

**FREEDOM OF INFORMATION
IN THE REPUBLIC OF ARMENIA
MONITORING OUTCOMES-2011**



YEREVAN-2011

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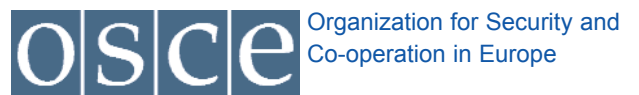


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Introduction

Today freedom of information is viewed as one of the basic guarantees of human rights protection in civil society. Freedom of information is the best and most effective tool for the formation of an informed and active civil society as well as for the struggle against corruption.

It is already 8 years that the ARM “Law on Freedom of Information” (from here on – the Law) is in force. However, a comprehensive monitoring of the freedom of information sphere was conducted by Freedom of Information Center of Armenia in 2003, immediately after the “Law on Freedom of Information” was adopted. Another comprehensive monitoring was conducted in 2004.

In the recent years quite many changes and positive outcomes were recorded in the implementation practice of the FOI legislation. Hence, it is necessary to find out how information holders uphold the Law requirements, how they respond to information requests, what are the problems in terms of implementation of the Law and access to information right, what should be improved in the FOI field and which shortcomings demand an immediate solution.

This monitoring is the FOICA's analysis of the responses to 250 information requests, which were sent to 50 information holders in May-June, 2011. Out of 250 information requests 173 were written requests sent by post, 37 information requests were sent electronically, and 40 were orally submitted over telephone.

Monitoring Goals and Objectives

Within the framework of “Freedom of Information Implementation Survey in Armenia” Project, which has been co-financed by the OSCE Office in Yerevan and USAID Armenia, and carried out by the FOICA, this monitoring was conducted with the following objectives:

- to assess how effectively state and private organizations respond to citizen's information requests and applications,
- to grade institutions based on the speed and completeness of disclosure,
- to assess implementation practice of electronic FOI in the government system,
- to grade the level of proactive disclosure by institutions and to assess the content of the published information (what info is being released, what is being withheld (beyond the standard withholdings)).

The monitoring was conducted in May-June 2011.

Within the framework of “Freedom of Information Implementation Survey in Armenia” Project the www.givemeinfo.am website was also developed as an on-line mechanism to promote the transparent work of state and local self-government bodies. This site presents statistic picture of how the information holders (state bodies, local self-government bodies, state offices, state budget sponsored organizations, organizations of public importance) enforce the right to freedom of information.

The web project also gives an opportunity to everyone who has applied to any information holder by a FOI request to input into the website his/her information request and all related documents. As a result, citizens' FOI requests are also included in the statistics, presenting the full picture of the freedom of information in Armenia.

The www.givemeinfo.am website allows see statistics of FOI requests according to several criteria - requests with on time complete responses, late complete, incomplete responses, rejected and unanswered requests (requests with mute refusal) and so on. Besides, there is a list of information holders in the site, which allows see statistics on how each information holder has answered to FOI requests.

The requests of this monitoring are also uploaded in www.givemeinfo.am. There is a brief description for each request. The copies of the request, the response and the attached files are also uploaded.

Monitoring Methodology

The main method of the monitoring includes sending information requests by different entities to state governance, local self-government bodies and organizations of public importance. As a result, the process of answering information requests by different selected information holders was analyzed - the content of the responses, the times required for the response, etc.

In May-June, 2011 ten requestors sent 250 information requests to 10 state governance bodies, 10 regional administrations, 10 city municipalities, 10 village municipalities, and 10 organizations of public importance - 5 information requests to each.

Information requests

The majority of 250 information requests - 173 were sent by post in a written form, 37 were sent electronically, and 40 were orally presented over telephone. 5 information requests were sent to each information holder, where at least three were in a written form; electronic and oral information requests were also sent.

There were two kinds of information requests - simple and difficult/sensitive.

Simple information requests include such questions, the answers to which should be ready and accessible in that department. For example, it was asked to provide the statistics of information requests sent to the information holder. This is a simple information request because, according to the Law, the statistical data for FOI information requests are subject to mandatory publication, and must be published at least once a year.

Difficult information requests include such questions, the answers to which require additional work, research: this is to say that the response needs to be prepared. For example, it was asked to provide information about the expenses for the repair, construction of buildings owned by the information holder, and about the expenses for the construction companies. This is a difficult information request because the questions are diverse, can be extensive, and in order to respond the information request it might be necessary to collect data and do certain work.

Sensitive information requests were regarded together with difficult information requests. These include such questions to which the information holder would not want to respond, depending on the possible subjective effect of the response. For example, it was asked to provide information about court cases against an information holder. This is a sensitive information request because in cases when the decision was not in favor of the information holder, that body appears under a negative view. The questions are available in Appendix 2, page 39.

Information Holders

50 information possessing bodies were selected and 250 information requests were sent to them. Out of these 50 bodies, 10 were state governance bodies, 10 regional administrations, 10 municipalities - all were regional centers, except Stepanavan municipality, which was selected because of its negative past experience in the sphere of freedom of information.

Also, 10 rural communities were selected - one from each regional administration. Mainly, that specific village municipality's past experience in the sphere of freedom of information was considered - both positive and negative. For example, the rural administration of Azatan received a "Golden Key" during the FOI annual award ceremony for its open work. Against the rural administration of Elpin and Lenughi the FOICA had had court cases, because they had violated the access to information right. In most of the rural communities the Freedom of Information Center of Armenia has placed information boards, etc.

Hence, the selected rural administrations had somehow encountered the access to information right.

Also, 10 organizations of public importance were included in the monitoring. Five medical institutions were selected from one of the most important public sphere – the healthcare. In this case, too, the fact that citizens often turn to medical institutions, including with information requests, was considered.

The other five organizations of public importance were selected in accordance with their public importance and they represent the public communal service spheres. As for the selection of "Catherine Group" Co. Ltd, it was related to the fact that among the activities of this company is the import of food as well as other goods - it has a car business, does agricultural activities, as well as owns "Fresh" supermarket chain, which was considered as having a leading role in the sphere of retail sales by the 8 June, 2011 decision of the ARM State Commission for the Protection of Economic Competition. The list of information holders that were included in the monitoring is available in Appendix 1, page 37.

Requestors

The information requests were sent by 10 requestors. Each of them submitted 25 information requests, where at least 15 were in the written form; electronic and oral information requests were also sent. The requestors represent five different groups, in each of which 2 are included with similar status – by occupation, work and social stratum.

- First group: organizations that are specialized in the FOI sphere and organizations that are not specialized in the FOI sphere.
- Second group: journalists - press journalist and TV journalist.
- Third group: vulnerable groups - pensioner and disabled person.
- Fourth group: students - two students living in different regions.
- Fifth group: divided by profession - pedagogue and lawyer.

CHAPTER A

FREEDOM OF INFORMATION

LEGISLATION

1.1 International Commitments

The field of freedom of information in the Republic of Armenia is regulated by legal acts ratified by the Republic of Armenia, the Constitution of the Republic of Armenia, the "Law on Freedom of Information" of the Republic of Armenia, and other legal acts.

Armenia, as a member of several international organizations, has signed major international human rights documents. Thus, the Republic of Armenia assumed the responsibility to respect human rights, including the freedom of expression and the obligation to respect the right of freedom of information. The right to seek and receive information is expressed in the 19th article of the Universal Declaration of Human Rights, in the 10th article of the European Convention on Human Rights and Fundamental Freedoms and in the 19th article of the International Covenant on Civil and Political Rights.

- As a member state of the United Nations (UN) since 1992, Armenia joined the "**Universal Declaration of Human Rights**", under which Article 19 declares the following:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

According to the preamble of the declaration, the UN General assembly declared that the Universal Declaration of Human Rights is a standard that has to be met by all nations and countries in the sense that every person and each entity of the society should look forward to support the respect of these rights and freedoms through education and enlightenment and through national and international progressive events provide the general and productive recognition and implementation. Thus, the UN General Assembly, among other rights, considered the right to seek ideas as the right to seek information as a preamble, which will help to "protect human rights with through the rule of law..., so that the person is not forced to turn to violence and oppression as a last resort," a preamble of creation of such a world "where people will have a freedom of speech and beliefs being free from fear and needs." In other words, the right to freedom of information is a prerequisite for the establishment of a legal and exemplary state.

- In 2002, Armenia as a member State of the Council of Europe (CoE), ratified the **European Convention for the Protection of Human Rights and Fundamental Freedoms**, the 10th article of which protects the rights of expression and freedom of information. Stressing the importance of the role of the right to seek and obtain information in the formation of the civil society, the 10th article of the European Convention on Human Rights and Fundamental Freedoms declares:

"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."

- Armenia has also ratified the international Treaty "**Civil and Political Rights**" (entered into force in 1993) where article 19 talks about "the right to hold opinions" and "the freedom to seek, receive and

impart information and ideas of all kinds, regardless of frontiers."

In 2011, the UN Human Rights Committee developed an interpretation guide for the 19th Article of the International Convention on Civil and Political Rights.

Referring to information holders and the concept of information, the guidelines include provisions regarding the easy access to official documents of public importance. In particular, the guidelines state that the participant countries of the declaration on the implementation of the right on freedom of information should actively publish official documents of public importance, should provide the easy and speedy practice of access to such information. According to the guidelines, participant countries should also take appropriate measures towards providing access to information and the opportunity to seek and receive information: such a measure is e.g. legislation concerning freedom of information. The guideline further states that information requests should be given on time and in accordance with the rules established by the Treaty. There was a reference made to the payments for the information request and it is stated in the guideline that the fees for the provision of information should not become an obstacle for providing information. The participant states should ensure that the information provision is rejected based solely on valid reasons, and they should create a mechanism of appeal for the cases of rejection or unanswered requests for information.

- **The Council of Europe Convention on Access to Official Documents** is the most important document defining the right to freedom of information. This document was adopted on June 18, 2009 by the Council of Europe, and defines the accessibility of the documents of state administration and local self-government, as well as documents of public relevance and regulates the general legal relations connected with it. According to the preamble of the Convention, it was adopted taking into account the importance of the transparency of state bodies in a pluralistic and democratic society, also, that:

"the exercise of the right to access the official documents provides a source of information for the public, helps the public to form an opinion on the state of the society and on public authorities; fosters the integrity, efficiency, effectiveness and accountability of public authorities, so helping affirm their legitimacy."

