

# Implementing Right to Information Reforms

**MOLDOVA**

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## Abbreviations and Acronyms

ATI	Access to information
CIS	Commonwealth of Independent States
EU	European Union
FOIA	Freedom of Information Act
IPP	Institute for Public Policy
MPs	members of parliament
NGOs	nongovernmental organizations
OSCE	Organization for Security and Cooperation in Europe
USSR	Union of Soviet Socialist Republics

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## 1. Introduction

Moldova passed the Law of Access to Information (982) (henceforth RTI law) in 2000. This came at the end of a turbulent decade that saw the disintegration of the Soviet system. Pressure from journalists and civil society organizations was important, and they also contributed substantially to its drafting.<sup>1</sup>

This paper discusses the implementation of the RTI law in Moldova. It is part of a larger comparative study looking at implementation across a range of countries. It is fair to say that for much of the time since its passage, the existence of a Moldovan RTI law has made little difference to the socio-political reality of the country. The lack of official data on implementation makes it difficult to judge to what extent the letter and spirit of the law are being followed. Based on civil society assessments, it appears that the rate of explicit and mute refusals to information requests and nonresponses to RTI requests have been quite high. A few institutions have created internal norms for making information available, but many have not done even this (especially at the local level).

## 2. Adoption & Provisions

### 2.1 Passage of the Law

The drafting and passage of FOIA occurred in a very unstable and turbulent period for Moldova. Corruption was perceived by most of the population as a primary cause of the country's political, economic, and social problems. Despite of the fact that 1998 has been declared by a presidential decree the year of fighting corruption, there were no prosecutions of governmental officials at the national or local level.<sup>2</sup> According to Transparency International CPI, in 1999

Moldova was rated 75 out of the 99 countries assessed, registering a score of 2.6 points (10 – highly clean; 0 – highly corrupt).<sup>3</sup> State capture turned out to be closely related to phenomenon of grand corruption where firms were shaping and influencing the rules of the game through politicians and public officials.<sup>4</sup>

A window of opportunity for reform emerged after parliamentary elections held on March 22, 1998 – the second electoral competition of this kind after the declaration of independence. The Communist Party (CP) participated for the first time in parliamentary elections since Moldova achieved independence. Unlike the previous parliament which was clearly dominated by the Agrarian Democratic Party (ADP), the new parliament was fragmented. Four parties emerged - Communist Party with 30 percent of the seats, Democratic Convention with 19 per cent, Movement for a Democratic and Prosperous Moldova with 18 per cent, and Party of Democratic Forces with 8.8 per cent. Although the Communist Party obtained 40 seats it was pushed into opposition by a coalition of the other three parties.

Between 1998 and 2001, when early parliamentary elections were called, Moldova experienced a phase of government instability caused by a twofold political crisis: clear cut disagreements inside the coalition and a conflict between the legislature and the presidency. Three cabinets alternated in office during this parliamentary cycle, with an average ruling duration of about 11 months. The most reformist one, led by Ion Sturza, which started to implement radical reforms stayed in office less than 9 months, and was dismissed in November 1999 through a no-confidence vote.<sup>5</sup> An ensuing political struggle between the president and

parliament resulted in a Constitutional amendment in July 2000, which curtailed the President's powers.<sup>6</sup> Early parliamentary elections were held in February 2001.

The Freedom of information Act was drafted under these circumstances, and few saw it as really important. The focus was on other areas such as privatization of big state enterprises and sectors, like tobacco and wine industries, and other economic reforms. Nevertheless, several factors contributed to the passage of the law:

- First, parliament rejected a market oriented policy package, and voted out the reformist Sturza government. As a result, the image and credibility of Moldova was severely damaged internationally. They had to compensate the negative effects of the policy turn by promoting other reforms.
- Second, the legislature as an institution had to prove its efficiency in the face of increasing acrimony, given the president's allegations about the legislature's inefficiency and incapacity to promote democratic reforms.
- Third, political rivalries in an uncertain environment drove political leaders to seek the political dividends that support for RTI could provide.
- Fourth, several former journalists were members of parliament (MPs), and supported the law.
- Finally, there was no focus on what implementation would entail, or its consequences for state institutions, and hence RTI might not have been seen as particularly threatening or burdensome.

The unanimous adoption of the law in the Parliament in 2000 was preceded by heated debates and a series of 44 amendments, formulated after the law was adopted in a first reading. The first parliamentary

debates centered on a draft that focused on both ATI and the media. Momentum was generated by MPs, some of whom were also journalists.<sup>7</sup> The initial draft was revised following suggestions by international experts, who suggested splitting the proposal into two different laws—one for RTI and the other for freedom of expression and freedom of the media. The final draft addressed these concerns.<sup>8</sup>

## 2.2. Scope of Coverage

The Law applies to:

- All the central authorities of the state: the parliament, the presidency, the executive, its subordinated institutions, and the judiciary.
- Local authorities (*rayons*, municipalities) and their subordinate institutions.
- All organizations founded and financed by the state, at the central and local level, with non-commercial or socio-cultural purposes.
- Private bodies—under contract with a public authority to provide public services—that collect, manage, and store official information.

Information can be requested by non-citizens of Moldova as well - access to information is guaranteed in the same circumstances to foreign nationals who are temporary residents.

## 2.3. Scope of Exemptions

The law attempts to cover virtually all information in the possession of state authorities or agents (including private ones) and restricts access only in a number of specified cases. Two principles represent a basis for denying access to information: (i) the protection of individual data, personal rights, and reputation; and (ii) the protection of national security, public order, public health, and public morality. The

interpretation of these principles in each individual case is left to the judiciary. Article 7 offers a more precise list of information that may be exempted from the general rule of transparency (such as state secrets, commercial patents, the disclosure of which may damage the legitimate interests of economic agents, personal data, information on cases being investigated, and information related to scientific/technological research protected by intellectual property or similar legislation).

