosystem. It reveals a particularly poor performance of different public bodies in practice and an only slightly better quality of the legislative framework. The major problems detected in our assessment refer to the following:

- Failure in ensuring effective monitoring, supervision and enforcement of transparency standards, in particular, a lack of an institution equipped with a clear and strong mandate to enforce a higher standard of transparency among public institutions;
- Lack of extensive requirements regarding proactive transparency in the legislation, as demonstrated by the limited availability of important data on the websites of public institutions. This relates particularly to financial data such as property, salary and procurement data;
- Poor responsiveness of public authorities to public information requests and significant errors in interpreting this legislation by these authorities when reviewing public information requests. In particular, public authorities tend to ignore the requirements to comprehensively justify application of any restrictions in access to public information. It also appears that some of the authorities do not fully understand the relationship between the special procedure for accessing public information established by the Law on Access to Information and general rules of administrative procedure set by the Administrative Code.

In order to address these problems, there must be at least three types of interventions from the Government:

- Develop a new law on access to information, prioritizing proactive transparency and enhancing the effectiveness of monitoring and supervision of the implementation of the right to information by public authorities;
- Consider establishment of a specialized independent oversight institution responsible for enforcing the right to information, in particular serving as an appeal body in case of a refusal of access to information. The institution would also enjoy extensive inspection powers, including the right to impose sanctions for violations of the right to information by public authorities;
- Stimulate a culture of transparency among public institutions, especially through the creation of technical preconditions for greater availability of public information on the websites and portals of public authorities, regular monitoring of the quality and comprehensiveness of information published by public authorities, and through supporting public relations officers in administrative bodies.

INTRODUCTION

Access to information is not only a fundamental right, but also an essential element of democratic governance and rule of law. Moldova, like many other post-socialist states of Central and Eastern Europe recognized this in its Constitution and through the adoption of special legislation dedicated specifically to this issue. However, official commitment towards transparency and open government must be cemented by the continuous efforts of public authorities. There are many signals that this remains a significant challenge for Moldova. The common experiences of civil society organizations indicates a weak culture of transparency and lack of genuine commitment in this field.

In this study, we measure the quality of legislation and performance of public institutions in a systematic manner, using a set of criteria and indicators. Thanks to this approach and the extensive scope of analysis, we aim to deliver a reliable and comprehensive assessment of the situation in this sphere. The results of the analysis will be captured by the Freedom of Information Index for Moldova, which is calculated as a composite indicator consisting of three elements:

FREEDOM OF INFORMATION INDEX		
LEGISLATION	Compliance of the legislative framework with international standards	40%
PRACTICE	Level of proactive transparency	30%
	Effectiveness of access to information upon request	30%
TOTAL		100%

The Composition of the Index reflects the dominant importance of the performance of public authorities in practice. Quality of legislation is also taken into consideration, but its impact on the total score is smaller. The calculation of scores for each pillar is based on a set of criteria described in each chapter below. These criteria, drawing from international standards and best practices, constitute minimum standards of transparency. Each chapter begins with a detailed description of the assessment criteria and rules for calculating the final score, followed by a presentation of the results of the assessment and key observations. The report concludes with recommendations of a systemic nature, i.e., relating to major directions of necessary reforms. The Annex contains the detailed results of the assessment of the performance of individual institutions with regard to proactive transparency and processing public information requests.

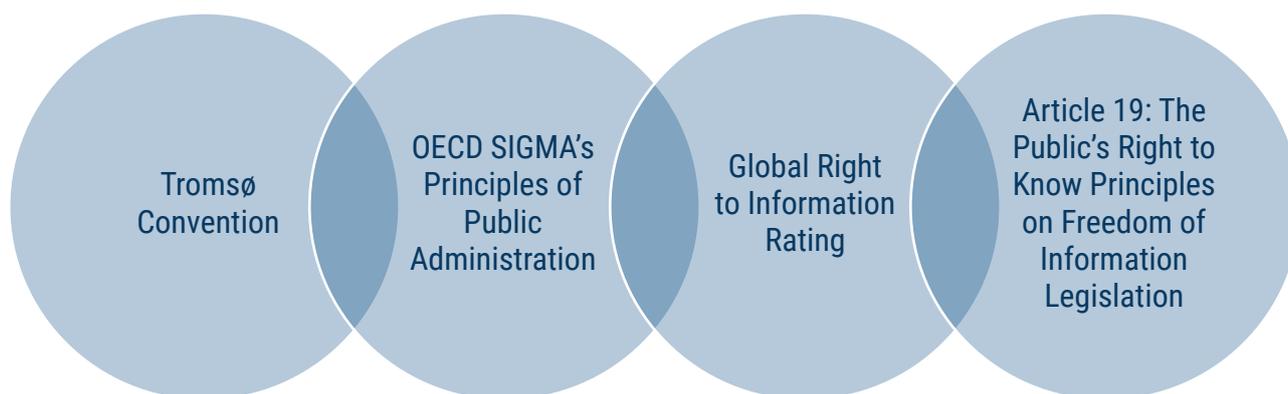
PILLAR ONE: LEGISLATION [40%]

SCORE	Total score [%]	FOI Index
	55%	22/40

METHODOLOGY

The right to information is not a sphere subject to extensive international standards. Nevertheless, some intergovernmental and nongovernmental actors have undertaken efforts to craft guidelines and recommendations for promoting the transparency of public authorities. In Europe, the year 2020 marked a breakthrough in this field, as the first international treaty dedicated specifically to this field entered into force. The Council of Europe Convention on Access to Official Documents (Tromsø Convention¹) was already adopted in 2009, but only in December 2020 was the required threshold of ratifications reached allowing it to formally enter into force. Moldova ratified the Tromsø Convention on September 2, 2016.

In addition to this act, transparency issues are subject to numerous acts of international soft law such as resolutions, guidelines or recommendations produced by various international actors.² Our survey relies also on international rankings and assessments conducted by international organizations and NGOs, including the Global Right to Information Rating, the Open Data Index, and the OECD SIGMA's assessments. It was not possible to apply all of them to develop the methodology for our survey. We selected standards that are not only most detailed and extensive, but also most suitable in the Moldovan context. Based on these criteria, the following sources served as a basis for detailed assessment criteria for the Moldovan legislation on access to public information.



1 <https://rm.coe.int/1680084826>.

2 Comprehensive review of these documents was conducted by the Right2info.org team and is available at: <https://www.right2info.org/international-standards>.

The table in the Annex presents a review of the key international standards listed above, focusing on major requirements relating to legislative frameworks regarding transparency.

Drawing from these sources, we developed an original methodological framework to assess the compliance of the Moldovan legislation with transparency standards and requirements, which contribute to the adequate implementation of citizens' right to information. This methodology covers all major aspects of the legislative framework for access to public information and is divided into four clusters:

- **General rules** – constitutional status of the right to information, scope of the transparency obligations (institutional scope), access to the right to information and legitimate restrictions on access to public information;
- **Proactive transparency** – what are the obligations of public bodies and technical standards related to the proactive disclosure of public information;
- **Access to information upon request** – what are the procedural conditions for obtaining information upon individual request;
- **Enforcement** – how and by whom the compliance of public bodies with transparency obligations is monitored, reviewed and, if necessary, sanctioned.

Under each cluster we developed a set of specific weighted criteria to reflect the degree of significance of relevant conditions. The scoring process allows for the criteria to be met partially or fully. The total score is calculated as a sum of the point totals for each individual criterion. The table below specifies all criteria and explains the rules for point allocation.