The Convention, by stating that "all official documents are in principle public and can be withheld subject only to the protection of other rights and legitimate interests," defines the obligations of the countries which ratified the convention to guarantee the right of everyone to receive official documents based on an information request, held by public bodies, without discrimination on any grounds. The Council of Europe Convention on Access to Official Documents concerns all information holding bodies specified by law and generally regulates one of the directions of the freedom of information and the general issues of publicity and accessibility of already shaped, prepared and existing information (official documents) that the holder has, despite the absence of request.

The right of freedom of information is also defined by the convention on:

- **"Public Participation in Decision-Making and Access to Justice in Environmental Matters"** (Aarhus convention, Aarhus, 25 June 1998),
- **The Declaration on the freedom of expression and information adopted on 29 April 1982,**
- **as well as Recommendations to the member States No. R (81) 19 on the access to information held by public authorities,**
- **Recommendations on a European policy on access to archives No. R (2000) 13.**

A.2 The RA Constitution

The Freedom of Information was declared a constitutional right by constitutional amendments adopted in November 2005. The right of access to information is recognized as one of the fundamental human rights by the legal act of highest legal force – the Constitution. The Freedom of Information is established by “The fundamental human and civil rights and freedoms” section of the Constitution along with human rights to dignity, life, equality before the law, judicial protection. Articles 27 and 27.1 of the Constitution fix everybody’s right of access to information.

- Thus, **the Article 27** mentions:

“Everyone shall have the right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers”.

This means that everybody shall have an opportunity to ask and receive information from any information holder and impart information by any means of information as both in Armenia and outside Armenia regardless of citizenship, sex, age, profession, nationality.

- **The Article 27.1** mentions:

“Everyone shall have the right to submit letters and recommendations to the authorized public and local self-government bodies for the protection of his/her private and public interests and the right to receive appropriate answers to them in a reasonable time”.

This article defines the everybody’s right to apply to the state bodies for information and to get a required answer. Moreover, following to this Article, the answer should not be unnecessarily delayed, and must be complete.

- Another article of the Constitution fixes, that everyone shall have the right to become acquainted with the data concerning him/her available in the state and local self-government bodies (**Article 23**).

- According to the **Article 42.1** of the RA Constitution:

“The fundamental human and civil rights and freedoms shall apply to legal persons to the extent these fundamental rights and freedoms are applicable to them”.

Since the implementation of the right to seek and get information may arise interests of a legal person, legal person, represented by its manager (director, chairman, etc.), has the opportunity to seek, receive and analyze the necessary information, and therefore the right to seek and get information is applicable to legal persons.

A number of other articles of the Constitution also fix the importance of the right to Freedom of Information.

- Thus, according to the **Article 33.2**:

“The public officials shall be held responsible for hiding information on environmental issues and denying access to it”.

- The 2nd part of the **Article 69** defines, that

“The sittings of the National Assembly shall be open to the public”.

- **The Article 19** of the Constitution indirectly refers to publicity and to the right of Freedom of Information. According to the 1st part of this Article:

“Everyone shall have a right to restore his/her violated rights, and to reveal the grounds of the charge against him/her in a fair public hearing under the equal protection of the law and fulfilling all the demands of justice by an independent and impartial court within a reasonable time”.

A.3 The RA Code of Administrative Violations and the RA Criminal Code

The responsibility for the violations of the right for freedom of information is regulated by **the article 189⁷ of the law on Administrative Offences of the Republic of Armenia**, which states:

The illegal refusal by public officials to provide information about the organizations that are being financed from the budget of the state and local governments, state institutions and about public organizations bring to fines from ten up to fifty times of the minimum wage fold.

The same violation, that may take place during a one year period after the administrative penalty was applied, created a penalty from 50 up to 100 time of the minimum wage fold.

It is worth mentioning that before this article, this was not being implemented, because in order to penalize an official who violated the right to freedom of information, the court was demanding to present a protocol about administrative offence. However, because of the legislative gap the body providing the report was not defined. As a result of initiated court cases by the FOIC, and as a result of an inquiry sent to the Constitutional Court of the Republic of Armenia with an aim to solve the problem, there were a number of changes made to the Law on Administrative Offences of the Republic of Armenia.

According to the second part of the 245th article of the law on Administrative Offences, there should be no protocol presented for the cases described in the article 189⁷. Thus, in order to punish an official who has violated the right for freedom of information there is no need to present a protocol about the administrative offence.

Criminal Code

Stressing the importance of the right to freedom of information, the legislator determined criminal responsibility for not providing certain types of information. **According to the Article 148 of the Criminal Code,**

an illegal refusal by an official to provide information or documents to a person immediately concerning his rights and legal interests and collected in accordance with established procedure, or provision of incomplete or willfully distorted information, if this damaged the person's rights and legal interests, is punished with a fine in the amount of 200 to 400 minimal salaries.

In this case, it is an important condition for the exposure of the criminal liability that the refusal by the official will cause damage to legitimate rights and legal interests.

Articles 278 and 282 define responsibility for hiding or distorting the information about dangerous conditions for people's live and health and environmental contamination. For hiding this kind of information, an official can be sentenced to up to six years imprisonment.

Article 164 of the Criminal Code of the Republic of Armenia, which is related to the prevention of the professional activism of journalists, is also related to the freedom of information. This article, in partic-

ular, defines that creation of obstacles for the implementation of the journalist's legal activities, or prevention of the journalist to disseminate information, or forcing to refuse to publish information, is punished with a fine which is from 200 times up to 400 times of the minimum wage fold. In the case of aggravating circumstances, the punishment can be extended to up to seven years imprisonment.

A.4 The RA Law on Freedom of Information

The major legal act regulating the right for freedom of information is the Law on Freedom of Information of the Republic of Armenia. Being one of the best laws in the field of information freedom in the world, the Republic of Armenia Law on Freedom of Information regulates the main legal relationships in the field of information freedom, in particular, by defining the main principles of information freedom, the information holding bodies, the order of the request presentation and discussion, the conditions of the information provision, time frames, the limitations of the information freedom and the bases for refusals.

We will return to the various provisions of the law in different sections of the monitoring.

CHAPTER B

Monitoring Outcomes*

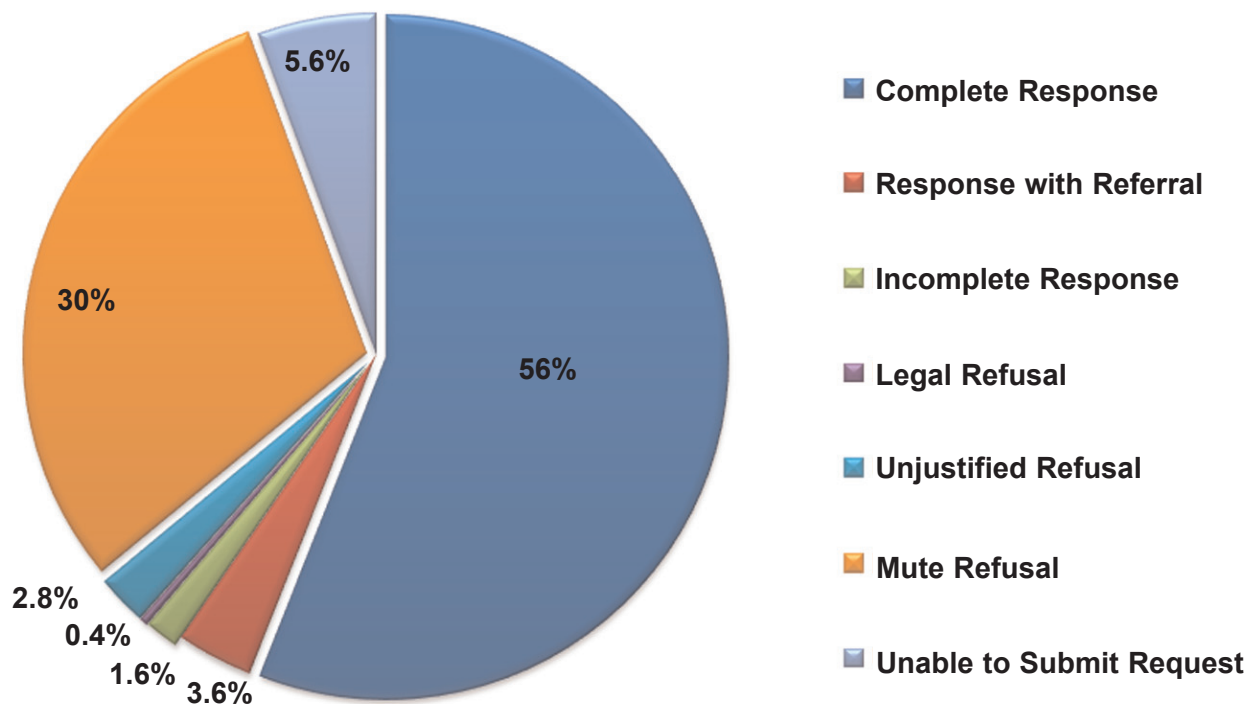
B.1 Overall Outcomes

In May-June, 2011 ten requestors submitted 250 written, oral and electronic information requests to 50 information holders.

From 250 information requests received:

- 56% (140) complete responses, where 100 were answered within the deadlines defined by the ARM “Law on Freedom of Information”, and 40 received late responses (late complete responses),
- 3.6% (9) information requests were responded with a referral – referrals were made to other information holders or to the written form of the information request,
- 1.6% (4) incomplete responses,
- 0.4% (1) was legally refused (legal refusal),
- 2.8% (7) were refused without a ground (unjustified refusal and unjustified response),
- 30% (75) were left unanswered (mute refusals),
- 5.6% (14) were unable to be submitted (not submitted information requests). This means that the requestor was not at all able to submit the information request because the information holder official was inaccessible.

Chart 1. The Overall Outcomes



* The outcomes are presented as of August 1, 2011.

B.2 Outcomes by Response Types

When analyzing the content of the responses to information requests, the results of 161 responded information requests were considered, because from a total of 250 information requests 75 were left unanswered and 14 were unable-to-submit requests.

Legal regulation: according to the part 4 of the article 10 of the “Law on Freedom of Information”, the information possessing body or organization, which has provided untrue or incomplete information, based on the written request of the recipient of that information, must provide information with checked and adjusted data for free. And according to article 12 of the same law, the information holder must provide the information seeking person with reliable and complete information that is under its possession.

