

INSTITUTE FOR DEVELOPMENT OF
FREEDOM OF INFORMATION



Institute for Development of Freedom of Information

The Institute for Development of Freedom of Information (IDFI) is a non-governmental organization.

The Institute's priority is to perform any kind of activities permitted by the Law and connected with the processes aiming to improve the rate of public information accessibility and its quality, transparency and openness of the public authorities, availability and accessibility of the documents kept in various archives and generally to foster the development of the civil society and the establishment of democratic values.

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The present work represents the research conducted by the “**Institute for Development of Freedom of Information**” within the framework of the project named “**Public Information Database**”, which refers to the public information accessibility in Georgia. The bulletin comprises statistical analysis of public information officially requested and received within the borders of the project from public authorities in Georgia. The project and issue of the bulletin was carried out with financial support of “**Open Society Georgia Foundation**”.



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The informational bulletin is divided into three parts. **The first part** consists of the short description of the project named “Public Information Database”, the objectives of the project and ways of its implementation.

The second part covers the legislative acts of Georgia regulating issues concerning freedom of information, the definition of public information, determination of the personal data of a party concerned according to Georgian legislation and which information shall be deemed as state, commercial and private secret.

In the aforementioned part it is also given the approach and general tendencies of public agencies concerning provision of accessibility to public information, terms of provision of requested public information and index of general provision of information in Georgia. The explanations and approach of public authorities concerning the publicity of public servant’s employment salary, premiums and travelling allowances are of special importance.

The third part of the publication gives more detailed analysis of the results revealed and the practice established within the six-month period of the project, statistical data on information request applications sent and corresponding replies received according to particular public authorities, information on the most transparent and the most opaque public agencies and which were the authorities that left completely unanswered the requests submitted by IDFI.

About the Project

The aims of the project “Public information database” backed by the financial support of “The Open Society – Georgia Foundation” are: to increase the level of transparency and accountability of government structures; to increase the efficiency and transparency rate of public finance’s expenditure; to support the development of freedom of information by establishing standards of e-democracy and to enhance the control of population, non-governmental sector and media over the public authorities.

An on-line resource database of public information (www.opendata.ge) enables the population of Georgia, press and media, non-governmental and international organizations to observe tendencies of the freedom of information dissemination in a real-time format as well as to conduct an on-line auditing of different agencies’ operations, proposals, use of budget funds, dynamics of growth and other subjects.

The screenshot shows the homepage of the Public Information Database. At the top, there is a header with the logo of the Institute for Development of Freedom of Information (IDFI) and the text 'PUBLIC INFORMATION DATABASE'. Below the header is a navigation menu with links for 'MAIN PAGE', 'ABOUT US', 'NEWS', 'RESEARCHES', 'LEGAL BASE', 'MEDIA', 'USEFUL INFO', and 'CONTACT'. A search bar is also present. The main content area is divided into several sections: 'NEWS' on the left with a list of recent news items; 'MAIN PAGE' in the center, which includes two dropdown menus for 'CHOOSE MINISTRY' and 'CHOOSE INFO', and a grid of categories such as 'Budget', 'Salaries and Bonuses', 'Official Trips', 'Reserve Funds', 'Purchases and Maintenance Expenses of Vehicles', 'Communication Expenses', 'State Assets', 'State Cultural Events', 'State Procurements', 'State Programs and Projects', 'Annual reports of statistics of public information', 'Asset Declarations', and 'All documents'. On the right side, there is a 'LAST ADDED FILES' section with a list of recent uploads and an 'OTHERS' section with additional links. At the bottom left, there is a 'Find us on Facebook' section with the IDFI logo and social media icons.

Public information database - www.opendata.ge

Public information database has an advanced search option that is structured based on the list of public authorities and thematic topics. The database covers a wide range of topics and incorporates public information resources of government institutions. In each thematic section of the website we display public information released by different government agencies – public officials’ asset declarations, budget, state programs, payroll funds, announced auctions and tenders, statistics of the public information release, premise and reserve funds of various inter-agencies, financial statements of executed and proposed projects, staff employee ratio, expenditures, projects planned or executed by the government agencies and other information. The user is able to locate needed information in the relevant thematic block as well as by pointing the concrete government agency.

An informational acquisition method of the public information database is based on four components: methodical requests for public information from the state agencies; obtaining the public information through the collaboration with the state authorities; displaying the public information already obtained by other non-governmental organizations and through the regular monitoring of the government agencies’ official web pages conducted by the IDFI. In terms of its information completeness and actuality the resource database develops in three steps, among which the priority is given to the public information of the Georgian government’s executive institutions – the ministries. During the following steps the resource database will further expand to include public information obtained from the Georgian government agencies, sub-agencies, regional representations of the government, municipalities, self-governing bodies and government trustees.

Institute's expert team undertakes statutory consultations with other non-governmental organizations working in the relevant field (Transparency International Georgia, GYLA, Green Alternative). In this collaborative efforts the Institute: conducts a thorough analysis of the Georgian legislation on public information; develops a database of the governmental and non-governmental public information; undertakes a comparative study of the international experience on the issue, analyzing its functionality and development, conducts project media polls (during the meetings and through the on-line questionnaires) to identify the most pressing public information issues.

Freedom of information in Georgia

Freedom of information is one of the most important postulates and values of a democratic society. Under "Convention on Access to Official Documents" adopted by the European Council on November 26, 2008 which was signed by Georgia as well, access to public information was recognized as one of the fundamental rights which accentuate the government's commitment of open and transparent activities and the necessity to carry out the accountability before society.

According to Georgian legislation all people's right to obtain desirable information is guaranteed. The Constitution of Georgia adopted in 1995 establishes a high standard of freedom of information.

Article 24 Constitution of Georgia:

"Everyone has the right to freely receive and impart information, to express and impart his/her opinion orally, in writing or by in any other means. Mass media shall be free. The censorship shall be impermissible".

Article 41 Constitution of Georgia:

"Every citizen of Georgia shall have the right to become acquainted, in accordance with a procedure prescribed by law, with the information about him/her stored in state institutions as well as official documents existing there unless they contain state, professional or commercial secret".

The commitment of availability of information saved at a public institution is also bound upon Georgia by **Article 10 of the European Convention on Human Rights and Fundamental Freedoms** according to which freedom of expression encompasses human right to obtain and disseminate information and opinions without interference of the government.

In 1999 the Parliament of Georgia implemented a significant and progressive program in Administrative Law, approved a new Georgian Administrative Code based upon concepts of the Dutch, German and American Administrative Law.

The Code which was enacted in the early 2000 introduced totally new fundamental principles of transparency and accountability of state institutions in Georgia. One of the principle issues among the new provisions stipulated by the Administrative Code are the rules related to "Public information" according to which public information is declared almost totally open for society.

From the viewpoint of freedom of information, the Administrative Code is the most significant document because the norms and mechanisms governing availability of information are provided there in most detail. According to the Code, public information should be open and it can be obtained by any legal or natural person regardless of nationality. Article 37 of the Code:

"Everyone may claim public information irrespective of its physical form or the condition of storage. Everyone may choose the form of receipt of public information, if there are various forms of its receipt, and gain access to the original of information."

According to the Administrative Code of Georgia public information means an official document, including those kept by a public agency, and those received, processed, created, or sent by a public agency or public servant within its official authority.

The information that may not be classified, article 42 of the Administrative Code of Georgia:

Everyone shall have access to information concerning:

- (a) the environment and hazard that constitutes a threat to life and health;
- (b) the fundamental principles and objectives of a public agency;
- (c) the description of the structure of a public agency, the procedures for assigning and dividing functions among public servants and decision-making procedures;
- (d) names and office addresses of those servants of public agencies, who hold important positions or are responsible for public relations;
- (e) the results of open ballots in a corporate public agency;
- (f) the election of a person to an elective office;
- (g) the results of auditing or inspection of the activity of a public agency and court materials on the cases where a public agency acted as a litigant;
- (h) the title and location of the public database of a public agency and the name and office address of the person responsible for the database;
- (i) the purpose, area of application and legal grounds for collecting, processing, storing and disseminating data by a public agency;
- (j) availability or non-availability of personal information of applicant in a public database, the procedures for gaining access to such information, including the procedures allowing the identification of a person, if the person or his representative filed the request to gain access to or modify personal information of the applicant;
- (k) the category of persons who may gain access to the personal information contained in a public database pursuant to law;
- (l) the composition and sources of the data contained in a public database and the category of persons, concerning whom information is collected, processed and stored;
- (m) any other information, which is not considered state, commercial or personal secret stipulated and according to a manner established by the law.

Openness of information is restricted in two cases: when it is stipulated by law and when it is attributed to state, commercial and personal secret by the established rule. The rule of attributing information to state secret is governed by the relevant legislation, for example, "The Law of Georgia on State Secrets". As for definition of commercial and personal information secrecy they are provided in the Administrative Code in general, in particular:

- Commercial secret is information the disclosure of which may cause damage to a person's competitiveness. Administrative body cannot have its own commercial secret. Initiative about considering information as a commercial secret should be made by the owner though the final decision about its secrecy is made by the public institution where this information is saved;
- Personal secret is information which allows identifying a person (personal data) and the issue of considering it as a personal secret is resolved by the person whom this information refers to.

Though at the same time the commitment stipulated by Article 44 of the General Administrative Code should be mentioned which declares openness of personal data of officials (candidates presented for a position) as necessary.

„Personal data, ***except for those of an official (candidates presented for a position)***, may not be accessible for anyone without the consent of the person concerned or reasoned decision of a court, as provided in Article 28 of this Code“.