General rules [13 points]		
Status of the right to information	0	Right to information is not recognized at the constitutional level
	2	Right to information has the status of a constitutional right
Institutional scope	0	A least two of the following bodies are not subject to obligations applicable to owners of public information: <ul style="list-style-type: none"> a) private bodies performing public powers (with regard to information pertaining to performance of public functions); b) bodies of private law established or controlled by public bodies (e.g., companies, foundations); c) beneficiaries of public funding (via subsidies or contracts) with regard to information pertaining to the use of public funds
	1	One of the following bodies is not subject to obligations applicable to public information holders: <ul style="list-style-type: none"> a) private bodies performing public powers (with regard to information pertaining to performance of public functions); b) private law bodies established or controlled by public bodies (e.g., companies, foundations); c) beneficiaries of public funding (via subsidies, contracts), with regard to information pertaining to use of public funds

PILLAR ONE: LEGISLATION [40%]

	3	All bodies executing public powers, established, or controlled by public bodies, using public funds or property, or receiving subsidies are considered as public information holders required to share all information recorded in any form (drawn up or received and held by them)
Access to right to information	0	Only citizens of the country have access to the right to information
	1	There are some restrictions on the access to information based on nationality or background (legal person, naturalized person) of the applicant
	3	Right to information is accessible to every naturalized or legal person regardless of nationality
Legitimate restrictions	0	Catalogue of legitimate restrictions is more extensive than the Tromsø Convention envisages, and harm and public interest tests are not mandatory when deciding on applying the restrictions
	2	Catalogue of legitimate restrictions is compatible with the Tromsø Convention, but there is no requirement for harm and public interests test when deciding on applying the restrictions
	5	Catalogue of legitimate restrictions is compatible with the Tromsø Convention, and harm and public interest tests are mandatory when deciding on applying the restrictions
Proactive transparency [7 points]		
Scope	0	Legislation does not contain a catalogue of information to be disclosed proactively on the websites of public bodies
	3	Catalogue of information to be disclosed proactively, which is established in the legislation, contains only basic organizational, function-related, and financial data
	5	Catalogue of information to be disclosed proactively, which is established in the legislation, is extensive and includes most categories of public information
Technical standards	0	There is no regulation in the legislation regarding the timing and technical standards for publication of data
	1	Basic standards are established in the legislation with regard to the timing and technical standards for publication of data
	2	Standards established in the legislation provide for swift publication and updating of relevant data in a format open to the public
Access to information upon request [10 points]		
Submitting request	0	Applicant has to provide a justification for requesting specific information
	2	Applicant is not required to provide a justification while requesting information

PILLAR ONE: LEGISLATION [40%]

Format of request	0	The law does not explicitly envisage submission of requests via electronic mail or through other online channels; rather, only traditional forms of submission are accepted (submission in writing, orally, by phone, in person)
	2	Request can be submitted both through traditional channels and via electronic mail or through other online channels
Form of access	0	Applicant has no right to determine the form of access to information – information holders independently decide how the information will be provided, or the law specifies the only available form of providing information
	2	Applicant is free to decide on the form of accessing information, e.g., by on-site inspection of documents, by post, or by electronic mail
Deadlines	0	There is no deadline for processing request, or statutory deadline is longer than 30 days (or one month)/could be extended to more than 60 days (two months)
	1	Statutory deadline is not longer than 30 days (or one month) and could be extended under clearly defined conditions to up to 60 days (two months)
	2	Total deadline (including any legitimate extensions) is not longer than 30 days
Fees	0	Access to information is not free of charge (fees apply in every or vast majority of cases)
	1	In principle, access to information is free of charge, but a public body may autonomously impose and determine the fees applicable in cases specified in the legislation
	2	In principle, access to information is free of charge, but fees could be imposed only according to centrally-established and publicly available tariffs, i.e. only if the processing request involves a considerable financial/material burden on public body
Enforcement [10 points]		
Data collection	0	Statistical data on public information requests received and processed by public bodies is not aggregated at the level of the central government
	1	Statistical data on public information requests received and processed by public bodies is aggregated and published by a relevant central body
Promotion of the right to information	0	There is no institution(s) that has a considerable record of activities aimed at promoting the right to information
	1	There is at least one institution that has a considerable record of activities aimed at promoting the right to information, including the publication of guidelines for applicants and information holders, issuing recommendations on applying the right to information, organizing trainings, and cooperating with civil society organizations

PILLAR ONE: LEGISLATION [40%]

<p>Inspection/auditing</p>	<p>0 1 2</p>	<p>There is no institution(s) responsible for monitoring and inspecting the compliance of information holders with obligations set forth in the legislation on access to public information</p> <p>There is an institution that performs extensive monitoring and inspections of information holders' compliance with obligations set forth in the legislation on access to public information, but its powers are restricted to only selected aspects of right to information and/or it has no power to impose or request the court to apply sanctions for violations of the right to information</p> <p>The institution that performs extensive monitoring and inspection of information holders' compliance with obligations set forth in the legislation on access to public information has broad mandate and power to impose or request the court to apply sanctions for violations of the right to information</p>
<p>Appeal procedure – scope</p>	<p>0 1 3</p>	<p>There is no remedy available against violations of the right to information</p> <p>Right to appeal is restricted to specific violations of the right to information</p> <p>All types of violations of the right to information could be subject to appeal, including a) refusing an access to information request; b) sharing incomplete or inadequate information; c) imposing an excessive fee for access to information; d) failing to respond to the request within the deadline prescribed by law</p>
<p>Appeal procedure – appeal body</p>	<p>0 1 3</p>	<p>There is no independent review of alleged violations of the right to information</p> <p>Appeals are considered by the higher instance administrative body and subsequently by the court</p> <p>Appeals are considered by an independent body (information commissioner) and subsequently by the court</p>

ASSESSMENT

Following this methodology, we conducted analysis of Moldovan legislation, primarily the May 2000 Law on Access to Information (LAI). However, in order to paint a more comprehensive picture (of the “law in action”), we have also reviewed the case-law of Moldovan courts, which provides useful insights on interpretation of the legislation. The following section presents the results of the analysis for each criterion and cluster, accompanied with major comments and observations.

General rules

Scoring	Criterion
2/2	Status of the right to information
0/3	Institutional scope
1/3	Access to right to information
5/5	Legitimate restrictions
8/13	TOTAL

According to Article 34.1 of the Constitution of the Republic of Moldova, the right of a person to have access to any kind of information of public interest shall not be curtailed. This provision anchors the right to information firmly in the state’s constitutional order. Additionally, public authorities are required to “ensure that citizens are correctly informed both on public affairs and issues of personal interest” (Article 34.2). Constitutional regulation also leaves room for restrictions on access to information based on the need for protection of citizens or national security (Article 34.3).

While the constitutional arrangement is favorable, some other general aspects are not regulated fully in line with international standards. This relates particularly to the definition of bodies subject to transparency obligations. According to the LAI, the following actors are considered as information holders:

- central and local public authorities – state administration authorities, provided in Constitution of the Republic of Moldova; namely, the Parliament, the President of the Republic of Moldova, the government, public administrations, and judicial authorities;
- central and local public institutions – organizations founded by the state and represented by the public authorities that are financed from the state budget, which aim to perform the administrative, socio-cultural and other non-commercial duties;
- natural and legal persons, who, based on the law or a contract with the public authority or public institution, are empowered to provide some public services and collect, select, own, or keep official information.

At first glance, this catalogue appears to be extensive. However, upon closer inspection, there appear some gaps and grey areas. For example, it appears to omit companies that were not established by the state (but the state controls them) or that do not receive any funds from the state budget. Finally, the beneficiaries of public funding through subsidies or contracts (with regard to information pertaining to use of public funds) are not included.

In addition to gaps in terms of the institutional scope, the LAI fails to provide access to information to “everyone”, as required by international standards and the Constitution of Moldova). Firstly, legal persons are not included among beneficiaries of the right to information. Moreover, foreigners and stateless persons may request access to information only if they are residents of Moldova. While these restrictions are not of major relevance in practice, they create unnecessary burdens on access to information.

