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## INFORMATION COMMISSIONER

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Summary of the Report on the Implementation  
of the Act on the Right of Access to Information  
for 2017

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Zagreb, March 2018

# Content

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# Introduction

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This document clearly and concisely provides an overview of the implementation of the Act on the Right of Access to Information (Official Gazette 25/13, 85/15) and of the Information Commissioner's performance indicators.

The full text is available in the Report on the Implementation of the Right of Access to Information Act for 2017 which, as Information Commissioner, I have submitted to Croatian Parliament in accordance with Article 60, paragraph 3 of the Act. The report contains a description and analysis of public authorities' procedures under the provisions of the Act in the fields of the proactive disclosure of information and transparency, acting upon beneficiaries' requests, public consultations and the re-use of information, as well as of the Information Commissioner's exercise of the functions of the protection, monitoring and promotion of the right of access to information and the re-use of information. It also contains an assessment of the situation as well as proposals for the elimination of deficiencies and irregularities in the implementation of the Act. The report was prepared based on data collected through the annual reports submitted by public authorities to the Commissioner, on reports by bodies in charge of certain aspects of the implementation of the Act, through the analytical monitoring of the implementation of certain

provisions of the Act, as well as information on the procedures and activities performed by the Commissioner.

The right of access to information, as a constitutionally guaranteed right, provides a wide range of opportunities for citizens and legal persons to seek and obtain information that is of a public nature. Public authorities are obliged to provide citizens with this information, primarily through the publication of information on websites, but also through the provision of information upon request, using the prescribed procedures. Public authorities are obliged to enable the re-use of information to users through the publication of information on webpages. Meanwhile, citizens and interest groups must be included in transparent decision-making processes in a timely fashion, especially when regulations and programme acts that determine the development direction in the future are being created.

Authorities become transparent and open through

*Informing the public about everything that is not protected by special regulations, as well as participative decision-making and the opening of data is the default setting for the work and decision-making of all public bodies.*

the timely publication of accurate and complete information, thus permitting citizens to carry out their function of being democratic supervisors of the authorities' manner of operating and of their results. Transparent and open administration and government results in greater accountability, in a careful and cost-effective spending of public funds, as well as in the suppression of corruption. Information and communication with citizens strengthens democratic processes, upholds the rule of law and contributes to the efficient resolution of problems that plague citizens, the economy and society as a whole.

After the initial years of application of the Act, the conditions for a substantive transformation of the government, of public administration and of the public sector in the Republic of Croatia towards a truly transparent and open system that will serve and be responsive to citizens have been met. Informing the public about everything that is not protected by special regulations, as well as participative decision-making and the opening of data is the default setting for the work and decision-making of all public bodies.

Your Information Commissioner,  
Anamarija Musa

\* Abbreviations: ARAI – Act on the Right of Access to Information; LRG – Local and Regional Governments

# OVERVIEW OF KEY EVENTS IN 2017

<p>January 2017</p> <p>Collecting annual reports from public authorities</p>	<p>23/2/2017</p> <p>European Information Commissioner Conference, Berlin</p>	<p>3/3/2017</p> <p>Commemoration of International Open Data Day</p>	<p>31/3/2017</p> <p>Report on the implementation of the ARAI submitted to Croatian Parliament</p>	<p>20/4/2017</p> <p>European Commission Working Group on the Re-Use of Information meeting, Luxembourg</p>
<p>20/5/2017</p> <p>Entry into force of the Act on Amendments to Archives and Archival Institutions Act</p>	<p>14/7/2017</p> <p>Report on the Implementation of the ARAI accepted in Parliament</p>	<p>20/7/2017</p> <p>Coming into force of the Rulebook on Licenses for the Re-Use of Information, Croatian Open License published</p>	<p>August 2017</p> <p>Information Commissioner is now on Twitter @Pristupinfo.hr</p>	<p>20-21/9/2017</p> <p>International Conference of Information Commissioners, Manchester</p>
<p>25/9/2017</p> <p>Commemoration of International Right to Know Day with the "Are You Using Your Right to Information?" panel</p>	<p>1/10/2017</p> <p>Implementation of the ESF project "Strengthening the Capacities of Public Authorities, Media and Associations for the Implementation of the ARAI"</p>	<p>15/11/2017</p> <p>European Commission Working Group on the Re-Use of Information meeting, Luxembourg</p>	<p>12/12/2017</p> <p>Conference on the Re-Use of Information and Open Data: Germany's and Croatia's experiences</p>	
<p>22/12/2017</p> <p>Report to the European Commission on the implementation of the Directive on the re-use of Public Sector Information submitted</p>		<p>22/12/2017</p> <p>Complete list of local committees, city districts and districts published</p>		

# 1. Public authorities and their obligations

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In order to implement the right of access to information which is guaranteed by the Croatian Constitution, all public authorities or those defined by specific provisions of the ARAI, shall ensure:

- the proactive disclosure of information on websites
- provide information in the Central Catalogue of Official Documents
- ensure collegial bodies' publicity of work
- implement public consultations
- the re-use of information by publishing open data on websites or portals
- acting upon beneficiaries' requests for access to information or re-use of information

The information that is provided to all beneficiaries must be timely, complete and accurate, and beneficiaries may access it freely. It is expected that relationships between authorities and beneficiaries be based on cooperation and a respect for human dignity. Therefore, public authorities are obliged to:

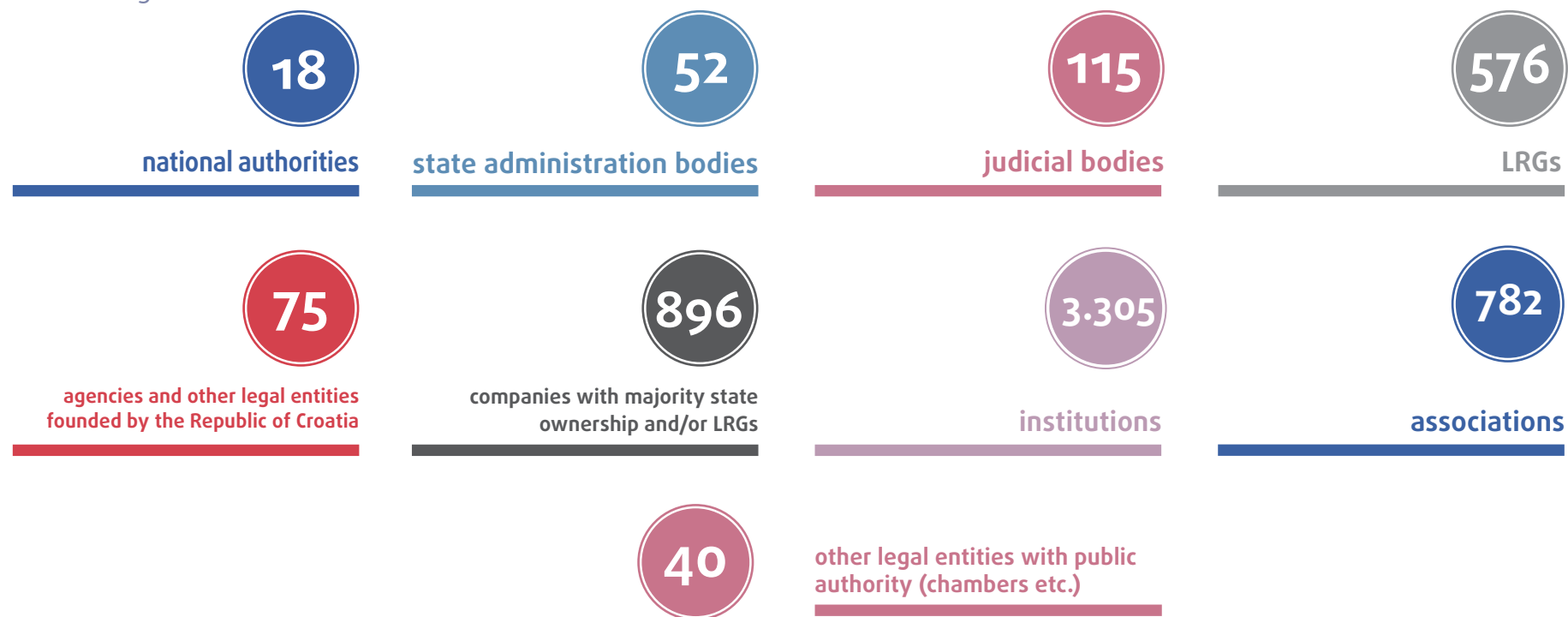
- appoint an Information Officer who will ensure the implementation of the ARAI and inform the public and the Information Commissioner of the choice within 30 days
- keep an official registry of all the submitted requests, which is particularly monitored in the monitoring process
- cooperate with the Information Commissioner
- submit an annual report for the previous year by 31 January

In addition, for the purpose of proper implementation, we recommend that authorities, leaders and officials regularly:

- ensure coordination between the various organizational units, for the purpose of quicker proceedings and an effective publication of timely information, as well as for correspondence between the units
- regularly undergo trainings through educational modules which we offer independently or in cooperation with other competent bodies, as well as via the Internet (webinars)
- use the self-assessment instrument for the quality of implementation of the ARAI which is available on our website, along with the action plan form

## Public authorities

A list of public authorities is publicly available on the searchable and updated application <http://tjv.pristupinfo.hr/> which allows beneficiaries to download data in a machine-readable and open format. At the moment when the submitted reports on the implementation on the Act for 2017 (19 February 2018) were being processed, the List included 5859 public authorities, 14 less than in 2016, and 81 less than in 2015.