Therefore, when we have to do with "personal data of an official", according to paragraph 1 of Article 44 of the General Administrative Code, information is open and does not require this person's consent when issuing this information.

A written form is established in Georgia for requesting information and the public information is obliged to ensure possibility of becoming acquainted with this information within 10 days (in this case a public institution is obliged to notify the applicant immediately upon request). When making decision about refusal to issue information, the public institution is also obliged to notify the applicant within 3 days after the decision is rendered and explain him his rights and the procedure of appeal. There are a number of other specific normative acts in the Georgian legislation which refer to the freedom of information: the Georgian Law on Freedom of Speech and Expression, the Criminal Code of Georgia.

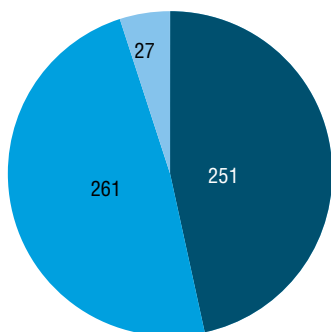
■ General tendencies revealed during implementation of the first stage of the project “Public Information Database”

IDFI applied to 23 public authorities for the purpose of obtaining information within the framework of the project: the Administration of the President of Georgia, the Georgian Government, the Parliament of Georgia, Ministries and Tbilisi City Hall. Public information requests were sent to several more public authorities that are not specified in the main section stipulated by the project. The content of the sent requests were identical almost for all state agencies. In particular, we requested information according to the main thematic blocks stipulated by the project which causes significant public interest in our opinion and may be considered as a public measurement of the government’s transparency and accountability:

1. 2009-2010 Budget and the changes made to the budget by quarters and/or months (if applicable);
2. Full list of tenders announced and procurement carried out by administrative agencies during the year 2010;
3. List of employees of administrative agencies by positions and the amount of sums spent from the budget on their salaries during 2009-2010;
4. Amounts spent on business trips of officials of administrative agencies within and outside the country during 2009-2010;
5. Individual distribution of bonuses issued to officials of administrative agencies during 2009-2010 by months and the total quarterly amount of bonuses;
6. Total list of cultural and promotional events held by administrative agencies during the year 2010;
7. The amount of salaries (separately) and increments (separately) of officials of administrative agencies during 2009-2010;
8. List of projects and programs implemented within the competence of administrative agencies in 2010;
9. Total list of cultural and promotional events held by administrative agencies during the year 2010;
10. List of State Assets on the balance of administrative agencies and the market price of each as of October 2010;
11. Information on vehicle park of administrative agencies:
 - Personal distribution of vehicles on the balance sheet to officials (including a vehicle model) and a monthly marginal limit of fuel consumption (including fuel type) during 2009/2010;
 - The amount of money spent from the budget on maintenance of the office vehicles (repairs, wear) by officials and employees of administrative agencies during 2009/2010;
12. The amount of money spent from the budget on phone conversations (including mobile phones) by officials and employees of administrative agencies (separately) during 2009/2010;
13. The amount of money spent from the budget on purchase of mobile phones and vehicles of officials and employees of administrative agencies during 2009/2010.

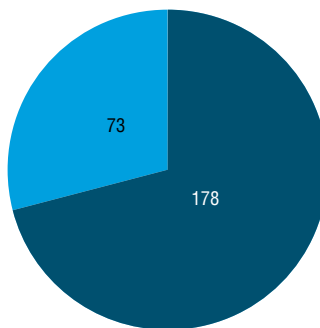
During 5 months the period 539 applications were submitted to the above-mentioned state agencies requesting public information. Only 251 applications received a reply. Out of them, full information was provided by state agencies only to 178 questions. Information was incompletely provided in reply to 73 applications. The remaining 261 questions have been left unanswered until now. The Institute of Development of Freedom of Information was refused to be provided with information in writing only in 27 cases.

Number of Questions (Oct 2010 - Feb 2011)
Total: 539 Requests on Public Information



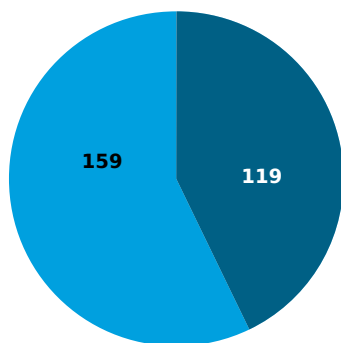
- Inquiries Responded
- Ignored
- Refused

Inquiries Responded 251



- Complete answers
- Incomplete answers

Practice has made it evident that terms of providing information by public authorities are often violated. The IDFI received only 119 replies to the sent requests in a timely manner. 159 replies were received after the deadline. Only 4 agencies adhered to the 10-day term of providing information established by the General Administrative Code. Though it should be mentioned that 10 days is the maximal term which is used only in necessary cases and is established by law. Unfortunately, administrative agencies fulfill the obligation of immediate issue of public information not so often.

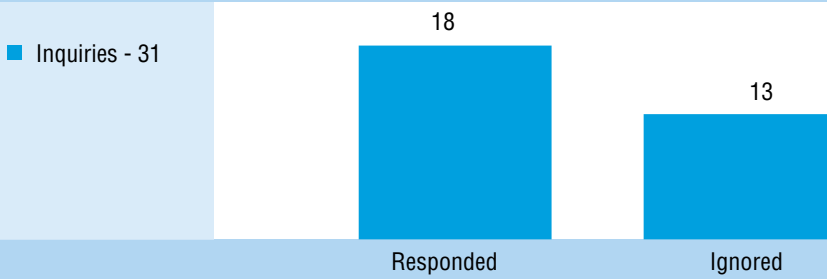


Number of Replies 278

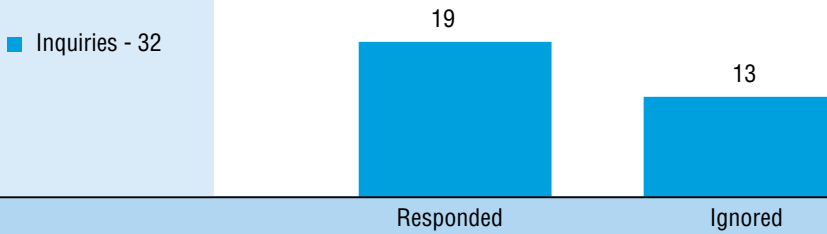
- On time
- Late

It has also been clearly shown in practice that issuing public information within terms established by the legislation generally is facilitated only when requested information is not connected with expenditure of budget sums. For example, when we requested the list of cultural events and implemented programs or the list of state procurement (without their cost) or the number of users of official web-pages, such kind of information was provided to us with increased index and within the established time limits.

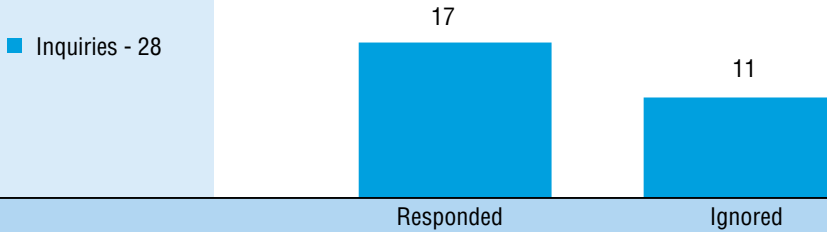
Requested Public Information on State Programs and Projects



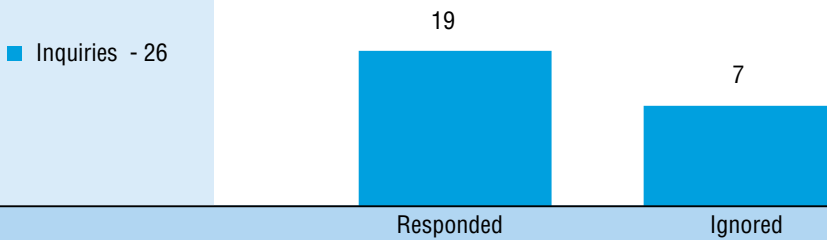
Requested Public Information on the List of State Cultural and Advertising Events