On the other hand, the LAI can be praised for a largely correct formulation of the legitimate restrictions on access to public information. Both the grounds for limiting access to information and procedural requirements for applying them (mandatory public interest/harm test) are formulated in line with basic international standards. The jurisprudence of the Supreme Court of Justice further contributes to clarifying the rules regarding legitimate application of limitations to the right to information.

Legitimate restrictions on access to information – review of the judicial practice

Whenever processing public information requests, public authorities should not only analyze potential grounds for restricting the right to information, but also consider all issues of public interest that support greater transparency (public interest test). This aspect of the procedure was subject of the Supreme Court of Justice’s ruling of October 2, 2019 ([file no. 3ra-755/19](#)). The Court underlined that the application of any restrictions on access to information should be subject to the “triple test,” which means that the limitation must be provided by law, must protect a legal interest, and must be necessary in a democratic society. Following this “triple test” approach, in a ruling from March 24, 2021 ([file no. 3ra-354/21](#)), the Court held that the information on the beneficiaries-farmers who received subsidies from the state and who did not use the money for its intended purpose is of public interest. Similarly, information on the activity of and disciplinary sanctions applied to civil servants cannot be attributed to personal data, because in these legal employment relationships, civil servants act not as private persons, but as public persons with civil servant status ([file no. 3ra-6/21](#)).

According to one of the most recent judgments on June 2, 2021 ([file no. 3ra-375/21](#)), the Supreme Court of Justice indicated that public authorities cannot refuse access to documents they categorize as documents for “internal use.” The mention of “internal use” does not exclude the official character of the information.

Source: Review prepared by Stela Pavlov

Proactive transparency

Scoring	Criterion
3/5	Scope
0/2	Technical standards
3/7	TOTAL

The scope of information to be disclosed proactively, according to the LAI, is rather basic. Information holders are required only to proactively publish the following information:³

- a) a description of the structure of the institution and its address;
- b) a description of the functions, directives, and forms of activity of the institution;
- c) a description of the institution’s subdivisions with their competencies and work schedule, indicating the days and hours of the hearing of the officials responsible for providing the information/official documents;
- d) the final decisions on the main issues examined.

This catalogue does not include financial data on budgets, expenditures, contracts, salaries, and property, procurement data, or information and documents relating to recruitment and employment. Further, technical standards of proactive transparency are missing. It is not regulated where, when, how and by whom relevant information should be published and updated.

These shortcomings have been already partially addressed by the [2012 Government decision on the official webpages of public administration authorities](#). While this document contains a much more extensive catalogue of information to be disclosed proactively (including technical standards), it applies only to bodies subordinated to the Government. Autonomous central institutions, local governments and private bodies are not bound by standards established in this document. Moreover, there is no mechanism established for the monitoring of compliance with these standards. The State Chancellery is generally assigned with the responsibility to supervise the execution of this decision, but no regular monitoring procedure was envisaged. It should be also noted that State Chancellery, as a body tasked with numerous other responsibilities relating to the governance of public administration, does not have sufficient capacities to perform this task.

³ Point 15 of the Regulation on the official webpages of public administration authorities in the Internet network, approved by Government Decision no. 188/2012 (Official Gazette 2012, no. 70-71, art.227)

Access to information upon request

Scoring	Criterion
2/2	Submitting request
0/2	Format of request
2/2	Form of access
2/2	Deadlines
1/2	Fees
7/10	TOTAL

Minimum procedural standards relating to processing public information requests are guaranteed in the LAI. Nevertheless, the right to submit requests online is not explicitly recognized by law. This may hamper communication with some institutions in practice. Official deadlines for responding to a request are relatively short (maximum of 20 working days), though in some European countries they are significantly shorter, e.g., 5 days in Estonia (with possibility for extension to 15 days in total) or 10 days in Spain. On the other hand, ignoring deadlines in most of the cases does not result in any specific sanctions (see below); hence, there are no mechanisms ensuring the timely processing of requests.

Another problematic issue involves fees that could be imposed to cover the costs incurred during the search for and processing of the information. These fees may cover copying the information, sending it to the applicant and/or translating it from the state language. Although the LAI clarifies that any fees should not exceed justified costs, there is no standard central “pricelist” that would mitigate the risk of abusing the right to impose fees by information holders.

ENFORCEMENT

Scoring	Criterion
0/1	Data collection
0/1	Promotion of the right to information
0/2	Inspection/auditing
3/3	Appeal procedure - scope
1/3	Appeal procedure – appeal body
4/10	TOTAL

Enforcement is an area where the absence of effective legal and institutional mechanisms for safeguarding the transparency of public bodies is particularly problematic. There is no institution that collects data about the implementation of the LAI (e.g., statistics on request received and processed by public bodies), conducts regular inspections and audits of compliance with transparency obligations, and imposes sanctions for violations of the right to information.

In this context, it should be noted that according to Article 71.1 of the Contravention Code, deliberate violation of the legal provisions regarding access to information shall be sanctioned with a fine from nine to 15 units (one unit = 50 MDL) for natural persons and from 18 to 30 units for those in charge of a legal entity. On the one hand, this provision offers very extensive opportunities to investigate and sanction various violations of the right to information. On the other hand, its rather general formulation (lack of typology of violations) may hinder its application. Further, relatively low sanctions might not be effective in ensuring compliance among public institutions and public officials. Insight into the application of this sanctioning confirms concerns about the ineffectiveness of this sanctioning mechanism. According to statistical data obtained from the Ministry of Internal Affairs for the purposes of this assessment, every year the police imposes around 100 fines. Out of this total, approximately one-fourth (25 fines) are appealed to courts, which repeal the vast majority of them. This not only results in a further decline in the effectiveness of this procedure, but also demonstrates procedural deficiencies.

As regards the appeal procedure, the LAI enables applicants to challenge all possible types of irregularities in processing public information requests. According to the LAI, they may choose between going directly to the court and launching an internal administrative appeal first (to the top management of the information holder/superior body). However, when the new Administrative Code entered into force in 2019, the appeal procedure in public information cases became subject to serious discrepancies in judicial practice. The major reason for this is the introduction in the Administrative Code of the principle of mandatory internal administrative appeal in a form of a “pre-judicial procedure.” This requires the applicant (intending to challenge an administrative act) to request the body that issued the relevant act to review its legality before submitting any complaint to the court. Furthermore, if the relevant public authority rejects in full or in part the pre-judicial request as inadmissible or unjustified, it shall send the administrative case with all the acts to the higher public authority that makes the final decision. Procedures established in the Administrative Code – contrary to what is stipulated in the LAI – do not enable the applicant to go directly to the court. Thus, the question emerged as to which act applies to the procedure in public information matters. Unfortunately, this became subject to conflicting Supreme Court of Justice rulings (see box below), demonstrating the need for legislative intervention.

Jurisprudence on appeal procedure in public information matters after the adoption of the Administrative Code

According to the ruling of the Supreme Court of Justice on June 17, 2020 ([file no. 3ra-554/20](#)), LAI provisions regulating the appeal procedure became inapplicable with the entry into force of the Administrative Code in April 2019. The Court argued that after the entry into force of the Code, the conditions of admissibility of the dispute in administrative litigation are provided for by the Administrative Code, not by the LAI. Although the provisions of the LAI were not repealed, they are no longer applicable.

In a judgment issued a few months later on October 28, 2020 ([file no. 3ra-910/20](#)), the Supreme Court of Justice adopted a completely different interpretation. The Court pointed out that the procedure outlined in the LAI continues to apply as *lex specialis* to the general rules of administrative appeal established in the Administrative Code. The Court underlined that, with the adoption of the Administrative Code, the LAI was not changed or repealed, thereby indicating the clear intention of lawmakers to ensure its continuous application.