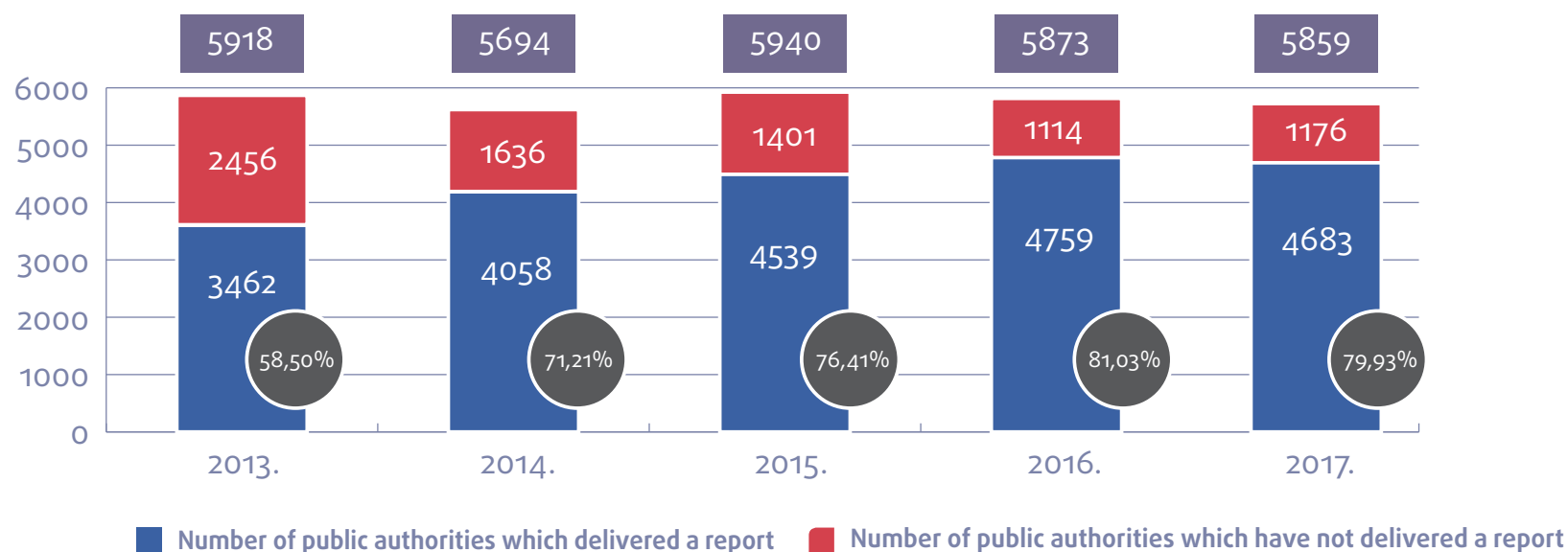


## Information Officers

Through the Pristupinfo.hr application, public authorities submit data on information officers and other information on public authorities, and also submit annual reports. Of the 5873 bodies, 726 or 12.39% of them have not appointed information officers or have not informed us about it, which is 2.1% less than in 2016 when 854 or 14.5% of the bodies had not done so, and is 14.6% less than in 2015 when more than one-quarter of the bodies did not have an information officer. Throughout 2017, via indirect supervision and petitions, we repeatedly warned authorities to fulfil these critical obligations. Therefore, although unsatisfactory, the result is better than in 2015 when 1,620 or 26.8% of the bodies did not have officers.

## Annual reports for 2017

A report was submitted to us by 4,683 or 79.93% of the bodies, which is about four-fifths of them, similarly to last year when 81.03% of the bodies had done so. As a result of our efforts, the number of delivered reports has risen. However, this key responsibility is still not fully fulfilled.



The key responsibilities of public authorities include the appointment of information officers, keeping an official record and submitting an annual report to the Information Commissioner. Of the 5,859 public authorities, 726 (12.39%) did not appoint an officer, 1176 (20.07%) did not submit a report, and 890 (15.2%) have no website.



### Progress in the implementation

The Annual Report for 2017 was submitted by four-fifths of the 5859 bodies, as opposed to the Report for 2016 which was delivered by only 58.50% of the bodies



### Learn more

The Guidelines on the application of Article 13 are available at [www.pristupinfo.hr](http://www.pristupinfo.hr)



### Did you know?

We have created the first List of Local Committees, Town Areas and Districts in the Republic of Croatia containing data of 3,809 bodies



### The next steps...

The continuous updating of the list of public authorities

## 2. The proactive publication of information on websites

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➔ The publication of information on public authorities' websites (pro-active publication) is a key way of informing the public and ensuring transparency. In Article 10, the ARAI obliges public authorities to continuously and voluntarily publish certain documents and information, with the objective of transparency in decision-making, transparency of work and planning, financial transparency and transparency in the provision of services and in communication with beneficiaries. This reduces beneficiaries' need to apply for requests, thus reducing the burden on public authorities and ensuring the greater equality of citizens in access to information.

### Improved, but still only partial proactive publication of information

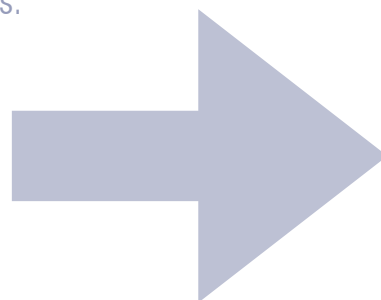
Public authorities do not entirely fulfil the obligation of proactive disclosure and no significant progress has been made in relation to the previous period. According to data submitted through reports, it has been noted that the highest but still insufficient level of disclosure of information of 71-76% was established in relation to laws and other regulations, general acts, information on internal organization and contacts, annual plans and work programs, information on access to information, information on tendering procedures, as well as financial statements and budget and financial plan. The least published is user lists and amounts awarded for grants, donations, sponsorships and other assistance (31.5%), followed by conclusions from sessions, adopted documents, as well as information on the work of formal working bodies (conclusions 44%, working bodies 33%). Despite an increase of 5%, an unsatisfactory level of delivery of prescribed information is still recorded in the Central Catalogue of Official Documents.

### Transparency of local and regional self-government units

This year, special attention was once again paid to the transparency of LRGs, and we monitored proactive publication, public consultations and of the publicity of work in five counties and a total of 122 public authorities (municipalities, cities, counties, selected institutions). The monitoring has shown worrisome results, with a level of legal compliance of 65%, where the state of public consultations (18%), open data (21%) and information on donations and sponsorships (43%) proves to be critical.

Result of the publication of information by municipalities, cities and counties as well as institutions in counties:

- Šibenik-Knin 71%,
- Sisak-Moslavina County 69%
- Lika-Senj County 65%
- Zadar County 64%
- Požega-Slavonia County 58%



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A periodic study of budget transparency in LRGs shows that the average transparency of local budgets measured on a scale of 1 to 5 has improved from year to year; from 1.8 in the first, to 2.4 in the second, and to 3.1 in the last cycle of research. Municipalities remain the least transparent (2.8).



## Citizens are sending warnings!

In 2017, citizens gave warnings about a lack of information through petitions 77 times, mainly on the webpages of ministries, state administration offices in counties, municipalities, cities, schools, chambers and cultural institutions (museums and culture centres). A large number of petitions were submitted due to a non-disclosure of information in an easily searchable way and in a machine-readable form, where the format of the publication is particularly important in the publication of particular directories and registers. In all of the cases we responded by ordering the publication of information which, according to the ARAI, must be published.

## Most common petitions for lack of disclosure in 2017

- Contacts and names of heads and directors
- Tender procedures
- Information on the exercise of the right of access to information
- Grants, sponsorships and donations
- Budget
- Sessions' conclusions

It was regularly requested that public authorities publish and continually update information on their websites, in an accessible and machine-readable format. The publication of information must be fundamental in the work of public authorities.



### Progress in the implementation

The proactive disclosure of information is estimated at 60-70%.



### Learn more

Instructions on proactive publication and guidelines for proactive disclosure in LRGs is available at [www.pristupinfo.hr](http://www.pristupinfo.hr)



### Did you know?

Public authorities' sessions should, as a rule, be public - unless there are legally established public restraints



### The next steps...

Guidelines for financial transparency...

# 3. Enabling the right of access to information upon the beneficiary's request

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## Beneficiaries' requests

➔ Everyone has the right to apply for access to information to public authorities, which in turn must make a decision through the legally prescribed procedure.

After a multiannual trend of a decrease in the number of requests for information in the possession of public authorities, in 2017 there was a clear increase in the number of requests – 22,226 requests were filed, which is about 25% more than in 2016, when 17,059 were received. The average number of requests per government body from 2013 to 2016 decreased from 7.1 to 3.6, and in 2017 it rose again to 4.7. About half the bodies received no requests. The bodies resolved 96.4% of the requests, 94.95% of which within the deadline.

In 2017, there were slightly less requests than in the previous year - 85.42% as opposed to 93.21% in 2016, and 84,630.75 HRK was charged for real material costs, on average 4.02 HRK per request. In comparison, in 2016, charged 50,000 HRK was, an average of 3.34 HRK per request.

The 6 bodies with the highest number of requests for access to information

● Hrvatske vode - Legal entity for Water Management	835
● The City of Zagreb	484
● The Ministry of Construction and Physical Planning	318
● The Croatian Agricultural Agency	204
● The Ministry of Internal Affairs	170
● The Government of the Republic of Croatia	143

In regards to the possibility of submitting requests from users, we would like to highlight the [www.imamopravoznati.org](http://www.imamopravoznati.org) portal, through which a total of 2,290 requests for access to information were submitted in 2017, with 1,537 requests (67.12%) being successfully resolved, meaning that users were provided with information in whole or in part, which is 17% more than in 2016.



### Learn more

Are you looking for information?

Check on:

[www.imamopravoznati.org](http://www.imamopravoznati.org)

# Complaint procedures



The Information Commissioner is the second-instance body in procedures for exercising the right of access to and re-use of information, as well as in procedures for exercising the right of access to environmental information and access to information in archives.

In 2017, dissatisfied users filed a total of 1,172 complaints, 1,161 (99.06%) of which pertained to resolving requests for access to information, 9 (0.77%) to the re-use of information, and 2 (0.17%) to the availability of archival material. The number of appeals increased significantly - by 84.57%, compared to 2016 when 635 appeals were filed.

The proportion of complaints due to administrative silence is lower than in previous years; from about 60-65%, it dropped to 42.49%. However, the absolute amount has risen - from about 390-400 complaints to nearly 500 complaints due to administrative silence.