Requested Public Information on State Procurement



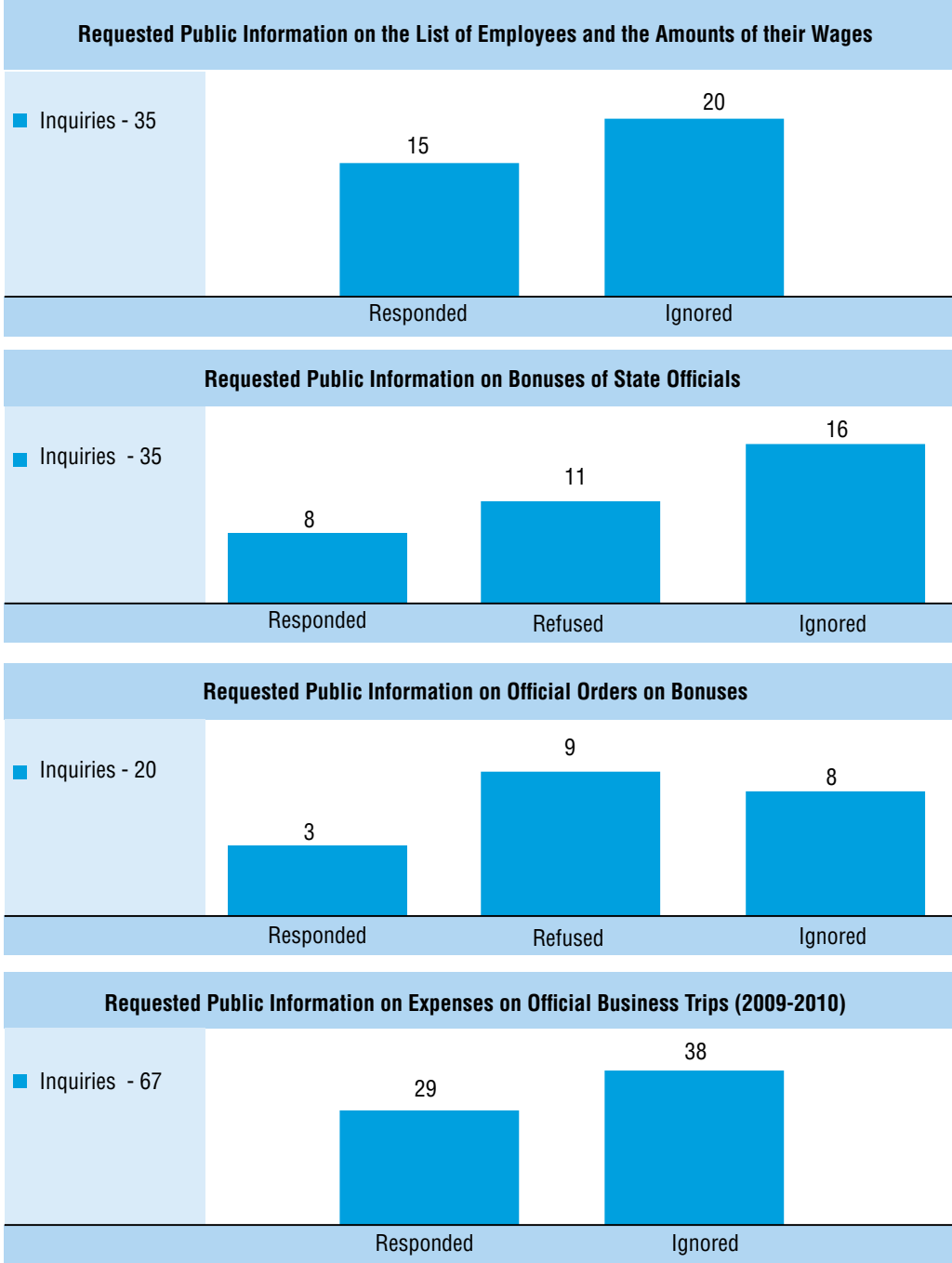
Requested Public Information on Statistical Data of the Number of Visitors of Web-Sites



The index of replies received in response to requests sent regarding the salaries, business trip expenses and the amounts of bonuses of administrative authorities' officials is much lower. There are too many replies containing refusal with standard justification from administrative bodies and requests left without any response at all:

“The information existing on official papers pertaining to individual’s health, his/her finances or other private matters, shall not be accessible to anyone without the consent of the individual in question except in the cases determined by law, when it is necessary for ensuring the state security or public safety, for the protection of health, rights and freedoms of others (article 41 of Georgian constitution)”.

Several administrative agencies (Ministry of Justice, Ministry of Culture and Monument Protection, Office of the State Minister of Georgia on European and Euro – Atlantic Integration, Ministry of Sport and Youth Affairs, Tbilisi State University) referred to Article 37 of the General Administrative Code according to which when making a request of other’s personal data the applicant expect cases stipulated by law is obliged to submit a consent duly notarized by the relevant person or certified by the administrative agency. In case of lack of such consent the public institution is not able to issue the above-mentioned information.



The carried out survey clearly revealed the different approach of public institutions to issue of information related to financial reporting. A number of public institutions provided detailed information on salaries, bonuses and business trip expenses of the employees. For example, the **Office of the State Minister for Reintegration** provided a timely and comprehensive reply to all our questions. Moreover, in reply to our request to obtain public information on salaries, they fully provided information about salaries, bonuses and business trip expenses of all employees and officials. Information was provided within time limits and in a full manner by the **Ministry of Environment and Natural Resources** as well. In some cases, information was provided only regarding salaries and business trip expenses but we were refused to obtain information on bonuses. For example, the Ministry of Justice, **the Ministry of Regional Development and Infrastructure** provided salaries of the employees but refused to provide information on bonuses.

Explanation of public authorities that salaries and business trip expenses of each employee represent public information while bonuses are personal information is unclear. **According to Article 37 of the Georgian Law “On Public Service”, salary includes compensation, bonuses and increments stipulated by law.** Therefore, by the law the bonuses and the compensation are components of salary. So when administrative agencies make information on salaries accessible to public, accordingly, information on bonuses should be available as well.

As already mentioned, Article 44 of the General Administrative Code of Georgia expressly ensures protection of secrecy of personal data **“except personal data of officials”**. Therefore, information attributed to personal information is closed and not subject to issue only in case when the subject is not **“an official”** and in case we have to do with **“personal data of an official”, information is open and does not require this person’s consent when issuing this information.** The list of officials is defined on the basis of Article 2, Law “On Conflict of Interest and Corruption in the Public Service”, paragraph 3, Article 1, Georgian Law “On Public Service” and sub-paragraph “i” Article 1 of Law of Georgia “On Freedom of Speech and Expression”.

Despite this fact the Ministry of Justice, the Ministry of Finance, the Ministry of Regional Development and Infrastructure, the Ministry of Culture and Monument Protection, the Ministry of Labour and Social Affairs, the Office of the State Minister for Integration to Euro-Atlantic structures, the Ministry of Sport and Youth Affairs and the Parliament of Georgia refused to issue the mentioned information referring to section 2 Article 41 of the Constitution.

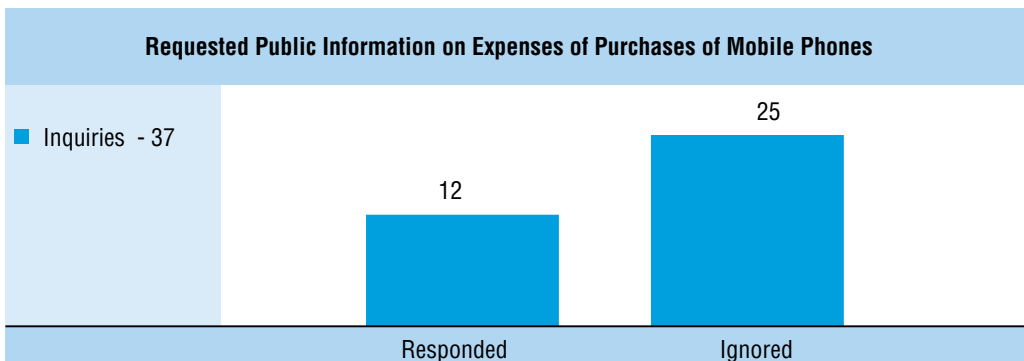
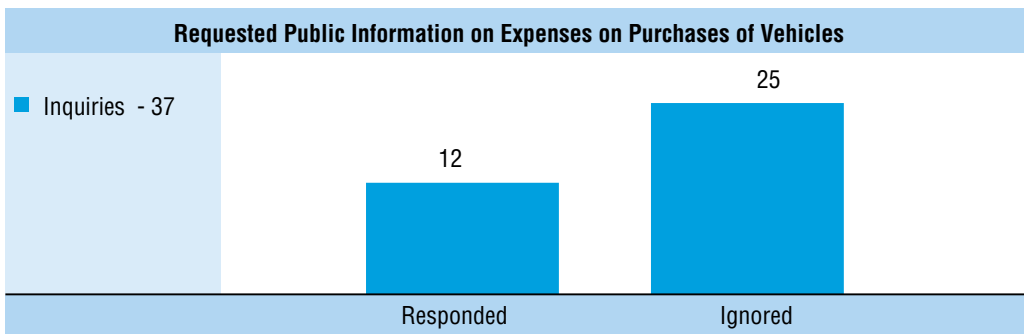
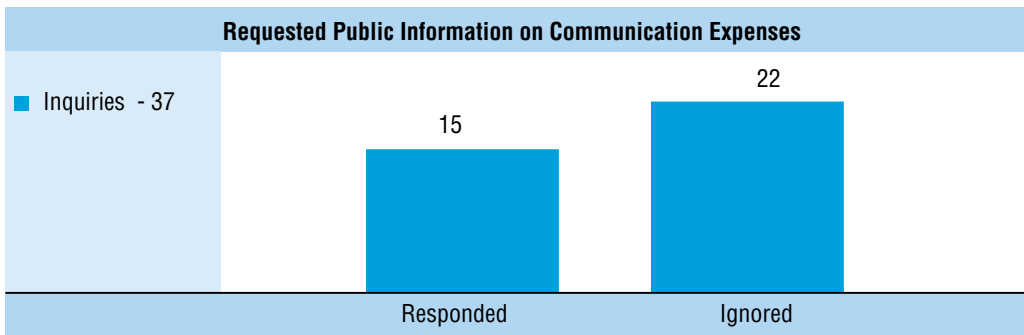
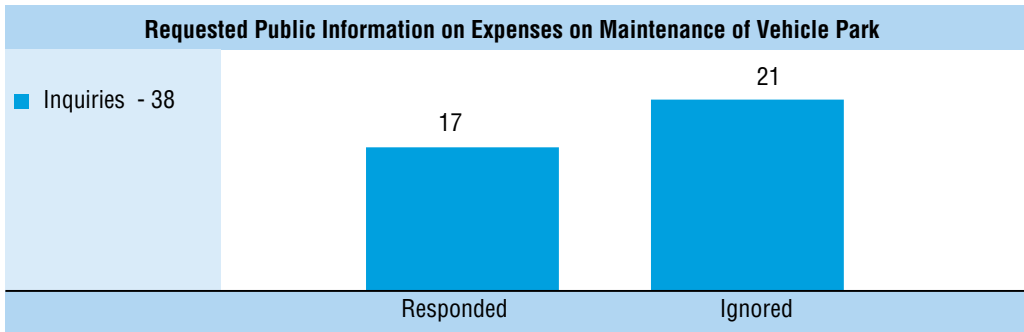
It should be mentioned that the Constitution of Georgia is the supreme law of the state but at the same time it provides rather general prerequisites and it is impossible to consider all issues and fields in detail. Section 2 of Article 41 of the Constitution does not specify and differentiate from each other “personal data” of a public and a private person. It is a general article and it is not correct to establish a limitation only on the basis of this article. Besides, according to section 2 of Article 41 of the Constitution a person’s personal data may become public: 1) “in the cases determined by law”, which is presented in legislation in the form of Article 44 of the General Administrative Code and 2) “when it is necessary for ensuring the state security or public safety, for the protection of health, rights and freedoms of others.” - In this case when explaining “rights of others” we should necessarily imply the universally recognized right of citizens to freely obtain public information.

