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Centar za građansko obrazovanje
Centre for Civic Education



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REPORT ON TRANSPARENCY
OF LOCAL SELF-GOVERNMENTS
ON EXAMPLE OF CAPITAL CITY
PODGORICA, KOTOR AND PLJEVLJA

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**REPORT ON TRANSPARENCY OF LOCAL SELF-
GOVERNMENTS ON EXAMPLE OF CAPITAL CITY
PODGORICA, KOTOR AND PLJEVLJA**

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Content:

1. Introductory.....	6
2. Legal framework that provides transparency of local self-governments in Montenegro.....	7
3. How much are Montenegrin municipalities transparent – example of Capital City Podgorica, Kotor and Pljevlja, through prism of application Law on Free Access to Information	11
3.1. Manner of decision.....	15
3.2. Who are applicants of requests at the local level?.....	18
3.3. Work of Agency for Protection of Personal Data and Free Access to Information.....	19
4. Internet pages of municipalities – how much do they conceal and how much reveal?.....	22
4.1. Municipality of Kotor.....	22
4.2. Municipality of Pljevlja.....	24
4.3. Capital City of Podgorica.....	26
5. Conclusions and recommendations.....	28
6. Literature.....	30

Introduction

The right of citizens of Montenegro to information of public importance is guaranteed by legal framework. However, in practice, local self-governments still do not show sufficient level of responsibility and transparency in work. This results in often unnecessary complication of citizens' lives during their efforts to solve numerous current and existential issues, but also hinders overall reform processes and calls into question their legitimacy.

Local self-governments still have numerous deficiencies in the part of access to information of importance for citizens, which brings them into a bureaucratized labyrinth, that takes away important time and other resources from parties and bodies of public administration. Considering benefit and awareness of citizens, both those who were or will be parties in proceedings before bodies of state administration or local self-government, it is necessary that work of local self-governments is rendered more transparent which includes also far faster and better availability of data and documents prescribed by laws on municipalities' webpages.

Reform processes in Montenegro, unfortunately, do not progress in a desired pace, hence, even in this area, we identify numerous deficiencies in fulfilment of obligations of local self-governments, especially in the part of transparency of work that is at the same time also one of efficient manners of prevention but also fight of corruption. Numerous reports of international actors and civic sector in Montenegro indicate that even the system established by the Law on Free Access to Information is insufficiently defined in part of monitoring and enacting supervision over respect of the same, and passivity of local self-governments to implement this Law, especially to proactively post information on their work on official Internet pages is also aggravating.

Report on transparency of local self-governments, with the focus on municipalities of Kotor, Pljevlja and Podgorica, was created within the framework of project 'I have the right to know – responsible municipalities in the service of citizens' that is financed from funds of the European Union and Kingdom of Netherlands through regional project WeBER.



Legal framework that provides transparency of local self-governments in Montenegro

Constitution of Montenegro¹ guarantees right of citizens of Montenegro to local self-governments and imposes obligation of work in the interest of local self-government. As the right to local self-government is regulated by the Constitution, this issue must have been regulated closer also by a particular law for this area. This issue is regulated by the **Law on Local Self-Government**².

Law on Local Self-Government stipulates all issues regarding organization, work, obligations and duties of bodies of local self-government. Basic principles on which relies work of every local self-government are principles of *democracy, decentralization, de-politicization, autonomy, legality, professionalism, efficiency of work of bodies of local self-government and mutual cooperation of state and municipality*.³

Bodies of local self-government have precisely been established with the purpose of achieving concrete cooperation with local population and resolving issues in first instance, and for the purpose of exercising rights and determining obligations of citizens from part of their jurisdiction. In addition, the Law regulates also issue of information of citizens on all administrative matters that directly concern them, in the form of technical means, brochures and means of public informing, while local governments are obliged to publicly place standards of conduct for conduct in the administrative matters.