Source: Review prepared by Stela Pavlov

SUMMARY

Scoring	Cluster
8/13	General rules
3/7	Proactive transparency
7/10	Access to information upon request
4/10	Enforcement
22/40	TOTAL

Although creating a favorable legislative framework is much easier than ensuring transparency of public institutions in practice, in the case of Moldova, even this element (legislative framework) is not ensured at a satisfactory level. Enforcement clearly remains the weakest part of the legal and institutional framework. The lack of a supervisory body that would oversee the implementation of transparency obligations and remedy violations of the right to information appears to be the major weakness. The legislation also requires improvements in terms of promoting proactive transparency, extending the catalogue of institutions bound by transparency obligations, and explicitly enabling online submission of public information requests. It also appears necessary to eventually resolve the issue of the relationship between the LAI and the newly adopted Administrative Code, as this issue provoked some discrepancies in practice. All in all, the adoption of a new law on access to public information combined with the establishment of an institutional framework for supervising the observance of the right to information is recommended as a major direction of reforms in this area.

Discussion on the new legislative framework should draw not only from the diagnosis presented above, but also from the results of previous studies, e.g., the report on ex post assessment of the LAI conducted by the Parliament with input from civil society organizations. This analysis concluded with recommendations for the considerable revision of the legislative framework and identified the following major shortcomings of the current LAI and its application in practice:

- ambiguous and incomplete provisions, leading to major discrepancies in their application by the public authorities;
- cumbersome and lengthy procedure for access to information upon request;
- lack of effective remedies against unjustified refusals of access to information;
- lack of monitoring of implementation of the law;
- discrepancies in judicial practice.⁴

⁴ Parliament of the Republic of Moldova, Report on ex-post impact assessment of the Law no. 982/2000 on access to information, July 2020, available at: <https://www.parlament.md/LinkClick.aspx?fileticket=bTk8rg8l2jl%3d&tabid=104&language=ro-RO>

PILLAR TWO: PROACTIVE TRANSPARENCY [30%]

SCORE	Total score [%]	FOI Index
	41%	12/30

METHODOLOGY

The issue of proactive transparency is at the heart of the effective implementation of the right to information. While legislation should contain an extensive catalogue of information to be disclosed proactively, a lack of such a catalogue or an insufficient scope of information should not discourage public institutions from voluntarily sharing as much information as possible voluntarily. Our assessment of practice in this matter relied on review of the websites of public bodies in terms of the availability of basic information about their organizational, legal and financial framework, as well as information describing their activities and initiatives. There is no internationally established universal catalogue of information to be disclosed proactively. However, while developing criteria for the review of websites, we analyzed both international standards (such as the OECD SIGMA Principles of Public Administration) and legislative requirements set forth in the respective laws on access to information of Estonia, Poland, Hungary, Spain, and Romania. The box below presents the proactive transparency standards established by OECD SIGMA and the World Bank for the websites of public institutions.

International standards of proactive transparency: minimum content of websites of public institutions	
OECD SIGMA Principles for Public Administration	World Bank
<p>“Organizational structure (organigram) of the institution;</p> <p>Names and contact details of heads of organizational units;</p> <p>Contact details with postal address and e-mail;</p> <p>Tasks and competencies of the institution;</p> <p>Annual budget for the current calendar year;</p> <p>Annual work plan of the institution for the current calendar year;</p> <p>Annual report for the latest full calendar year, or the year prior to this.”</p> <p>Source: <i>OECD SIGMA, Methodological Framework for the Principles of Public Administration, Paris 2019.</i></p>	<p>“Institutional information: Legal basis of the institution, internal regulations, functions, and powers;</p> <p>Organizational information: Organizational structure including information on personnel, and the names and contact information of public officials;</p> <p>Operational information: Strategy and plans, policies, activities, procedures, reports, and evaluations—including the facts and other documents and data used as a basis for formulating them;</p> <p>Decisions and acts: Decisions and formal acts, particularly those that directly affect the public—including the data and documents used as the basis for these decisions and acts;</p> <p>Public services information: Descriptions of services offered to the public, guidance, booklets and leaflets, copies of forms, information on fees and deadlines;</p>

OECD SIGMA Principles for Public Administration	World Bank
	<p>Budget information: Projected budget, actual income and expenditures (including salary information) and other financial information and audit reports;</p> <p>Open meetings information: Information on meetings, including on open meetings and how to attend these meetings;</p> <p>Decision-making & public participation: Information on decision-making procedures, including mechanisms for consultations and public participation in decision-making;</p> <p>Subsidies information: Information on the beneficiaries of subsidies, their objectives, amounts, and implementation;</p> <p>Public procurement information: Detailed information on public procurement processes, criteria, and outcomes of decision-making on tender applications, copies of contracts, and reports on completion of contracts;</p> <p>Lists, registers, databases: Information on the lists, registers, and databases held by the public body. Information about whether these lists, registers, and databases are available online and/or for on-site access by members of the public;</p> <p>Information about information held: An index or register of documents/information held including details of information held in the databases;</p> <p>Information on publications: Information on publications issued, including whether publications are free of charge or their price if they must be purchased;</p> <p>Information about the right to information: Information on the right of access to information and how to request information, including contact information for the responsible person in each public body.”</p> <p>Source: World Bank (2010). <i>Proactive transparency: the future of the right to information? A review of standards, challenges, and opportunities (English)</i>. Governance working paper series. Washington, DC.</p>

PILLAR TWO: PROACTIVE TRANSPARENCY [30%]

Based on these sources, the availability of the following categories of information on the websites of public institutions were checked:

- organigram/list of all organizational units;
- budget/financial plan for 2021;
- financial report for 2020;
- legal basis for operations;
- functions/services available to citizens;
- registry of property owned/managed by relevant institution;
- contact information for submitting complaints/requests/petitions;
- information on available vacancies;
- information on completed recruitment procedures (at least for 2020 and 2021);
- information on pending tenders;
- notifications of results of tenders completed in 2020 and 2021;
- information on the registers and databases managed by the public body;
- salaries of the heads/members of the managing bodies of institutions and heads of organizational units.

For the purposes of the review, we created a sample of 50 public institutions from all levels of state administration. The full list of institutions and scoring of each body is attached in the Annex. The 50 bodies consisted of the following categories of institutions: a) nine ministries; b) 12 bodies subordinated to the ministries; c) 4 bodies subordinated to the government; d) 10 autonomous authorities; e) five central bodies that are not part of the government administration; and f) ten district (rayonal) councils. Thanks to the diversity of these institutions, this review could provide insight into the level of transparency across all parts of the state administration.

The website of each institution was reviewed in July 2021. The results of this review reflect the availability of the information on the date of the check. The availability of each data point was assessed on a 0-2 point scale:

0 points	General rules
1 point	Proactive transparency
2 points	Access to information upon request

Considering the number of criteria, the maximum score per institution is 26 and the aggregated number of points available for all institutions was 1300. This total score of all institutions was used for calculating the Freedom of Information Index.

ASSESSMENT

Overall, the results of the review of the websites of the 50 public institutions at different administrative levels demonstrated a poor level of proactive transparency. They managed to score only 529 out of 1300 points (41%). The table below presents this total score broken down into the level of individual data points, illustrating which categories of information are least and most willingly shared by the public institutions.

Score (max. 100 points)	Criterion
93	Organigram/list of all organizational units;
27	Budget/financial plan for 2021;
31	Financial report for 2020;
88	Legal basis for operations;
35	Functions/services available to citizens;
2	Registry of property owned/managed by relevant institution;
60	Contact information for submitting complaints/requests/petitions;
71	Information on available vacancies;
52	Information on completed recruitment procedures (at least for 2020 and 2021);
28	Information on pending tenders;
14	Notifications of results of tenders completed in 2020 and 2021;
28	Information on the registers and databases managed by the public body;
0	Salaries of the heads/members of the managing bodies of institutions and heads of organizational units.