A different approach to the form of issuing information by public institutions should also be mentioned. Various institutions provided replies to identical sent questions in various forms. For example, when we requested the list of employees, several administrative agencies only provided general amount of employees. When we requested information related to a person’s finances several public institutions refused to issue this information. For example, **the Parliament of Georgia** specified that we can see information on incomes of the Parliament members in property declarations. We would like to emphasize that according to paragraph 1 Article 37 of the General Administrative Code of Georgia: **“Everyone may claim public information irrespective of its physical form or the condition of storage. Everyone may choose the form of receipt of public information, if there are various forms of its receipt, and gain access to the original of information. If there is the danger of damaging the original, a public agency shall provide access to the original under supervision.”**

The carried out survey has shown that a number of public institutions limit access and refuse to issue such information which is not only bonuses and business trip expenses but also expenses borne by the public authority for phone conversations and vehicle services as well as purchase of vehicles and mobile phones. For example, **the Ministry of Energy, the Ministry of Economy and Sustainable Development and the Ministry of Probation and Legal Assistance** did not reply to us in respect with the mentioned issues. Their silence and no response on inquiries on information regarding these issues is unclear when such kind

of information does not belong to a person's "personal data" and belong to disposing public (state budget) finances by a public authority.

One of the most important obligations of states authorities in means of access to public information is to appoint a person responsible for ensuring the availability of public information and provide for publishing of



identity and contact data of this person. In most cases it is difficult to identify who is a person responsible for ensuring the availability of public information in a specific public authority and later to contact him/her. Besides, one of the most important problems remains the issue of liability in case of non-delivery of information by these persons or delivery of public information failing to meet the time limits. According to the existing practice they almost never are imposed liability in the form of penalty. In practice, **in case the applicant's administrative complaint is satisfied, the person in charge of issuing public information is imposed an obligation only to carry out an action - issue information and almost never is imposed administrative liability.** Accordingly, indifference of these persons to the received requests is absolutely natural and obligations established by the General Administrative Code are grossly violated by persons responsible for issuing public information in most cases.

It should be mentioned that in practice we often encounter cases of issuing incomplete information or receiving unsubstantiated refusal from public authorities. For example, we would like to provide "explanation" of persons in charge of issuing public information at **the Ministry of Energy** and **the Ministry of Corrections, Probation and Legal Assistance** during phone conversation. The person in charge of issuing information at **the Ministry of Energy** declared without any substantiation during the phone conversation that we should have been satisfied with the one-page general reply which the Ministry provided to our 13 questions. The questions were related not only to bonuses of state officials but also to communication expenses of employees of the Ministry and expenses on vehicle park. No reply was received about the public information regarding 2009 business trip expenses of the Ministry employees. The mentioned closed format from the Ministry was a bit unclear for us because a month earlier the Ministry had provided an exhaustive reply about 2010 business trip expenses in response to the request of analogous content. As for **the Ministry of Corrections, Probation and Legal Assistance**, the person in charge of issuing public information stated during phone conversation that he was not obliged to provide information requested by IDFI.

On December 23, the Institute for Development of Freedom of Information applied again to all those agencies which did not provide information or only partially responded. Though, the situation remained unchanged and they keep silence until now. The only „improvement“ observed is that we received a written refusal to requests of bonus information which had not been replied to before. ***But the procedure of appeal of administrative act is not indicated in the reply and the applicant's rights are not explained*** which is necessary to be done according to Article 41 of the General Administrative Code.

Three most non-transparent and non-accountable public institutions have been identified during the project implementation which left the requests of the Institute without any reaction, in particular: **the Ministry of Education and Science, the Ministry of Refugees and Accommodation and the Ministry of Defence.**

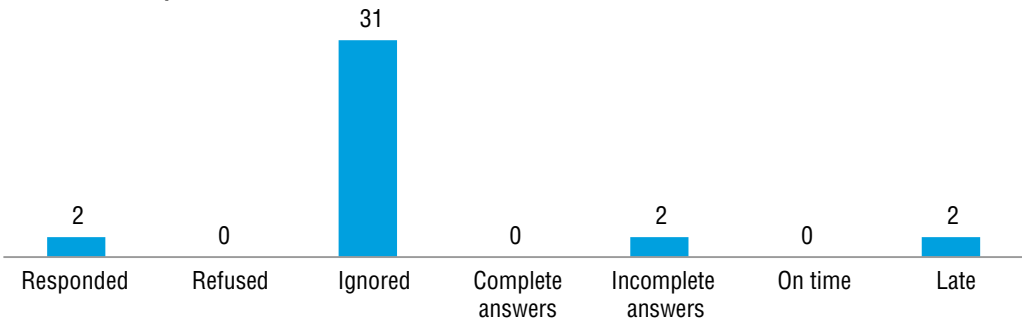
The Institute for Development of Freedom of Information filed an administrative suit against all administrative agencies which refused or left the applications of the Institute requesting public information without reaction. 12 complaints were submitted. The complaint against **Tbilisi City Hall** was withdrawn (they provided information on the third day of filing administrative complaint as a result of 3-month waiting). By the period of issuing the report, 3 administrative agencies responded to the complaint. In 2 cases oral hearing of the complaint was appointed and the **Ministry of Finance** in its reply notifies with unclear substantiation that the presented complaint should be considered at the Civil Court and that we should apply to this court.

■ **Statistical data of requests sent and replies received during the survey period (10/19/2010 – 08/02/2011) by specific administrative agencies**

Five administrative agencies which received the Institute's requests practically without any response are as follows:

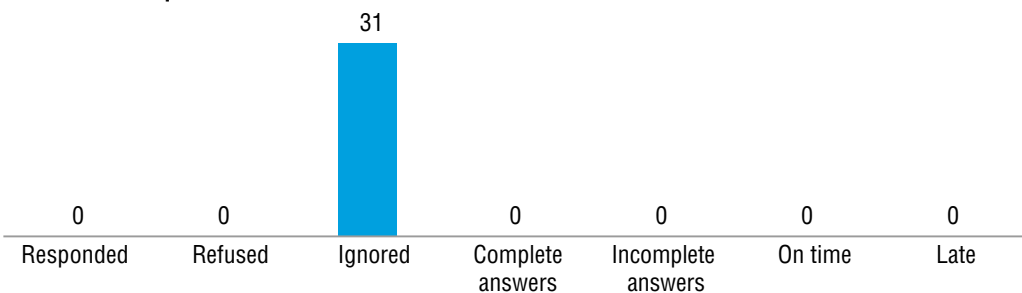
1. **Administration of the President of Georgia:** Out of 33 questions sent by the Institute for Development of Freedom of Information only 2 were replied. Public information was provided only about the list of official presents of the President of Georgia in an incomplete form (data of 15 years were requested and information of the years 2009-2010 was provided only). Besides, monetary assessment of official presents was requested but it was not mentioned in the reply. The Institute had been applying to the Administration of the President of Georgia during 3 months for the purpose of requesting public information of various topics but in vain. On January 18, the Institute submitted an administrative complaint to the Administration of the President of Georgia. The one-month term of making a decision expires on February 18. Yet we have not received any notification on the complaint consideration from the Administration.

■ **Administration of the President of Georgia
Inquiries - 33**



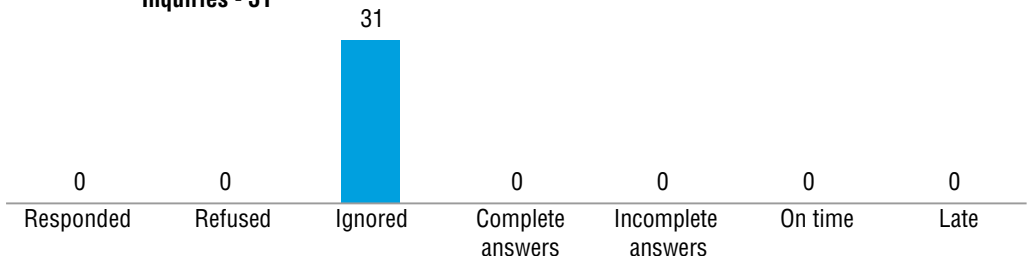
2. **Ministry of Education and Science:** 31 questions were sent to the Ministry but no reaction followed. On January 18, 2011 the Institute for Development of Freedom of Information applied with administrative complaint to this agency too but no reaction followed after the complaint either.