Number of complaints and proportion of complaints due to administrative silence from 2013 to 2017

Year	Total filed complaints		Complaints filed due to administrative silence	
	Number	Index	Number	%
2013	515	107,29	331	64,27
2014	658	127,77	400	60,79
2015	624	94,83	402	64,42
2016	635	101,76	384	60,47
2017	1.172	184,57	498	42,49
Total	<b>3.604</b>	-	<b>2.015</b>	
Average	720,80	123,24	403	58,48

Complaints were most frequently filed by citizens, amounting to more than four-fifths of all complaints (981 or 83.70%). Contrary to expectations, journalists and associations are not particularly active in the use of protection under the Act, especially if taking into account that access to information is a key tool in achieving their role in informing the public; journalists filed only 35 complaints (2.99%), while associations filed 64 (5.46%). However, individuals are particularly active: out of the total number of complaints, the 10 most active beneficiaries filed 629 or 53.67% of all appeals, and one beneficiary alone filed 464 or 39.59% of the appeals. As opposed to 2016, users in 2017 most frequently complained of decisions or omissions by judicial bodies, mainly state attorneys.

**Did you know?**  
The user that files a complaint is right two out of three times. 68,56% of decisions brought by public authorities were annulled in the appeal procedure.

**Did you know?**  
Only 8.5% of complaints are filed by journalists and associations.

	Number of complaints	Proportion of complaints (%)
Public authorities		
● Judicial bodies	349	29,79
● LRGs	228	19,45
● Institutions	140	11,94
● State administration bodies	138	11,77
● Companies – the Republic of Croatia	81	6,91
● Companies – LRGs	71	6,06
● Agencies, institutes, funds, centres	68	5,80
● Associations and chambers	49	4,18
● Others	13	1,11
● <b>Total</b>	<b>1.172</b>	<b>100</b>

This year we have once again increased efficiency in resolving complaints and thus protected citizens' right to information to a greater extent. As opposed to 2016 when we resolved 674 appeals or 66.40% of all appeals, in 2017 we resolved 1188 complaints or 78.52% of all complaints. Given the number of complaints filed and despite the remarkable increase in the number of complaints, we have kept the resolution rate above 100%; this year it is at 101.36%, and in 2016 it was at 106.14%. In other words, we have maximized all of our capabilities to respond to the needs of our users.

Given the quality of public authorities' decisions, we have determined that public authorities, in rejecting or discarding requests (633), have acted in accordance with the law in just under one-third of the cases. Given that 68.56% of the decisions were reversed, the situation is slightly better than it was in 2016 when in 79.46% of the cases there was a violation of citizens' right to access to information. Similarly, about half of the cases of public authorities' silence of administration prompted by an appellate procedure and before our bringing a decision were resolved through a request for information. Thus, our protective function becomes more important so that we may protect the rights of citizens and provide access to information to the extent that it is prescribed by law.

This year as well, public authorities have most often rejected users' requests as they believe it is an abuse of rights. After years of citing the primacy of personal data and trade secrets as the reason behind the rejections, classified information has now been highlighted, mainly due to the large number of complaints against judicial bodies. Given that public authorities have a problem in the implementation of the proportionality and public interest test as well as in the assessment of what constitutes an abuse of rights, the Information Commissioner has provided appropriate guidelines.

#### Reasons why public authorities most often refuse to provide access to information

- abuse of the right of access to information - 139 or 22.06%
- classified information - 128 or 20.32%
- personal information - 93 or 14.76%
- it is not a question of information in the legal sense - 90 or 14.29%
- trade or professional secret - 49 or 7.78%



#### Did you know?

In 108 of the cases, the High Administrative Court confirmed the Information Commissioner's decision and revoked the decision in just one case

## Judicial review



Public authorities and beneficiaries have the right to file a claim before the High Administrative Court of the Republic of Croatia against the Information Commissioner's decision. The beneficiary may also initiate an administrative dispute if the Information Commissioner does not decide on his appeal within the legal deadline.

In 2017, 175 administrative disputes were initiated, which is 141 or 414.70% more than in 2016. Beneficiaries were dissatisfied with our decisions or work in 133 or 76% of the cases, while public authorities were dissatisfied in 42 or 24% of the cases. The plaintiffs were 17 natural persons and 20 public authorities, with one beneficiary filing 115 or 65.71% of all claims.

The High Court issued 141 decisions, out of which only one of our decisions was revoked, and in 108 cases our decisions were confirmed.

#### Progress in the implementation

The clearance rate of complaints is above 100%. The Commissioner manages to resolve more requests than are received, but is still compensating for the backlog from 2013-2015



#### Learn more

The High Administrative Court's and Information Commissioner's decisions are available at [tom.pristupinfo.hr](http://tom.pristupinfo.hr)



#### Did you know?

Requests are most often rejected due to an abuse of rights (22%). Read the Information Commissioner's guidelines on the abuse of rights



#### The next steps...

Monitoring of implementation of the Guidelines on proportionality and public interest test



## 4. Public consultations

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Public participation in the decision-making process promotes the transparency and openness of government and administration, raises the quality and effectiveness of legislation and ultimately strengthens the trust between citizens, civil society and the economy on the one hand, and government and administration on the other.



According to Article 11 of the ARAI, government bodies, other national authorities, LRGs and legal persons with public authority are obliged to conduct public consultations when making laws, regulations, by-laws and strategic and planning documents which affect the interests of beneficiaries, via the Internet and, as a rule, for 30 days. They are obliged to draw up a report on the conducted consultations which contains all the submitted remarks and comments, as well as the bodies' responses to the comments in terms of acceptance or non-acceptance thereof. The reports clearly state the participants' suggestions and opinions and offers the bodies' answers, and thus demonstrates public authorities' openness and responsiveness to citizens' proposals. The reports represent a form of regulation of the consultation process itself and are a key implementation instrument. Government bodies are obliged to conduct consultations through the central e-Counselling portal. The obligation to submit the report on the conducted consultations along with a proposal on the regulation or act is stated in the Rules of Procedure of the Croatian Parliament (Article 174, paragraph 4) and the Rules of Procedure of the Government of the Republic of Croatia (Article 30, paragraph 4).





### The number of consultations is increasing

In 2017, public authorities reported conducting 2779 consultations, which is 35% more than in 2016 and nearly twice as much as in 2015. Most consultations – 1,722 – were conducted by LRGs, which is 43% more than in 2016.

According to the data from our analytical monitoring, of the 608 regulations and other acts published in the Official Gazette, 276 consultations were conducted in 2017 (45.39% of the time). This represents an increase of about 5% compared to 2016, when consultations were conducted in 174 of 431 cases (40.37% of the time) for which there was a statutory obligation to do so. The increase is especially noticeable in the most important regulations; consultations were conducted for 68.89% of the legal proposals which, compared to 2016 when practically every other law entered into force without a consultation (47.62%), represents an increase of as much as 21.27%. Also discernible was a 25.28% increase in the proportion of regulations for which consultations were conducted; in 2017 it stood at 53.85%, while in 2016 it stood only at 28.57%.

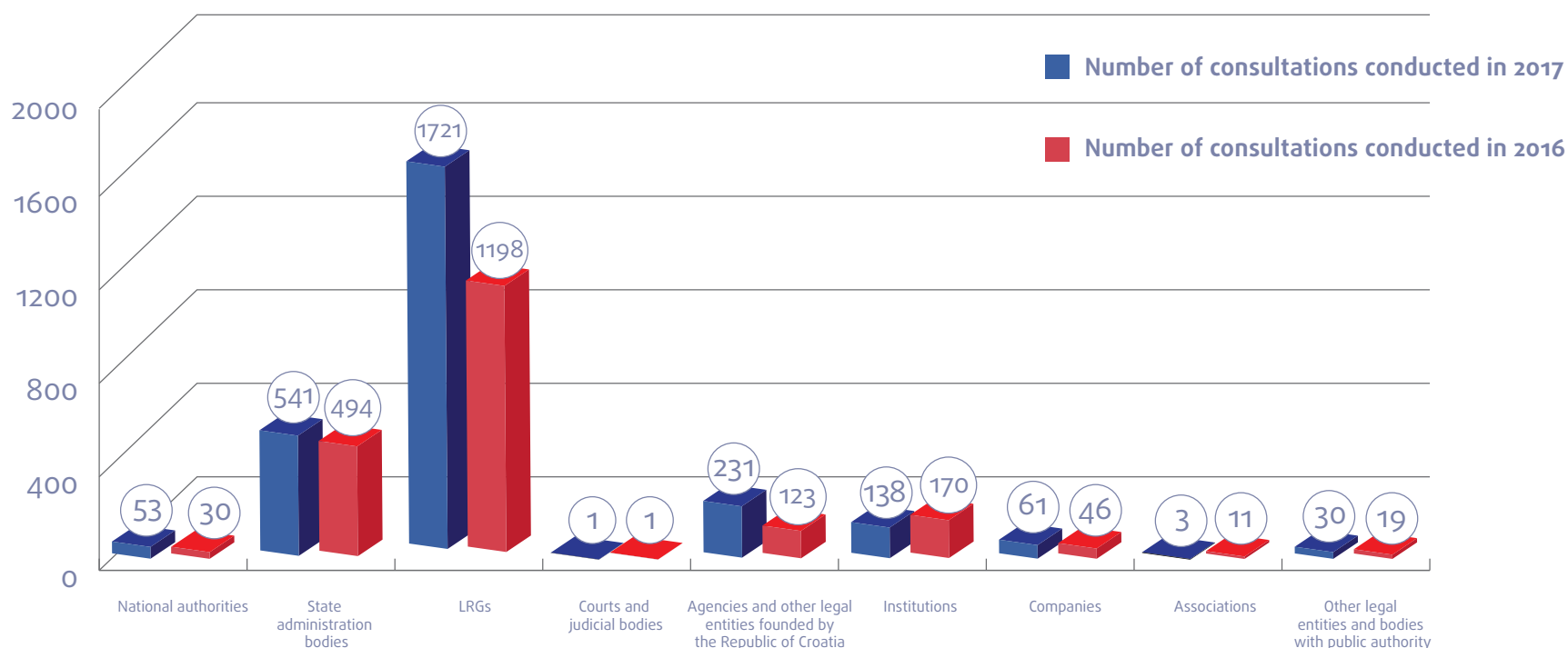
According to the Republic of Croatia's Office for Cooperation with NGOs' data, within the framework of the e-Counselling portal in 2017, 706 consultations were conducted, which is 9.96% more than in 2016 and 16.12% more than in 2015. Throughout 2017, comments, opinions and suggestions were given by 5,216 physical and legal persons.

