



Freedom of Information in Armenia

Executive Summary

The **goal** of this research is to develop the methodology and mechanisms for monitoring the freedom of information (Fol), as well as the components of the system of maintaining Fol statistics and reporting by the government agencies that are holders of information.

The following **objectives** were set for the implementation of this goal:

- assess the current state of freedom of information by checking the level of fulfillment of legally stated obligations for information holders in the field of FOI;
- carry out a study of maintaining official statistics in the field of freedom of information and develop a FOI statistics maintenance system and methodology;
- develop a unified methodology, mechanisms and evaluation criteria for monitoring freedom of information, meanwhile shaping the self-assessment and evaluation systems for the government agencies that are holders of information; and
- develop and submit recommendations and advice on comprehensive reforms in the field.

The two key subsystems for monitoring freedom of information were developed and submitted: the **subsystem for self-assessment** of ensuring freedom of information-by-information holders, as well as the **subsystem for external evaluation** (methodology, instructions, criteria and guidelines).

Through the use of these subsystems, on the one hand, information holders will be able to assess the adequacy of their freedom of information obligations and match their operation with the requirements of the legislation and the international norms (self-assessment). On the other hand, through the developed monitoring system, it will be possible to perform an external evaluation of Fol. The methodology, the agencies, the frequency and the criteria for the external evaluation of the Fol sector were presented.

When developing the monitoring system the *openness by design* approach¹ was taken into account, which aims to encourage information holders to act in accordance with the law on their own initiative.

¹See *Openness by Design, The Information Commissioner's strategic plan 2019/20 – 2021/22* at https://ico.org.uk/media/about-the-ico/documents/2615190/openness_by_-design_strategy_201906.pdf, page 4.

In view of considering the activity “Development and implementation of a system for maintenance of statistics on the right to freedom of information, monitoring and reporting” planned by the Public Administration Reform Strategy Package of the Government of the Republic of Armenia by 2030 within the scope of powers of the Personal Data Protection Authorized Body, the overall evaluation of freedom of information was reserved for the Personal Data Protection Authorized Body until the time a Fol Authorized Body is established in Armenia. After the establishment of an independent authorized Fol body, that body should be provided with the effective mechanisms and tools required for evaluating the Fol sector.

Based on the developed methodology for external evaluation, the research group also monitored the state of Fol, identifying the existing problems and outlining the possibilities for their solution.

The research group also developed the methodology for maintaining Fol statistics and the necessary samples, which would help develop the practice of forming unified Fol statistics in this country.

In the last section of the work the research group came to the following conclusions in the following sub-areas:

- 1) The practice of ensuring freedom of information reactively*
- 2) The practice of applying the grounds for rejection*
- 3) The practice of using a unified portal for online requests*
- 4) The practice of ensuring freedom of information proactively*
- 5) The practice of fulfilling the obligation of maintaining and publishing Fol statistics*
- 6) The Authorized Body for Fol*

Based on the findings, advice and recommendations were developed for the government and policy makers, with the aim of assisting them in implementing ambitious reforms in the Fol sector and ensuring the development of the sector. The recommendations, in summary, are as follows:

1) Establishment of an Authorized Body for Fol. The Institution of the Fol Commissioner

- Initiate the establishment of the constitutional institution of the Fol Authorized Body (Commissioner for Freedom of Information and Personal Data Protection), at least ensuring that the Body has real guarantees for independence; and
- carry out protection of Fol and extrajudicial settlement of disputes in this area;
- carry out an analysis of the Fol practices (monitoring and evaluation) and implementation of best practices;
- provide advice on the exercise of the right to Fol, awareness raising for both citizens and agencies that are holders of information; and
- develop comments and soft regulations that facilitate the development of the practices of unified statistics maintenance and transfer statistics management skills to information holders.

2) Lack of knowledge about Fol in information holders

- It is necessary to pay special attention to increasing the level of knowledge on Fol of the competent officials of information holders, their education, implementation of trainings on freedom of information and personal data protection. The state should take all possible measures to improve the professional knowledge and practical skills of competent officials of information holders in the field of Fol.

3) Ensuring and controlling the obligation of maintaining and publishing Fol statistics

- Prior to the establishment of the Fol Authorized Body, we recommend that the Authorized Body for Personal Data Protection assumes the control over the fulfillment of the obligation of the information holders to maintain and publish the Fol statistics within the framework of evaluation of Fol.
- We recommend that, prior to the establishment of the Fol Authorized Body, the Personal Data Protection Authorized Body undertakes the maintenance and publication of overall Fol statistics.

4) Fulfilling the obligation of maintaining and publishing Fol statistics

- The holders of information must publish the statistical data prescribed by law on their official websites, covering the entire volume of data.
- Information holders must clearly separate the written or verbal *inquiries for information from other applications, and separate the inquiries received through hotlines or social networks and similar sources from other types of inquiries, comments and requests for advice.*
- Maintaining the statistics on Fol-related inquiries must be vested in the official responsible for Fol.
- A subsection for Fol-related inquiries must be allocated in the separate section on freedom of information on the *information* holder's website: control over the publication of statistics on inquiries in that subsection must be vested in the official responsible for Fol.
- The statistics of FOI-related inquiries should be published in the relevant section of the information holder's website at least once a year, no later than the date of publication of the previous year's report.
- The statistics should contain at least the following information:
 - the total number of inquiries received;
 - the total number of verbal inquiries;
 - the total number of written inquiries;
 - the number of satisfied written inquiries;
 - the number of rejected written inquiries (taking into account the possibility of rejection of part of the information requested, also the number of partially rejected written inquiries);
 - the number of redirected written inquiries; and–
 - the grounds for rejections.

5) Ensuring freedom of information reactively. The practice of answering Fol inquiries

In order to fully ensure the reactive aspect of Fol, we propose to introduce an information holders' self-assessment system based on the methodology and criteria presented in this research. The use of a self-assessment system will allow information holders to periodically review their practices, identify and prevent the problems, as well as improve their practices.

6) Ensuring freedom of information proactively

- As a primary proactive solution to the progress and development of publicity, we deem it necessary to switch to a centralized model of official resource management.
- It is necessary to implement a unified and modern standard for creating and developing official websites. The uniformity of the structure and shaping of the official websites facilitates the search for information by the citizens and makes the online interaction between the citizens and the government effective.
- It is necessary to introduce a system of evaluation of official websites.
- The published data must be machine-readable, free of charge, freely accessible for use and re-use without any control mechanism or restriction.
- Official websites should be accessible for people with special needs. It is necessary to carry out technical refurbishment of the websites in order to take into account the special needs of the recipients of information as much as possible.

7) The unified portal for online requests

- It is necessary to provide annual general Fol statistics in the unified portal for online requests.
- The portal needs to be upgraded to include all possible tools in the field of Fol, for example, it may include the respective electronic tool for self-assessment by information holders.
- It is necessary to minimize or exclude the possibilities for the human factor and discretionary decision-making underlying the use of different tools of the portal; and
- It is necessary, to the extent possible, to take into account the specific needs of potential recipients of information on the unified portal for online requests.