This detailed breakdown of the results clearly demonstrates that transparency regarding the most sensitive, financial matters poses the greatest challenge across all levels of state administration. This relates to information on public procurement, property management, and salaries. Only with respect to the main financial data (annual budget) is the situation slightly better. The most available information pertains to the least sensitive types of basic organizational data such as information on the organizational structure or legal basis for the organization's operations.

This picture is relatively similar across the whole state administration. None of the groups of institutions stands out as particularly less or more transparent. Only the following eight institutions managed to score above 50 percent of the available points:

- Ministry of Finance;
- Ministry of Justice;
- Ministry of Internal Affairs;
- Environmental Agency;

PILLAR TWO: PROACTIVE TRANSPARENCY [30%]

- Public Services Agency;
- National Agency for Energy Regulation;
- Presidency of the Republic of Moldova;
- Parliament of the Republic of Moldova;

Among them, the following bodies deserve special recognition for their transparency efforts:

- *Ministry of Justice* – which has provided on its official page all the categories of information required, except for the information on pending tenders and salaries of the heads/members of the managing bodies of institutions and heads of organizational units;
- *Ministry of Internal Affairs* and *Environmental Agency* – which have reflected on their official page all the categories of information required, except for the information on pending tenders, notifications of results of tenders completed in 2020 and 2021, and information on the registers and databases managed by the public body and salaries of the heads/members of the managing bodies of institutions and heads of organizational units.

It should be noted that among these top scorers, there is no representative of the territorial administration (district councils). This clearly shows that any efforts aimed at enhancing transparency should be concentrated not only at the level of central institutions, but also with a greater focus on problems at local level.

Among the larger group of bodies with a poor record on proactive transparency, the performance of the following bodies raises particular concerns:

- *Calarasi District Council* – whose web page only contained an organigram/list of all organizational units and information on available vacancies;
- *National Anti-Doping Agency* – whose web page only contained an organigram/list of all organizational units and information regarding the legal basis for operations;
- *Moldsilva Agency* – whose web page only contained an organigram/list of all organizational units, information regarding the legal basis for operations, and some information on functions/services available to citizens.

SUMMARY

As explained in the previous section, Moldovan legislation provides for very limited requirements related to the proactive transparency of public institutions. It establishes only very basic obligations for public authorities, in particular, with respect to the publication of organizational data. An analysis of transparency-related practices corresponds with deficits in the legislative framework. Public institutions are not willing to fill in gaps and address shortcomings of the legislation by voluntarily committing themselves to the higher standard of transparency. Most of them, though not all, meet their statutory obligations. However, these institutions do not demonstrate an eagerness to proactively share information of great public interest (such as financial data) with the public.

PILLAR THREE: ACCESS UPON REQUEST [30%]

SCORE	Total score [%]	FOI Index
	41%	12/30

METHODOLOGY

Deficits in terms of proactive transparency could be to some extent mitigated with effective and efficient access to information upon request of the interested party. The review of the legislation showed that the LAI meets minimum procedural standard in this matter, but weak enforcement mechanisms may hinder the practical application of the right to information upon request.

In order to test the responsiveness of public institutions to public information requests, we have issued standardized requests to the same sample of fifty public bodies from different administrative levels that were subject to reviews of their websites. Thanks to this process, we have painted a comprehensive picture of their approach to transparency issues. The content of these requests focuses on information that clearly falls within the scope of public information and relates to issues of the greatest public interest and importance:

Standardized public information request issued to 50 public authorities

In accordance with Art. 34 of the Constitution of the Republic of Moldova, the Law on Access to Information no. 982/2000 and the European Convention on Human Rights (art. 10), the Public Association “Lawyers for Human Rights” requests the following official / public information:

1. Complete list of the heads/members of managing bodies and a complete list of the heads of sections, directorates and general directorates indicating, per each individual – in accordance with art. 10 – 21/1 of the Law on the Unitary Salary System in the Budgetary Sector no. 270/2018 – the basic salary, the monthly supplement for their professional degree, the monthly supplement for holding academic qualifications and/or a scientific-didactic title, the monthly supplement for holding an honorary title, the merit-based increases, the compensation supplement for work performed in unfavourable conditions, supplements for overtime, night work and/or work performed on non-working holidays and/or rest days, supplement for participation in development projects financed from external sources, unique bonuses, and the annual bonuses for the years 2020 and 2021;
2. Copy of the annual public procurement plan for goods, works or services for 2020 and 2021, as well as a copy of the reports on the results of the following procurement procedures conducted in 2020 and 2021: open tender, restricted tender, competitive dialogue, negotiated procedures, request for prices, solution contest, procurement for social services and other specific services, innovation partnership, and information on the final amounts of payments for each contract concluded during this period;
3. Information on subsidies/grants/donations to legal entities in the years 2020 – 2021, including information on the beneficiary, legal basis, legal status and date of signing/granting for each subsidy/grant/donation.

However, in comparison with the review of proactive transparency, we have extended the scope of this review to test also the responsiveness of a special type of information holders – state-owned enterprises. While they are not classical public administration bodies, they should remain under public scrutiny. State-owned enterprises are under the control/dominant influence of public authorities, provide important public services, and benefit from subsidies and other forms of state aid. In particular, they should operate in a transparent manner with regard to the procurement and handling of any form of financial support from the state budget. Therefore, the following standardized request was distributed among fifteen public enterprises:

Standardized public information request issued to 15 state-owned enterprises

In accordance with Art. 34 of the Constitution of the Republic of Moldova, the Law on Access to Information no. 982/2000 and the European Convention on Human Rights (art. 10), the Public Association “Lawyers for Human Rights” requests the following official / public information:

1. Copy of the annual public procurement plan for goods, works or services for 2020 and 2021, as well as a copy of the reports on the results of the following procurement procedures conducted in 2020 and 2021: open tender, restricted tender, competitive dialogue, negotiated procedures, request for prices, solution contest, procurement for social services and other specific services, innovation partnership, and information on the final amounts of payments for each contract concluded during this period.
2. The value of budget allocations (grants, transfers) received from public authorities/ institutions in 2020 and 2021.

Requests for public information were sent to all 65 bodies on June 25, 2021. The responses received from state bodies were assessed separately for each question on a 0-2 point scale:

0 points Information not provided / lack of response

1 point Information provided partially

2 points Information provided fully

Considering the number of institutions and the number of questions, the maximum score per public authority was six points and per state-owned enterprise – four points. The aggregate number of points available for all bodies was 360. The total score of all institutions was used for calculating the Freedom of Information Index.

ASSESSMENT

The aggregated performance of all bodies with regard to handling requests for public information was the same as it was with proactive transparency – the total score was 147 points out of a possible total of 360 points, or 41 percent. Taking into account only public authorities (50 bodies), this result is slightly below the total (40 percent). For state-owned enterprises (15 bodies), this rate goes up to 45 percent. Despite these minor difference in scoring, the overall performance appears to be similar in both groups of bodies.

While the comprehensiveness and quality of responses was not impressive, one positive aspect should be acknowledged. The vast majority of the institutions responded to public information requests within the statutory deadline of 15 working days. This generally good picture of compliance has been undercut, however, by some institutions that have failed to meet their basic obligation to answer requests. Among them were five out of ten district councils. This data corresponds with the disappointing results of the review of the websites of local authorities and amplifies concerns about the transparency of territorial bodies. Nonetheless, it should also be underlined that three prominent central institutions failed to provide responses to our requests:

- Ministry of Education, Culture and Research;
- Ministry of Health, Labour and Social Protection;
- Office of the Prosecutor General.