The largest number of public consultations were conducted by:

- |   |  |
|---|--|
|  The Ministry of Agriculture – 92                    |  The Ministry of Labour and Pension System – 41 |
|  Croatian Financial Services Supervisory Agency – 92 |  The Ministry of Justice – 30                   |
|  The Ministry of Environment and Energy – 51         |  The Ministry of Finance – 30                   |
|   |  The Ministry of the Economy – 30               |

## Public authorities are informing the public of planned consultations all the more, but still not often enough

Public authorities still do not frequently enough publish public consultation plans which would familiarize the public with the intended adoption of regulations, acts and other documents as well as the consultations that are to be carried out in relation to them. According to public authorities' data, consultation plans were published by 86.67% of state administration bodies (81% in 2016), 58.82% of agencies (55% in 2016) and 43.54% of LRGs (32% in 2016). Consultation plans provide a roadmap to citizens and other interested parties on the intended adoption of regulations and general acts and enables preparation for participation. By fulfilling that obligation, bodies could increase the number of participants and the quality of their contribution to the consultation process.



## The time allotted to the public for making proposals is increasing but is still below the statutory level

According to data from reports, in 2017 consultations were conducted for an average of 19 days, which represents an increase compared to 2016, when that period lasted for 17.13 days on average and an even greater increase compared to 2015, when consultations averaged 7.62 days. According to analytical monitoring, in relation to the regulations published in the Official Gazette, it is evident that the consultations were conducted within the statutory deadline in all but 20.40% of the cases. For 18.91% of the acts, consultations were conducted for 15 to 29 days, and for a total of 6.09% of the acts the public could submit their suggestions and comments within a period of less than 15 days. In comparison with 2016, there is an increase in the number of consultations conducted for the duration prescribed by the Act, from 7.23% to 20.40%.

According to the data from the portal, only 166 or 23% of the consultations lasted for 30 days or longer, which is more than in 2015 for example when consultations lasted more than 30 days in only 12% of the cases. Three-quarters of the consultations were conducted within a period shorter than 30 days (540 or 76.27%). It is precisely the duration of the consultations that citizens most frequently sent warnings about through petitions. The problem of the duration of consultations is also linked to the inadequate management of the process of adopting regulations, respectively to the failure to take consultation deadlines into account during regulation drafting.

### It is necessary to provide feedback on citizens' proposals and on the conduction of consultations

According to data from the portal, 22,566 comments were received in 2017; about 20% of which were accepted (4,288), 10% of which were partially accepted (2,382), and one-third of which were rejected (7,545 or 33.44%). This was stated in accordance with the findings of the Commissioner, according to whom about one-quarter of the comments were accepted. A great number of comments which were received (6,430 or 28.49%) and were not answered (11.32 or 5.02%) was discernible, which corresponds to the reasons for submitting petitions to the Information Commissioner. Public authorities still do not create reports in full, nor do they publish reports on the conducting of consultations in a timely manner despite the fact that the obligation to submit the report arises from the rules of procedure state bodies, of the Croatian Parliament and of the Government.

### Newer forms of public participation in decision making are becoming more frequent

About one-fifth of the public authorities report that they also conduct other forms of public consultations (public hearings, sending e-mails), and becoming all the more popular is public budgeting by which municipalities, cities and counties make it possible for citizens to state the priorities in terms of financing public needs.

### It is necessary to increase the concerned public's level of involvement in the adoption of regulations

The participation of citizens and the public concerned (beneficiaries, legal entities, professional community) is still weak, with a noticeable share of consultations without any objections. Part of the responsibility lies in the public bodies themselves, who through consultation plans and a timely informing of the public as well as through encouraging inclusion, would ensure the active role of the public in improving the quality and effectiveness of regulations. It is therefore critical that citizens believe that their comments will be seriously considered and that the process will be guided by the principles of mutual respect and cooperation. In 2016, for the purpose of strengthening awareness and skills and thus the conducting of public consultations, we created the Guidelines for the Implementation of Article 11 of the Act on the Right of Access to Information - Public Consultations, and the Handbook for the Implementation of Public Consultations for LRGs, along with a relevant pamphlet for citizens, all of which are published on the Information Commissioner's webpage. This year, we have created infographics that provide basic and clear information on consultations in a clear and visual way. We have also continued the education cycle on public consultations which started in 2016 in cooperation with the Office for Cooperation with NGOs, and we have started online trainings through the Institute of Public Administration.

Public authorities are regularly required to maintain public consultations, based on the adopted and, if necessary, updated consultation plan, for 30 days as a rule, and to publish a report on the conducted consultations. It is necessary to actively encourage public participation in order to increase the quality and efficiency of regulations.



#### Progress in the implementation

In 2017, 2779 public consultations were conducted, 35% more than in 2016 and 65% more than in 2015.



#### Learn more

The guide and handbook on public consultations are available at [www.pristupinfo.hr](http://www.pristupinfo.hr)



#### Did you know?

The average duration of consultations has increased to 19,3 days, but only 20% of the consultations last 30 days or more



#### The next steps...

Participatory budgeting in local units will enhance the quality of the relationship with citizens

# 5. The re-use of information

➔ The Act on the Right of Access to Information defines the re-use of information as the use of public authority information by natural persons or legal entities, for commercial or non-commercial purposes different from the original purpose within the public purpose for which this information was created, and which is realised within the frame of the law or other scope prescribed by regulations, or business that is generally considered a public affair. Information for re-use – in a machine-readable, open format that allows data processing, combining, etc., - may be provided or made available upon the beneficiary’s request or, preferably, posted on the website and on the portal containing such datasets (open data).

The obligation to enable the re-use of information derives from the Directive on the Re-Use of Public Sector Information (2003/98 / EC, 2013/37 / EU), which was adopted in accordance with the ARAI. The European Union views open data as a significant resource for the development of a digital European society and the market, which contributes to innovation, job creation and the improvement of services for citizens and for the economy. It is estimated that in 2020 the European data market will total at least 72 million EUR. According to [European Commission’s Analysis](#), just like last year, this year the Republic of Croatia holds the 14th place among EU members (+Norway) with a success rate above the European average and which has placed Croatia among the so-called “trendsetters”. This represents significant progress in comparison with the beginning of the application in 2014, when we were at the bottom of the list. In 2017, the Information Commissioner submitted to the European Commission a report on the implementation of the PSI Directive in the Republic of Croatia which was rated very high quality. The report is available at [www.pristupinfo.hr](http://www.pristupinfo.hr).

## Publication of open data

According to public authorities’ reports for 2017, 996 or 21.27% of the bodies publish their registers and databases or information about them on their pages, with metadata and how to re-use them, which is about 2% more than in 2016. The [Open Data Portal](#) of the Republic of Croatia, which is the data node through which the public sector’s open data is collected, categorized and distributed, has the aim improving the dissemination of public and open data through a single and central place and enabling the creation of innovative non-commercial and commercial applications that would use this information. According to data from the Portal, which is administered by the Ministry of Public Administration and the Central State Office for the Development of the Digital Society, 515 datasets were published, 297 of which are in machine-readable formats such as CSV, JSON, XML, 176 of which were in XLS format, and 42 of which are not in the appropriate format intended for re-use. Also published on the portal are links to applications that were created on the basis of open data.

## Bodies with most sets of open data on the Open Data Portal

### State level

- The Croatian Bureau of Statistics
- The Croatian Agency for the Environment and Nature
- The Ministry of Public Administration
- The Croatian National Bank
- The Agency for Mobility and EU Programs

### Local units

- The City of Rijeka
- The City of Zagreb

Since 2017, the Croatian licence for open data (Open Licence) has been in operation which, in accordance with the recommendations of the European Commission, allows for a maximum level of reuse, as the only condition is the naming of the source. The Licence is available at: [www.data.gov.hr/otvorena-dozvola](http://www.data.gov.hr/otvorena-dozvola)

In addition to the national portal, along with previously launched local unit portals and which were launched by the City of Zagreb with still only 44 published data sets, (e.g. cycling trails, green island locations, list of recycling yards, financial reports, directory of institutions according to activities and companies, etc.) and the [City of Rijeka](#) with an increase from 68 to 108 datasets (e.g. distribution plan for individual needs, financing of associations, business premises, mobile recycling yards, directory of institutions, facilities and companies), now also in function is the [City of Virovitica](#)’s portal, with 6 datasets.





The Information Commissioner keeps a record of exclusive rights which entrusts certain subjects with the exclusive right to re-use the information. Such contracts can only be concluded in exceptional cases. As the records are now empty, please contact the Commissioner if you notice such a situation.

## Publication priorities

We have identified some open data priorities at the national and local levels, based on monitorings, beneficiary proposals and petitions and complaints. Priority data sets to be published in open format include registers and lists of state and local assets, concession registers, lists and registers of concluded contracts, financial data (budget, execution), subsidies and donations, projects and programs in particular sectors or local units, information related to public transport, the environment, the management of natural resources and waste, the economy and entrepreneurship and local institutions. In addition, all public authorities must enable the opening of their registers, databases, records, logbooks and other structured data, if they do not contain legal restrictions. Following 6 fields from 2016, in 2017 we established a list of registers and databases to be opened in the fields of education, health and social care. The European Commission's priorities include spatial and traffic data, environmental and weather data and financial and economic statistics. In the upcoming period, an increase in efforts to digitize cultural heritage is expected, i.e. the digitization of archives, libraries and museum materials.

## Provision of information for re-use upon request

According to the data from the reports submitted by public authorities, in 2017 only 102 public authorities (3 more than in 2016, about 2% of all bodies) received a beneficiary request for the provision of data for re-use, for a total of 467 requests, which amounts to an average of 4,6 requests per body. This is one-third more than in 2016. The reason for this is an increased disclosure of open data, but it is also possible that citizens do not significantly use access to information for re-use.

This is also made evident by the 9 appeals made in 2017, which is five less than in 2016. Only one petition was submitted, which is significantly less than in 2016 when there were 13. Citizens most often seek the re-use information from ministries and other state administration bodies and agencies.

It is crucial that public authorities publish information from Article 10 of the ARAI on their websites, on which there are no legal restrictions, in a machine-readable form, in an open format and in accordance with the open standard. This particularly applies to registers and databases (logbooks, registers, records, etc.) but also to all other information which must be, to the extent that is possible, disclosed in a way that allows for re-use (for example, financial plans and executions, register of public procurement contracts, workplace systematization, and information published as a dataset). It is necessary to create and publish a list of all the databases and records that the body manages within its competence and that the access method be indicated.