Particular part of this Law relates to publicity and transparency of work of local self-governments. Thus, Article 138 stipulates which data should be available to public, as well as manners of communicating the same:

- 1) *Publishing of general and other acts in the Official Gazette on the webpage of the local self-government unit;*
- 2) *Publishing decisions on assignment of jobs and services and concluded contracts with legal entities and individuals on the webpage of the local self-government unit, as well as individual decisions and other acts and contracts concluded in the*

1 'Official Gazette of Montenegro', No. 1/07; Art. 113

2 'Off. Gazette of RMNE', No. 42/2003, 28/2004, 75/2005, 13/2006 and 'Off. Gazette of MNE', No. 88/2009 (check also Art. 54), 3/2010 38/2012 and 10/2014, Check another law - Art. 62 of the Law 57/2014

3 Law on Self-Government ('Off. Gazette of RMNE', No. 42/2003, 28/2004, 75/2005, 13/2006 and 'Off. Gazette of MNE', No. 88/2009 (check also Art. 54), 3/2010 38/2012 and 10/2014, Check another law - Art. 62 of the Law 57/2014), Art. 3

conduct of municipal property disposal procedure;

- 3) *Direct citizens access to regulations and other official documents related to the functioning of the local self-government and exercise of rights of citizens;*
- 4) *Citizen participation in public hearings during decision-making procedures related to regulating matters of direct interest for local population;*
- 5) *Organizing different types of citizen education;*
- 6) *Other methods prescribed by the Municipal Statute.*

Representatives of local self-governments are obliged to inform public on conduct of jobs from within its scope of work, except in cases where it would represent a violation of duty of keeping state, military or official secrets relating to protection of safety and privacy of citizens. Regardless of whether public is being informed by heads of bodies or person he/she authorizes, this person is personally responsible for accuracy and timeliness of data being placed. Local government bodies are obliged to publicly announce the holding of consultations or other forms of expert processing and discussion on issues within their scope of activity, and enable participation of citizens and monitoring of work by the means of public informing.

Law on Free Access to Information⁴ in the Article 12 stipulates what needs to be available on webpage of each state body for the purpose of proactive publishing of data, which must be published 15 days after being composed or passed, as follows:

- 1) *Guide for access to information;*
- 2) *Public registers and records;*
- 3) *Programmes and work plans;*
- 4) *Reports and other documents on work and state in the area of their jurisdiction;*
- 5) *Drafts, proposals and final texts of strategic documents and plans and programmes for their implementation;*
- 6) *Drafts and proposals and other regulations, as well as opinions of experts per these regulations;*
- 7) *Individual acts and contracts on disposal of financial assets from public revenues and state property;*
- 8) *List of state officials and employees with their official and employee titles;*
- 9) *List of public officials and lists of calculation of their salaries and other earnings*

4 'Official Gazette of Montenegro', No. 044/12 from 9/8/2012, 030/17

in relation to conduct of public function;

10) *Decision and other individual acts of importance for rights, obligations and interests of third parties;*

11) *Information which access to was approved per request.*

In addition to this data, body of the governance may publish also other information that are not encompassed by paragraph 1 of this Article on its Internet page.

All data that bodies of public government publish must be in open format as a *format of document that is independent from the used platform and available to public with no limitation that would prevent reuse of information with explanation that open standard is standard in the written form that determines in detail specification of the request for ensuring interoperability of the software.*⁵ This form of publishing data represents a sort of manner of protection of data users, that are published on webpages of local bodies, so that they may find data, as well as actively use them and further interpret.

For the purpose of work of all public government bodies being as transparent as possible, thus also of local self-government, this Law sets basics for acquiring data from domain of work of bodies of local government/self-government, that are not available at webpages of bodies in the form of requests for free access to information. The entire procedure per request for free access to information possesses its specifics that have been also elaborated by this Law. Furthermore, Agency for Protection of Personal Data and Free Access to Information has been established as a second instance body in acting upon complaints, as well as supervisory authority in terms of monitoring and implementation of Law on Free Access to Information.

Indirectly, also Law on State Officials and Employees⁶ applies to this area in the part of transparent manner of employment of state officials and employees, as well as Law on Salaries of Employees in the Public Sector⁷ and Law on Prevention of Corruption⁸ that regulates issues relating to prevention of corruption at the local level with application of the Law on Misdemeanours of Montenegro⁹ in the case of non-fulfilment of obligations planned by the Law on Prevention of Corruption, as well as every law regulating jurisdiction of local self-governments such as Law on Utilities, Law on Waters, Law on Taxes, Law on Roads, Law on Touristic Organizations and others, Statutes of municipalities and rulebooks of Parliaments of municipalities.