The abovementioned articles, in fact, define the Law requirement for complete responses to information requests, obliging information holders to provide not only reliable, but also complete information.

When analyzing the outcomes, they were considered appropriate if:

- Written responses sent via post were provided on the form of the information holder, and/or with the signature of the official.
- Electronic responses were received from the official e-mail address of the information holder or from the business e-mail of the official.

a. Complete* responses: on time and late responses

From 161 responded information requests 140 received complete answers (on time and late complete responses). This is 56% of the total 250 information requests and 87% of 161 information requests that were responded positively.

- 100 information requests received complete responses within the deadline. This makes 62.1% of all the information requests that were responded.
- 40 information requests received late complete responses. This is 24.8% of all the information requests that were responded.

During the monitoring the quickest complete response was received from the Ministry of Labor and Social Affairs. Only one hour after the information request was sent, the requested information was provided in an electronic message (<http://www.givemeinfo.am/en/case/72/>).

The response of the city municipality of Artashat to the FOICA was one of the most comprehensive, complete and on time responses. The city municipality answered the information request sent by post three days after it was sent, with 63-page information (<http://www.givemeinfo.am/en/case/82/>).

The quickest complete response that was orally provided was that of Oshakan rural administration. Here, they had promised to call back and answer the journalist’s oral information request over telephone after the requested information was checked. One hour after the journalist’s call the mayor of Oshakan called back and provided a complete oral response. It is worth mentioning that with regard to content, the rural administration of Oshakan has showed the most positive results in general. To all the information requests addressed to them (4 written and 1 oral) they have given complete on time responses (<http://www.givemeinfo.am/en/entity/85/>).

* Complete responses are both timely and late responses, which contain full and complete information.

Positive example of a late but complete response is provided by the rural administration of Nor Kharberd to the “Civil Society Institute” NGO. The NGO had requested copies of the reports from the village aldermen’s 2011 sessions. 11 days after sending the information request a representative of the rural administration in person brought all the requested information – the copies of the reports, which consisted of 28 pages - to the office of “Civil Society Institute” NGO. Although the rural administration answered after the deadline, this case is unique because the rural administration sent the requested information by taxi, since the size of the information was big. Moreover, the Mayor not only did not ask for compensation for copying costs of over ten-page information, but also spent more and made extra efforts to respond the information request (<http://www.givemeinfo.am/en/case/102/>).

b. Justified Referrals

In 9 out of 250 information requests the information holders made justified referrals either to another body or in case of an oral information request the referrals were made to the written form of the information request, which is to say that the information holder has asked to present the information request in a written form. These referrals are 5.6% of all the 161 information requests that were responded.

Legal regulation: the provisions of the 2nd and 10th points of part 2 of article 7 of the “Law on Freedom of Information”, in fact, state the right of an information holder to refer to the source of the published information, as well as, if it does not possess the information, it may refer to another information possessing body.

As for the referrals to the written forms of information requests, according to point 5 of article 9 of the “Law on Freedom of Information”, oral information requests are answered, if:

1. Providing the required information can prevent dangers threatening the state/public security, public order, public health and manners, the others’ freedoms and rights, surrounding environment, and people’s properties,
2. It is necessary to check whether that specific information holder has the relevant information,
3. It is necessary to clarify that specific information holder’s way of discussing written information requests.

It follows from the logic of the Law that besides the abovementioned cases, in all other cases the information holder may require a written information request. For example, during this monitoring, in response to a lawyer’s oral information request the lawyer of “ArmRusGasProm” CJSC asked for a written information request, because it was necessary to conduct additional work within certain procedures in order to respond the information request (<http://www.givemeinfo.am/en/case/289/>).

Similarly, press secretary of the Ministry of Nature Protection asked for a written information request in response to a student’s oral question about the ministry’s service vehicles, so that the Ministry could give an appropriate answer (<http://www.givemeinfo.am/en/case/293/>).

And “Special Polyclinic” CJSC’s response is a referral to another body possessing information. The Freedom of Information Center of Armenia had requested information about where and in what manner were the polyclinic’s 2011 budget and its implementation report published. The polyclinic answered the FOICA information request with a referral, stating that the polyclinic’s budget and its implementation report were posted on the website of the Ministry of Healthcare (<http://www.givemeinfo.am/en/case/377/>).

c. Incomplete Responses

From 161 answered information requests only 4 (2.5%) received an incomplete answer. This is 1.6% of all 250 submitted requests.

An example of such a response is that of the mayor of village Gargar to “Civil Society Institute” NGO. Within four days the Mayor provided a response with a three page supplement of the copies of the reports for the village aldermen’s sessions. In order to provide 17 more pages of copies the rural administration had demanded that AMD 1,000 be paid, as a compensation for copying and transportation expenses. The response is considered incomplete, because according to the Law, for up to 10 pages (not 3) of information no fees are charged. Thus, in this case the rural administration’s demand to pay for 17 pages is not in accordance with the Law requirement, and the rural administration had at least to provide 10 pages of information for free. Besides, the rural administration also mentioned about transportation cost compensation. It should be stated that from all the 250 information requests this is the only and exceptional case, when payment was asked for providing information, which, however, was not a law requirement (<http://www.givemeinfo.am/en/case/103/>).

d. Refusals

As was mentioned, 14 out of 250 information requests were not possible to submit to the information holders because of their inaccessibility. Hence, only 236 information requests were analyzed.

During the monitoring 83 cases refusals were recorded:

- 1 was a legal refusal,
- 4 were unjustified refusals*,
- 3 were unjustified responses*,
- 75 were left unanswered or mute refusals*.

Legal regulation: according to the 1st part of the Article 8 of the Law on Freedom of Information: “Information holder refuses to provide information if it:

1. contains state, official, bank or trade secret;
2. infringes the privacy of a person and his family, including the privacy of correspondence, telephone conversations, post, telegraph and other transmissions;
3. contains pre-investigation data not subject to publicity;
4. disclose data that require accessibility limitation, conditioned by professional activity (medical, notary, attorney secrets);
5. infringes copyright and associated rights”.

According to the 2nd part of the Article 11 of the Law: “The information holder can decline the oral request, if at that moment this interferes with the main responsibilities of the information holder”.

* Unjustified refusals are those, when the information holder refused to provide information without legal grounds.

* Unjustified responses are those, when the information holder presented unjustified condition for information provision.

* Mute refusals are those, when no answer was received.

Out of 250 information requests sent during the monitoring only 1 refusal was in accordance with the Law. Thus, in response to an oral information request over telephone, the Press Secretary of the Ministry of Labor and Social Affairs denied to respond the questions over telephone, because she was getting ready for a working discussion at the ministry. Part 2 of article 11 of the “Law on Freedom of Information” allows not answering oral information requests if at that time it disturbs the realization of the official’s direct work duties. Therefore, the press secretary’s refusal was justified (<http://www.givemeinfo.am/en/case/290/>).

An example of an unjustified response is the demand of the mayor of Gyumri. In response to the written information request of “Civil Society Institute” NGO, the mayor of Gyumri informed that in order to receive the requested information it was necessary to visit Gyumri city municipality with a flash drive (<http://www.givemeinfo.am/en/case/111/>).

The city municipality of Ijavan, too, provided two unjustified responses to the information requests of a lawyer and a student, stating that in order to receive the requested information it was necessary to visit the city municipality (<http://www.givemeinfo.am/en/case/134/>).

The State Revenue Committee is the author of an unjustified refusal. It provided a written refusal for requested information reasoning that the Government had not defined the order of recording, classifying, and keeping information, which is actually defined by the “Law on Freedom of Information”. However, it should be mentioned that despite the presence of such an order, the Law directly defines the obligation of providing information. It should also be mentioned that such an unusual practice of refusing to provide information with a reason that the Government has not defined an appropriate order, was present in the past, too, during the first years when the Law was passed.

However, during the last years information requests were not denied with such reasoning (<http://www.givemeinfo.am/en/case/123/>).

Mute Refusals

75 (31.8%) out of 236 information requests were left unanswered, which is 30% of the total 250 information requests. These are the mute refusals.

In some of the unanswered requests cases the information holder did react to information request, but the response was still not received. The following mute refusal has such positive pre-history: three days after “Civil Society Institute” NGO sent an information request, an employee of the “Catherine Group” Co. Ltd called on the phone and informed that budget is considered a commercial secret and asked whether they should response orally or in writing.

The representative of “Civil Society Institute” NGO asked for a written response, however, a response never reached (<http://www.givemeinfo.am/en/case/120/>).

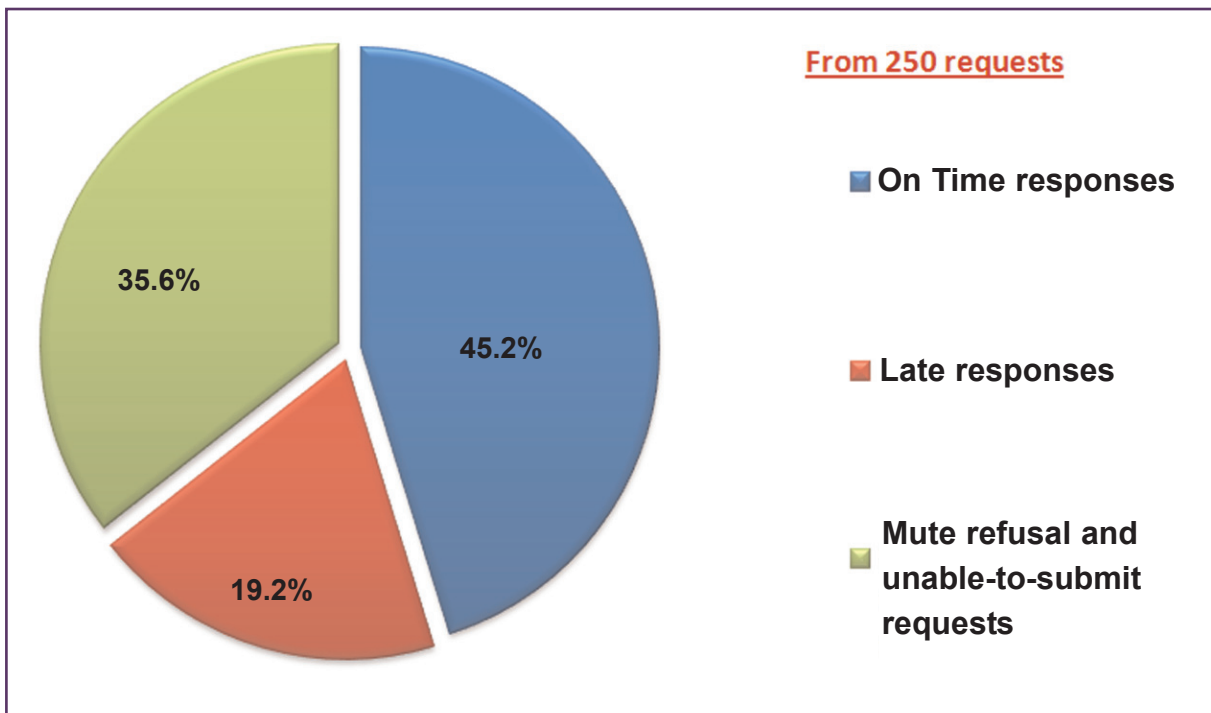
B. 3 Outcomes by Timeframes

Out of 250 information requests 45.2% are on time responses, 19.2% are late responses and 35.6% are mute refusals and unable-to-submit requests.