### Progress in the implementation

On the Open Data Portal, the number of published datasets has risen from 174 in 2015, to 325 in 2016, to 515 in 2017.



### Learn more

Find information on some of the open data portals on:  
[www.data.gov.hr](http://www.data.gov.hr)  
[www.data.zagreb.hr](http://www.data.zagreb.hr)  
[www.data.rijeka.hr](http://www.data.rijeka.hr)



### Did You know?

Croatia ranks 27 on European Data Portal, based on number of published open data sets



### The next step...

Adopting guidelines and a manual for open data

# 6. How we protected, monitored and promoted the right of access to information and to the re-use of information in 2016

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## Inspection and monitoring

➔ Within the functions of protecting and monitoring the right of access to information and the re-use of information, the Information Commissioner monitors and oversees the implementation of the Act on the Right of Access to Information through inspectional supervision, by handling petitions, by undertaking monitoring activities through expert-analytical procedures, based on the submitted annual reports. The Information Commissioner also has the power to give sanctions for violating the Act.

## Inspectional supervision

Throughout 2016, we conducted 26 direct inspectional monitorings, mostly in state administration bodies (8), local units (7) and agencies (6). We found irregularities and declared 268 measures to coordinate statuses with legal obligations, 10.3 per public authority. The largest number of measures was related to a lack of information on the Internet and of public consultations, as well as with keeping an official register. 7 indirect inspectional monitorings were carried out ex officio, mainly in local units and companies. Furthermore, we monitored the execution of 57 measures imposed during monitorings in 2016, and it was found that 60% of the bodies had taken the appropriate measures.

## Petitions

In 2017, beneficiaries submitted a total of 438 petitions notifying violations to the Act, and the largest number of petitions pertain to violations of the Act on the behalf of LRGs (243). There were 35% more petitions than in the previous year, when 324 petitions were filed. One journalist filed 176 or two-fifths of all petitions, referring to the lack of information on LRGs' financing of media services. Along with the submitted petitions, we processed a total of 627 claims and resolved 193 cases or 30.78%.

### Reasons for filing petitions:

- violations of the provisions on resolving requests, such as non-resolution or incomplete decision - 334 or 74.55%
- non-publication of information on websites - 77 or 17.58%
- inadequate or lack of public consultations, especially in regards to the length of the consultation or to the lack of a published plan - 17 or 3.88%
- lack of publicity in the work of collegial bodies, particularly in regards to the absence of agendas i.e. closed sessions - 8 or 1.82%

A self-monitoring instrument for the implementation of the ARAI is available to public authorities based on which they can create action plans in order to align their actions and the level of published information with legal obligations.

## Sanctions

Throughout 2017, we filed 7 indictments against responsible persons in 7 public authorities, of which 6 were local self-government units and one was a chamber; more specifically against the mayor of the City of Obrovac, the town of Trilje and the City of Trogir and the municipal leaders of the Municipality

of Poveljana, the Municipality of Sutivan and the Municipality of Tisno who held that position at the time of the offense, as well as against the president of the Croatian Chamber of Physiotherapists. We have also sent notices of the initiation of misdemeanour proceedings in 25 cases of blatant violations of the Act, twice more than the previous year. We also issued two minor offence warrants, against the Mayor of the Municipality of Vir and the head of the Croatian National Theatre in Šibenik. Regarding the procedures launched in previous years, misdemeanour courts found the perpetrators guilty in 4 cases and imposed fines against the mayor of the City of Obrovac (2 judgments), and the mayor of the Municipality of Baška Voda and the Municipality of Supetar. This is more than 2016, when only one leader was found guilty. Misdemeanour sanctioning is insufficiently effective and does not accomplish its goal, because public authorities cannot be penalized and the offenders can formally avoid sanctions. Recidivists are particularly problematic.

## Expert-analytical monitoring

This year, we continued to monitor compliance with the provisions on proactive disclosure (Article 10), public consultations (Article 11) and ensuring the publicity of the work of public authorities (Article 12), specifically for certain groups of public authorities in which particular challenges in implementing the Act were perceived. Following the 11 analytical studies in 2015 and 2016, this year we have created 9 analytical monitorings; the most comprehensive monitorings were performed on 122 LRGs in 5 counties. Additionally, analytical studies were created for the monitoring of the implementation of public consultations on laws and by-laws issued during 2017, as well as a separate analytical study of the monitoring of laws and by-laws in certain administrative areas, with the aim of identifying databases and registers for re-use in three administrative departments (health, education and social welfare).

## Promotion and cooperation

➔ One of the key segments of the Information Commissioner's activity in informing and ensuring the high quality implementation of the Act is to promote the right of access to information and the re-use of information, primarily through the intensive implementation of educational activities, the organization of and participation in public events, by informing via the media and the Internet and as well as by providing assistance.

## Trainings and promotions

In 2017, we promoted the right of access to information, public consultations and the re-use of information through 40 trainings, 11 of which were online trainings, in which a total of 904 people participated, including 618 information officers and other persons from public authorities, and 286 users (journalists, association representatives and citizens), which is 4 times more than in the previous year. Along the traditional training on access to information and the suppression of corruption (in cooperation with the Ministry of Justice), within the Institute of Public Administration, we have initiated educational modules on public consultations (in cooperation with the Office for Associations) and the re-use of information (in cooperation with the Ministry of Public Administration). The tailored trainings, mostly for LRGs, were held in Zadar, Šibenik and Sisak. We participated in a total of 37 public events, where we organized or co-organized 3 events – a conference on the occasion of Open Data Day in March 2017, a conference marking 28 September – International Know Your Rights Day, and a conference on open data in December 2017.



### Progress in the implementation

Misdemeanour courts imposed 4 fines, and Information Commissioner imposed 2 misdemeanour orders.



### Learn more

Analytical monitorings are available at [www.pristupinfo.hr](http://www.pristupinfo.hr) in the Documents and Publications section



### Did you know?

Citizens submitted 436 or 35% more petitions than in the previous year, mostly against LRGs



### The next steps...

The intensification of the monitoring of the ARAI in LRGs

Users and public authorities can get information on exercising the right to access to information via inquiries and info-phone. In 2017, we received 413 written queries, answered 399 of them, and provided help via info-phone on 392 occasions.

## Publications and materials

In order to provide public authorities with assistance in implementing the Act and to give beneficiaries the necessary tools to exercise their rights, and following the three manuals and two guides prepared in 2016, this year, we created 4 infographics that in a simplified and visually accessible way inform public authorities and users on the resolution of requests for access to information, on exercising users' rights, and on public consultations and open data.

## The Internet and applications

Along with the establishment of the List of Public Bodies, which is the first complete list of all public authorities in the Republic of Croatia, one of the most important steps was to publish a searchable database of our decisions and opinions, complemented by the decisions of the High Administrative Court, which has been in function since September 2016 on [tom.pristupinfo.hr](http://tom.pristupinfo.hr). By the end of 2017, TOM contained over 1300 decisions and opinions as well as references to the decisions of the Constitutional Court and of European courts. Our website [www.pristupinfo.hr](http://www.pristupinfo.hr) in Croatian and in English continues to be the most useful tool for communicating with public bodies, beneficiaries and the media, and in 2016 it was visited 138,718 times by approximately 31,000 users. For the purpose of continuously informing the public, we have launched the Information Commissioner's newsletter whose 4 editions were read by about 260 subscribers and which included a special media newsletter with information for the media, which itself included the most important news and interesting cases we resolved. We are also available on social networks.

You can learn more about access to information, consultations and open data on [www.pristupinfo.hr](http://www.pristupinfo.hr), on the List of Public Authorities, on the Opinion and Decision Search Engine, as well as through materials and publications, newsletters, Youtube channels and the Twitter account @PristupinfoHR

### Progress in the implementation

We held a total of 40 trainings, organised 3 conferences/forums and participated 34 public events



### Learn more

Materials, publications, decision search engines and lists are available on our website [www.pristupinfo.hr](http://www.pristupinfo.hr)



### Did you know?

In 2017, 4 times more users participated in workshops than in 2016



### The next steps...

The implementation of the ESF project focused on promotion and education, a new website and online educations



## Inter-institutional and international cooperation and normative activities

In 2017, we continued to participate in bodies for strategy implementation and continued to cooperate with the competent bodies on specific activities in other ways.

In cooperation with authorities in the implementation of certain activities, particularly in trainings (the Institute of Public Administration, the Ministry of Administration, the Republic of Croatia's Office for Cooperation with NGOs), we noted participation in advice given for the implementation of strategic documents, especially through the Office for the Suppression of Corruption and the Open Government Partnership initiative. In cooperation with cities' and municipalities' associations, we created the first complete list with information on local self-government. We also cooperated with a number of public authorities and associations regarding the implementation of specific activities from action and strategic plans.

### Normative activities

We intensified normative activities through initiatives, participation in working groups, involvement in public consultations and through the creation of guidelines. We have initiated the accession of the Republic of Croatia to two key Council of Europe documents that strengthen the right to information: the Council of Europe Convention on Access to Official Documents and the Additional Protocol to the European Charter on Local Self-Government on the Right to Participate in Local Government Affairs. We participated in the work of the working groups i.e. gave opinions on the process of drafting a series of regulations, including the Directive on the Protection of Undisclosed Know-How and Business Information (EU/2016/943), on The General Data Protection Regulation (GDPR, Regulation EU/2016/679), the Directive on the Prevention of Money Laundering and Financing of Terrorism (EU / 2015/849), the Law on Regulation Impact Assessment and on the Law on Archives and Archival Materials and others. We have also participated in the development of by-laws on the Right of Access to Information Act – the Regulations on the cost of the re-use of information and the Guidelines on the types and content of permits which establish the conditions for the re-use of information. We have also participated in 13 public consultations in the regulation-drafting process, from hunting areas, to entrepreneurial infrastructure, to environmental protection. Our comments were for the most part noted.

For the purpose of complying with the ARAI, along with the previously adopted 6 directives (on information officers, proactive announcements, public consultations, public tenders, lease contracts, annual financial statements of companies), we implemented 4 new guidelines throughout 2017:

- on the implementation of the proportionality and public interest test;
- on the misuse of the right to access information;
- on the publicity of the work of public authorities;
- on council issues in LRGs.