⁵ Law on Free Access to Information, Article 9, item 9 and 10.

⁶ 'Official Gazette of Montenegro', No. 039/11 from 4/8/2011, 050/11 from 21/10/2011, 066/12 from 31/12/2012, 034/14 from 8/8/2014, 053/14 from 19/12/2014, 016/16 from 8/3/2016

⁷ 'Official Gazette of Montenegro', No. 21/2017

⁸ 'Official Gazette of Montenegro', No. 53/14 and 42/17

⁹ 'Official Gazette of Montenegro', No. 1/11 from 1/11/2011, 06/11 from 25/1/2011, 39/11 from 4/8/2011, 32/14 from 30/7/2014

At the level of acts that local self-government passes, Statute and Rules of Procedure of the Parliament regulates matter of transparency. Namely, **Statute of the Capital City of Podgorica**¹⁰, in the Article 127 states that *publicity and transparency of work of the Capital City governing bodies, governing bodies of city municipality and public services is ensured by free access to information and data; participation of citizens in conduct of public tasks; publishing decisions in the means of public informing and in other manner in accordance with the law and regulation of the Parliament.* This is one of the manners of including citizens in decision-making process and planning of public policies. Thus, *President of the Parliament, the Mayor and the Chief Administrator, and for city municipalities President of the Parliament and President of the City Municipality, are obliged to inform citizens on activities of bodies of previous and on planned activities in the following period at least once in three months via local media or in other manner suitable*¹¹, which is directly being reflected also in the **Rules of Procedure of the Parliament of the Capital City.**

Statute of the Municipality of Kotor¹², by Article 103, stipulates that transparency and publicity of their work is enacted via: *implementation of the Law on Free Access to Information, by informing the public, publishing reports of municipal bodies and public services in the means of public informing or in other manner and issuing publications on work of their bodies and work-bodies from their scope of work that are of direct interest for citizens.* **Rules of Procedure of Parliament of the Municipality of Kotor**¹³, in Article 114, ensures publicity and transparency of work of bodies of local self-government and public services via Informational Centre of Municipality.

Statute of the Municipality of Pljevlja¹⁴, in Articles 142 and 143, implies same manners of exercise of transparency and publicity of work of local self-government as the Municipality of Kotor. However, this municipality has opted also for three-month informing of citizens on achieved and planned activities that municipality of Pljevlja conducted or plans to conduct.

10 'Off. Gazette of RMNE – municipal regulations', No. 28/06

11 Statute of Capital City of Podgorica ('Off. Gazette of RMNE – municipal regulations', No. 28/06), Article 129

12 'Official Gazette of RMNE – municipal regulations', No. 17/08, 31/09, 40/10, 4/11

13 'Off. Gazette of Montenegro – municipal regulations', No. 09/12

14 'Off. Gazette of Republic of Montenegro – municipal regulations', No. 37/04, 'Off. Gazette of Montenegro – municipal regulations', No. 30/07, 32/09 and 14/11



How much are Montenegrin municipalities transparent - example of the Capital City of Podgorica, Kotor and Pljevlja, through prism of application of the Law on Free Access to Information

Transparency of work of local self-governments is directly linked to the Law on Free Access to Information, not only in the part of proactive publishing of data by the local self-governments, but also in the part of gathering data from local self-governments on all issues of public importance, that are not available at Internet pages of the municipalities, by submitting an inquiry via request for free access to information. Unfortunately, Montenegro still records a poor performance in regards to submitting responses or information in the first instance, which is recognized also in the Report of the European Commission for Montenegro for 2016 where a recommendation was given for *public institutions to urgently improve implementation of the law and to promptly respond to requests for information, especially where there is higher possibility of corruption.*¹⁵

For the needs of production of this study, Centre for Civic Education (CCE), has, by using mechanism of requests for free access to information, gathered data related to how much have the three Montenegrin municipalities – Capital City Podgorica, Kotor and Pljevlja – received requests for free access to information, how much of them did they approve, how much did they reject and how much did they direct to other bodies for solving, while questions referred to the Agency for Protection of Personal Data and Free Access to Information were adjusted to type of information that this body possesses and which were relevant for this research.