Legal regulation: Legal regulation: the “Law on Freedom of Information” states that written information requests must be answered within 5 days after receiving it. However, in order to avoid mistakes, while calculating the timelines of the received responses during the monitoring 9 days was considered to be an appropriate period, since additional two days were anticipated for postal services and another two days - for weekends. Therefore, a response is considered late if it was not received 9 calendar days after the information request was submitted.

The date on the postal stamp on the envelope of the response was taken into consideration, as it shows when the information holder passed the response to the post. That date is considered to be the date of providing a response. In cases of electronic information requests, instead of 9 calendar days, 5 business days was considered to be appropriate, because an electronic mail reaches the recipient immediately after being sent.

Chart 2. Timeframes of the Responses



Out of 250 information requests sent during the monitoring, 75 are mute refusals, and 14 did not reach the information holder. This means, 89 information requests were not answered, thus there are no responding times for those information requests. Hence, the timeframes were analyzed for the 161 answered information requests. From 161 answered information requests 113 (70.2%) were on time and 48 (29.8%) were late responses. The average time for responding information requests was 11-12 days.

The 70.2% of the information requests with on time responses showed that the five-day time frame established by the Law for providing information is realistic, and if desired, it can easily be fulfilled. And vice versa, if the information holder and its manager do not have the political will and relevant knowledge, the responses to information requests are delayed without justification, the responses are incomplete, or the information requests are simply disregarded, considering responding not a duty but an additional work.

In terms of answering information requests on time, the best is the case of an electronic information request, which was responded by the Ministry of Labor and Social Affairs – the Ministry answered the FOICA's electronic information request one hour after the request was sent.

As for the rural administration of Oshakan, it answered all 5 information requests, including one oral request, without any deadline violations.

The worst result in terms of timeframes is that of the ARM National Assembly – the NA answered a lawyer's information request with more than a one month delay. It should be added that the response consisted of only two lines: "We are informing you that in 2010 there were no court and civic cases against the National Assembly". It is also worth mentioning that although the response was dated 10 July, 2011, the date on the postal stamp on the envelope showed that it was sent on July 18. This means that it took the NA 8 days to send the ready response (<http://www.givemeinfo.am/en/case/122/>).

For comparison, it should be mentioned that to a lawyer's similar information request the rural administration of Oshakan responded 4 days after the information request was submitted (<http://www.givemeinfo.am/en/case/129/>), and Kotayk regional administration provided the lawyer with a response with 45 pages of supplementary copies 6 days after the information request was submitted (<http://www.givemeinfo.am/en/case/140/>).

As for a journalist's written information request about the rewards that the information holder's employees received, Ashtarak city municipality responded 5 days after the information request was sent. Whereas, it took Armavir regional administration 20 days to answer the same information request (<http://www.givemeinfo.am/en/case/187/>).

B. 4 Outcomes in Terms of Information Holders

The 250 information requests were sent to 5 groups of agencies – central government bodies, regional administrations, city municipalities, rural administration, organizations of public importance. Each group comprised 10 bodies, each of which received 5 information requests (*the list of the information holders involved in the monitoring is available in Appendix 1, page 37*).

Legal regulation: the point 2 of article 1 of the “Law on Freedom of Information” defines those individuals/bodies who are covered by the Law. Those are state governance bodies, local self-government bodies, state organizations, organizations financed from the Budget, organizations of public importance, and their officials.

As can be seen, this list of the Armenian legislation includes private companies that provide public services. This is very important and strengthens the impact of the Law. Traditionally, the access to information right is linked with receiving information from the bodies included in the abovementioned top 4 points, because freedom of information is meant to ensure the transparency of state authorities. However, gradually the state is transferring the usage and management of a number of spheres of public importance (energy, transportation, communication, water, etc.) to the private sector. This does not mean at all that the information regarding this sphere loses its importance and necessity for people. It should be mentioned that only very few countries have expanded in their laws the framework of information holders this much. Thus, information holders are all the bodies and officials who actually represent the three branches of power - legislative, executive, judicial - as well as organizations of public importance and every private entity that is financed from the Armenian state budget.

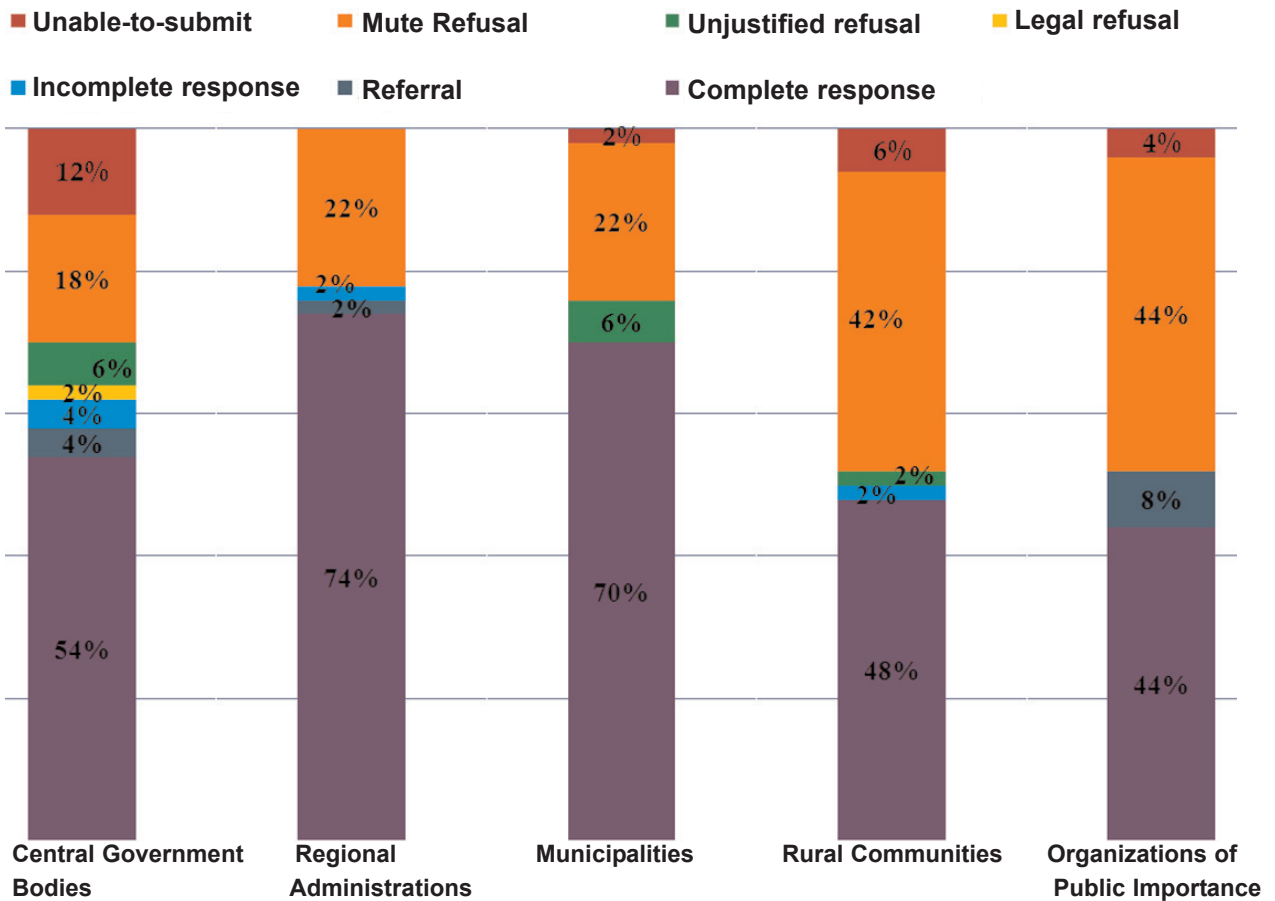
The same article also defines organizations of public importance: “organizations of public importance are those non-state organizations that have monopoly or a leading role in the market, as well as those that render public services in healthcare, sport, education, culture, social security, transport and communication, and communal spheres”.

The most positive outcome was received from Oshakan rural administration, which has given on time and complete responses to 4 written and 1 oral information requests.

Tsav and Aygedzor rural administration, “Clinical Hospital” CJSC and “Catherine Group” Co. Ltd left all the information requests addressed to them unanswered.

Out of 50 bodies involved in the monitoring, the best results were shown by regional administrations, and the worst results were shown by organizations of public importance. Out of 50 information requests submitted to regional administrations 74% received complete responses, while out of 50 information requests submitted to organizations of public importance only 44% received complete responses.

Chart 3. Outcomes in Terms of Information Holders



The best and the worst outcomes of each group are presented in the charts below:

1. Central Government Bodies:

<p>The Best Results:</p> <ul style="list-style-type: none"> ● Ministry of Education and Science 4 on time complete responses, 1 unable to submit request. ● Ministry of Justice 4 on time complete responses, 1 unable-to-submit request. 	<p>The Worst Results:</p> <ul style="list-style-type: none"> ● National Assembly 1 mute refusal, 1 unjustified refusal, 1 incomplete response, 2 late complete responses. ● The RA Police 3 mute refusals, 1 late complete response, 1 unable to submit request.
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Then comes:

- **Ministry of Healthcare** - 3 on time complete responses, 2 late complete responses (<http://www.givemeinfo.am/en/entity/9/>).
- **Ministry of Nature Protection** - 2 on time complete responses, 1 response with justified referral, 1 late complete response, 1 mute refusals (<http://www.givemeinfo.am/en/entity/25/>).