The implementation of proportionality and public interest is a key step in deciding on access to information and the exercise of citizens' rights depends on it. Public authorities should assess the weight of public interest in order to allow or limit access. Within the framework of normal operation, but especially in the fight against corruption, in 2017 we developed the Guidelines for the Implementation of the proportionality and public interest test.

# International Activities

The Information Commissioner's international co-operation is achieved through multilateral European and other types of groups and bilateral relations with bodies responsible for access to information in other countries.

In 2017, we participated in five international conferences, presenting Croatia's experience in the implementation of the Act on the Right of Access to Information, and we collaborated through working groups and networks, for example:

- in the work of the European Commission's Public Sector Information Group (PSI), which is the European Commission's advisory body for the re-use of information; we regularly reported on the status of open data, upon the Commission's request; we regularly reported on the status of open data, and submitted a report on the implementation of the PSI Directive in accordance with legal obligations;
- at two Information Commissioner conferences – the European Information Commissioner Network in Berlin the 23-24 February 2017 and International Conference of Information Commissioners in Manchester the 20-21 September 2017 during which the Resolution on Access to Information and Accountability of Public Services was adopted;
- the conference on the occasion of the International Day of Access to Information on 28 September whose topic was "The Protection of personal data and access to information: Contradiction or complementarity?" organized by the Commissioner of the State of Brandenburg (Potsdam, Germany) for Data Protection and Access to Information as well as the conference on the occasion of the 50th Anniversary of the USA's application of the Freedom of Information Act on October 20, 2017 at the University of Villanova, PA, USA.

We provided support and assistance to our colleagues from Albania through the "Support to the implementation of the Law on Access to Information in Albania" OECD Sigma project, to colleagues from Montenegro within the TAIEX assistance program, as well as to colleagues from Vietnam.

The Information Commissioner participated in a comprehensive study visit (Access to Information) within the framework of the International Visitors Leadership Program organized by the Department of State of the United States of America, from 23-31 October 2017.



## Did you know?

In September of 2017, Information Commissioners adopted the Resolution on the Right of Access to Information and Accountability of Public Services which calls for greater transparency in relation to private entities performing public service.

## 7. About the Information Commissioner and the Office

In 2017, along with the Information Commissioner, 12 civil servants (total: 10 women and 3 men) worked in the Office, all being university-educated. External associates and student volunteers also assisted us in our work. Accounting and IT services were performed for us by external contractors. A total of 2.98 million HRK was spent on budget and other funds, about 10% more than in 2016. 93.64% of the estimated 3.18 million HRK was spent, since the implementation of the planned European Social Fund project only started at the end of the year due to external circumstances. We returned a little more than 200 thousand HRK to the budget, and we plan on investing the remaining amount of donations of about 30 thousand HRK during 2018 in promotional activities.

Structure of our financial plan and its execution:

25805	Information Commissioner 2017	Plan 2017	Executed	% Executed	Remaining
A874001	Administration and management	2.901.687,00	2.855.121,97	98,40%	46.565,03
A874006	Promotion of the Right to Access Information	50.000,00	41.032,18	82,06%	8.967,82
A874007	Strengthening public authorities' capacities	200.000,00	52.145,28	26,07%	147.854,72
K874004	Computerization	35.200,00	30.238,63	85,91%	4.961,37
	<b>Total</b>	<b>3.186.887,00</b>	<b>2.978.538,06</b>	<b>93,46%</b>	<b>208.348,94</b>
	Other aid source 52		5.710,84		37.178,16
	<b>Total</b>	<b>3.186.887,00</b>	<b>2.984.248,90</b>	<b>93,64%</b>	<b>245.527,10</b>

In October 2017, we finally started the implementation of the long-awaited one-year ESF project "Strengthening the Capacity of Public Authorities, Associations, Media and Citizens for the Implementation of the Law on Access to Information" totalling 600,000 HRK. We collaborated with the Konrad Adenauer Foundation on the organization of the Open Data Conference in December 2017. We participated in two of the Ministry of Administration's projects that were aimed at strengthening ethics in the public sector, i.e. the application of the General Administrative Procedure Act.

The most important indicators of our results 2017:

- we received a total of 2,999 items, 46% more than in 2016;
- we created 6,885 outgoing acts, 58,3% more than in 2016;
- users filed 1,172 appeals, which is 84,57% more than in 2016, and 1,188 were resolved, which is 76,3% more than in 2016;
- plaintiffs initiated 175 administrative disputes, 414% more than in 2016, 168 statements of defence were made, 354% which is more than 2016, and 141 decisions by administrative courts were received;
- 7 indictments and 2 misdemeanour warrants were filed and 25 notices of intent to initiate misdemeanour proceedings were sent;

- users submitted 438 petitions on the work of public authorities, 35.2% more than in 2016, 193 of which were solved;
- 26 direct and 7 indirect inspectional monitorings were performed;
- 399 written inquiries were answered, 18% more than in 2016, as were 392 inquiries via info-phone;
- 9 analytical studies were created based on the monitoring the implementation of the Act;
- 4 guidelines were implemented which provide public authorities with procedures
- in addition to the 3 publications and 2 leaflets from 2016, in 2017 4 infographics with simplified information on the right of access to information were created for public authorities and users;
- the list of public authority bodies which contains data on 5,864 bodies continued to be updated on a daily basis;
- 611 decisions, 4 opinions, 4 instructions and guidelines and 62 court decisions were published on the TOM Opinion and Decision Search Engine throughout 2017, which amounts to a total of 1300 published documents;
- in January 2017, we collected annual reports for 2016 from 4,759 public authorities (81,03%), while in January 2018 4,683 reports were collected from 5,859 or 79.93% of the bodies;
- a Report on the Implementation of the Act on the Right to Access Information for 2016 was created, which was accepted by the Croatian Parliament with 136 votes "for" and one "against"
- the Report on the Availability of Information for Re-Use was created and submitted to the European Commission;
- within the framework of the implementation of 3 strategic documents, 32 activities have been or are being carried out on a continuous basis;
- 40 trainings (10 of which were online) were conducted – 27 for public authorities, where 618 information officers and other persons from the public authority bodies were trained, and 13 for users of the right of access to information where 286 journalists, representatives of associations and citizens (especially students) were trained;
- 3 promotional events were organized, with participation in 34 other promotional events in Croatia and abroad;
- the [www.pristupinfo.hr](http://www.pristupinfo.hr) webpage was visited 138,718 times;
- 81 news items and announcements were published on the website, 40% more than in 2016;
- 4 issues of the newsletter (quarterly Internet bulletin) were published, which 262 users are subscribed to, and a specialized media newsletter was launched;
- a Twitter profile was opened for the Information Commissioner: @Pristupinfo.hr;



- implementation of the “Strengthening the Capacities of Public Authorities, Media and Associations for the Implementation of the ARAI” ESF project;
- 27 requests for access to information were received, 7 of which were transferred to the competent authorities, 19 of which were resolved within the legal deadline, and one of which was transferred to 2018 (received on 28 December);
- questions from journalists and the media were regularly answered through about 10 interviews and statements;
- during the performing of supervisions, trainings and promotional activities, 24 official trips were made for which 41 travel orders were issued;
- a total of 2.984.248,90 HRK (93.64% of what was planned) was spent for performing tasks;
- in the office, the Information Commissioner was assisted by 12 permanently employed civil servants, one person on vocational training, one person engaged on a service contract, as well as external associates for specific activities.



#### Did you know?

Citizens' use of the right of access to information is being increasingly strengthened. In 2017, 46% more items were opened and 58.3% more output acts were produced than in 2016.

## 8. Status assessment and recommendations

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During 2017, in accordance with the provisions of the Act, the obligations from strategic documents and her strategic and annual plan, the Information Commissioner protected, monitored and promoted the right of access to information and the re-use of information by deciding on complaints, by implementing inspectional monitorings and other forms of monitoring the implementation of the Act and by undertaking promotional activities.

The Information Commissioner's general assessment is that in spite of the greater intensity of published information on the Internet, the increasing number of public consultations and the better quality resolution to user requests, which are the result of public authorities' better ability to implement the Act and of the greater awareness of officials and users, there remains significant room for public authorities' strengthening of transparency and openness as the basic principles on which the public sector is based, particularly in the strengthening of users' awareness of their right to information and in participation in decision-making.

Given the intense monitoring and promotion activities, with regular security procedures in accordance with complaints and petitions, public authorities are becoming more aware of their obligations and skilful in implementing the Act. However, the overall level of transparency and openness is still unsatisfactory, and the anticipated progress is not swift enough and is insufficiently visible to citizens. This is also borne out by the lack of confidence in the institutions as well as the high perception of corruption. Positive progress is not sufficiently communicated to the public, and the proactive informing of the public is particularly insufficient, even beyond what individual users' request.

At all levels and in all groups of bodies oversights in publishing information via websites were perceived, as were irregularities in dealing with citizens' requests, especially with respect to deadlines and the manner of decision-making, as evidenced by the fact that in over two-thirds of the cases public authorities gave unlawful or improper decisions, and information is published at an estimated level of 60-70%. Significant discrepancies have been noted at the local and regional government level, in part of legal entities with public powers and in companies in majority public ownership, although among them there are examples of good practice in implementing the Law. However, the most critical elements of the implementation of the Act, despite an evident improvement over previous years, are related to the inadequate involvement of the public in the decision-making process through public consultations, especially at the local level and on the behalf of institutions and other legal entities with public authority, the insufficient opening of public sessions of public authorities, as well as enabling the re-use of information (open data) and thus the implementation of the part of the Act which is in accordance with the European acquis.

Given the results achieved in trainings so far, the preconditions have been set for a more active promotion of the right of access to information among citizens, particularly among associations, the academic community and the media, as well as the private sector, which is the obligation of both the Commissioner and of every public authority, who are obliged to inform the public about the possibilities of exercising their rights, especially in terms of inclusion in the process of adopting regulations and strategic documents and in allowing public access to all information that does not have legal restrictions on it. Only the active involvement of citizens and other users can encourage public authorities to strengthen transparency and openness, which is evident in the daily practice of applying this Act.

Efforts must continue to be directed towards continuing the strengthening of public authorities' capacities at all levels for the implementation of the Act, including the adoption of transparency and openness in everyday work and procedures and the development of knowledge and

skills in order to effectively act upon requests, particularly in encouraging the proactive disclosure of information, public consultations and the re-use of information. Transparency and openness must be the default set of processes in public administration and the public sector as a whole, in such a way that the maximal possibility of the publicity of work is realized, and consequently responsibility and control on the behalf of citizens, who are served by authorities, public administration and the public sector.