However, providers must disclose the portions of the document that do not contain such information, and indicate explicitly the classification of the rest of the document. The providers must also demonstrate that the potential damage done by disclosure is higher than the benefit (to the public) of access.

## 2.4. Request Procedures

Entities covered by the law have the obligation to develop the necessary infrastructure to facilitate access to information, such as creating appropriate spaces for documentation and consultation of public documents, and job descriptions and training for the civil servants in charge of implementation,

The claimant of public information does not have to prove a direct interest or justify its claim to public information in any way. If the information requested is highly complex, and requires additional effort to collect and analyze, the entity might charge a fee, which should not be higher than the reasonable costs of producing, copying, or delivering the information requested. The entity might respond to the request verbally, or issuing copies of the existing documents and data, or mailing or e-mailing copies. When the institution appealed to

does not possess the information requested, or when another institution can satisfy the request for disclosure better, the claim should be redirected accordingly.

The law provides that the information must be disclosed as soon as it is available in the requested format, but no later than 15 working days from the time the claim is submitted. The interval could be 20 working days if the volume of information is large or additional interaction with the claimant is necessary to clarify the request, in which situation, the claimant must be informed.

## 2.5. Broader Legal Environment

Several other pieces of legislation are germane to the functioning of the RTI regime. The contradictions between these laws give civil servants substantial discretionary power, and allow for a large degree of administrative intervention. Requests for information can be denied using different pieces of legislation.

**The Law on Transparent Decision Making<sup>9</sup>** requires involving citizens and interest groups in the public decision-making process, particularly in drafting regulations. Though NGO reports (Association for Participative Democracy 2010) have shown shortcomings in the implementation of the law, it is considered by the government as a proof of its transparency, and the government has invested considerable effort in making it work.

**The Law on State Secrets:<sup>10</sup>** The first law on state secrets was adopted in 1994,<sup>11</sup> and gave public institutions much room to restrict access to information much. In 2005 the Moldovan authorities drafted two pieces of legislation that severely limited access to information: one on state and service secrets, and a new law on access to information. Media and NGOs were vocal in



opposing the new draft.<sup>12</sup> They were joined by international community experts, many from the Organization for Security and Cooperation in Europe (OSCE) (Banisar, 2005). Subsequently, both drafts were withdrawn from the Parliament's agenda.

A new law on state secrets adopted in November 2008 (Access-Info 2008b; 2009a) retained a number of restrictive provisions from the previous law (Banisar 2008). The new law sought to extend the definition of a state secret, as well as of types of information that may be protected, lacked any provisions for whistle-blowers, extended deadlines for protecting secret information were too extensive, and left little room for parliamentary control. As the law does not contain any provision regarding a potential conflict with the RTI act, the secrecy of public institutions continues. Another factor that favors nondisclosure was the introduction, in 2006, of bonuses for civil servants who handle secret information in the course of their official duties.<sup>13</sup>

**The Law on Commercial Secrets:**<sup>14</sup> The law regulating commercial secrets dates back to 1994, and later amendments have not improved its wording significantly. Journalists have frequently been refused information by the citing of this law.<sup>15</sup> According to the journalists and NGO representatives interviewed, this law was frequently used by public institutions to restrict access to public information.<sup>16</sup>

**The Law on the Protection of Personal Data**<sup>17</sup> establishes mechanisms for protecting personal information and setting up a National Center<sup>18</sup> mandated to ensure that appropriate protection is granted by all entities that handle personal data. Personal data are defined by law as information that refers to any identified or identifiable person. This definition has caused

difficulties in practice, as most information can probably be linked with an identified or identifiable person. For example, according to the RTI act, information from ID cards is not excluded from free access by citizens, but according to the personal data law this information should not be accessible to citizens. There is a lack of clear procedures to sanction breaches of data protection legislation, including for unlawful use of data for personal interests.<sup>19</sup>

The legislation on personal data protection can be invoked against journalists when they seek out information about politicians. Access to wealth statements (defined by law as public information) is denied on the basis of the personal data protection legislation. Answers to such requests often depend on the goodwill of the civil servant who handles the request, as the law allows for significant administrative discretion.<sup>20</sup>

**Freedom of Expression and Media Rights:** Laws such as Combating Extremist Activity<sup>21</sup> have also limited freedom of expression. The 2008 Code of Conduct for Civil Servants<sup>22</sup> bans all public servants, except those authorized to contact and communicate with mass media on the behalf of the institution they represent.

There are a series of provisions from Civil Code Criminal Code and Code of Contraventions which restrict the access to information and the freedom of expression. Nevertheless, some advances have been made to adjust legal and institutional framework to European standards. One example is the adoption of Broadcasting Code<sup>23</sup> a complex document which has to ensure the protection of consumers' rights to receive correct and objective information.

### 3. Implementation Experience

The law contains sufficiently comprehensive provisions on implementation to facilitate access. The law requires all public entities to facilitate citizens' access to information, appoint and train information officers, and amends internal regulations to reflect RTI procedures (such as the duties of the civil servants in charge of ATI implementation).<sup>24</sup> The law also provides for the obligation of civil servants to assist citizens in identifying and accessing registers where public information is stored.<sup>25</sup>

In practice, little effort has been made to create mechanisms to ensure implementation across public institutions or to monitor compliance. Regulations on how the law should be implemented have not been issued, so individual institutions are left to decide if and how supplementary regulations should be adopted (some did, most did not). There are no officially centralized statistics in RTI implementation except some studies that originate from NGOs, such as Access-Info, which specialize in promoting access to information. A few NGOs use it systematically. But their capacity and resources are insufficient to put enough pressure on authorities.