- **State Labour Inspectorate** - 2 on time complete responses, 1 late complete response, 1 incomplete response, 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/164/>).
- **Ministry of Labor and Social Affairs** - 1 on time complete response, 2 late complete responses, 1 legal refusal, 1 mute refusal (<http://www.givemeinfo.am/en/entity/7/>).
- **State Revenue Committee** - 1 on time complete response, 1 response with justified referral, 1 unjustified response, 1 mute refusal, 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/60/>).
- **Food Safety and Veterinary State Inspectorate** - 1 on time complete response, 1 unjustified response, 2 mute refusals, 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/163/>).

2. Regional Administrations (marzpetarans)

The Best Results:	The Worst Results:
<ul style="list-style-type: none"> ● Shirak Regional Administration 4 on time complete responses, 1 late complete response. ● Syunik Regional Administration 4 on time complete responses, 1 late complete response. 	<ul style="list-style-type: none"> ● Vayots Dzor Regional Administration 2 mute refusals, 1 incomplete response, 2 on time complete responses.

Next in line with positive outcomes are **Kotayk, Lori and Aragatsotn** regional administrations, with 4 on time complete responses each and 1 mute refusal each. It should be noted that Kotayk, Lori and Aragatsotn regional administrations did not answer to a student's electronic information requests. However, by the positive outcome that they demonstrated, it can be concluded that the student's request was left unanswered not deliberately but because of technical reasons.

Then:

- **Ararat regional administration** - 2 on time complete responses, 1 late complete response, 2 mute refusals (<http://www.givemeinfo.am/en/entity/33/>).
- **Armavir regional administration** - 2 on time complete responses, 1 late complete response, 2 mute refusals (<http://www.givemeinfo.am/en/entity/34/>).
- **Gegharkunik regional administration** - 1 on time complete responses, 3 late complete responses, 1 mute refusal (<http://www.givemeinfo.am/en/entity/35/>).
- **Tavush regional administration** - 1 on time complete responses, 1 response with justified referral, 2 late complete responses, 1 mute refusal (<http://www.givemeinfo.am/en/entity/41/>).

As it was mentioned, the positive and negative results are presented by the groups of information holders. This means that a negative result from one group of information holders can be viewed not negatively among all 50 information holders. For example, while the Regional Administration of Vayots Dzor with its 2 on time complete responses, 1 incomplete response and 2 mute refusals has a negative result in the group of the Regional Administrations (Marzpetarans), it however has an average result among all information holders. It should be taken into consideration that the Regional Administrations showed the most positive result. Thus, the body with the negative result in the group with the best result has an average result among all 250 information holders.

3. Municipalities

The Best Results:	The Worst Results:
<ul style="list-style-type: none"> ● Eghegnadzor Municipality 4 on time complete responses, 1 late complete response. ● Stepanavan Municipality 4 on time complete responses, 1 late complete response. 	<ul style="list-style-type: none"> ● Ashtarak Municipality 3 mut refusals, 1 late response, 1 on time complete response

Ijevan and Gyumri city municipalities stand out with their negative outcomes. Ijevan city municipality left one information-request unanswered, provided unjustified responses for two information requests, and provided a complete response to only one information request (<http://www.givemeinfo.am/en/entity/95/>). Moreover, for one oral information request it was impossible to contact the city municipality by telephone, so this information request was considered as unable-to-submit request.

As for Gyumri city municipality, it left 2 information requests unanswered, gave an unjustified response to one request, gave a late response to one request and provided an on time complete response to only one information request (<http://www.givemeinfo.am/en/entity/98/>).

The following are the outcomes of other municipalities.

- **Hrazdan Municipality** - 4 on time complete responses, 1 mute refusal (<http://www.givemeinfo.am/en/entity/91/>).
- **Armavir Municipality** - 3 on time complete responses, 2 late complete responses (<http://www.givemeinfo.am/en/entity/92/>).
- **Artashat Municipality** - 2 on time complete responses, 2 late complete responses, 1 mute refusal (<http://www.givemeinfo.am/en/entity/88/>).
- **Kapan Municipality** - 3 on time complete responses, 2 late complete responses, 1 mute refusal (<http://www.givemeinfo.am/en/entity/92/>).
- **Gavar Municipality** - 1 on time complete responses, 2 late complete responses, 2 mute refusals (<http://www.givemeinfo.am/en/entity/96/>).

4. Rural Administrations

The Best Results:	The Worst Results:
<ul style="list-style-type: none"> ● Rural Administration of Oshakan 5 on time full responses. ● Rural Administration of Elpin 4 on time full responses, 1 unjustified response. 	<ul style="list-style-type: none"> ● Rural Administration of Aygedzor 5 mute refusals. ● Rural Administration of Tsav 4 mute refusals, 1 unable-to-submit request.

Rural Administration of Elpin gave complete responses to 4 information requests, and in response to an oral information request it informed that the telephone lines were damaged because of hail, thus he could not speak over telephone and provide information. This was considered to be an unjustified refusal (<http://www.givemeinfo.am/en/entity/77/>).

The head of **Azatan Rural Administration**, too, answered completely to 4 written information requests, but left one oral request unanswered (<http://www.givemeinfo.am/en/entity/82/>).

The following are the outcomes of other Rural Administrations.

- **Nor Kharberd Rural Administration** - 2 late complete responses, 3 mute refusals (<http://www.givemeinfo.am/en/entity/83/>).
- **Gargar Rural Administration** - 2 on time complete responses, 1 incomplete response, 1 mute refusals, 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/84/>).
- **Verin Ptghni Rural Administration**- 1 on time complete response, 1 late complete responses, 2 mute refusals, 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/86/>).
- **Lenughi Rural Administration** - 1 on time complete response, 1 late complete responses, 3 mute refusals (<http://www.givemeinfo.am/en/entity/78/>).
- **Lchashen Rural Administration** - 1 on time complete response, 2 late complete responses, 2 mute refusals (<http://www.givemeinfo.am/en/entity/81/>).

5. The Organizations of Public Importance

The Best Results:	The Worst Results:
<ul style="list-style-type: none"> ● "Norq-Marash" Medical Center CJSC 4 on time full responses, 1 late full response. ● "Special Polyclinic" CJSC 4 on time full responses 1 late full response 	<ul style="list-style-type: none"> ● "Clinical Hospital" CJSC 5 mute refusals. ● "Catherine Group" Co. Ltd 5 mute refusals.

The outcome of "Number 15 Polyclinic" CJSC was also positive with the difference that 3 from 5 complete responses of the Polyclinic were late (<http://www.givemeinfo.am/en/entity/103/>).

Then comes:

- **"Armenia Telephone Company" ("ArmenTel") CJSC** - 3 on time complete responses, 1 mute refusal and 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/109/>).
- **"ArmRusGasProm" CJSC** - 2 on time and 1 late complete responses, 1 justified referral, 1 mute refusal (<http://www.givemeinfo.am/en/entity/105/>).
- **"Armenian Water & Sewerage" CJSC** - 2 justified referrals, 2 mute refusals and 1 unable-to-submit request (<http://www.givemeinfo.am/en/entity/106/>).
- **"Nairi" Medical Center CJSC** - 1 on time complete response, 4 mute refusals (<http://www.givemeinfo.am/en/entity/101/>).
- **"Electric Networks of Armenia" CJSC** - 1 justified referral and 4 mute refusals (<http://www.givemeinfo.am/en/entity/107/>).

B. 5 Outcomes in Terms of Requestors

Information requests were submitted by 10 requestors – each sent 25 information requests to 25 different information holders. With regard to the total complete responses given to requestors, the best outcomes showed Freedom of information Center of Armenia and a pensioner – these two requestors received 19 complete responses to their 25 information requests.

The next positive outcome was that of a journalist and a pedagogue. Accordingly 18 and 17 information requests out of 25 received complete responses. It should be mentioned that the pedagogue's result is the best in terms of the timeframes of the responses - 15 on time complete responses.

Legal regulation: according to article 6 of the “Law on Freedom of Information”, every person has an access to information right. Besides, when defining the order for submitting information requests and discussing them, article 9 of the Law defines mandatory information to be mentioned in the information request both for individuals and for legal entities. It follows from the abovementioned articles that both individuals and legal entities have an access to information right.

The most negative outcome was that of a student, when only 8 of the student's information requests received complete responses. 13 information requests by that student were left unanswered.

