

# The right to Information

Monthly newsletter on monitoring the implementation of the Law on the Right to Information

*The newsletter is a publication of the Office of the Information and Data Protection Commissioner*

## Focus of the month

### The Coordinator for the Right to Information

The figure of the Coordinator for the Right to Information is a key element in the effective implementation of the law on the right to information.

This professional figure entered into force for the first time in 2014 with the approval of Law no. 119/2014 "On the right to information". The Law defines that each head of any institution appoints one of the employees in the role of the coordinator. The latter has the duty to give every applicant the right to access public information. The coordinator for the right to information also creates, maintains, publishes and updates the register of requests and responses.

The coordinator is responsible for all elements related to requests (registration, submission, prior notification, safety of information etc.) communication with the applicant, costs calculation and publication of the Register of Requests and Responses.

The wide extent of the Coordinator's responsibility and the fact that he/she is the one who faces high administrative sanctions, while he/she does not have full control over the process, shows the difficult position in which the Coordinator is. The Commissioner's Office has addressed several times the issues of extending the responsibility of refusal to provide information, to the responsible official who becomes an obstacle to failure to provide information, extending this approach to his decision-making. In addition to these difficulties, public authorities need to be aware that strengthening the role of the coordinator helps increase institutional transparency and accountability to citizens.

## Monthly summary of decisions

**Decision no. 20 -**  
Information on urban waste is public information

**Decision no. 21 -**  
The decision-making of each public authority constitutes public information

**Decision no. 22 -**  
The service contract with third parties constitutes public information

**Decision no. 23 -**  
Procurement procedures cannot be classified as "banking secret"

**Decision no. 33 -**  
CV of those who exercise public functions constitutes public information

# Decision making of the Information and Data Protection Commissioner

**#information #transparency #decision**

The Information and Data Protection Commissioner's Office (IDP) throughout June has issued 5 decisions pursuant to law no.119/2014 "On the Right to Information" (LRI). All decisions have been decisions ordering public authorities to provide the requested information.

IDP over the review of citizen's complaints and following administrative procedures according to competencies provided by LRI and law no.9887/2008 "On personal data protection", as amended (LPDP), has noted that in certain cases public authorities use legal arguments not substantial to refuse to provide the required information. The Office of the Commissioner in its decision-making argues that LRI has clearly defined in its Article 17, all cases of restriction of public information and only cases provided for in this article may be object of restricting the required information.

Public authorities should take in consideration that the principle of general transparency expresses that any information which serves the public interests and which is available by the public authority must be public.

By decision No. 21 dated 10.07.2020 the Office of the Commissioner has accepted the complaint of the ResPublica Center, which required to the "Independent Qualification Commission" (Public Authority) to provide the Decision of Intermediate No. 33 dated 27.05.2019 to the subject of reassessment Ms. Hajrie Muçmata as well as a copy of Decision dated 29.10.2019 "On the rejection of the request of the subject for the exclusion of the trial panel".The Public Authority refused to provide the information claiming that it did not have such a decision as long as a material error was made in the request for the surname of the subject of re-evaluation from Muçmata to Muçmataj.



After the applicant corrected the material error and filed the claim for the second time, it was rejected again.

This time the request was rejected with the argument that according to law no. 84/2016 "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania" is an obligation of the members of the re-evaluation institution and their staff to treat the information on the reassessment procedure in compliance with the principle of confidentiality and protection of personal data, and with the other argument that the reasoning of the decision dated 29.10.2019, was published on the official website of the Public Authority, making public only the information found in the decision of the foundation, as its evaluation is done case by case, and its publication remains in the evaluation of the Commission.

IDP after reviewing the complaint of the ResPublica Center as well as keeping in consideration the response of the public authority, at the end of the administrative review procedure of the case, assessed that the allegations submitted by the public authority are unfounded in law and in evidence.

IDP argued that the principle of confidentiality is not intended to regulate the restriction of the publication of information, but to regulate the conduct of public administration officials who during the exercise of their function are made aware of the personal data of other entities. Moreover, from an analysis of the entire legal framework that regulates the re-evaluation process in the justice system (read decision no. 21 dated 10.07.2020) clearly reflects the predominance of the public interest in relation to the interests of the re-evaluation subjects. Furthermore, in point 7 of article no. 4 of Law 84/2016 above, explicitly provides that "The right to information (...) may be limited by respecting the principle of proportionality if the provision of information causes a clear and serious damage to the administration of the re-evaluation process.