There is no dedicated budget allocated for the implementation of the law. Most ministerial accounting departments have no tradition of such collecting fees from requesters and consider the extra trouble of collecting fees not worth its potential benefits. Big institutions such as ministries or agencies regard the possibility as more of a nuisance as it would imply complex arrangements between PR offices, the RTI system, and the accounting department. There are no central guidelines or a consistent judicial practice of interpretation of limitations on collecting fees. Hence, revenues from this source are insignificant.

Overall, there is little ownership of the law by political leaders.<sup>26</sup> The issue of the implementation of the RTI law has been at the margins of the public agenda.<sup>27</sup> The political crisis that followed the adoption of the law contributed to undermining the chances of its effective implementation. Implementation of RTI has been at odds with the political agenda of the post-2001 government.

#### 3.1. Personnel and Training

Significant differences exist among institutions regarding the appointment of an information officer, and only a few public bodies prepare regular reports, publish their budgets, or give out data about their public procurements (Access-Info 2009b: 80–90). A monitoring report by a local NGO, which looked at 95 public bodies—64 central and 31 local— shows the lack of awareness among civil servants about the law's main provisions and the significant level of confusion on the difference between petitions and proper information requests. Procedural norms have not been included in the internal regulations to facilitate implementation (Cozonac, Guja, and Munteanu 2004).

Preparing an answer for an RTI request usually involves several persons in any public institution. The first point of contact for a request is usually the officials working in the department of public relations, who handle many other tasks. When a request is submitted, it is usually forwarded to the minister or senior officials, who decide which department is competent to answer the applicant. The response has to get approved by all department heads, the legal department, and the minister. The answers to requests are usually signed by the heads of institutions or other top management officials, which shows the existence of

multiple filters in the provision of information and the lack of autonomy of public servants responsible for this task.<sup>28</sup>

Data on ATI requests in many state institutions are still not separated from those of individual petitions. It is usually up to the individual who first receives the document to qualify it as either a petition or a request for information. Progressive public entities try to differentiate between the two not only because the deadlines and procedures for response are different,<sup>29</sup> but also because such institutions have interacted more frequently with their international counterparts, and, as a result, have become more aware about higher standards of transparency.

### **3.2. Records Management**

Each public institution is responsible for administering and keeping records of the information it works with, drawing resources from their general budget. Recent documents might be available in electronic format, while older documents are usually in paper format.<sup>30</sup>

Overall records management is the responsibility of the Secretariat Administrative Service (SAS). A step forward was made with the adoption in 1997 of law on registers.<sup>31</sup> A better system of record management was put in place through the enactment in 2004 of the law on electronic document and digital signature, which establishes a legal framework for the creation, recording, circulation and storage of electronic documents, as well as terms of using digital signature.<sup>32</sup> An integrated system of electronic documents has also been introduced.<sup>33</sup> The government has launched an initiative for “Government without paper,” to migrate to a full-fledged electronically-driven system.

### **3.3. Open Data Initiative**

In 2011 a new government initiative to promote open governance was initiated, with the help of international partners and political buy-in from the highest level of government. The initiative seeks to involve citizens in the decision-making process and improve its interaction with businesses and the public.

A special Web portal was set up (<http://data.gov.md>), and the Center for Electronic Governance was entrusted with operating it. Line ministries and other public bodies were required to identify, publish, and update datasets of interest for citizens and businesses.<sup>34</sup> The center had to draft the methodology and technical standards for posting this public information, and offer technical support to all public entities. Two persons with management positions were designated as counterparts in each institution.<sup>35</sup> As the center operates under the umbrella of the State Chancellery, the weight attached to the e-government agenda is significant.<sup>36</sup> The Chancellery is the main body coordinating government policies and thus has direct access to line ministries and other public institutions.

## 4. Appeals & Enforcement

Administrative appeal and action in court against the denial of information or mute refusals can be initiated in the following cases:

- The refusal to receive and register a request officially;
- The refusal to offer access to existing documents, which are by default public;
- Undue classification of information as state or commercial secret or personal data; or
- Imposition of disproportionate fees for RTI services.

There is no independent information Commission. The law provides two types of remedies:

- Administrative appeal to a senior official or committee within the entity from whom the information is requested. This must be done within 30 days from the moment when the denial of access occurred or when an unsatisfactory answer was received. The appellate person/body has five working days to examine the case and inform the claimant about the solution.
- Action in and administrative court if the solution to the appeal is considered unsatisfactory, or if the entity does not have internal appeals procedures. This action must be initiated no later than 30 days from the end of the previous procedure.

Systematic data on appeals and adjudication were not available, but interviews suggested that the Courts are burdened by a heavy caseload, and poor capacity.

The judiciary has problems of capacity, integrity, and politicization, as the European evaluation missions attest<sup>37</sup>—a combination of poor material conditions in courts, overburdened staff, and a lack of exposure to international legal thinking, especially in new areas such as modern commercial law, human rights, or freedom of speech. Judges are poorly prepared to rule on the few ATI-related cases that come before them. Moreover, judges tend to stand with public institutions.