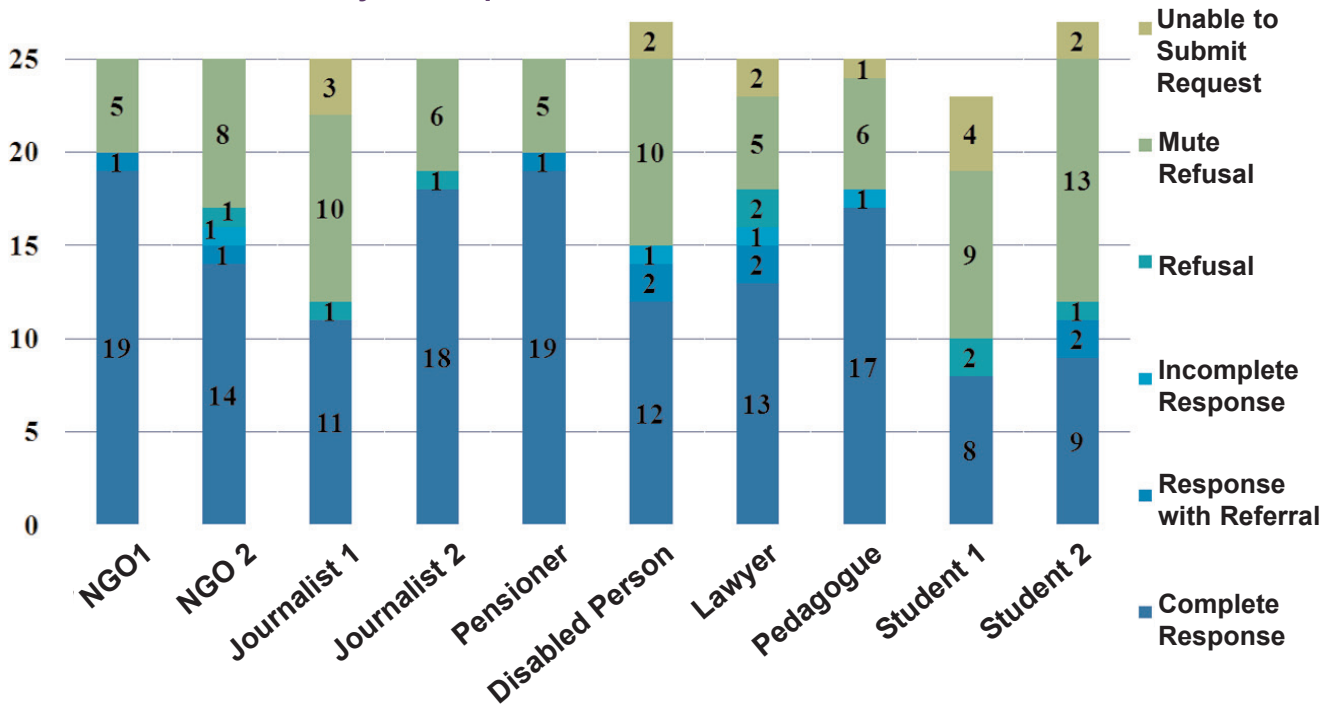
It is interesting to compare the organization specialized in the freedom of information sphere - the FOICA - and the organization that is not specialized in this sphere. First, it should be mentioned that both organizations submitted similar information requests to information holders - in both cases they were simple requests. However, the outcomes are different. The difference between late responses is as follows: the NGO not specialized in the FOI sphere had 3 late responses, whereas the FOICA had 6 late responses. The picture is the same for on time responses - the FOICA received 13 on time responses and the other NGO received 11 on time responses. The FOICA did not have any incomplete responses or refusals, whereas the other NGO received 1 incomplete response and 1 unjustified refusal.

The pedagogue, who had submitted simple information requests, received 15 on time complete responses, which is more than the lawyer's results. Instead, the pedagogue's late responses were two, whereas the lawyer had 6 late complete responses. The only significant difference is that the pedagogue received only 1 incomplete response, whereas the lawyer received 2 unjustified refusals and 1 incomplete response.

In terms of answering different requestors differently, the worst outcomes showed the National Assembly. It provided late responses to journalist's and lawyer's information requests, gave an incomplete response to the disabled person's request, gave an unjustified refusal to the student's information request, and did not answer to “Civil Society Institute” NGO's information request. This shows that often information requestors are discriminated. For example, information holders provided the most complete responses to the FOICA and the journalist - accordingly 19 and 18 complete responses. However, for example, the complete responses provided to the students are twice less than those provided to the FOICA and the journalist. One of the students received 8, and the other student received 9 complete responses. The chart below clearly shows what responses were given to the 25 information requests submitted by each of the 10 requestors.

The Chart 4 clearly shows outcomes of each 25 requests submitted by 10 requestors.

Chart 4. Outcomes by the Requestors



B.6 Outcomes by Requests' Form and Type

a. Written, oral and electronic information requests.

Legal regulation: the “Law on Freedom of Information” allows submitting both written and oral information requests to information holders. The order for submitting and discussing written and oral information requests is defined in article 9 of the Law.

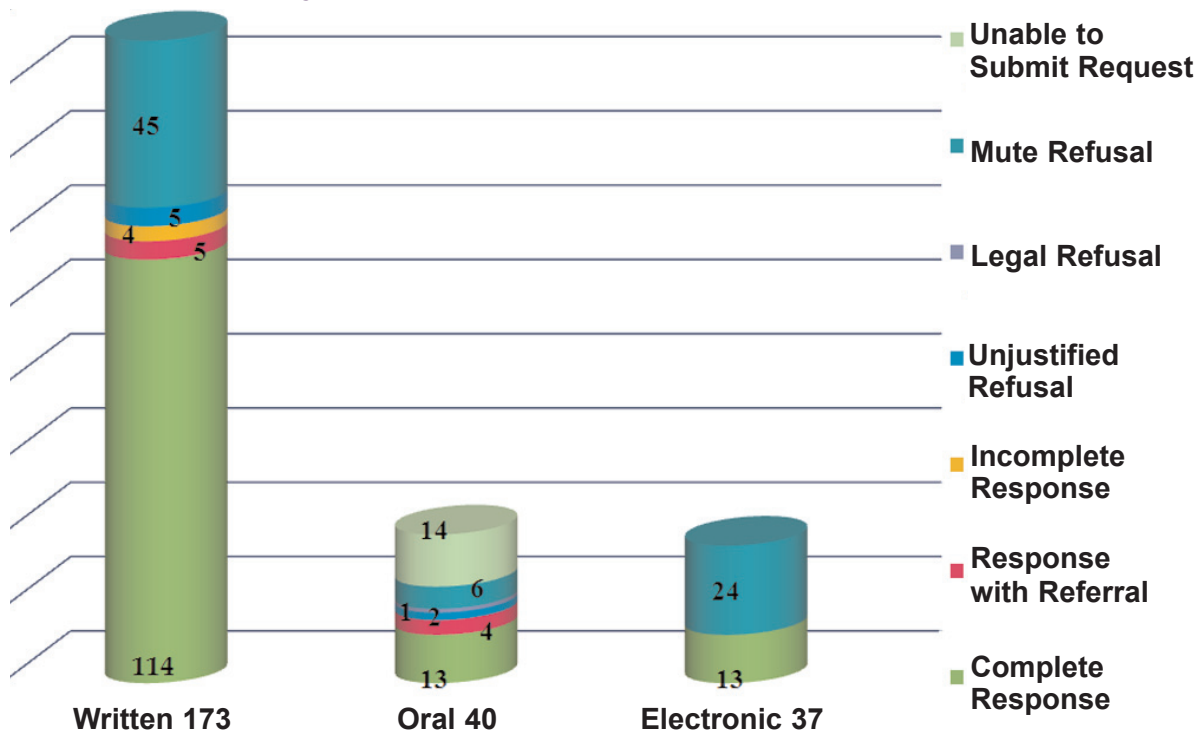
It should be mentioned that in practice written requests are preferred. In this case the chances for restoring violated rights increase, because when a written request is sent by post a postal receipt is given, where the date of sending the information request is also mentioned. As for in person deliveries, the information holder makes relevant notes on the second copy of the information request about its receipt and states the date. The postal receipt and/or the second copy of the request with the signature of the information holder’s employee, first prove that the information request was really submitted. Besides, the date on the receipt or the second copy of the request shows when the information request was submitted, excluding illegal delays in providing responses.

The Law sets a number of requirements for written and oral information requests. Written information requests must be signed, bear the requestor’s name, surname, citizenship, address of residence, or work, or educational institution (in cases of legal entities - its name and location).

For oral information requests the requestor must first say his/her name and surname. If the abovementioned requirements are not met the information request may be cancelled or it might not be processed at all. Written unsigned information requests may be cancelled.

From 250 information requests submitted during this monitoring 173 were written information requests, 37 were electronic and 40 were oral information requests.

Chart 5. Outcomes by Requests' Form



Written information requests. All 173 written information requests were sent by post, as registered letters. From these 173 requests:

- 114 complete responses, out of which 79 were on time and 35 were late complete responses,
- 5 - justified referrals,
- 4 - incomplete responses,
- 5 - unjustified refusals,
- 45 - mute refusals.

All the responses to written information requests were in written form, except for one case: to a pedagogue's written information request that was sent by post, the Regional Administration of Vayots Dzor responded with an e-mail. 21 days after the information request was sent the regional administration sent a response to the pedagogue's e-mail address, informing that the requested information could be obtained from vdzor.region.am website. It is worth noticing that first, the electronic response came not from the regional administration's official e-mail address, but from the administration's employee's personal e-mail address. Secondly, the document attached to the e-mail included only one line, "You can obtain the information you are looking for from vdzor.region.am website," without a letter-head and even without a signature (<http://www.givemeinfo.am/en/case/156/>).

Electronic information requests. Today an important issue is the processing of electronic information requests (via the Internet), which are already practical. Although the Law does not directly anticipate electronic information requests, a number of articles of the Law indirectly confirm the opportunity of electronic information requests and electronic responses. So, for example, according to part 2 of article 3 of the Law, electronic documents are also considered to be information. And according to point 2 of article 10, no fees are charged for providing information electronically. Hence, the Law anticipates an opportunity of providing information via the Internet.

So, during this monitoring 37 electronic information requests were sent, out of which:

- 8 were on time complete responses,
- 5 - late complete responses,
- 24 - left unanswered (mute refusals).

Only in the case of one electronic information request the response was received in a letter sent by post. A student had sent an information request to shirak@mta.gov.am e-mail address of Shirak regional administration from his/her personal e-mail address, but the response was provided in writing, by post, 7 days after submitting the information request (<http://www.givemeinfo.am/en/case/215/>).