As regards the content of the responses, it is important to consider both their comprehensiveness and the justifications offered by respective bodies for their refusal to share the requested information. In general, public authorities were most willing to share information on grants and subsidies granted to legal entities. The majority of public bodies refused to or only partially shared information regarding procurement, and particularly salary data.

The respective authorities most often justified their refusal to share procurement plans by claiming that these documents are available on their websites. However, in such cases, the authorities should still provide the requested data. Providing the applicant with the link to the specific online address (hyperlink) of the document is insufficient. Also, sending the document to the applicant would – regardless of its online availability – demonstrate a more friendly and citizen-oriented approach on the part of the authorities.

However, the more serious problem relates to salary data. Public authorities regularly refused access to this data, citing the need to protect the personal data (and confidentiality of salary data) of the respective officials. Some authorities also claimed that the justification for sharing this information was not provided and the necessity of the disclosure was not proven. Refusals based on the need to protect the personal data of public officials were not rooted in any public interest/harm test, which would be the official's interests relative to the public interest of transparency. Authorities automatically gave priority to the privacy rights of public officials, ignoring legitimate factors that could restrict this right for the sake of public interest. These authorities failed to recognize the value and significance of transparency with regard to the salaries of public officials, focusing solely on the narrowly defined rights and interests of individual public officials.

These misunderstandings about the accessibility of salary data and the relationship between personal data protection requirements and access to this data appeared in the responses of several institutions, including the Secretariat of the Parliament of the Republic of Moldova:

Excerpt from Secretariat of the Parliament of the Republic of Moldova's justification for refusing access to salary data from the institution

"In accordance with art. 3 and 25 para. (2) of the Law on Personal Data Protection no. 133/2011, the information regarding the name, the position held, and the salary payments paid to each employee represents personal information.

Access to information containing personal data must be offered only in compliance with the provisions of art. 4 and 5 of the mentioned law, which provide for the consent of the subject

whose personal data is requested or the meeting of the conditions expressly indicated in para. (5) of the same article.

In this regard, the applicant for information with limited accessibility shall indicate in his request for access to information:

- *the specific purpose for which this data must be disclosed,*
- *the regulatory framework underlying the request for access to information,*
- *the presence of the grounds provided by art. 5 para. (5) of Law 133/2011, which motivates the delivery of information with limited accessibility, in the absence of the consent of the subject of personal data. Respectively, the applicant must demonstrate his/her legitimate interest or the presence of another condition expressly indicated in art. 5 para. (5) of the Law on the Protection of Personal Data,*
- *guarantees to ensure the security and confidentiality of the requested personal data and to ensure its non-use for purposes and non-transmission to unauthorized third parties.”*

It should be noted that some authorities implicitly recognized the public character of salary data, but still refused to share them in response to our requests. They argued that the requested information is linked to the declarations of assets and personal interests – annually submitted by public officials – which can be viewed on the website of the National Integrity Authority (<https://portal-declaratii.ani.md>). However, referring the requester to this online database is not sufficient, especially because this database contains only information about the total amount received by the respective official. This excluded the detailed breakdown requested in our standardized application, which would show, for example, the amount of bonuses granted to individual officials. Furthermore, if the respective official failed to submit his/her declaration, the information is not available at all.

Another problem was illustrated by the response received from the Audiovisual Council. This body refused access to information, interpreting our request as a petition regulated by the Administrative Code. Following this interpretation, the Audiovisual Council rejected the request, claiming that it lacks reasoning required by the Article 75.1.d) of the Administrative Code. The problem of confusing public information requests with petitions for administrative proceedings has been already seen in the practice of public authorities. The response of the Audiovisual Council demonstrates that this issue persists. This misinterpretation of the content of public information requests is clearly convenient for the authorities intending not to share information, as requirements for petitioners are more strict than for those requesting access to information, according to the LAI. A petitioner is not only required to justify a petition, but the deadlines for processing petitions are also longer than the deadlines for processing public information requests.

In this context, it should be stressed that such an interpretation is completely ill-founded. Requests for public information are a special type of petition regulated comprehensively by the LAI, serving here as *lex specialis*. Public authorities have no grounds to process public information requests as standard petitions. In particular, they cannot require applicants to formulate requests in accordance with Article 75 of the Administrative Code, as the LAI already exhaustively regulates the required content of public information requests. The Administrative Code only applies only in a supplementary manner to the procedure triggered by public information requests. That is, the Administrative Code only deals with issues not regulated by the LAI.

Despite the generally poor performance of public institutions with regard to responding to public information requests, some authorities stood out and demonstrated a high level of commitment to transparency.

The responsiveness of the following bodies deserves particular recognition:

- **Agency for Intervention and Payments in Agriculture** – provided full responses to all questions. Moreover, given the large volume of the digital versions of the requested information, the Agency opted for an external file sharing service. At the same time, the Agency offered us the opportunity to visit the Agency's headquarters to be provided with information on a storage device with interface USB;
- **Court of Accounts** – provided full responses to all questions. Moreover, given the large volume of the digital version of the requested information, the representative of the Court of Accounts contacted us and proposed to provide with information on a USB storage device;
- **Ministry of Economy and Infrastructure** – provided full and very comprehensive responses to all questions (49 pages);
- **Rayonal councils of Drochia and Cantemir** – the only public authorities that provided full responses to all questions;
- **Presidency of the Republic of Moldova** – provided a full response with respect to its officials' salaries and subsidies/grants/donations. Regarding information on public procurement procedures, the President's Office provided us the Public Procurement Plans for goods, works or services for the years 2020–2021, as well as the reports on the execution of contracts. However, the Office did not provide information on the results of public procurement procedures conducted in 2020 and 2021 (related to the awarding of low value public procurement contracts);
- **National Integrity Authority** – provided a full response regarding its officials' salaries and subsidies/grants/donations. Regarding information on public procurement procedures, the NIA partially provided the requested information (the Public Procurement Plans for goods, works or services for the years 2020–2021, as well as the reports on the execution of contracts. However, the body did not provide the information on the results of public procurement procedures conducted in 2020 and 2021 (related to the awarding of low value public procurement contracts).

SUMMARY

The low level of responsiveness of public authorities to public information requests corresponds with the poor results of the proactive transparency survey. This demonstrates the systemic problem of the lack of a strong transparency culture. Even more concerning is that some institutions exhibit problems as it relates to understanding and interpreting the basic legislation regulating access to public information. They essentially refuse to recognize the existence of LAI. Also, the quality of the justifications for refusing access to information is rather low. In particular, public authorities fail to conduct mandatory public interest/harm tests when deciding whether to restrict access to information.

On a positive note, it must be noted that the vast majority of public institutions respect their obligations to provide a response to public information requests in a timely manner. Nevertheless, meeting these minimum formal standards does not itself contribute to achieving the ultimate goal of enhancing transparency. An unjustified refusal of access to information, even if it is issued according to the statutory deadline, still constitutes a violation of the right to information.