In principle, the administrative judge is entitled to impose penalties in proportion to the damage caused by the denial of access to public information. In practice—and in the context of an unreformed judiciary with little training and track record on such modern legislation—this can lead to divergent interpretations. In some courts “utilitarian” logic seems to prevail: they take into account only the direct material damage to the plaintiff as a person, not the broader social interest in higher transparency. In potentially landmark cases involving opaque institutions brought before courts by activists or journalists (who act on behalf of the public’s “right to know”), the institutions are administered very lenient penalties.

## 5. Compliance

### 5.1. Proactive Disclosure

The law specifies information that must be published ex officio. This includes:

- The mission, organization chart, and types of activities of the institution;
- The working hours and contacts of the main divisions as well as of the civil servants in charge with implementing the RTI law; and
- The most important decisions and documents of the institution.
- Synopses of the main documents and decisions of the budget and the main activities carried out.

Other laws also require the publication of documents such as those related to public budgets. But while basic data (address, hours) is available on many institutions' websites, this is attributable to the gradual penetration of the Internet into society over the past decade.

Under the new open government initiative, all state bodies are required to set up and update their web pages and also approved a regulation about publishing information on these web sites.<sup>38</sup> The Ministry of Information Technology and the Security and Information Service is charged with creating the standards for official websites. All public entities are required to include a specific line for the operation of these sites in their annual budgets. The regulation also included a comprehensive list of information that should be accessible through the websites.<sup>39</sup> The government's data portal also provides citizens easy and direct access to information held by public bodies in one place. The BOOST project is making databases on public expenditures available.<sup>40</sup>

However, proactive disclosure should not imply less attention to request-based disclosure. For instance, in response to a request by the author, a ministry official suggested that this was not necessary as long as all public information is available on its website.<sup>41</sup>

### 5.2. Requests and Responsiveness

Although several ministries claim that there is a database on RTI requests, in response to requests, they have either stated that they cannot provide the requested information,<sup>42</sup> or not responded.

Several ministries pointed out that most of requests are received by phone and e-mail, but they are not registered.<sup>43</sup> Only those requests that cannot be solved on the spot and are docketed in a written form, are in fact registered as ATI requests and counted in the formal statistics.<sup>44</sup> This can be particularly mis-leading at the local level, where much of the interaction that happens between local authorities (who are the main service providers for citizens) and their clients is verbal and informal. Central bodies are more bureaucratic in their relations with citizens; therefore, for them the data presented above is more likely to be closer to the reality on the field. However, even here the conflation of petitions and RTI requests creates a further layer of inaccuracy.<sup>45</sup>

There are a few private initiatives to monitor and produce quantitative data on the RTI's implementation. The most complete is that carried out in 2008–09 by Access-Info, a civil society organization. This was a survey of RTI requests by citizens, journalists, and NGOs to public sector institutions.

These studies suggest that there is low awareness about RTI among citizens, and as a consequence, a low number of requests. The reports also show little progress in the

receptiveness of public institutions to citizens' requests (Access-Info 2011b). Though some improvement was seen between 2007 and 2010 (an increase in responses received from 20.3 percent in 2007 to 34.6 percent in 2010), the overall rate of response remains quite low. More details on this data are provided in Annex 1.

There are also significant differences between central and local institutions: central institutions are more responsive to requests, both in terms of the number and quality of answers. Central institutions also tend to be more aware of the provisions of the law, or simply to have the means to deal more effectively with requests. But the majority of requests are made at the local level and the unresponsiveness of local authorities plays an important role in the public's perception of this issue. The *raion*-level and de-concentrated bodies, which are at an intermediary tier of governance, range between the national and the local institutions in terms of responsiveness.

The courts and prosecutors' offices as well as the police also tend to be more non-responsive, invoking the need to maintain secrecy of investigations as a reason.<sup>46</sup>

Responsiveness to media is seen to be higher, even though they request more "sensitive" information, potentially because the media tend to be more persistent in their demands.

## 6. Conclusion

After almost a decade, the RTI system has been very inadequately institutionalized. According to the stakeholders interviewed, this situation has its roots in weak political ownership (and, as a result, visibility), and a passive judiciary that is unwilling to create a coherent practice in this area. Soon after the passage of the law, the Party of Moldovan Communists (PCM) won power in 2001 - the first post-Soviet state where a non-reformed Communist Party returned to power. The fragmentation of the liberal opposition helped consolidate its power. In the subsequent years, Moldova's record on democracy, electoral practices, civil society, independence of the media, and independence of the judiciary worsened. The Parliamentary Assembly of the Council of Europe (PACE) commented that although the Communist Party came to power in a democratic way, "it has changed overnight...democratic institutions and violated human rights." The Council of Europe (COE) also pointed to a "continuous worsening and radicalization of the political climate."<sup>47</sup>

In the March 2005 elections, the PCM lost its constitutional majority. It was able to reelect its leader, Vladimir Voronin, as the President only after an agreement with the opposition<sup>48</sup> in which some potentially important democratization measures were promised and partly implemented.<sup>49</sup> These included measures to ensure independence of the media, independence of the judiciary, decentralization of local government, greater parliamentary oversight of law enforcement agencies, reform of the electoral authorities, reform of the Communist Party, and his resignation as Communist Party chairman. Moldova's efforts to come closer to the EU also generated some reform.<sup>50</sup> In this political climate, there was little space for

implementation or exercise of the right to information.