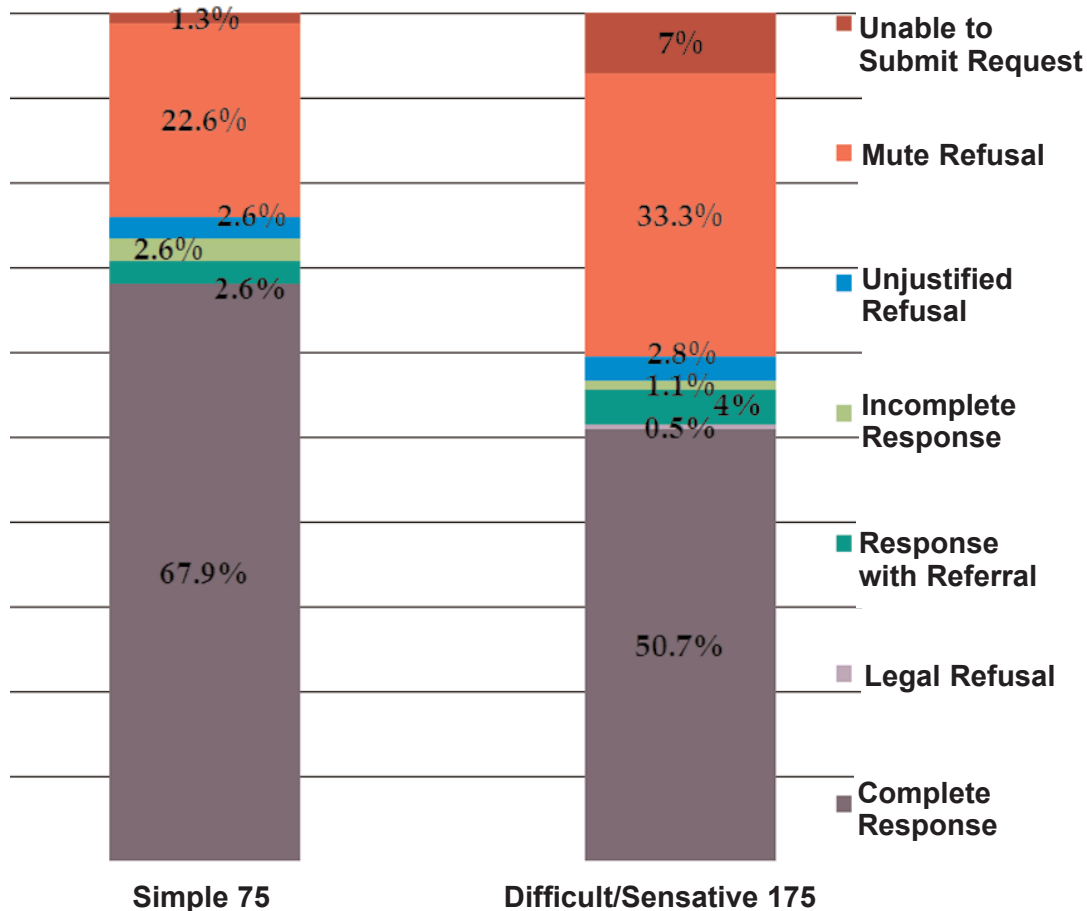
Oral information requests. From 250 information requests submitted during the monitoring 40 were oral requests with responses as follows:

- 13 on time responses,
- 1 legal refusal,
- 2 unjustified refusals,
- 4 justified referrals (in all the cases the referrals were made to the written form of the request),
- 6 mute refusals (these are the cases when the information holder had promised to call back and give information but did not),
- 14 unable-to-submit requests (these are the cases when it was not possible to contact the information holder). For example, a journalist tried to contact Aygedzor rural administration in order to request information, but the telephone number of the rural administration, which is published in information centers, did not answer during the whole day. In such cases it is considered that the information request did not reach the information holder or was not accepted.

b. Request types.

The 250 information requests submitted during the monitoring included simple and difficult/sensitive questions. Simple questions are those, the answers to which must be ready and accessible in that department. To answer difficult questions, extra work is required. Together with difficult questions, sensitive questions were also considered, to which the information holder would not wish to answer, depending on the possible subjective effect of the response. The Chart 5 shows the outcomes by the requests type.

Chart 6. Outcomes by the Requests Types



Thus, from 250 information requests 75 had simple and 175 had difficult/sensitive questions.

67.9% of requests with simple questions received complete responses, and 50.7% of requests with difficult questions received complete responses. The difference is also obvious in comparison with simple and difficult requests. 22.6% of requests with simple questions remained unanswered, and 33.3% of requests with difficult questions remained unanswered.

From 75 information requests with simple questions received:

- 67.9% were complete responses, out of which 53.3% (40)- on time and 14.6% (11) late,
- 2.6% (2) responses with referral,
- 2.6% (2) incomplete responses,
- 2.6% (2) unjustified refusals,
- 22.6 (17) mute refusals,
- 1.3% (1) unable-to-submit.

From 175 information requests with difficult questions:

- 50.7% were complete responses, out of which - 34.2% (60) on time and 16.5% (29) late,
- 0.5% (1) legal refusal,
- 4% (7) responses with referral,
- 1.1% (1) incomplete responses,
- 2.8% (5) unjustified refusals,
- 33.3% (58) mute refusals,
- 7% (13) unable-to-submit.

Thus, the type of request plays a significant role in the process of the information provision. The Information holders prone to give a positive answer to the requests with simple questions, which create no problem for them.

Conclusions

It is around 8 years that the “Law on Freedom of Information” is in force, but the freedom of information implementation practice has not yet reached a sufficient level. As a result of the monitoring conducted by Freedom of Information Center of Armenia, 250 information requests were sent to 50 information holders. Written, electronic, and oral information requests were sent by different requestors – NGOs, journalists, a pensioner, a disabled person, students, a pedagogue, and a lawyer. The information requests included simple and difficult/sensitive questions. This monitoring allowed to fact that the issues in the sphere of freedom of information are numerous and diverse.

1. Lack of Culture of Openness

The first issue may be considered the lack or in some cases not sufficiency of a culture to work openly among most of the officials. The majority of officials is not yet accustomed to mandatorily responding to the public demands and they do not perceive providing information as one of their basic duties.

2. Provision of Complete Responses and Refusals

From 250 information requests submitted during the monitoring 75 (30%) were left unanswered (mute refusals). This figure proves that if information holders do not wish to answer to a request, they leave the information request unanswered, instead of refusing it. This is the main reason for the great number of mute refusals and the small number of written refusals: 30% against 2.8% written refusals.

Although the number of unjustified refusals is not really big, until now some refusals are justified with a claim that the Government has not defined the order of providing information. This tendency continues among those officials who do not wish to provide the requested information. So, during this monitoring the State Revenue Committee refused to answer the written information request of a lawyer, where the lawyer had asked for information about the court cases against the Committee in 2010. As a reason for refusal the State Revenue Committee stated that the order for recording, classifying and keeping information was not defined by the Government, thus, the Committee could not provide the requested information.

3. Timeframes

One of the most serious issues is the violation of the deadlines established by the Law. The outcomes of the monitoring showed that from 161 answered information requests 70.2% was responded within the time frames established by the “Law on Freedom of Information” (113 information requests), and 29.8% (46 information requests) received late responses. The average time for responding all information requests is 11-12 days.

The analysis of the information requests showed that the five-day time frame established by the Law for providing information is realistic, and if desired, it can easily be fulfilled. And vice versa, if the information holder and its manager do not have the political will and relevant knowledge, the responses to information requests are delayed without justification, the responses are incomplete, or the information requests are simply disregarded, considering responding not a duty but an extra work.

The issue of justifying the delays of responses requiring extra work and time is also actual. According to the “Law on Freedom of Information”, within 5 days the information holder must inform the requestor in writing about any delays in responses, mentioning the reasons for delays and the deadline for providing the information. The monitoring showed that this requirement of the Law is not fulfilled. In only one case the Ministry of Justice mentioned that the response will be provided within 30 days, because it was necessary to do extra work (<http://www.givemeinfo.am/en/case/74/>). In the remaining cases the response was delayed without relevant justification.

4. Discrimination Against Requestors

The outcomes of this monitoring showed that in the process of providing information the information holders discriminate different requestors. For example, information holders provided the most complete-responses to the FOICA and the journalist – accordingly 19 and 18 complete responses. However, for example, the complete responses provided to the students are twice less than those provided to the FOICA and the journalist: one of the students received 8, and the other student received 9 complete responses (See *B.5 Outcomes by in terms of requestors, page 25*).

5. Request Forms

The monitoring also demonstrated the practice of responding written, electronic and oral information requests. It is obvious that written information requests sent by post received the most complete-responses, while there still are problems with regards to electronic and oral information requests. So, 65.3% (114 information requests) of the 173 written information requests received complete responses, whereas only 35% of 37 electronic requests received complete responses (13 on time and late complete responses). This data shows that many information holders have not yet implemented the new technologies in their work and are not able to use them, particularly in order to work more effectively in the sphere of freedom of information. It should also be mentioned that during the monitoring no electronic information request was sent to rural administrations, because most of them do not have an official e-mail address.

The oral information requests are also problematic, because their 35% (14 information requests) did not reach the information holder, which means that the requestor was not able to contact the relevant official over telephone because of the latter's inaccessibility.

From 250 information requests 75 had simple questions, 175 had difficult/sensitive questions. 67.9% of requests with simple questions received complete responses, and 50.7% of requests with difficult questions received complete responses. The difference is also obvious in comparison of simple and difficult requests. 22.6% of requests with simple questions remained unanswered, and 33.3% of requests with difficult questions remained unanswered. It's obvious that the type of request plays a significant role in the process of the information provision. The Information holders prone to give a positive answer to the requests with simple questions which create no problem for them.

6. Information Holders

The outcomes of the monitoring showed that from 50 bodies involved in the monitoring, best results showed regional administrations, and worst results showed organizations of public importance. From 50 information requests submitted to regional administrations 74% received complete responses, while from 50 information requests submitted to organizations of public importance only 44% received complete responses.

It is worth to mention, that the positive result of regional administrations is also conditioned by the fact that the officials from the regional administrations have often participated in the FOI trainings organized by the Freedom of Information Center of Armenia.

In any case, when reporting the basic issues in the sphere of freedom of information, it should be mentioned, that in the past few years the right of the freedom of information has progressed. The access to information right has been enforced within the Armenian civil society and has already entered state governance and local self-government bodies, promoting open and public government and transparent work.

One of the most positive outcomes of this monitoring is that in comparison with previous years the number of complete responses has increased - 56%. Refusals have noticeably decreased, being 3.2% within the scope of the monitoring, which is also a positive phenomenon.

Let us summarize the comparative outcomes of previous years and this monitoring.

- **Complete responses** - in 2003 were 41%, in 2004 - 51% and in 2011 - 56%.
- **Refusals** in 2003 were 16%, in 2004 - 5%, and in 2011 they were 3.2%.
- **Unable-to-submit information requests** - in 2003 were 15%, in 2004 - only 1%, and in 2011- 5.6%.
- **Mute refusals** - in 2003 28% of information requests were left unanswered, in 2004 - 36%, and in 2011 the percentage of mute refusals was 30%.

Recommendations

Based on the analysis of the outcomes of the abovementioned monitoring, as well as taking into consideration the implementation practice of the access to information right during the last few years, Freedom of Information Center of Armenia presents recommendations for:

1. **State and local self-government bodies,**
2. **Organizations of public importance,**
3. **Media outlets, representatives of the civil society, and the public.**

1. Recommendations for state and local self-government bodies

1.1 The most important factor for ensuring transparency and increasing publicity in state governance and local self-government bodies is the readiness of the employees of those information holders. In this regard, the FOICA suggests organizing trainings on freedom of information, talk about the access to information right, as well as about the provisions of the “Law on Freedom of Information” during working discussions. This will help the information holding official to appropriately process and respond information requests addressed to him/her. It is necessary that the whole personnel of state bodies, including employees in reception and security sections, have idea about the access to information right and the Law on freedom of information, because often requestors first encounter these employees.