THE WAY FORWARD: RECOMMENDATIONS

Combining an analysis of the quality of the legislative framework with a review of the practices of a large sample of public institutions, this study showed clearly that the overall level of transparency of public institutions in Moldova is rather low. These alarming results should not only be widely discussed by the public, but also should inspire and accelerate efforts towards major reforms in this sector. The comprehensive diagnosis of shortcomings and deficits presented here leads us to develop the following main recommendations related to the legislative and institutional framework:

- **New law on access to public information as a point of departure.**

It is clear that the LAI does not meet the modern standards of transparency legislation. Its scope of application is too narrow, requirements on proactive transparency are very scarce, and it lacks mechanisms guaranteeing the effective monitoring of the implementation of right to information. Therefore, the Government should immediately launch a process to prepare a new legislative framework for this area. A new law on access to public information should be developed in open and close cooperation with civil society organizations. The government should allocate a leading role in this process to one of the ministries. The Ministry of Justice appears to be the best candidate for this task. The new law should prioritize the following issues:

 - a) establishing a broad catalogue of information holders;
 - b) establishing extensive requirements on proactive transparency;
 - c) narrowing down and clarifying the list of legitimate limitations of the right of access to information;
 - d) streamlining procedures for access to information upon request (e.g., shortening deadlines for processing requests and enabling applicants to specify the format of receiving the information);
 - e) improving the appeal procedure, possibly through the creation of an independent appeal body (see below); and e) strengthening the system of sanctions for violations of the right to information.
- **Introduction of effective oversight, supervision, and enforcement mechanisms.**

One of the major issues to be discussed in the course of preparing the new legislative framework is how to ensure effective supervision of the implementation of transparency requirements by public authorities. It is becoming common practice across Europe to establish two specialized, independent supervisory authorities, e.g., Public Information Commissioner or a Commission. Such institutions exist already in Estonia, Malta, France, Ireland, UK, Portugal, Spain, Croatia, Slovenia, Albania, Serbia, North Macedonia, Montenegro and Kosovo. Usually, these bodies are responsible for handling appeals against refusals of access to public information. Further, they have the mandate to conduct inspections and impose sanctions on authorities and public officials who violate citizens' right to information. These institutions also carry out "soft" measures such as conducting trainings and awareness-raising activities and producing guidelines on the application of the legislation. In some cases, their mandate in the area of free access to information is combined with the responsibility to oversee compliance with personal data protection requirements. The experience of countries where such bodies exist is promising, yet special attention is needed with regard to powers and capacities allocated to them in order to ensuring that the bodies are not "paper tigers." It is clear that the establishment of such an

institution requires a financial commitment from the state budget. However, this investment should pay for itself, as the institution will protect fundamental rights and promote the transparency of public institutions.

- **Putting proactive transparency at the heart of strategy for transparency and open government.**

There is a clear need for a more proactive approach on the part of the government to enhance proactive transparency. This could include developing open data initiatives (e.g., enhancing the Open Data portal on data.gov.md) and regularly monitoring the quality and accuracy of data published on the websites of public institutions. There is also a need to promote best practices such as the publication of full registers of contracts/register of subsidies granted by public authorities. Finally, it is essential that obligations relating to transparency are properly organized at the level of each public authority. The public relations officer appointed according to the Administrative Code should be assigned with a clear mandate to coordinate the processing of public information requests and maintain the websites of public institutions. Public relations officers should also be supported with training opportunities, guidance, and coordination from the central government, as these officers play a crucial role in encouraging a culture of transparency in the government.

ANNEX 1

EXCERPTS FROM KEY INTERNATIONAL STANDARDS ON LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR FREE ACCESS TO INFORMATION

Tromsø Convention

- An applicant for an official document shall not be obliged to give reasons for having access to the official document
- Formalities for requests shall not exceed what is essential in order to process the request
- Limitations of right of access to information shall be set down precisely in law, be necessary in a democratic society and be proportionate to the aim of protecting: a national security, defense and international relations; public safety; the prevention, investigation and prosecution of criminal activities; disciplinary investigations; inspection, control and supervision by public authorities; privacy and other legitimate private interests; commercial and other economic interests; the economic, monetary and exchange rate policies of the State; the equality of parties in court proceedings and the effective administration of justice; environment; or the deliberations within or between public authorities concerning the examination of a matter.
- Access to information contained in an official document may be refused if its disclosure would or would be likely to harm any of the interests mentioned above unless there is an overriding public interest in disclosure (public interest test)
- An applicant whose request for an official document has been denied, expressly or impliedly, whether in part or in full, shall have access to a review procedure before a court or another independent and impartial body established by law.

OECD SIGMA's Principles of Public Administration

- All public institutions and private persons who carry out public duties are considered holders of public information;
- Public information is defined broadly;
- Possible restrictions are narrow and exhaustively listed by the law on access to information;
- Everyone, including non-citizens and legal persons, has the right to access information in all the forms available;
- Information holders are required to provide information in the requested format;
- Requesters are not required to provide justification for their requests;
- There are statutory deadlines for processing requests for information;
- The right to appeal to an independent body and the court against refusal or inactivity of an administrative body is ensured;
- Information is provided free of charge, or fees for access to information are specified by the primary or secondary legislation, at a level that does not place an unreasonable burden on the requesters;

- Information to be disclosed proactively is defined;
- Statistical data on requests for access to information and decisions is aggregated and published by a relevant public body;
- Access to public information and compliance of public institutions in this matter is actively promoted by the relevant public body (or bodies);
- There is an independent supervisory body responsible for the area of access to public information;
- Inspections of compliance are conducted by the relevant supervisory body;
- Sanctions for non-compliance are imposed by the relevant supervisory body.

Global Right to Information ranking of legislation

- The legal framework creates a specific presumption in favor of access to all information held by public authorities, subject only to limited exceptions;
- The right of access applies to the executive, legislative and judicial branch, with no bodies excluded, as well as other public authorities, state-owned enterprises, private bodies performing public function and private bodies receiving significant public funding;
- There are clear and relatively simple procedures for making requests. Requests may be submitted by any means of communication, with no requirement to use official forms or to state that the information being requested under the access to information law;
- Public authorities are required to comply with requesters' preferences regarding how they access information, subject only to clear and limited overrides
- There are clear rules relating to access fees, which are set centrally, rather than being determined by individual public authorities. These include a requirement that fees be limited to the cost of reproducing and sending the information (so that inspection of documents and electronic copies are free) and a certain initial number of pages (at least 20) are provided free of charge;
- Requesters have the right to lodge an (external) appeal with an independent administrative oversight body (e.g., an information commissioner);
- Sanctions may be imposed on those who willfully act to undermine the right to information, including through the unauthorized destruction of information;
- Public authorities are required to appoint dedicated officials (information officers) or units with a responsibility for ensuring that they comply with their information disclosure obligations.

Article 19: The Public's Right to Know Principles on Freedom of Information Legislation

- Right to information legislation should be guided by the principle of maximum disclosure;
- Public bodies should be under an obligation to publish key information;
- Public bodies must actively promote open government;
- Exceptions should be clearly and narrowly drawn and subject to strict "harm" and "public interest" tests;

ANNEX 1

- Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available;
- Individuals should not be deterred from obtaining public information by costs;
- Meetings of public bodies should be open to the public;
- Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed.

Note: *This annex does not present the full content of each standard, but only selected requirements from each document.*

ANNEX 2

PROACTIVE TRANSPARENCY – REVIEW OF THE WEBSITES OF PUBLIC AUTHORITIES

No.	Type of institution	Title of institution	Website	Scoring (0–26)
1.	Ministry	Ministry of Economy and Infrastructure	mei.gov.md	13
2.	Ministry	Ministry of Finance	mf.gov.md/ro	14
3.	Ministry	Ministry of Justice	www.justice.gov.md	18
4.	Ministry	Ministry of Foreign Affairs and European Integration	mfa.gov.md/ro	13
5.	Ministry	Ministry of Internal Affairs	www.mai.gov.md/ro/main-page	16
6.	Ministry	Ministry of Defense	www.army.md	13
7.	Ministry	Ministry of Education, Culture and Research	mecc.gov.md/ro	10
8.	Ministry	Ministry of Health, Labor and Social Protection	msmps.gov.md	11
9.	Ministry	Ministry of Agriculture, Regional Development and Environment	www.madrm.gov.md	11
10.	Body subordinated to ministry	State Tax Service	sfs.md/ro	12
11.	Body subordinated to ministry	Financial Inspection	if.gov.md	10
12.	Body subordinated to ministry	Customs Service	customs.gov.md/ro	9
13.	Body subordinated to ministry	Public Procurement Agency	tender.gov.md/ro	9
14.	Body subordinated to ministry	National Probation Inspectorate	probatiune.gov.md	12
15.	Body subordinated to ministry	National Center for Judicial Expertize	cnej.gov.md	9
16.	Body subordinated to ministry	National Archives Agency	arhiva.gov.md	9