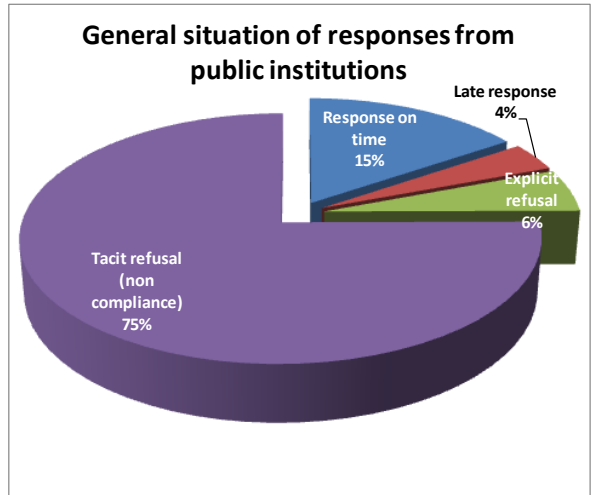
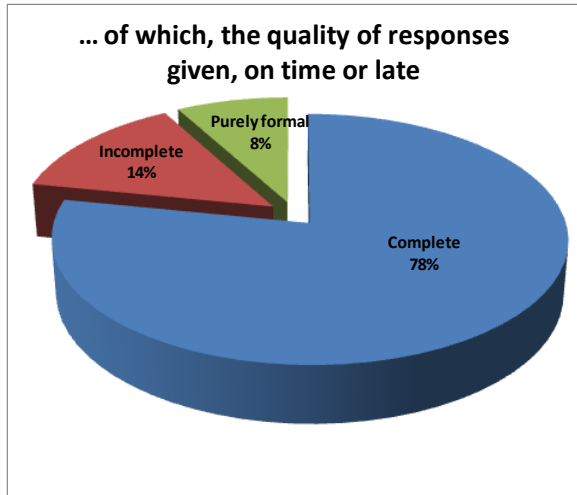
After the 2001 elections, the space for civil action also shrunk considerably. CSO efforts focused on monitoring and assessment projects in most cases, and less direct action against a specific institution in a flagship case, or strategic litigation. There are more than 3000 NGOs registered in Moldova. But only a small number are active and skilled. The civil society sector is very weak, generally lacking in institutional capacity and, often, basic equipment, and dependent on international financing. Media has also been polarized, with its independence called into question. The priority in civil society development efforts in Moldova is to invest in capacity building and the institutional development of NGOs, and continue to expand the space for media freedom.

In the past two years, increased pluralism and political competition has resulted in more details about public affairs put into the public domain, and requests for sensitive information have also gone up. Following the dissolution of Parliament, elections in July 2009 transferred power from the Communist Party of the Republic of Moldova (PCRM), which had ruled the country since 2001, to a coalition of four social-democratic and liberal parties calling themselves the Alliance for European Integration (AIE). Led by Prime Minister Vlad Filat and Acting President Mihai Ghimpu, the ruling AIE coalition pursued an active reform agenda throughout 2010, addressing long-standing deficits in the areas of free press, engagement of civil society, and judicial reform. A new window of opportunity emerged. The space for public debate is now larger and more diverse.<sup>51</sup> The open government initiative has boosted Moldova's profile in the international arena,<sup>52</sup> and is a potential tool to improve the implementation of the RTI law and the law on transparency in decision making.<sup>53</sup>

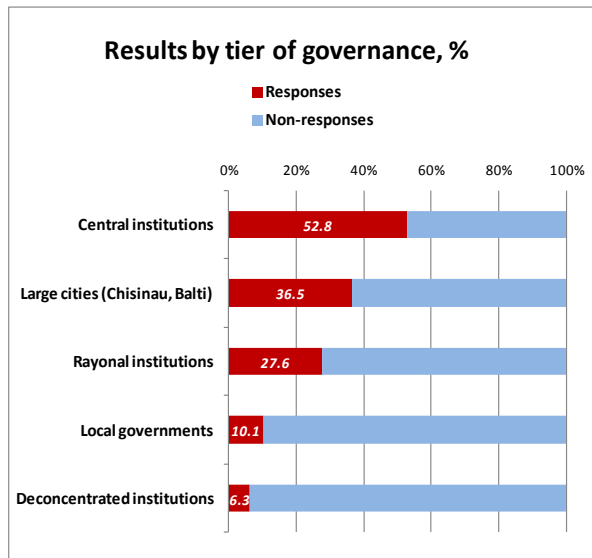
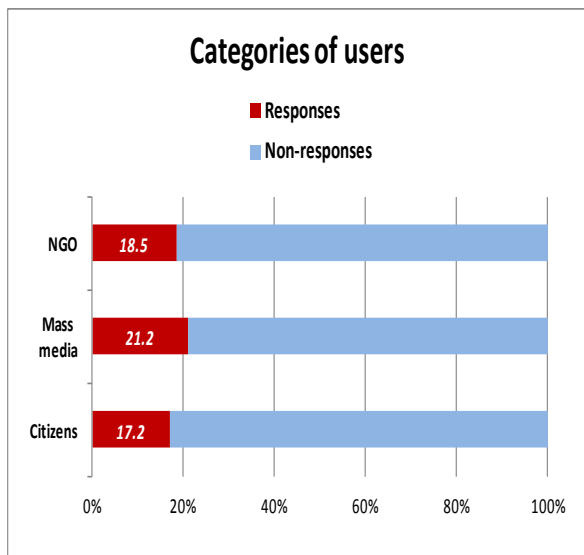
# Annex 1