1.2 Any discrimination against requestors ought to be completely abolished. State bodies should inform every official about the requirement to exclude discriminations from the sphere of freedom of information, and should warn them about the unavoidability of a punishment in cases when information requests are illegally refused.

1.3 The FOI requests must be answered completely. In order to solve the issue of providing complete responses, the FOICA suggests that the heads of departments give appropriate orders to the heads of their branches to realize constant checks and supervision for the completeness and appropriateness of the responses prepared by their employees. This will exempt any careless attitude by the subjects or providing incomplete responses as a result of inattentiveness. Such a supervisory function will have a positive effect on the time frames for answering information requests.

1.4 The FOI requests must not remain unanswered. Taking into consideration the great number of mute responses, the authorities ought to ensure that every information request receives a response in accordance with the Law, and the number of incomplete responses is minimized. If providing information is refused, then its legal bases must be clearly mentioned and written response must be given.

It will also be a positive step for ensuring the appropriateness of responses and their timeliness, if in cases when the information request requires extra work and time, an intermediate written message is sent to the requestor about the reasons of the delay and about the deadline for answering. This is a requirement of the Law, which is often not accomplished. Hence, it is necessary that the heads of state governance bodies pay attention to this issue as well.

1.5 Refusals must be justified, appropriately stated, with references to legal acts justifying the refusal, and always be in written form.

1.6 Responses must be provided on time. If additional work is needed to provide the information required, then the information is given to the applicant within 30 days after the request is filed, about which a written notice is being provided within 5 days after the request submission, highlighting the reasons for delay and the final deadline when the information will be provided.

A solution of providing on time responses to information requests is the installment of new technolo-

gies, particularly the practice of providing information electronically. The issue of receiving electronic information requests and answering them is especially actual in Rural Administrations, most of which do not have an e-mail address, and some do not even have computers. Today, the Internet providers of Armenia allow having accessible Internet connection practically in all rural communities. Thus, Freedom of Information Center of Armenia suggests especially rural administrations to anticipate means from their community budgets for having computers with Internet connection in their rural administrations, which will serve exclusively for providing information and ensuring publicity. And, as a result the level of implementing the access to information right will increase dramatically.

1.7 The implementation practice of the FOI right shows that many bodies do not have someone responsible for freedom of information. In some bodies the duties and functions of the FOI sphere belong to that body's press secretary. In other cases public affair and/or media departments carry that duty and function. However, in not all the cases do these positions fully include the FOI sphere. As a result, the functions of receiving information requests, answering them, and with self-initiative publishing information subject to mandatory publication remain uncoordinated. This particularly causes deadline violations. The FOICA suggests the heads of information holders to create a position for an official responsible for freedom of information, or to put the functions of the FOI sphere fully on one specific official, and clearly define the framework of his/her rights and duties in that sphere, also granting him/her with the authority to control the appropriateness of the information provided by different sectors and branches.

1.8 The "Law on Freedom of Information" states the mandatory publication of some information by state governance and local self-government bodies, such as budgets, budget implementation reports, vacancies, contact information of officials, etc. The publication of this as well as other information with the initiative of that body will significantly promote the implementation of the access to information right, will increase the reputation of that body in this sphere and will decrease the number of information requests submitted to that body by citizens. So, by publishing all the present information once, on the one hand the state body decreases the amount of information requests, accordingly decreasing the time, means and work spent on answering them, on the other hand it becomes a transparent and public body, earning the public trust. However, having published some information does not free the official from its duty of providing information. In cases, when the information is published electronically, but the requestor does not have access to the Internet, referrals to the electronic website are not appropriate responses. Referrals of relevant information should not be abused by officials, but should serve for ensuring information accessibility.

2. Recommendations for organizations of public importance

2.1 Although organizations of public importance are considered information holders by the Law, in practice they were left out of the sphere of freedom of information: in many organizations they do not even know about their duty to provide information. If organizations of public importance, such as hospitals and schools, sometimes encounter the access to information right, such organizations of public importance as those who conduct sales or production of food or non-food goods, have not even heard about freedom of information. In such organizations the press secretary or the one responsible for public relations, is busy with advertizing and giving interviews to media outlets. Thus, Freedom of Information Center of Armenia suggests the heads and owners of organizations of public importance as first step to increase the knowledge and professional readiness of their relevant employees in the sphere of freedom of information.

2.2 As a rule, organizations of public importance do not receive many information requests. The content of possible information requests that they receive is limited to the kind of activities of that organization. Hence, if, by their own initiative, organizations of public importance publish information regarding the sphere of their activities (food security, healthcare, education) they will ensure quite high levels for providing information. Besides, in cases of information requests, they will be able to refer to the already published information, without conducting additional work.

3. Recommendations for media, representatives of civil society and the public

3.1 The implementation practice of the access to information right shows that media outlets and especially citizens are rather passive in using their constitutional rights for freedom of information.

This is also demonstrated by the judicial practice of Freedom of Information Center of Armenia - from about 30 court cases initiated by the FOICA on freedom of information, none is based on citizens' demands simply because there were no such demands. Only in two cases, together with the FOICA, court cases were initiated by Aram Zakaryan - a journalist of "Aravot" daily newspaper.

The FOICA suggests media outlets and independent journalists to use the "Law on Freedom of Information" and their access to information right as tools for acquiring information necessary for journalistic materials. The written information requests submitted to state bodies show the officials' readiness to work in the FOI sphere, and have significant proving importance in cases when the official tries to avoid responding. Whereas, if a journalist receives information by other means, such as using acquaintances or his/her own reputation, and if the article is not in favor of the official, then the official may easily refuse having given any information to the journalist. Besides, if the journalist does not submit a written information request, the official may refuse to answer at that moment for different reasons or may delay the response without any justification. So, the "Law on Freedom of Information" and information requests submitted in accordance with the Law are powerful tools for journalists.

3.2 Taking into consideration the function of media outlets to control and provide information for the public, it is worth mentioning that in our reality it is necessary to develop media outlets that will pursue their rights. Same refers to citizens, as well. Many citizens, after submitting information requests to state bodies and not receiving the necessary information, are satisfied just by telling about it to their friends, whereas appeals or court cases could ensure positive outcomes. Thus, in this regard, court cases in the sphere of freedom of information become very important. It is necessary that in order to protect their rights media outlets and citizens take it to court whenever information requests are illegally refused by officials.

3.3 The role of NGOs is very important in the sphere of freedom of information. Having beneficiaries and being the protectors of their beneficiaries' rights, NGOs can use the access to information right in performing their activities and protecting the rights of their beneficiaries. FOICA's many partner NGOs already actively use the opportunities provided by the access to information right. If the number of organizations who actively use the access to information right increases, on the one hand their pressure will impact the activities of state bodies, making them more transparent and public; on the other hand it will promote the increase of knowledge about this right within the public. The FOICA suggests that within the scope of their rights NGOs periodically conduct freedom of information monitoring, bringing up the violations of the access to information right, cases of discrimination, legislative gaps, and calling to account the officials violating the Law.

Appendix 1: List of the information holders involved in the monitoring

State Government Bodies

1. RA National Assembly,
2. RA Police,
3. RA State Revenue Committee,
4. RA State Labor Inspectorate,
5. Food Safety and Veterinary State Inspectorate,
6. Ministry of Education and Science,
7. Ministry of Healthcare,
8. Ministry of Nature Protection,
9. Ministry of Labor and Social Affairs,
10. Ministry of Justice.

Regional Administrations (Marzpetarans)

1. Regional Administration of Ararat,
2. Regional Administration of Armavir,
3. Regional Administration of Aragatsotn,
4. Regional Administration of Gegharkunik,
5. Regional Administration of Lori,
6. Regional Administration of Kotayk,
7. Regional Administration of Shirak,
8. Regional Administration of Syunik,
9. Regional Administration of Vayots Dzor,
10. Regional Administration of Tavush.

Municipalities

1. Artashat Municipality,
2. Ashtarak Municipality,
3. Hrazdan Municipality,
4. Kapan Municipality,
5. Eghegnadzor Municipality,
6. Armavir Municipality,
7. Ijevan Municipality,
8. Gavar Municipality,
9. Gyumri Municipality,
10. Stepanavan Municipality.

Rural Administrations

1. Nor Kharberd, Ararat region,
2. Gargar, Lori region,
3. Oshakan, Aragatsotn region,
4. Verin Ptghni, Kotayk region,
5. Tsav, Syunik region,
6. Elpin, Vayots dzor region,
7. Lenughi, Armavir region,
8. Aygedzor, Tavush region,
9. Lchashen, Gegharkunik region,
10. Azatan, Shirak region.

Organizations of public importance

1. "Norq-Marash" Medical Center CJSC,
2. "Nairi" Medical Center CJSC,
3. "Clinical Hospital" CJSC,
4. "No.15 Polyclinic" CJSC,
5. "Special Policlinic" CJSC,
6. "ArmRusGasProm" CJSC,
7. "Armenian Water & Sewerage" CJSC,
8. "Electric Networks of Armenia" CJSC,
9. "Armenia Telephone Company" ("ArmenTel") CJSC,
10. "Catherine Group" Co. Ltd.

Appendix 2: Types of questions sent during the monitoring

Requests with simple questions were:

- provide information on the statistical data on FOI requests,
- provide copies of protocols of the elders' meetings of rural administrations and municipalities,
- inform where and how the information holders' budget and its execution/implementation report were published,
- provide information on services and prices of services provided by the information holder,
- provide information on vacancies and hiring procedure,
- provide information on public discussions of decisions of the state and local self-government bodies.

Requests with difficult/sensitive questions were:

- provide information on the rewards that the information holders' employees had received,
- provide information about the construction and renovation works of buildings of the information holders,
- provide environmental, educational, health, taxation, employment-related information,
- provide information on compliance of buildings of the information holders with the needs of disabled persons,
- provide information on official cars owned by the state and local self-government bodies,
- provide information on the charitable activities of the organizations of public importance,
- provide information on court cases filed against the information holders.