A total of 43 requests for free access to information has been submitted, with 258 questions, of which 38 were responded to. Only one request has been rejected in its entirety, by the Waterworks and Utilities LLC Podgorica, and data were not received from three bodies but the same were downloaded from webpage of the Capital City of Podgorica i.e. the part relating to Property Direction, Office for Common Affairs and Office for Protection. While sending requests to the Capital City of Podgorica, as the largest local self-government, 40 requests were sent that encompassed administrative bodies, professional offices, as well as business associations founded by the Capital City, public institutions founded by Capital City and two municipalities within the Capital City (Zeta and Tuzi). Municipalities Kotor and Pljevlja, as well as Agency have responded to the requested query in the legal deadline.

Capital City Podgorica, Kotor and Pljevlja have in the previous three years received 2 561 requests for free access to information, i.e. **2014** – 1001 or 39,87%, **2015** – 508 – 19,56% and **2016** – 1052 or 41,08%.¹⁶

¹⁵ European Commission, Report on Montenegro for 2016, page 71

¹⁶ Data include also amounts relating to business associations founded by the Capital City, public institutions founded by the Capital City.

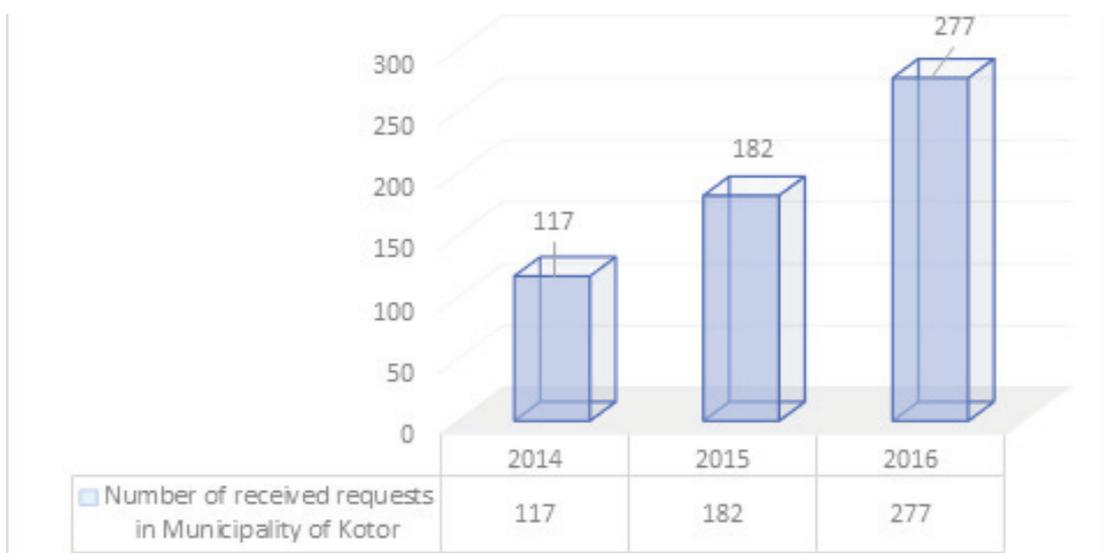
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RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS



Graphic 1. A total number of received requests for free access to information in all three municipalities in the period of 1/1/2014 to 31/12/2016

When we subdivide data per municipality, it is noticeable that Municipality of Kotor records an increase in the number of received requests. Thus, this municipality has received 117 requests (20,31%) in 2014, 182 requests (31,60%) in 2015, and 277 requests in 2016 which is 48,09% of all requests received in these three years.



Graphic 2. A total number of received requests for free access to information in Kotor per years of reception of request

On the other hand, Municipality of Pljevlja records a decline with 320 received requests in 2014 (66,39%) and 61 request in 2015 (12,66%), while in 2016 a

slight increase occurred with 101 received request which represents 20,95% of total number of received requests in three observed municipalities.