■ **Ministry of Education and Science of Georgia
Inquiries - 31**



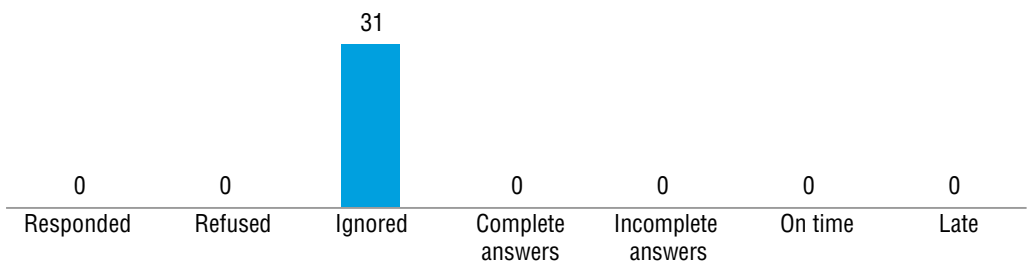
3. **Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia:** 31 questions were sent to the Ministry and like the above-mentioned agencies no information was received in this case too. During the phone conversation with a person responsible for issuing public information we were explained without any substantiation that we could not receive requested information. The Institute applied to the mentioned administrative agency with an administrative complaint. But the Ministry keeps on being silent.

■ **Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia
Inquiries - 31**



4. **The Ministry of Internal Affairs of Georgia:** IDFI applied to the Ministry of Internal Affairs three times and sent 31 questions to this agency. But no reaction followed until an administrative complaint was submitted to the Ministry. Oral hearing of the administrative complaint took place on February 10 and the Ministry representative expressed the following position: In respect to information on salaries of the Ministry employees requested by the Institute for Development of Freedom of Information he referred to the normative act on salaries of the Ministry employees. As for business trip expenses and bonuses, as explained by the MIA representative, the mentioned information is open and may be seen in property declarations of officials published on the web-space. *It should be mentioned that only the general unified amount of income received by the official as a result of performing his duties in the previous year is specified in the property declaration. Accordingly, it is impossible to calculate the share distribution of salary, bonus and business trip from this amount.* Besides, as already mentioned, **“Everybody has a right to request public information regardless of its physical form and saving condition and select the form of obtaining public information if it exists in various forms”**. It is important to note, that the non-delivery of public information in time was explained due to the fact that person responsible for ensuring the availability of public information appointed by the Ministry was on a leave by the time of our request. The term of making a decision about the administrative complaint expires on February 18, 2011 and we hope that the Ministry of Internal Affairs will provide the requested public information completely.

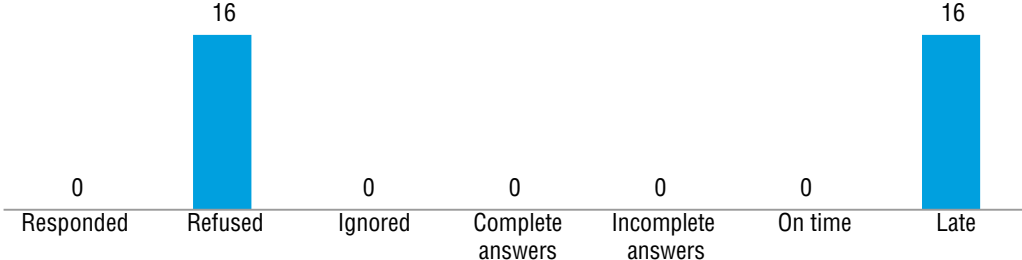
■ **Ministry of Internal Affairs of Georgia
Inquiries - 31**



5. **The Ministry of Defence of Georgia:** 31 questions were sent to the Ministry of Defence too. After 2-month silence we received a substantiated refusal from the Ministry of Defence too. According to the letter, the Institute’s requests did not meet the requirements established by the General Administrative Code which define the form of composing an application. But it was not specified which detail of composing the application was violated by the Institute. We received a similar letter from the Ministry of Defence twice. When the Institute appealed the reply to the Minister of Defence, the Ministry sent us the letter identical with the appealed letter after expiration of the one-month term upon filing a complaint. Substantiation of an administrative act issued by an administrative agency (in this case, the reply of the Ministry) is the most significant criterion which serves several goals. Firstly, it ensures self-control of administrative agencies as it becomes forced to clearly define legal and factual grounds of decisions and substantiate the act in the process of forming a substantiation. Besides, it significantly promotes assessment of lawfulness and possible results of appealation by the addressee. And when an administrative act consists

of several sentences and encompasses very few factual grounds, its addressee finds it impossible to understand the content, grounds and result of the act. **In our opinion such form of reply is nothing more than a denial of issue of public information.**

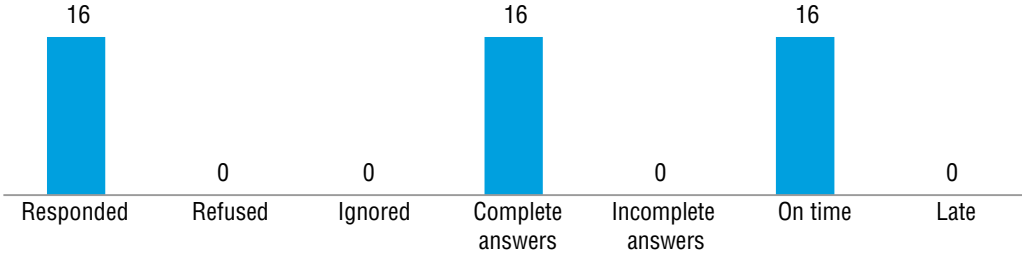
**■ Ministry of Defence of Georgia
Inquiries - 16**



The most open and transparent administrative agency:

The most transparent and accountable administrative agency was identified in the course of the survey - **the Office of the State Minister for Reintegration**. 16 questions were sent to the Office of the Minister and reply was received in all 16 cases. At the same time, information provided to the Institute was complete, received upon request and within the time limits.

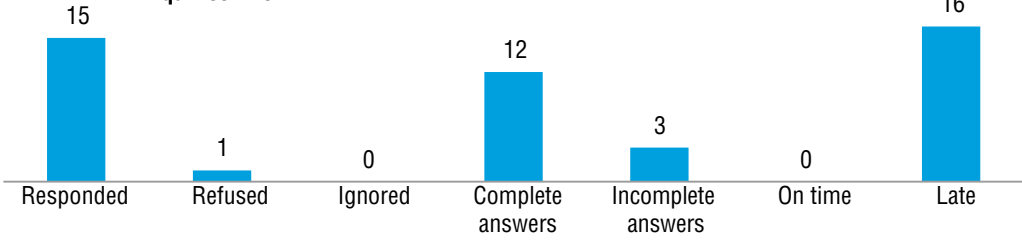
**■ Office of the State Minister of Georgia for Reintegration
Inquiries - 16**

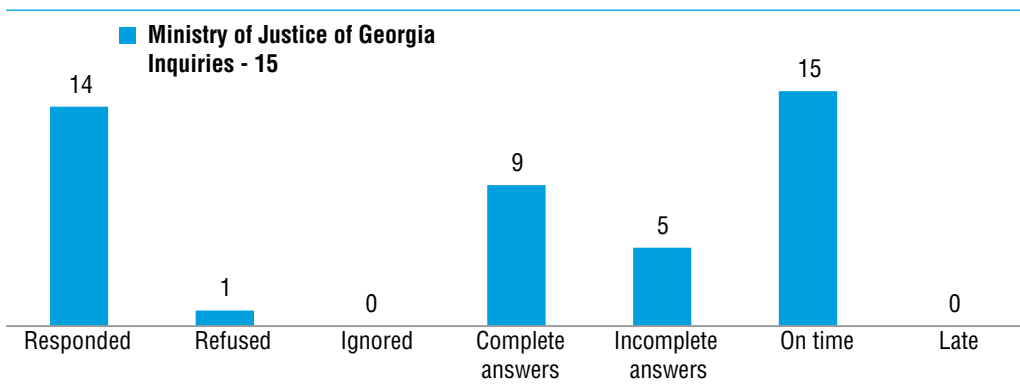
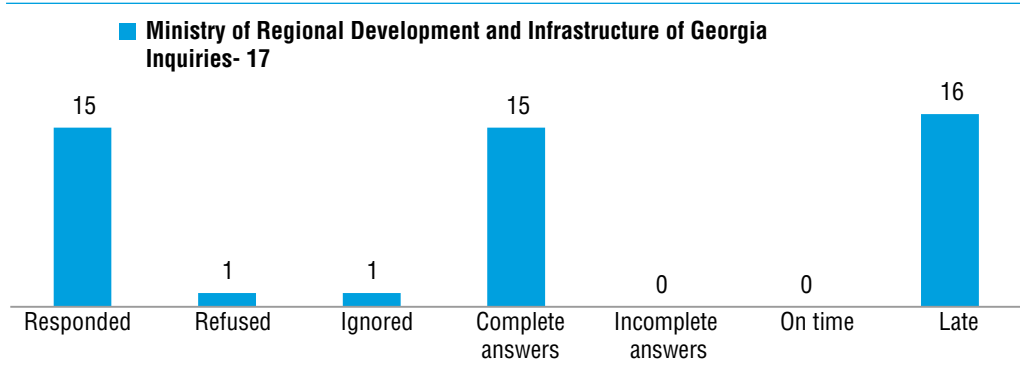
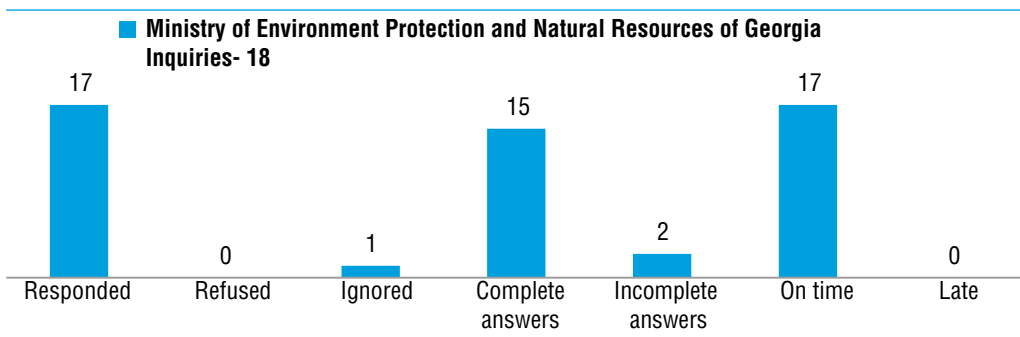
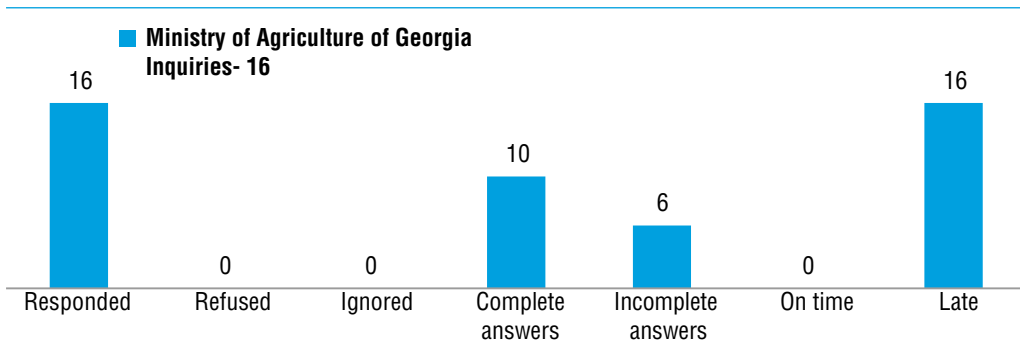