Here are some of the most significant problems in the implementation of the Act, as detailed in the Report:

- 1,176 public bodies did not submit a report (20.07%), 726 did not appoint an information officer (12.39%), and 890 bodies did not have a website (15.2%);
- although there has been a rise in proactive publication which is now estimated at 60-70%, most often not published is information related to financing and to the distribution of financial resources, including donations and sponsorships or other non-refundable funds, as well as conclusions from official sessions;
- at all levels and in all groups of bodies irregularities were noted in dealing with citizens' requests, especially in respect to deadlines and the manner of decision-making, as evidenced by the fact that in two-thirds of the cases unlawful decisions were brought;
- there is an evident increase in citizen complaints due to a lack of response from public authorities, i.e. public authorities still do not make timely decisions on beneficiaries requests. Two-fifths of the appeals are sent to the Commissioner for that very reason;
- after progress made in 2016, the Republic of Croatia sustained rank 14th on the European Union's open data scale. Although the amount of open data is growing, especially on the Open Data Portal, no major efforts have been made, particularly due to the lack of an open data policy and partly due to bodies' the weak capacities;
- despite a positive shift in the sense that there was an approximately 35% increase in the number of consultations, 5% or 10% (depending on the calculation method and the bodies involved), there is still an unsatisfactory amount of consultations being conducted; and when conducted, their duration is not conducive to inclusion since only 20% of the consultations last 30 days or more;
- the floor is open for strengthening the legal framework for the realization of citizens' constitutionally-guaranteed right of access to information and to the re-use of information as regulated by EU regulations, both in terms of access to international documents and in amending obsolete regulations i.e. in taking into account this right and obligation from the European acquis when adopting new regulations.

Taking this into consideration, we have made proposals and recommendations for several measures in order to address the shortcomings and irregularities detailed in the Report:

- 1** On their websites, public authorities must systematically, timely and fully publish all the information and documents prescribed by the Act, in an easily searchable manner and in machine-readable form. This also applies to bodies that do not have their own site and which would publish their information on founder's subpages (most commonly local units). The publication of information on websites should be a regular part of the document-creation process i.e. information for which a proactive declaration is prescribed by law, in such a way that all employees in the public authority are aware of this step. Transparency must become a part of regular operations within public authorities and not merely a common obligation that only the information officer is responsible for. The bodies reference the Proactive Disclosure Guidelines.
- 2** Effective co-operation needs to be ensured between information officers and other organizing units within public authorities, especially the person in charge of online content, so that all necessary information is published as soon as possible and in the appropriate manner. For the purpose of meeting legal obligations, bodies must conduct periodic analyses of their websites (e.g. bimonthly, quarterly, semi-annual, and most definitely annually when submitting an annual report to the Information Commissioner), by which it is recommended to use the self-assessment questionnaire and to develop an action plan to improve the level of information disclosure, all of which is to be published on the Information Commissioner's website.
- 3** Particular attention must be paid to the structure and accessibility of information on websites, to the systematic display of information in temporal sequences, as well as to appropriate, machine-readable formats (for example, avoiding using PDFs of scanned documents which do not allow for searching, yet take up a large amount of space). In addition to the obligation of proactive and machine-readable publication of information in accordance with the ARAI and special laws (with regard to specific information, e.g. public procurement, etc.) it is necessary to take into account the upcoming commitments under EU Directive 2016/2102 on the accessibility of public bodies' websites and mobile applications.
- 4** Public authorities which are obliged by Article 10a of the ARAI are called to fulfil their legal obligation and to submit official documents to the Central State Office for the Development of the Digital Society's Central Catalogue of Official Documents in order to be permanently available in digital form to both present and future generations.
- 5** The openness of public hearings must, as a rule, be an integral part of the decision-making process. To this end, the public authorities, and particularly LRG authorities and representative bodies, as well as chambers and legal persons with public authority, must publish meeting agendas, allow public participation in sessions, along with a predetermined number of persons attending the sessions, in accordance with spatial possibilities and legal constraints. The manner in which invitations to participate are received must also be published, and the order of those registered must be determined by

the date of the registration. Conclusions and official documents adopted at the sessions must be published, and bodies that stipulate in their general acts that the sessions are closed to the public without statutory grounds must align the general acts with the provisions of the ARAI and correct the aforementioned violations. The bodies must refer to the Information Commissioner's Guidelines on the publicity of the work of public authorities.

- 6** In dealing with requirements, public authorities must respect the provisions of the ARAI and the General Administrative Procedure Act, consult the Information Commissioner and the High Administrative Court's publicly available practices, as well as guidelines, instructions, manuals and other auxiliary means that the Information Commissioner has prepared for the purpose of the proper application of the Act.
- 7** It is crucial to ensure that information officers are continuously trained and regularly and timely inform leaders and other employees of their obligations under the ARAIA, given that resistance from leaders and other parts of organizations makes it difficult to exercise this right of citizens. A Summary of the Annual Report on the Implementation of the Act must be part of the general reports on the work of public authorities.
- 8** It is necessary to harmonize the organization of work in order to achieve the quickest, most efficient and harmonized way of access to information possible. The swiftness of resolutions, the capacities of the information officer, the cooperation of the constituent units in the provision of information and in the implementation of the test of proportionality and public interest, the maximal availability of information through proactive revelation, as well as continuity in avoiding frequent employee changes must all be ensured.
- 9** When providing information upon request, it is necessary to consider whether that same information is suitable for public disclosure and thereby be released in order to avoid re-deciding on that same request by another user. Submitting user requests must be a subordinate way of accessing information, through maximally proactive publication, in a co-ordinated process of co-operation within public authorities so that users, in accordance with the principle of equality, have access to all the necessary information on websites, which are structured in an accessible and user-oriented way.
- 10** The implementation of the Proportionality and Public Interest Test requires a significant effort on the behalf of public authorities, including forming a working group and a detailed explanation of the reasons for a public announcement or denial thereof. The experience so far has shown that public authorities face difficulties in carrying out the test and mainly do not carry it or do so improperly. It is therefore necessary to consult the Information Commissioner's Guidelines for the Implementation of the Proportionality and Public Interest Test which was created based on good practice and similar documents from other countries.

- 11** In handling requests, public authorities must be guided by the provision that information on public funds is to be available to the public unless it is classified information; the remaining information is subject to the application of the proportionality and public interest test. Public authorities must bear in mind that the core of their responsibility is the proper and legitimate use of public funds for which they access public funds
- 12** Denying an application for access to information due to an abuse of rights must be done on an exceptional basis, bearing in mind that the right of access to information is a constitutional right for citizens and that public authorities are obliged to respect the principle of transparency in their work and decision-making. When bringing a decision, public authorities must consult the Information Commissioner's Guidelines on the Abuse of Rights, which was created based on previous practice and similar documents from other countries.
- 13** In complaints, as well as in other procedures conducted in accordance with the Act on the Right of Access to Information, public authorities must cooperate with the Commissioner and duly provide all the documentation, in order to avoid the procedure being unnecessarily delayed. The timely execution of the Information Commissioner's decisions or acting upon the High Administrative Court's judgment is particularly important. Failure to comply with court and administrative decisions is the ultimate act of non-compliance with the law and is unacceptable, especially when it comes to public authorities and persons performing public functions.
- 14** Public authorities must establish the open data format as the regular format for publishing documents whenever possible, and all databases, registers, logbooks, records, and other sets of data must be published in an open format inasmuch the access to information (in whole or in part) is not restricted by regulations. If the data from the register is published in the form of an application, it is necessary to allow for the possibility of downloading in a machine-readable format (in full and, if possible, according to the selected criteria);
- 15** Public authorities at the state level must publish data on the Open Data Portal, whereas local units and other public authorities are encouraged to publish data on the Portal or on their own portals (city, county);
- 16** All public authorities must create a list of databases and registers (registers, logbooks, records, lists, etc.) with metadata and information on access to data in order to inform the public and other public authorities about the existence of data and to avoid the duplication of work between public authorities;
- 17** Public authorities must use the Croatian Open License to determine the terms of use and, exceptionally for specific data sets, they may use other licences, in accordance with the Regulations;

- 18** Public authorities must pay particular attention to the quality of data which is to be published in accordance with the highest standards in order to enable full utilization and interoperability;
- 19** Public authorities may not collect charges on open data, and when they allow re-use through a request they may only charge marginal costs (shipping, data carrier). Only in exceptional cases and in accordance with the legal requirements is it possible to charge additional costs to users, in accordance with the Decree which will be issued during 2018.
- 20** Among the usual datasets which must be published in a machine-readable format, we would like to place an emphasis on financial data (financial plans, plan execution, public procurement plans, strategic plans etc.) as well as other data that can be displayed in the form of a table (e.g. organizational data, statistical data on the work of bodies, session lists and agendas, lists of published regulations and decisions in official gazettes, etc.).
- 21** It was suggested to the Government of the Republic of Croatia that it adopt a comprehensive and long-term open data policy, in accordance with good European practice and standards, which will effectively stimulate and ensure the opening of data and sensitize users, particularly entrepreneurship, to exploit data for the purpose of developing new products and opening up jobs. It is also recommended that local and regional self-government units adopt their own policies (for example, within their associations, at the county level or independently), in order to stimulate development and openness in local communities.
- 22** Public authorities are asked to publish the data identified as a priority by the Information Commissioner in cooperation with other bodies based on monitorings, beneficiaries' suggestions, petitions and complaints. Priority data sets to be published in an open format include registers and lists of state and local assets, concession registers, lists and registers of concluded contracts, financial data (budget, execution), subsidies and donations, projects and programmes in individual sectors or local units, information related to public transport, the environment, the management of natural resources, waste, the economy and entrepreneurship as well as local institutions. The European Commission also established that the list of recommended datasets should include economic data, geospatial data, business data (financial statements and ownership), environmental data, etc., and the implementation of the guidelines is expected from all Member States. It is necessary to intensify efforts to digitize archives, libraries and museums.
- 23** In acting in accordance with the requirements, public authorities must comply with the provisions of the Act and of the General Administrative Procedure Act, as well as with the regulations governing restrictions on re-use, by appropriately applying the provisions on handling requests on access to information.