Graphic 3. Total number of received requests for free access to information in the Municipality of Pljevlja per year of reception of requests

The Capital City of Podgorica also records a similar trend as the Municipality of Pljevlja, thus 453 requests for access to information (43,52%) in 2014, after which this number decreased the next year 2015 and amounted to 213 of received requests (20,46%), while in 2016 it has increased again to 375 requests (36,02%).¹⁷



Graphic 4. Total number of received requests for free access to information in Municipality of Podgorica per years of requests' recipience

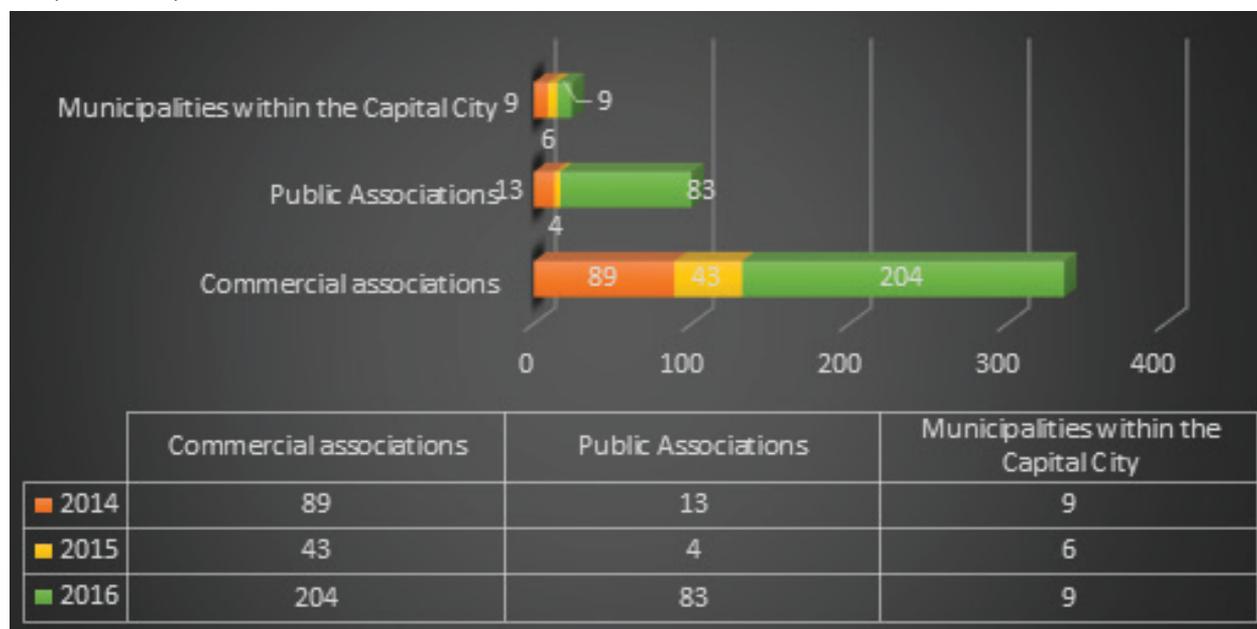
¹⁷ These amounts encompass solely data which include bodies of local self-government and professional services of Capital City of Podgorica.

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In addition to administrative bodies and professional services the Capital City is a founder of also *12 business associations* (Agency for Construction and Development of Podgorica LLC, Agency for Housing LLC, Landfill LLC, Parking Service LLC, Roads LLC, Markets and Green Markets LLC, Waterworks and Sewerage LLC, Cleanliness LLC, Utilities LLC, Funeral Services LLC, Greenery LLC and Sports Facilities LLC), *9 public institutions* (PI Children's Alliance, PI City Theatre, PI Cultural-Informative Centre 'Budo Tomovic', PI Cultural-Informative Centre 'Malesija' – Tuzi, PI Cultural-Informative Centre 'Zeta' – Golubovci, PI Museums and Galleries, PI National Library 'Radosav Ljumovic', PI for accommodation, rehabilitation and resocialization of users of psychoactive substances, PI Daily centre for children and youth with disabilities and difficulties in development) and *two (2) municipalities* within the Capital City - Zeta and Tuzi.

In this domain, in 2014, commercial associations founded by the Capital City have received 89 requests, while 13 requests have been received by public institutions founded by Capital City and 9 municipalities within Capital City. During 2015, 42 requests were received by commercial associations founded by the Capital City, 4 requests were received by institutions founded by the Capital City and 6 municipalities within the Capital City. In year 2016, commercial associations founded by the Capital City have received 208 requests, 82 requests were received by public institutions founded by the Capital City and 9 municipalities within the Capital City.