Administrative agencies which provided the requested public information more or less completely and within time limits:

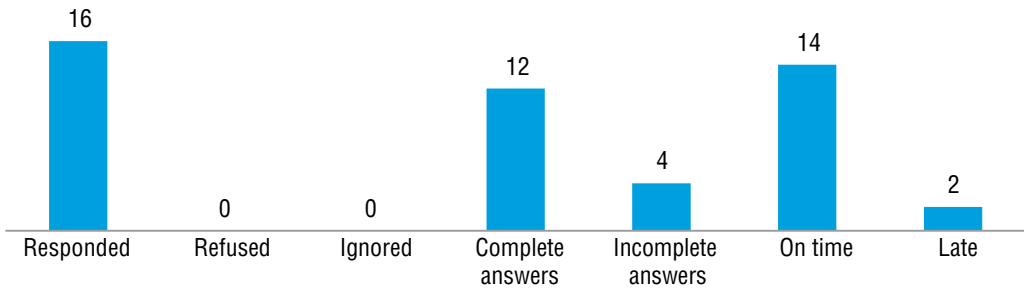
The Ministry of Foreign Affairs, the Ministry of Agriculture, the Ministry of Environment and Natural Resources, the Ministry of Regional Development and Infrastructure, the Ministry of Justice, the Office of the State Minister for Diaspora issues, the Ministry of Sport and Youth Affairs.

**■ Ministry of Foreign Affairs of Georgia
Inquiries - 16**

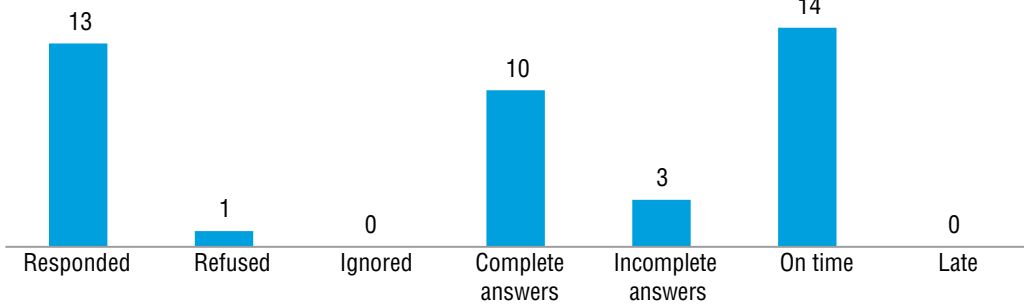




■ **Office of the State Minister of Georgia for Diaspora Issues**
Inquiries - 16



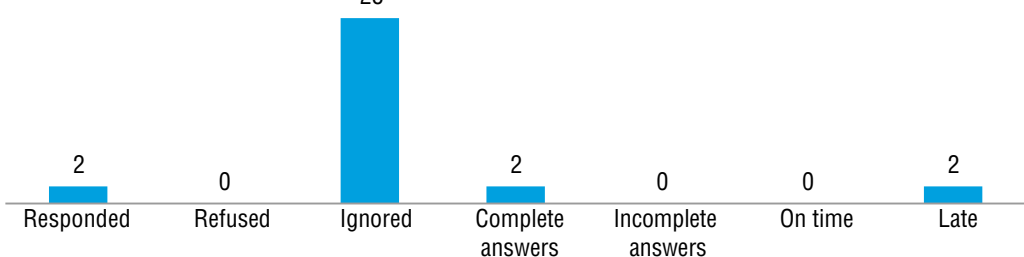
■ **Ministry of Sport and Youth Affairs of Georgia**
Inquiries - 14



Administrative agencies which left majority of requests without a reply or provided incomplete/partial reply to majority of questions:

IDFI submitted 30 questions to **the Ministry of Economy and Sustainable Development** but received a reply only to 2 of them. Information was provided by violation of the time limits. We have not received information on the remaining 28 issues from the Ministry on the argument that information is of large amount and time is required for its preparation (as it seems, 4 months is not sufficient time for it). IDFI applied to this agency with an administrative complaint and we are waiting for consideration of the complaint.

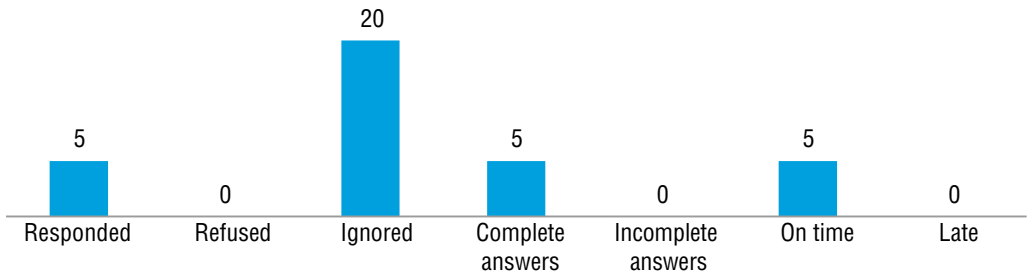
■ **Ministry of Economy and Sustainable Development of Georgia**
Inquiries - 30



Out of the 25 questions sent to **the Ministry of Corrections, Probation and Legal Assistance** we received a complete and timely reply only to 5 questions. It was the first application to this Ministry. Since then

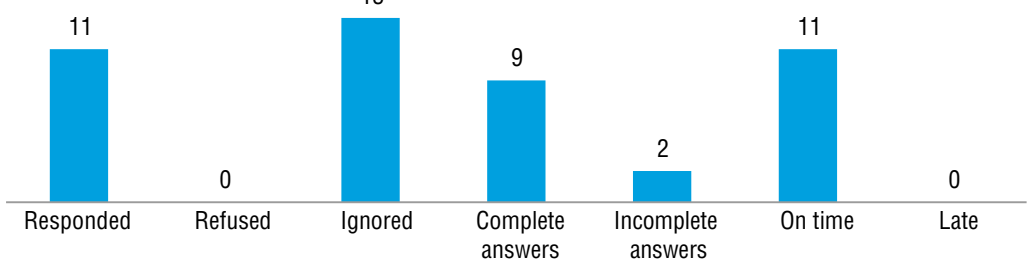
applications of the Institute for Development of Freedom of Information are left without a reply. The Ministry does not yet react to the administrative complaint whose term expires on February 18.

**■ Ministry of Corrections, Probation and Legal Assistance of Georgia
Inquiries - 25**



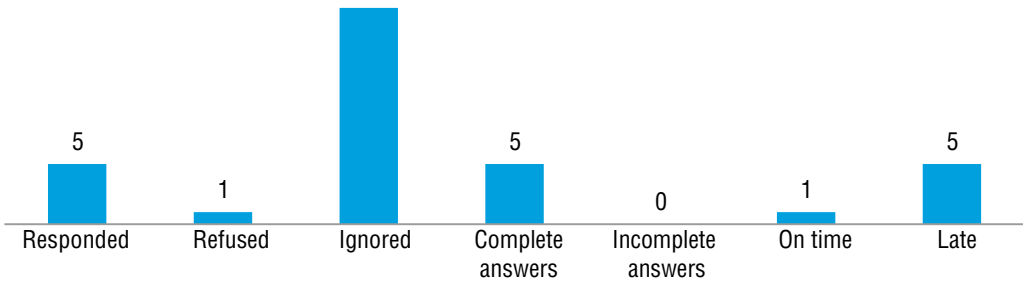
24 questions were submitted to **the Ministry of Energy of Georgia**. We received a reply to 11 questions within the time limits. Complete information was provided about 9 questions, 2 questions were given an incomplete reply. Public information was freely provided to questions not related to a person's "personal data". As already mentioned, the person in charge of providing public information stated by phone that we should be satisfied with the information already received; the Ministry "cannot" provide more information. It is unknown for us what could be the grounds of such inability of the Ministry to provide us with the requested public information.