In conclusion, IDP assessed that contrary to what the public authority claims, this disclaimer cannot be applied to the requested information, as the object of the request is related to the administrative act that coincides with the decision-making of the public authority and not the re-evaluation process itself.

For more information you can read the full the decision on the IDP website [www.idp.al](http://www.idp.al).

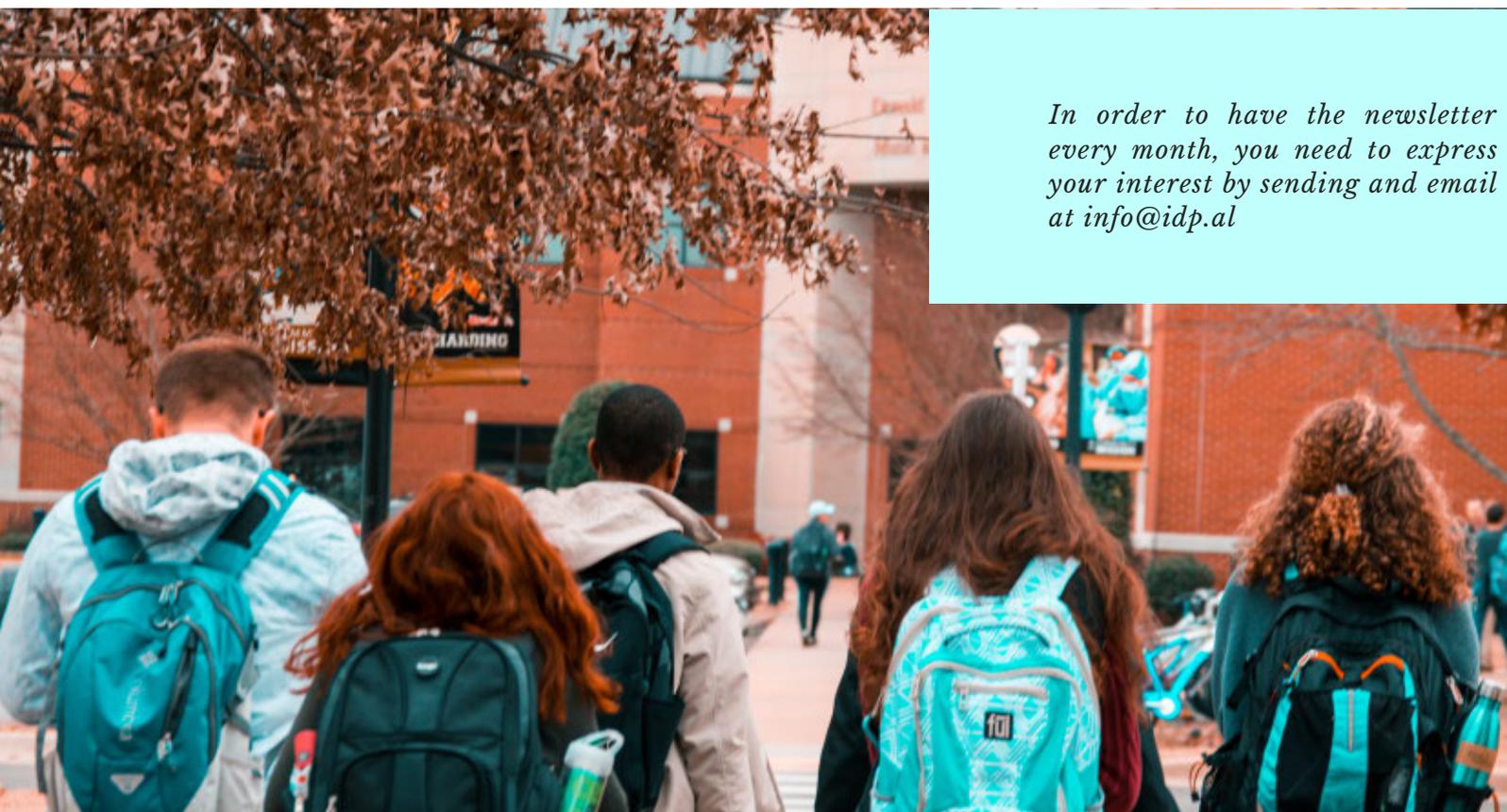
# RECOMMENDATION FOR THE STATE AGENCY OF PROTECTION CHILDREN'S RIGHTS

The Information and Data Protection Commissioner's Office maximally appreciates and supports all efforts to raise public awareness, to give their contribution to the protection of children, especially those in an emergency situation. In this context, the Office of the Commissioner, within the competencies recognized by law no. 119/2014 "On the right to information" and law no. 9887/2008 "On the protection of personal data" has initiated to identify the responsible institutions for the protection of rights in order to monitor and encourage their proactive publication of all this information.

