

*Food for Thought*

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**Muja Law** brings you the latest issue of *Food for Thought*.

Recently the Office of the Commissioner for the Right to Information and Personal Data Protection (hereinafter referred to as the “*Commissioner*”) has published the monitoring report “*Index of Proactive Transparency of Central and Dependent Institutions, December 2021*” (hereinafter referred to as the “*Report*”). The Report has been published after monitoring 100 institutions for 2021.

The findings of the Report aim not only in raising the awareness of the implementation of the law on the right to information and increasing the level of transparency through proactive disclosure of information, but also serve as a reference before any decision-making of the Commissioner.

*Some of the most important aspects of the Report are as follows:*

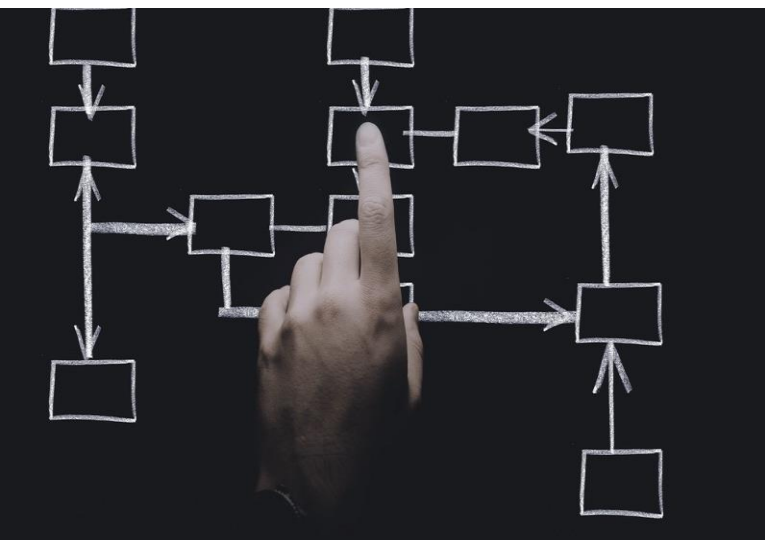
➤ **The right to information**

The right to information is the citizens’ right to have access to official documents and the obligation of public authorities to fulfill this right without seeking motives. The right to information is a right sanctioned in the Constitution of the Republic of Albania, which after the approval of law No. 119/2014 “*On the right to information*” has brought a greater legal guarantee for citizens’ access to information and appropriate conditions of proactive transparency to exercise their rights.

One of the novelties of Law no. 119/2014 “*On the right to information*” is the implementation of transparency programs according to the model approved by the Commissioner. Through the Transparency Program, which is published on their official website, public authorities make available to citizens a wide range of information.

The Commissioner has approved the **Revised Transparency Program**, through Order no. 187 dated 18.12.2020. Such Order is mandatory for all public authorities.

One of the important phases in ensuring transparency at the central level is the monitoring of the implementation of the Transparency Program. Such monitoring allows to assess the level of transparency in public authorities. The Commissioner oversees the compliance with the provisions of the law on the right to information and in cases where their non-compliance is observed, assesses the offense and decides on the relevant administrative measure.



### ➤ Proactive transparency

Proactive transparency through the publication of information in the Transparency Program requires a commitment of public institutions to update and supplement it with information on an ongoing basis. For this reason, the monitoring of the transparency of public institutions is performed on an annual basis, thus facilitating the performance of comparative analyzes in the future.

During 2021, the Commissioner again monitored the implementation of the Transparency Model Program, based on the methodology used for the first time during the Transparency Index of Central and Dependent Authorities in 2020, which allows

comparison between public authorities, as well as clearly and accurately identifies the shortcomings in those authorities which have not fulfilled their legal obligations in this regard.

### ➤ Transparency Measurement System

The measurement system used in this monitoring refers to the 5 main indicators that constitute the objective assessment of the functional level of proactive transparency of central and dependent public authorities. Such indicators are the publication of the Transparency Model Program for public authorities, the publication of the register of requests and responses updated during 2021, publication of data regarding the coordinator for the right to information, publication of information on the coordinator for public notice and consultation and also the publication of data on the budget and expenditure plan for the financial year 2021.

The total number of indicator evaluation points is 5 (five). Based on the scoring of each indicator, the total amount of evaluation for each institution is thus calculated.

### ➤ Findings of the Report

In conclusion of the Report, the Commissioner has noticed that the central and dependent public authorities have a consistency of proactive transparency in the indicators related to the publication of the Revised Transparency Program and to the publication of the data of the coordinator for the right to information. As for the other three indicators (*i.e., update of the register of requests and responses for 2021, publication of information on the coordinator for public notice and consultation and publication of data on the budget and expenditure plan for the financial year 2021*), it is noticed that there is a lower transparency performance.

The results of this Report show that all central and dependent public authorities examined have published the Revised Transparency Model Program on their official website.

In the same trend is the indicator regarding the publication of data of the coordinator for the right to information, where 94 public authorities versus 100 public authorities (94%) monitored, have published the relevant information in whole or in part.

Regarding the register of requests and responses, the Report highlights with good results only those cases when the register was updated during 2021. The total number of central and dependent public authorities, which have updated their register of requests in full or in part is 81, versus 100 monitored public authorities, which accounts for 81% of public authorities that have implemented the legal obligation to update their register of requests and responses.

The central and dependent public authorities have identified more significant shortcomings in the publication of proactive information which is related to the publication of data on the budget and expenditure plan for the financial year 2021, where only 57 public authorities, versus 100 monitored (57%) have partially or completely published the budget of 2021.

Meanwhile, during 2021, it has also been monitored the obligation to appoint a coordinator for public notice and consultation, which should also be published in the transparency program. For the purpose of the Report, the institutions of justice (26 in total) are marked with 1\* in the evaluation indicator, not considering it in the final calculation. Out of 74 other public authorities, it results that 23 (31%) of them have published the information for the coordinator for public notice, in whole or in

part, while other authorities have either not published or exclude the public authority from the obligations of law no. 146/2015. "*On notice and public consultation*".



Compared to the monitoring conducted in 2020, it turns out that during 2021, the Central and Dependent Public Authorities have a better performance in publishing proactive information on their official websites through which the Report was conducted.

The comparison of values in percentage of monitoring the publication of the transparency program according to the model approved by the Commissioner, the publication of data of the coordinators for the right to information, updating the electronic register of requests and responses and publishing information on the institutional budget for 2021 is at higher levels than during the year 2020.

*The results of the Report show an overall increase in the level of transparency from public authorities, however, there is still obviously a high degree of insufficient implementation of the provisions of the law on the right to information.*



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[contact@mujalaw.com](mailto:contact@mujalaw.com)

**Muja Law Office**

Rr. “Ibrahim Tukiqi”, Nr.2

1057 Tirana

Albania

Mob: +355 69 28 28 562

Web: [www.mujalaw.com](http://www.mujalaw.com)

**Muja Law** is a family-run law office where we work hard for the success of our clients and to provide excellence in legal service. Our roots go back to 2001 when our Managing Partner, Krenare Muja (Sheqeraku), opened her law practice office in Tirana, Albania. Krenare’s son Eno joined her in 2014, and the other son Adi entered the practice in 2019. What started in Tirana as a small, family-run law office has grown and flourished in the community for the last 20 years. The office consists of various respected and talented lawyers who possess outstanding educational and community service backgrounds and have a wealth of experience in representing a diverse client base in various areas of the law.

The office is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The office delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law office, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law offices, we are grounded in the essence of “who” we are and “where” we started. We understand the importance of family, hard-work, and dedication.

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