**■ Ministry of Energy of Georgia
Inquiries - 24**



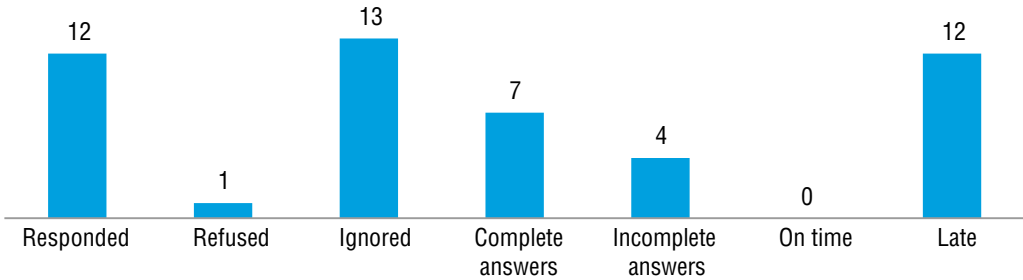
The Ministry of Finance also was not distinguished for transparency in providing information related to financial issues. 18 questions out of 24 submitted were left without response; among them, we were refused to be provided with the information regarding the salary fund and bonuses of the employees. The Ministry also left majority of submitted questions without a reply including non-financial issues. The Institute for Development of Freedom of Information applied to this agency with administrative complaint which was followed by a strange and unclear reaction from the Ministry of Finance. In particular, in the individual administrative-legal act of the Ministry it is specified that **According to the General Administrative Code, the refusal to provide information by an administrative agency must be appealed at the Civil Court and that the administrative agency is not able to consider the complaint.** Article 178 of the General Administrative Code establishes that administrative complaint is considered and resolved by the administrative agency if an official superior to the person issuing the administrative act exists. As it seems, norms of law at the Ministry of Finance have different interpretation. The refusal of the Ministry of Finance will be necessarily appealed at the Civil Court.

**Ministry of Finance Georgia
Inquiries - 24**

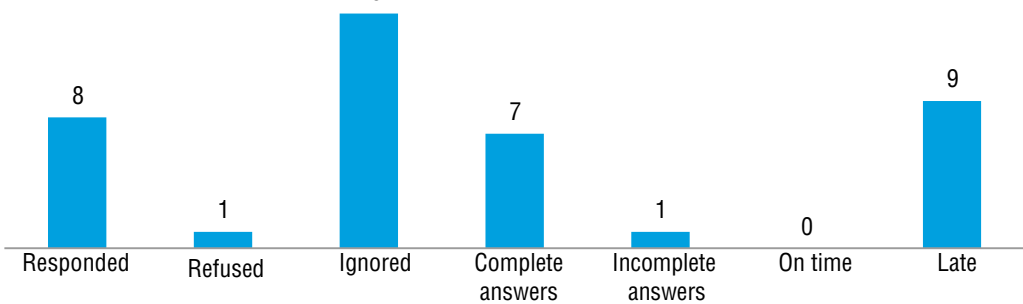


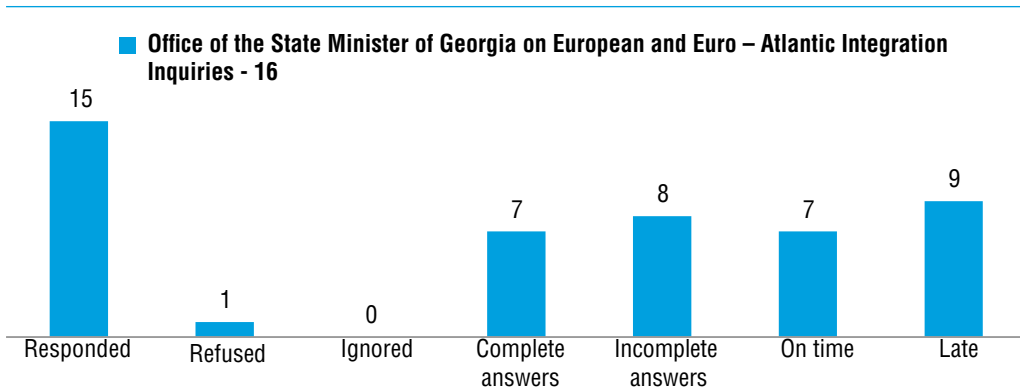
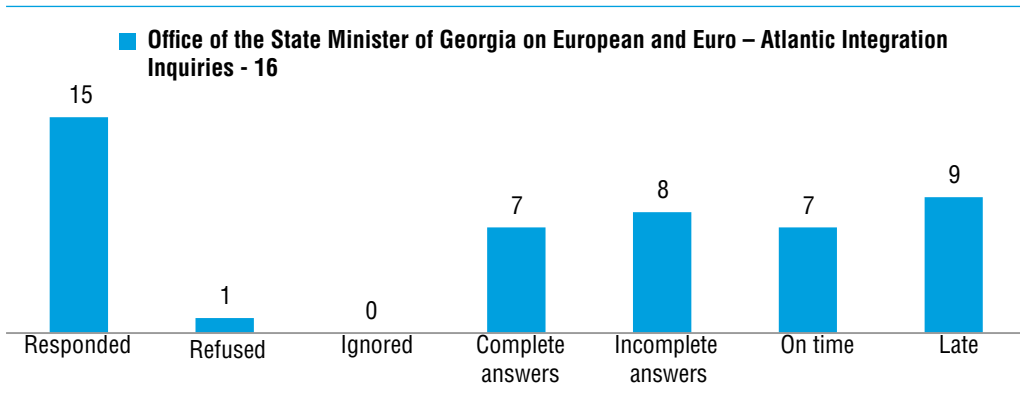
The Ministry of Labour, Health and Social Affairs, the Ministry of Culture and Monument Protection, the Office of the State Minister for Integration to European and Euro-Atlantic Structures and the Government Chancellery refused to provide public information on bonuses referring to Article 41 of the Constitution. Some of them also did not provide information regarding other issues; The Office of the State Minister for Integration to Euro-Atlantic Structures replied to almost all questions, provided total amount of bonuses, but refused to issue this information by names of specific officials. IDFI appealed the refusals by using administrative procedure. Oral hearing of the complaint is appointed at the Office of the State Minister for Integration to Euro-Atlantic Structures on February 21.

**Ministry of Health, Labour and Social Protection of Georgia
Inquiries- 26**

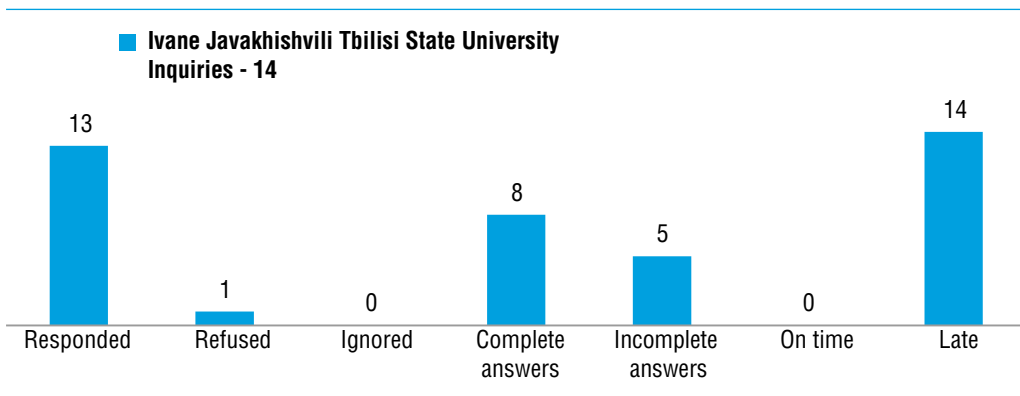


**Ministry of Culture and Monument Protection of Georgia
Inquiries- 24**

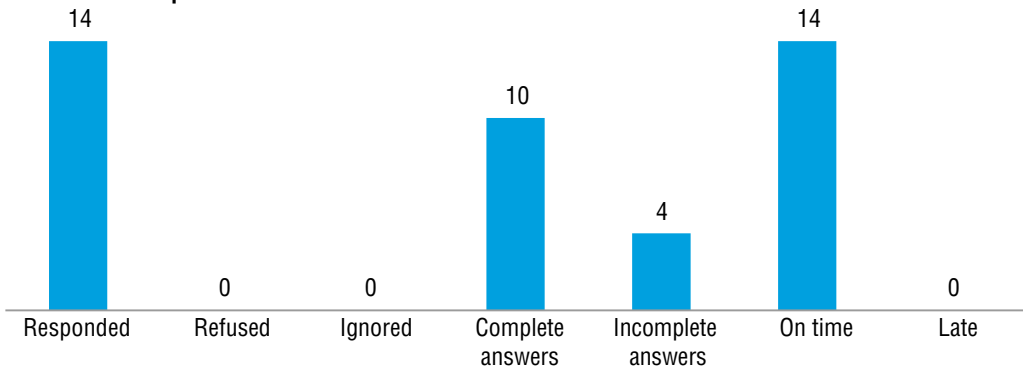




Public information requests were also sent to **Ilia State University and Ivane Javakhishvili Tbilisi State University**. **Ilia State University** is distinguished for organized nature and adherence to all norms of providing information. The Institute received answers to the sent questions within time limits. 14 questions were replied with only 4 incomplete answers. IDFI received information from **Ivane Javakhishvili Tbilisi State University** only one month later than it was supposed to. Unfortunately, unlike Ilia State University, administration of Ivane Javakhishvili Tbilisi State University did not provide us with the information on bonuses of the Rector of the University (state official).