## General Situation of Responses from Public Institutions

Source: Access-Info 2008c

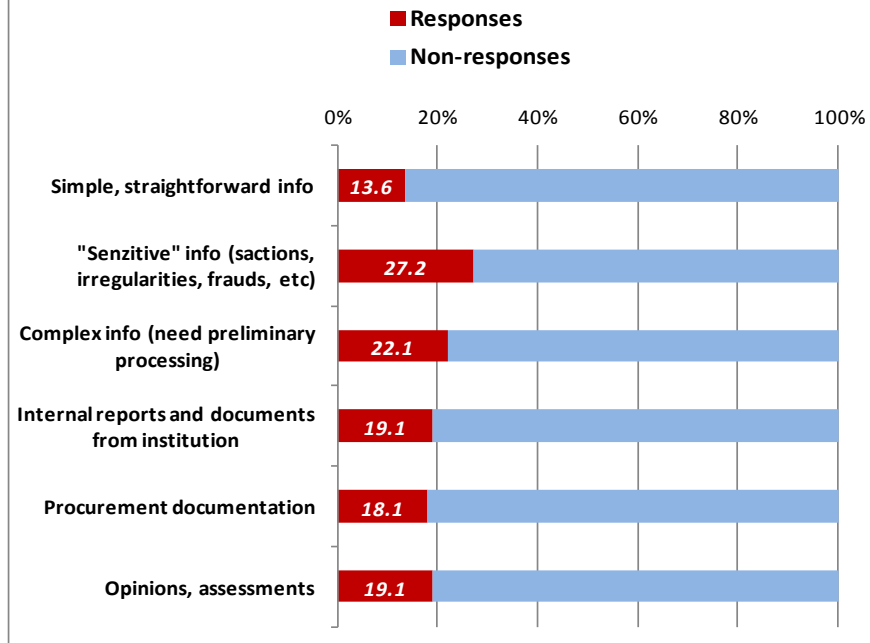


Source: Access-Info 2008c.

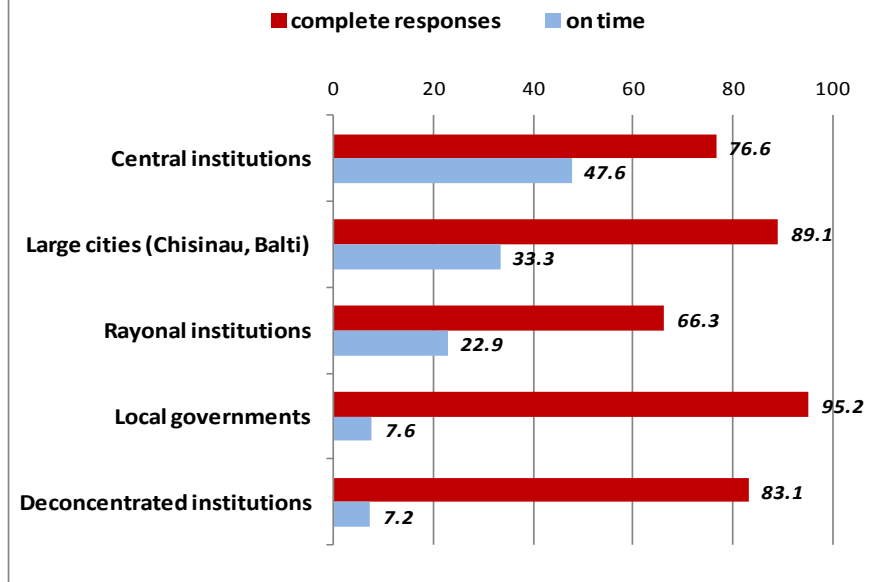




## The type of requests and responses given



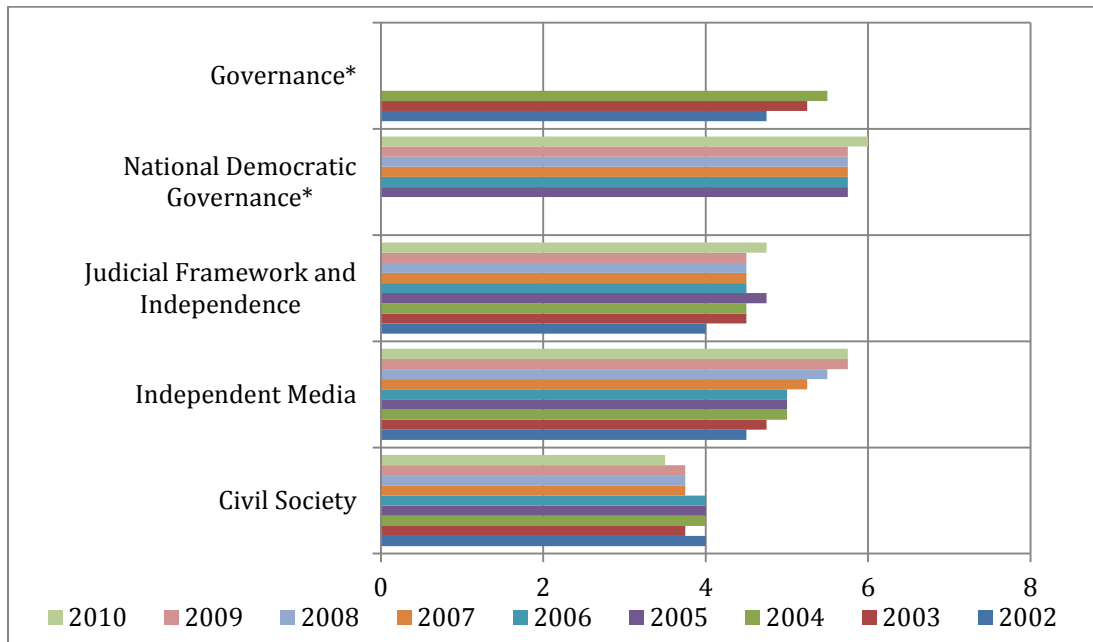
## ...of which, the quality of responses given, %



## Annex 2

### Moldova Nations in Transit Ratings, 2002-2010 (Freedom House)

(1=highest; 7=lowest)



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## Endnotes

<sup>1</sup> Such as the IDIS-Viitorul Foundation (as noted in an interview with Vasile Spinei, former MP, author of the ATI law, and currently president of “Access-Info” Center [Freedom of Expression and Access to Information Promotion Center], IDIS “Viitorul” office, August 2, 2011).