During July, the Commissioner's Office monitored the publication of the information in the transparency program on the official website of the State Agency for the Protection of the Rights of the Child. Following the monitoring, the Office of the Commissioner approved Recommendation no. 16, dated 22.07.2020 "On the review/update of the Transparency Program of the Public Authority/State Agency for the Protection of the Rights of the Child".

The Office of the Commissioner considers that proactive and easily accessible publication of complete information regarding the policies, plans, measures, role, duties and responsibilities of responsible institutions, services around the child and family, can help prevent early identification, as well as the most effective handling of emergency situations in which they may find themselves.

For more you can read the full recommendation at this link [https://www.idp.al/wpcontent/uploads/2020/07/Rekomandim\\_nr\\_16\\_ASHMDF.pdf](https://www.idp.al/wpcontent/uploads/2020/07/Rekomandim_nr_16_ASHMDF.pdf)



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# Review of the Transparency Program

## THE NEW MODEL OF TRANSPARENCY PROGRAM

### PROGRAMI I TRANSPARENCËS

#### Hyrje

Rreth autoritetit	Kuadri ligjor rregullator	E drejta për t'u informuar dhe për t'u ankuar
Mekanizmat kontrollues, monitorues dhe raportet lidhur me veprimtarinë institucionale	Informacion mbi buxhetin dhe të dhënat financiare të autoritetit publik	Informacion për procedurat e prokurimit / procedurat konkurruese të koncesionit / partneritetit publik privat
Shërbimet që ofrohen	Vendimarrja, procedura e ankimit, procedurat / mekanizmat për të dhënë mendime lidhur me akte ligjore / nënligjore apo në lidhje me funksionet e autoritetit	Sistemi i mbajtjes së dokumentacionit, llojet dhe format e dokumenteve
Regjistri i kërkesave dhe përgjigjeve	Ndihma shoqërore / subvencioneve të dhëna nga autoriteti	Informacione / dokumente që kërkohen shpesh dhe ato që gjykohen të dobishme për publikim

The Information and Data Protection Commissioner's Office, has drafted the new model of the transparency program, which will be implemented by central public authorities, subordinate institutions and independent authorities. A specific transparency program for local government units is already in force since 01.01.2019. The new model of the transparency program specifies for each certain category of information, the concrete documentation that will be published in accordance with article 7 of law no. 119/2014. At the same time, the graphic layout has been updated to make it even easier and more proactive its use by citizens.

The draft transparency program was published on the official website of the Office of the Commissioner for the consultation and comments/suggestions and was sent electronically to civil society organizations and coordinators of information. The Office of the Commissioner has administered some comments and suggestions, which will reviewed in the coming days, in order to be reflected, if possible, in the new transparency program. The Office of the Commissioner estimated to approve the new model of the transparency program and its publication at the Official Journal in September 2020.

# Cross-cutting Strategy Action Plan Against Corruption 2020-2023

## CROSS-CUTTING STRATEGY AGAINST CORRUPTION

Decision of the Council of Ministers no. 516 dated 01.07.2020 approved the Action Plan 2020-2023 in implementation of the Cross-sectoral Anti-Corruption Strategy, 2015-2023. In this plan action, the Information and Data Protection Commissioner's Office is responsible for the realization of Objective A1: Increase transparency in state activity and improve citizens' access to information. Specifically, this objective will be achieved during the period 2020-2023 through the creation of 2 systems for measuring transparency and accountability, including the study methodology and a set of indicators of transparency in order to measure and report in periodicity order the level of transparency to public authorities and local self-government units as well as through the installation of a central register of requests and responses and the supervision of the registry update by the coordinators for the right to information.

The Office of the Commissioner finds the opportunity to invite all organizations of civil society to contribute with support to the realization of the Objective "Increasing transparency in state activity and improving citizens' access to information" part of the Cross-sectoral Anti-Corruption Strategy action plan 2020 - 2023. For more read the full D.C.M no.516 dated 01.07.2020 and the Action Plan 2020-2023 in implementation of the Strategy Cross-sectoral Anti-Corruption 2015-2023 at the link <http://www.travelia.gov.al/strategjia-ndersektoriale>

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Protection Commissioner's  
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organizations of civil society  
to contribute with support to  
the realization of the  
Objective "Increasing  
transparency in state activity  
and improving citizens'  
access to information" part of  
the Cross-sectoral Anti-  
Corruption Strategy action  
plan 2020 - 2023.*