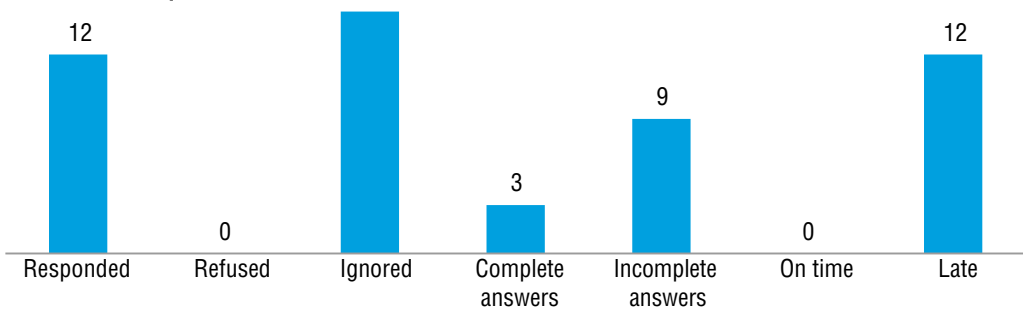
■ **Ilia State University
Inquiries - 14**



IDFI applied to **Tbilisi City Hall** with public information requests. 26 requests were sent. The City Hall replied to the questions related to finances of the City Hall employees but in this case we received only general numbers.

For example, when official business trip expenses of specific persons were requested, the City Hall provided a joint amount of all business trip expenses of the employees. The administrative complaint was withdrawn from Tbilisi City Hall but the Institute for Development of Freedom of Information applied to Tbilisi City Hall with specific questions again.

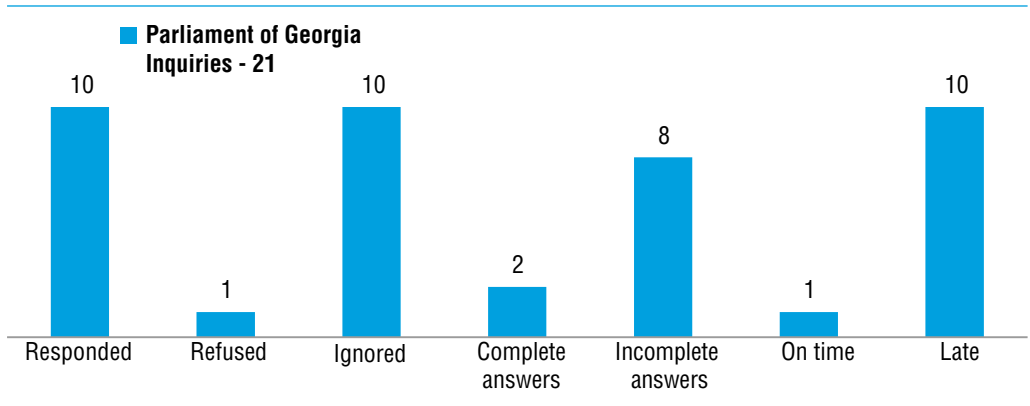
■ **Tbilisi City Hall
Inquiries- 26**



The Parliament of Georgia left majority of IDFI requests to provide public information without a reply. The Office of the Parliament of Georgia did not provide public information on the 2010 budget of the Parliament of Georgia and the amendments to the budget. We also did not receive information about bonuses and salary increments of the Chairman and members of the Parliament of Georgia. In the reply of the Parliament of Georgia it is written that the mentioned information allows to identifying a person and is not subject to issue. The Parliament of Georgia substantiates its refusal to provide us with the public information by referring to Article 41 of the Constitution of Georgia. IDFI requested information on bonuses of the members of Parliament over again substantiating that personal data of “state officials” are open and do not require consent of these persons to be issued. Accordingly, as the members of the Parliament of Georgia represent state officials according to relevant normative acts, any information about them is open and should be available.

In reply to the repeated request of public information the Parliament of Georgia notifies the IDFI that the Parliament had already replied to these requests. In reply to request of public information regarding official business trip expenses, vehicle park and communication expenses, we received only a general answer from the Office of the Parliament. In particular, instead of specific amounts of expense distribution by officials by months as requested by the Institute, only joint financial expenses were provided. The Parliament of

Georgia as the people's representative body should be the most accountable to citizens and it should aspire to introduction of transparency principle. Unfortunately, the Parliament of Georgia, the legislative authority, instead of being an example for all other public institutions with its openness and accountability, on the contrary, groundlessly hinders access to public information and grossly violates accountability before society and electorate.



Public Authorities	Inquiries	Responded	Refused	Ignored	Complete answers	Incomplete answers	On time	Late
Administration of the President of Georgia	33	2	0	31	0	2	0	2
Parliament of Georgia	21	10	1	10	2	8	1	10
Government of Georgia/ Chancellery	20	16	1	3	9	7	0	17
Ministry of Internal Affairs of Georgia	31	0	0	31	0	0	0	0
Ministry of Defence of Georgia	16	0	16	0	0	0	0	16
Ministry of Justice of Georgia	15	14	1	0	9	5	15	0
Ministry of Finance of Georgia	24	5	1	18	5	0	1	5
Ministry of Corrections and Legal Assistance of Georgia	25	5	0	20	5	0	5	0
Ministry of Economy and Sustainable Development of Georgia	30	2	0	28	2	0	0	2
Ministry of Energy of Georgia	24	11	0	13	9	2	11	0
Ministry of Foreign Affairs of Georgia	16	15	1	0	12	3	0	16
Ministry of Health, Labour and Social Protection of Georgia	26	11	1	14	7	4	0	12
Ministry of Regional Development and Infrastructure of Georgia	17	15	1	1	15	0	0	16
Ministry of Education and Science of Georgia	31	0	0	31	0	0	0	0
Ministry of Culture and Monument Protection of Georgia	24	8	1	15	7	1	0	9
Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia	31	0	0	31	0	0	0	0
Ministry of Environment Protection and Natural Resources of Georgia	18	17	0	1	15	2	17	0
Ministry of Agriculture of Georgia	16	16	0	0	10	6	0	16
Office of the State Minister of Georgia on European and Euro – Atlantic Integration	16	15	1	0	7	8	7	9
Office of the State Minister of Georgia for Reintegration	16	16	0	0	16	0	16	0
Office of the State Minister of Georgia for Diaspora Issues	16	16	0	0	12	4	14	2
Ministry of Sport and Youth Affairs of Georgia	14	13	1	0	10	3	14	0
Tbilisi City Hall	26	12	0	14	3	9	0	12
Iliia State University	14	14	0	0	10	4	14	0
Ivane Javakishvili Tbilisi State University	14	13	1	0	8	5	0	14
National Agency of Public Registry	1	1	0	0	1	0	1	0
Georgian National Communications Commission	1	1	0	0	1	0	1	0
State Procurement Agency	1	1	0	0	1	0	1	0
Civil Registry	1	1	0	0	1	0	1	0
Ministry of Health, Labour and Social Protection of Abkhazia	1	1	0	0	1	0	0	1
	539	251	27	261	178	73	119	159

■ Conclusion

The following obstacles were revealed from the part of public institutions of Georgia within the framework of implementation of “the public information database”: providing information by violating time limits, leaving applications without any reaction, providing incomplete information, making information secret groundlessly, unsubstantiated refusals to issue information, indifferent and irresponsible attitude of persons in charge of issuing information to their obligations, different practice of the form of issuing information.

The existing practice shows that barriers of restriction of information availability increase gradually and become more and more different. These obstacles are mainly created by gaps in the legislation and incomplete definition of legal norms. The legislation in the field of freedom of information requires more improvement and removal of existing deficiencies in interpretation of norms. Apart from legislative inaccuracy we often encounter illegal issuing of information established by public agencies. In respect to providing information related to public expenses administrative agencies often refer to totally different legal grounds. But their position is almost identical in respect to personal information of an employee and point to Article 41 of the Constitution as the ground for refusal to issue these data. Today legal explanation of personal data is one of the most problematic issues, refusal of public authorities is absolutely unsubstantiated as well as the argument that information on bonuses of officials represents a personal data.

The project results also confirm that providing information is dependent upon the will of the administrative agency as well as the content of requested information. As mentioned in the survey, for example, the Administration of the President of Georgia did not react to IDFI applications related to administrative expenses though information about the list of official gift received by the President was provided within established time limits.

Attitude of administrative agencies to making data related to officials classified is unclear while publicity of these data without any consent is expressly stated in law. **The mentioned practice confirms that transparency index of the public authority is very low.** Besides, there are a number of problems in the Georgian legislation. The above-mentioned unfairly restricts the universally recognized right to access of public information of each citizen.

INSTITUTE FOR DEVELOPMENT OF
FREEDOM OF INFORMATION



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