<sup>2</sup> Nations in Transit 2001: Civil Society, Democracy, and Markets in East Central Europe and the Newly Independent States. Adrian Karatnycky, Alexander Motyl, and Amanda Schnetzer (Eds.)

<sup>3</sup> The 1999 Transparency International Corruption Perceptions Index (CPI).

<sup>4</sup> J. S. Hellman, G. Jones and D. Kaufmann (2000). “Seize the State, Seize the Day: An Empirical Analysis of State Capture and Corruption in Transition Economies”. World Bank, Policy Research Working Paper 2444.

<sup>5</sup> Communists and their allies topple the Government. Jamestown Foundation. Monitor Volume: 5 Issue: 209. November 10, 1999.//

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<sup>6</sup> Law No. 1115 of July 05, 2000 on amending the Constitution of Republic of Moldova Published: July 28, 2000 in Official Gazette No. 88-90, Article No.: 661.

<sup>7</sup> Interview with the director of Access to Information Center, a former member of the Moldovan Parliament and a journalist; and Vasile Spinei.

<sup>8</sup> Interview with journalist Cornelia Cozonac, director of Journalistic Investigations Center, IDIS “Viitorul” office, August 2, 2011.

<sup>9</sup> Law No. 239 from November 13, 2008, regarding transparent decision making published in the Official Gazette No. 215–17, Art. No. 798 on December 5, 2008, in effect from March 5, 2009, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=329849>.

<sup>10</sup> Law No. 245 from November 27, 2008, regarding state secrets published in the Official Gazette No. 45–46, Art. No. 123 on February 27, 2009, in effect from March 27, 2009, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=330847>.

<sup>11</sup> Law No. 106 from May 17, 1994, regarding state secrets published in the Official Gazette No. 2, Art. No. 5 from August 25, 1994, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311527>.

<sup>12</sup> Law on access to information under the risk of disappearance: Statement, <http://www.access-info.org.md/declarationlawinformation.pdf>

<sup>13</sup> Decision No. 863 from August 1, 2006, regarding bonuses for civil servants handling state secrets

published in the Official Gazette No. 126–30, Art. No. 917 on August 11, 2006, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=316929>.

<sup>14</sup> Law No. 171 from July 6, 1994, regarding commercial secrets published in the Official Gazette No. 13, Art. No. 126, on November 10, 1994, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312792>.

<sup>15</sup> Centrul de Investigatii jurnalistice vs. Serviciul Vamal al Republicii Moldova, [www.access-info.org.md/upload/168.%20Cazul%20Centrul%20de%20Investigatii%20Jurnalistice%20v.%20Serviciul%20Vamal%20al%20RM.pdf](http://www.access-info.org.md/upload/168.%20Cazul%20Centrul%20de%20Investigatii%20Jurnalistice%20v.%20Serviciul%20Vamal%20al%20RM.pdf); Asociația Presei Independente vs. Poșta Moldovei, [www.access-info.org.md/upload/179.%20Cazul%20Asociația%20Presei%20Independente%20v.%20Poșta%20Moldovei.pdf](http://www.access-info.org.md/upload/179.%20Cazul%20Asociația%20Presei%20Independente%20v.%20Poșta%20Moldovei.pdf).

<sup>16</sup> Opinions expressed by Opinii (Center for Independent Journalism), Cornelia Cozonac (Center for Investigative Journalism), Petru Macovei (Association of Independent Press), Igor Volnițchi (Media Agency “Infotag”), and Maia Sadovici (Public Company “Găgăuzia Radio-Televiziune”) in Access-Info (2009a: 20–21).

<sup>17</sup> Law No. 17 from February 15, 2007, regarding the protection of personal data published in the Official Gazette No. 107–11, Art. No. 468 on July 27, 2007, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=324657>.

<sup>18</sup> Law No. 182 from July 10, 2008, regarding the adoption of the internal regulation of the National Center for the Protection of Personal Data published in the Official Gazette No. 140–42, Art. No. 578 on August 1, 2008, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=328727>.

<sup>19</sup> Statements of Vasile Foltea, deputy director of the National Center for the Protection of Personal Data, at a roundtable organized by IDIS Viitorul, on October 1, 2010, Media News, No. 6, October 6, 2010, [www.viitorul.org/public/3037/ro/Media%20News%20Nr.%206.pdf](http://www.viitorul.org/public/3037/ro/Media%20News%20Nr.%206.pdf).

<sup>20</sup> Opinions of Nadine Gogu (Independent Center for Journalism), Tudor Iașenco (Newspaper “Cuvîntul,” Rezina), Petru Macovei (Association of Independent Media), Oleg Cristal (independent journalist), Cornelia Cozonac (Center for Investigative Journalism), and Vasile Botnaru (Radio “Free Europe”) in Access-Info (2009a: 21–22).

<sup>21</sup> Law on combating extremist activity nr.54 of 21.02.2003, Official Gazette of 28.03.2003 nr.56-58/245.