ANNEX 2

No.	Type of institution	Title of institution	Website	Scoring (0–26)
17.	Body subordinated to ministry	Directorate of Justice of the autonomous territorial unit with special status of Gagauzia (Gagauz-Yeri)	http://www.justice.gov.md/tabview.php?l=ro&idc=215	2
18.	Body subordinated to ministry	Agency for Intervention and Payments in Agriculture	aip.gov.md	13
19.	Body subordinated to ministry	Environmental Agency	www.mediu.gov.md	16
20.	Body subordinated to ministry	Inspectorate for Environmental Protection	ipm.gov.md	9
21.	Body subordinated to ministry	Moldsilva Agency	www.moldsilva.gov.md	5
22.	Body subordinated to government	E-Governance Agency	www.egov.md/ro	12
23.	Body subordinated to government	National Anti-Doping Agency	anad.gov.md/ro	4
24.	Body subordinated to government	Public Services Agency	www.asp.gov.md/ro	14
25.	Body subordinated to government	Information Technology and Cyber Security Service	stisc.gov.md/ro	11
26.	Autonomous authority	National Commission of Financial Market	www.cnpf.md	12
27.	Autonomous authority	Competition Council	www.competition.md	8
28.	Autonomous authority	Broadcasting Council	www.audiovizual.md	11
29.	Autonomous authority	Center for Prevention and Combating of Money Laundering	spsb.cna.md/ro	6
30.	Autonomous authority	National Anticorruption Center	www.cna.md	11
31.	Autonomous authority	National Integrity Authority	ani.md	8
32.	Autonomous authority	National Agency for Energy Regulation	www.anre.md	14

ANNEX 2

No.	Type of institution	Title of institution	Website	Scoring (0–26)
33.	Autonomous authority	National Regulatory Agency for Electronic Communications and Information Technology	www.anrceti.md	10
34.	Autonomous authority	National Agency for Solving Complaints	www.ansc.md	14
35.	Autonomous authority	National House of Social Insurance	cnas.md	11
36.	Other central bodies	Parliament of the Republic of Moldova	www.parlament.md	14
37.	Other central bodies	Presidency of the Republic of Moldova	www.presedinte.md/rom	14
38.	Other central bodies	Court of Accounts	www.ccrm.md	9
39.	Other central bodies	National Bank of Moldova	www.bnm.md	13
40.	Other central bodies	Office of the Prosecutor General of the RM	procuratura.md/md/newslst	7
41.	Rayonal council	Cahul	cahul.md	11
42.	Rayonal council	Calarasi	www.calarasi.md	4
43.	Rayonal council	Drochia	www.drochia.md	13
44.	Rayonal council	Edinet	www.edinet.md	10
45.	Rayonal council	Hancesti	www.hincesti.md	6
46.	Rayonal council	Ialoveni	www.il.md	9
47.	Rayonal council	Cantemir	www.cantemir.md	7
48.	Rayonal council	Orhei	www.or.md	12
49.	Rayonal council	Stefan Voda	www.stefan-voda.md	8
50.	Rayonal council	Ungheni	www.crungheni.md	12

ACCESSIBILITY OF PUBLIC INFORMATION UPON REQUEST

No.	Type of institution	Title of institution	Scoring (0–6)
1.	Ministry	Ministry of Economy and Infrastructure	6
2.	Ministry	Ministry of Finance	4
3.	Ministry	Ministry of Justice	4
4.	Ministry	Ministry of Foreign Affairs and European Integration	3
5.	Ministry	Ministry of Internal Affairs	2
6.	Ministry	Ministry of Defense	2
7.	Ministry	Ministry of Education, Culture and Research	0
8.	Ministry	Ministry of Health, Labor and Social Protection	0
9.	Ministry	Ministry of Agriculture, Regional Development and Environment	4
10.	Body subordinated to ministry	State Tax Service	1
11.	Body subordinated to ministry	Financial Inspection	2
12.	Body subordinated to ministry	Customs Service	5
13.	Body subordinated to ministry	Public Procurement Agency	2
14.	Body subordinated to ministry	National Probation Inspectorate	4
15.	Body subordinated to ministry	National Center for Judicial Expertize	2
16.	Body subordinated to ministry	National Archives Agency	2
17.	Body subordinated to ministry	Directorate of Justice of the autonomous territorial unit with special status of Gagauzia (Gagauz-Yeri)	2
18.	Body subordinated to ministry	Agency for Intervention and Payments in Agriculture	6
19.	Body subordinated to ministry	Environmental Agency	2
20.	Body subordinated to ministry	Inspectorate for Environmental Protection	3
21.	Body subordinated to ministry	Moldsilva Agency	0
22.	Body subordinated to government	E-Governance Agency	4

ANNEX 2

No.	Type of institution	Title of institution	Scoring (0–6)
23.	Body subordinated to government	National Anti-Doping Agency	2
24.	Body subordinated to government	Public Services Agency	2
25.	Body subordinated to government	Information Technology and Cyber Security Service	3
26.	Autonomous authority	National Commission of Financial Market	3
27.	Autonomous authority	Competition Council	2
28.	Autonomous authority	Audiovisual Council	0
29.	Autonomous authority	Center for Prevention and Combating of Money Laundering	5
30.	Autonomous authority	National Anticorruption Center	0
31.	Autonomous authority	National Integrity Authority	5
32.	Autonomous authority	National Agency for Energy Regulation	3
33.	Autonomous authority	National Regulatory Agency for Electronic Communications and Information Technology	3
34.	Autonomous authority	National Agency for Solving Complaints	2
35.	Autonomous authority	National House of Social Insurance	2
36.	Other central bodies	Parliament of the Republic of Moldova	3
37.	Other central bodies	Presidency of the Republic of Moldova	5
38.	Other central bodies	Court of Accounts	6
39.	Other central bodies	National Bank of Moldova	2
40.	Other central bodies	Office of the Prosecutor General of the RM	0
41.	Rayonal council	Cahul	0
42.	Rayonal council	Calarasi	0
43.	Rayonal council	Drochia	6
44.	Rayonal council	Edinet	0
45.	Rayonal council	Hancesti	0

ANNEX 2

No.	Type of institution	Title of institution	Scoring (0–6)
46.	Rayonal council	Ialoveni	0
47.	Rayonal council	Cantemir	6
48.	Rayonal council	Orhei	0
49.	Rayonal council	Stefan Voda	3
50.	Rayonal council	Ungheni	0

No.	STATE-OWNED ENTERPRISES		Scoring (0–4)
51.	State-owned enterprise	SE Chisinau International Airport	3
52.	State-owned enterprise	Moldavian Air Traffic Services Authority	1
53.	State-owned enterprise	SE “State Road Administration”	2
54.	State-owned enterprise	SE “Moldovan Railway”	4
55.	State-owned enterprise	SE “Posta Moldovei”	3
56.	State-owned enterprise	SE Quality Wines Industrial Complex “Milestii Mici”	2
57.	State-owned enterprise	SE “Directorate of Real Estate Exploitation”	2
58.	State-owned enterprise	SE “Housing Exploitation Directorate”	0
59.	State-owned enterprise	SE National Institute for Research and Design in the field of Planning, Urbanism and Architecture “Urbanproiect”	0
60.	State-owned enterprise	SE State Design Institute “Ruralproiect”	0
61.	Joint-stock company	JSC “Moldtelecom”	0
62.	Joint-stock company	JSC “Metalferos”	0
63.	Joint-stock company	JSC “Tracom”	4
64.	Joint-stock company	JSC “Termoelectrica”	2
65.	Joint-stock company	JSC “Moldova-Film”	4