- 24** Public authorities must pay particular attention to legal restrictions on the granting of exclusive rights to the re-use of information, and if for legally prescribed reasons such a provision is entered into a contract or other act authorizing the exclusive rights to use data to certain persons, it must also be delivered to the Commissioner within 15 days. The Commissioner will continue to pay special attention to the issue of exclusive rights in 2018.
- 25** Public authorities must provide support in the training of civil servants in the fields of open data and re-use, but especially the cooperation between information officers and other officials and organizational units, but especially in the cooperation between information officers and other officials and organizational units, such as database managers, registry administrators and website editors, i.e. IT services.
- 26** Public authorities which are obliged to conduct public consultations must be familiar with the legal provisions of Article 11 and the Guidelines for the Application of the Commissioner's Advice and harmonize their procedures with the Law. As additional help, it is recommended to use other publications and documents and to attend the Information Commissioner's and the Office for NGOs of the Government of the Republic of Croatia's trainings.
- 27** Notably, it is suggested that public authorities include 30 days for the implementation of consultations within their normative activities as well as process opinions and suggestions and prepare reports. Public consultations must be part of the regular process of the adoption of regulations, acts and documents, which contributes to the quality of regulations and restores trust between public authorities and beneficiaries. It must also be part of regular annual planning and given in consultation plans.
- 28** When conducting consultations, and especially if consultations are not conducted due to urgency, it is also necessary to publish information on the composition of the working groups which participated in preparing the draft of a law, other regulation or act (decision or list of members). Information on the composition of a working group, formal or informal, is considered publicly available information according to the Commissioner's and the High Administrative Court's decisions.
- 29** For the purpose of encouraging the implementation of public consultations, the realization of the democratic process, the strengthening of public authorities' responsibilities and the improvement of the quality of proceedings, it is recommended that the Croatian Parliament and the Government of the Republic of Croatia, especially their professional services and offices participating in the process of adopting regulations, encourage and monitor the implementation of the provisions of the Rules of Procedure of the Croatian Parliament and the Rules of Procedure of the Government of the Republic of Croatia, and which require that the proponent submit a proposal of the regulation or the act and a report on the conducted consultation.



- 30** Because of discrepancies between the Act and the Government's Codex, it is proposed that the Government of the Republic of Croatia either put the existing Codex into force or adopt a new one that will comply with legal provisions (on deadlines, consultation plans, reports on the conducted consultations, portals) and implement the good practices of public consultations which have been developed since the adoption of the last Codex.
- 31** It is proposed that the Government of the Republic of Croatia ensure the technical advancement of the e-counselling portal, especially since an increase in the use of the portal in the future is expected. It is also proposed that, in the absence of legal provisions, reports be published within the appropriate deadline on the e-counselling portal, which, depending on the number of suggestions and opinions received, is considered to be 8, 15, 30 or more days and that consultations are not considered completed without the publication of a report, since reports also provide a substantive quality to consultations and provide bodies and participants the opportunity to receive insight into the result of their participation.
- 32** It is recommended that local and regional self-government units in particular include provisions on public consultations in their statutes and rules of procedure for the work of councils and the assemblies as well as introduce a good participatory budgeting practice in relation to their budget planning in which their decision on the part of funds dedicated to individual needs will be brought according to citizens' proposals on funding priorities. It is particularly indicated that the implementation of public hearings according to special laws (on the environment, spatial planning, sustainable waste management) cannot be regarded as fulfilling obligations under Article 11 if consultations are not held online and do not last 30 days, and if responses to suggestions and opinions in the form of reports on the conducted are not received. Therefore, online consultations must be carried out in accordance with special regulations.
- 33** All public authorities must actively encourage citizen involvement in the consultation process, primarily through the implementation of other forms of consultation (public hearings, email notifications of drafts of regulations, etc.) and adequate information on the implementation of consultations on their website: every public authority body must set up a "public consultation" category on its website, where it will regularly inform the public about the consultations being conducted as well as the consultations of other decision-bringers or professional regulation developers which are of interest to their users (for example, within a particular department consultations that are of interest to users can be conducted by the ministry or agencies within the department or by related ministries). Local and regional self-government units, especially counties or major cities, are recommended to establish local public consultation portals which would ensure the timely informing and involving of the public in the adoption of general acts and strategic and planning documents.

- 34** It is the responsibility of the head of the public authorities to ensure the smooth and full implementation of the Civil Obligations Act and above all to appoint an information officer as well as inform the Commissioner and the public on that information and to regularly update it. For this job, it is necessary to select a person with the adequate skills and workplace and to enable their training. It is recommended to consult the Guidelines on Information Officers.
- 35** Keeping the Register on Requests for Access to and Re-Use of Information, in accordance with the Ordinance on the Organization, Content and Manner of Keeping the Official Register (OG 83/14) is of crucial importance for the implementation of the Act. The Register does not include submissions that are not requests for access or for the re-use of information. It is recommended to bodies that the Register be published in tabular form and regularly updated on their websites, along with the protection of personal data. This way, users can check the status of their requests.
- 36** All public authorities are required to submit an annual report to the Information Commissioner, minding the quality of the submitted data, in accordance with the format drawn up each year by the Information Commissioner. It is recommended that bodies publish a report on their website, that its content be discussed during its panels and sessions, and that the data be included in their annual work reports.
- 37** For the purpose of strengthening transparency and openness and to ensure a systematic approach to the implementation of the Act, it is recommended that public authorities apply the Questionnaire for the Self-Assessment of the Compliance of Procedures with the Act and draw up an action plan with all their activities.
- 38** All public authorities are invited to use the Pristupinfo.hr application on the Information Commissioner's website, for the purpose of delivering or modifying information about the body and the information officer, as well as for the submission of the annual report.
- 39** It is recommended that the Government of the Republic of Croatia initiate the process of accession to the Council of Europe Convention on Access to Official Documents and to the Protocol, along the European Charter on Local Self-Government on the Right to Participate in Local Government Affairs.
- 40** It is recommended that the Government of the Republic of Croatia propose amendments to the regulation in a way that facilitates the sanctioning of public authorities for violations of the Act on the Right of Access to Information.
- 41** It is recommended that the Government of the Republic of Croatia prepare a new and modern Media Law which would regulate and ensure the availability of information to journalists as well as the transparency of media ownership.

- 42** It is recommended that the Government of the Republic of Croatia prepare a new and modern law which would address the issue of trade and professional secrets as well as confidential information.
- 43** The Government of the Republic of Croatia is reminded of the need for the transposition of Directive 2016/2102/EU on the accessibility of the websites and mobile applications of public sector bodies.
- 44** Professional regulation developers are encouraged in their obligation to publish registers, databases and records in a machine-readable format, which should be taken into account when drafting the rules governing the content and the manner of publishing registers, databases, records, etc.
- 45** Professional regulation developers are encouraged to include the Information Commissioner in the process of giving opinions when drafting proposals that regulate access to information, i.e. to be included in drafting working groups if the regulation substantively deals with the availability of information.
- 46** It is recommended that the Government of the Republic of Croatia adopt the Open Government Partnership Action Plan for the 2018-2020 and ensure its full implementation, along with the appropriate coordinating, human and financial capacities.

Given the findings and conclusions of the report, in 2018 particular efforts will be focused on the following:

- efficiency in resolving appeals and an intensive implementation of inspectional supervision, especially indirect monitorings;
- ensuring the continuous training of information officers, in cooperation with the relevant bodies, and the creation of instructions and guidelines for the implementation of certain provisions of the Act and generally assisting public authorities;
- after a period of strengthening public authorities' capacities, in 2018 and in the coming years, the Commissioner intends to focus her efforts on strengthening user awareness on the right to access information, on public consultations and on open data;
- the continuous updating of the List of Public Authority Bodies and the continuous updating of the TOM - Opinions and Decisions Search Engine
- encouraging public authorities to publish information for re-use, especially with regard to the established priorities, through trainings, guidelines and manuals for re-use and open data;
- overall strengthening the Information Commissioner's capacities.

# INFORMATION COMMISSIONER AN OVERVIEW OF 2017 IN NUMBERS

**5.859**

Number of public bodies on the List (February 2018)  
[www.tjv.pristupinfo.hr](http://www.tjv.pristupinfo.hr)

**4.683**  
ili **79.93%**

Annual reports delivered by public bodies

**5.133**

Number of Information officers (February 2018)

**1.172**  
**84.57%**

Number of appeals filed in 2017 / rise (%)

**498**  
ili **42.50%**

Complaints due to administrative silence

**101.4%**

Case clearance rate in 2017

**83.7%**

Percentage of citizen plaintiffs

**1:2**

Legal : illegal decisions by bodies

**86.316,75 kn**

Total of actual material costs

**438**

Number of filed complaints

**33**

Number of inspectional monitorings

**268**

Measures imposed on public authorities

**109:1**

Total number of court decisions and annulled decisions

**7+2**

Filed indictments + misdemeanour orders

**399**

Number of written Responses to requests

**392**

Number of responses via info-phone

**40**

Number of trainings

**618**

Number of trained officials

**286**

Number of trained journalists, association representatives and citizens

**3+34**

Number of organized and other public events

**9**

Number of analytical studies on the monitoring of the implementation of the ARAI

**611+4**

Number of published Decisions and opinions in TOM, [www.tom.pristupinfo.hr](http://www.tom.pristupinfo.hr)

**4**

Infographics (promotional materials)

**4**

Developed procedure guidelines

**2.999**

Number of cases in progress

**32**

Number of implemented measures from strategic documents

**138.718**

Number of visits to [www.pristupinfo.hr](http://www.pristupinfo.hr)

**81+5**

Number of published news items, Number of newsletters

**1+12**

Number of state officials and officials in 2017

**2,97 mil. kn**

Budget money spent in 2017

**5.710,00 kn**

Donation money spent

**0+1**

Number of cars + Number of official phones







[www.pristupinfo.hr](http://www.pristupinfo.hr)

## Information Commissioner

### Summary on the Report of the Implementation of the Act on the Right of Access to Information for 2017 Zagreb, March 2018

#### Legal entity

Article 60, paragraph 3 of the Act on the Right of Access to Information (OG 25/13, 85/15)

Article 214 of the Rules of Procedure of the Croatian Parliament (OG 81/13, 113/16)