<sup>22</sup> Law on the Code of Conduct of the Public Servant nr.25 of 22.02.2008, Official Gazette of 11.04.2008 nr.74-75/243.

<sup>23</sup> Broadcasting Code of the Republic of Moldova no. 260-XVI from 27.07.2006, Official Gazette nr.131-133/679 from 18.08.2006.

<sup>24</sup> Law No. 982 from May 11, 2000, on free access to information published on July 28, 2000, in the Official Gazette No. 88–90, Art. No. 664, Art. No. 11/2, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311759>.

<sup>25</sup> Ibid.

<sup>26</sup> Due to an unusual constitutional provision, the president of the republic must be elected with absolute majority in Parliament. When no such majority exists, which happens more often than not with the current political fragmentation, two failed attempts to elect the head of state automatically trigger fresh national elections, though the coalition government may be otherwise quite stable.

<sup>27</sup> The only NGO that continuously implemented and monitored the ATI law was Access-Info. Some NGOs, such as Transparency International, conducted studies on the ATI requests sent to public bodies and measured the responsiveness to such requests. Media NGOs promoted freedom of information within the bigger context of the freedom of media and freedom of expression to improve the context in which journalists operate.

<sup>28</sup> Cozonac, Cornelia, Iacob Guja, and Petru Munteanu. 2004. *Monitoring Access to Information in Moldova*, 10–19. Chisinau: Transparency International Moldova. [http://www.transparency.md/Docs/TI\\_monitorizarea\\_informatie\\_ro.pdf](http://www.transparency.md/Docs/TI_monitorizarea_informatie_ro.pdf)

<sup>29</sup> Interview with the representatives of the Ministry of Justice, Ministry of Health, and the Center for the Combat of Economic Crime and Corruption.

<sup>30</sup> Interview with representatives of the Ministry of Justice on its premises on August 3, 2011.

<sup>31</sup> Law on registers no. 1320 of 25.09.1997, Official Gazette of 27.11.1997 nr.77-78/639.

<sup>32</sup> Law on electronic document and digital signature no. 264 of 15.07.2004, Official Gazette of 06.08.2004, no.132-137/710. Date of entry into force: 06.11.2004.

<sup>33</sup> Decision on the concept of the integrated system of electronic documents no. 844 of 26.07.2007, Official Gazette of 10.08.2007 nr.117-126/890.

<sup>34</sup> Decision No. 43 from April 29, 2011, publicized on May 6, 2011, in the Official Gazette No. 74–77, Art. No. 362, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=338417>.

<sup>35</sup> Decision No. 392 from May 19, 2010, regarding the establishment of the Center for Electronic Governance (E-Government), published on May 21, 2010, in the Official Gazette No. 78–80, Art. No. 462, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=334627>.

<sup>36</sup> Decision No. 760 from August 18, 2010, to approve the by-laws for the Center for Electronic Governance (E-Government), published on August 20, 2010, in the Official Gazette No. 150–52, Art. No. 832, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=335746>.

<sup>37</sup> EU Peer Review Mission for the Reform of Judiciary, 2010.

<sup>38</sup> Decision No. 668 from June 19, 2006, regarding the Web sites of public institutions, published on June 30, 2006, in the Official Gazette No. 98–101, Art. No. 726, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=316361>

<sup>39</sup> Article 9 of the decision includes a list of 19 paragraphs on official information which has to be published on Web sites ranging from general information about the institution to budgetary information and statistical data, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=316361>

<sup>40</sup> [www.mf.gov.md/ro/BOOST](http://www.mf.gov.md/ro/BOOST).

<sup>41</sup> Official answer of Ministry of Finance to solicitation regarding the number and topics of ATI requests. August, 12, 2011.

<sup>42</sup> Official answer of Ministry of Justice to solicitation regarding the number and topics of ATI requests. September, 14, 2011.

<sup>43</sup> Official answer of Ministry of Labor, Social Protection and Family to solicitation regarding the number and topics of ATI requests. September, 21, 2011.

<sup>44</sup> Interview with the Center for Combat of Economic Crime and Corruption on its premises on August 4, 2011.

<sup>45</sup> *Center for Combating Economic Crimes and Corruption*: Informative Note on petitions' examination (2010).

<sup>46</sup> In accordance with the monitoring and evaluation methodology used by Access-Info, the following public bodies fall within the category of law enforcement and control bodies: the Constitutional Court, Supreme Court, Prosecutor's General Office, Information and Security Service, Centre for Combat of Economic Crime and Corruption, Economic Court of Appeal, Court of Accounts, Fiscal Inspectorate, and Customs, and Border Police. See Access-Info (2009c: 9)

<sup>47</sup> Freedom House

<sup>48</sup> Christian Democratic People's Party (CDPP), the Social-Liberal Party (SLP), and the Democratic Party (DP).

<sup>49</sup> Freedom House.

<sup>50</sup> Ibid

<sup>51</sup> Private, running perpetually at a loss, and probably on air as long as their (foreign) investors keep the funds flowing in exchange for political influence.

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<sup>52</sup> Moldova is among the first 16 countries in the world to ensure access to government data, <http://data.gov.md/republica-moldova-este-de-azi-printre-primele-16-tari-ale-lumii-care-asigura-acces-la-datele-guvernamentale-cu-caracter-public/>

<sup>53</sup> Work plan of the Moldovan Government, “European Integration: Freedom, Democracy, Well-Being, 2011–14,” 47, <http://www.gov.md/download.php?file=cHVibGljL3B1YmxpY2F0aW9ucy8zNzI5NDQ1X21kX3Byb2dfZ3V2X3Zhc l9yLnBkZg%3D%3D>.