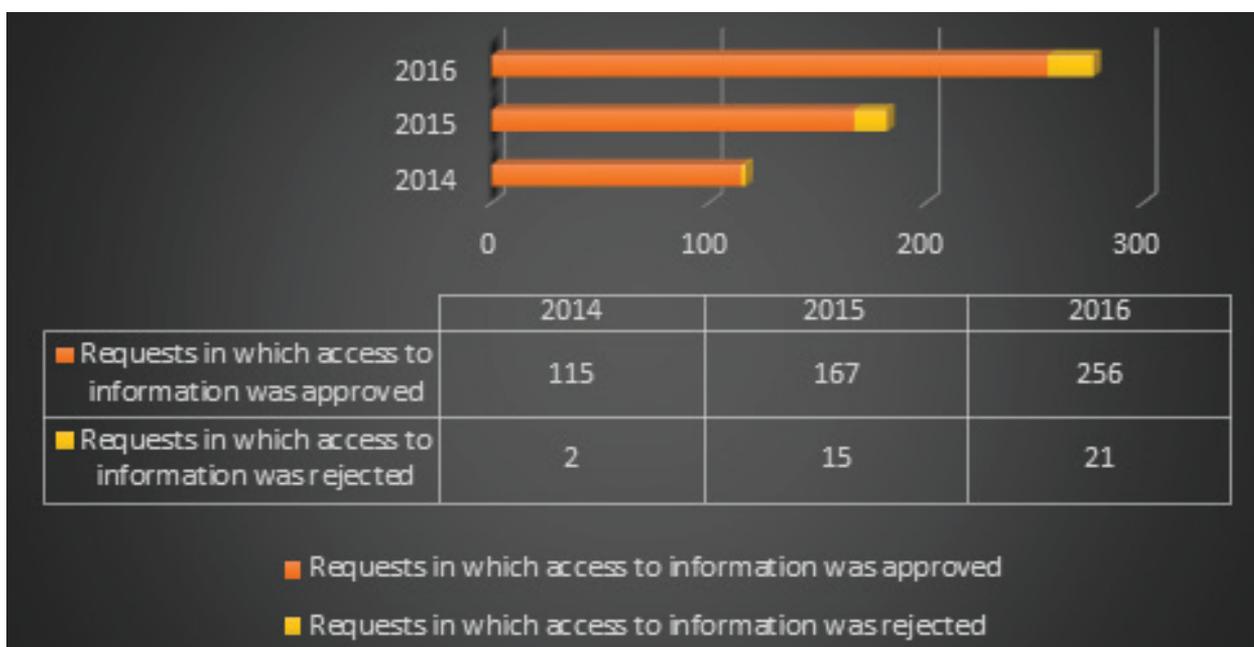
Graphic 5. Total number of received requests for free access to information in commercial associations and public institutions founded by the Capital City of Podgorica and two municipalities within the Capital City in the period of 1/1/2014 to 31/12/2016

3.1. Manner of decision-making

According to the Law on Free Access to Information, a body of local self-government is obliged to respond upon received request for free access to information in one of the following manners: **rejecting** request which is incomplete or incomprehensible thus it cannot be decided upon it; **rejecting** all requests that are not in accordance with the Article 29 of the Law on Free Access to Information; **approve access to information in entirety or partially and allow reuse of data or refer it to another body for resolving**. For the needs of this research we have opted to focus on requests to which access was allowed, rejected or it was referred to other bodies for resolving.

In the total sum of requests that these municipalities have received in the period of 1/1/2014 to 31/12/2016, whereby we include also data referring to commercial associations and public institutions founded by the Capital City and municipalities within the Capital City, in 2014 access to information was approved to 603 requests, while 233 were rejected while in 33 cases it was referred to another body for resolving. In 2015, 411 requests have received positive response (in entirety or partially), 65 requests were rejected and 18 were referred to other bodies for resolving. During 2016, access to 777 was approved, 182 requests were rejected and 22 were referred to other bodies for resolving.

Municipality of Kotor has in 2014 approved access to 155 requests, while 2 were rejected. During 2015, access was approved to 167 requests, 15 requests were rejected, while in 2016 access was approved for 256 requests and 21 requests were rejected.

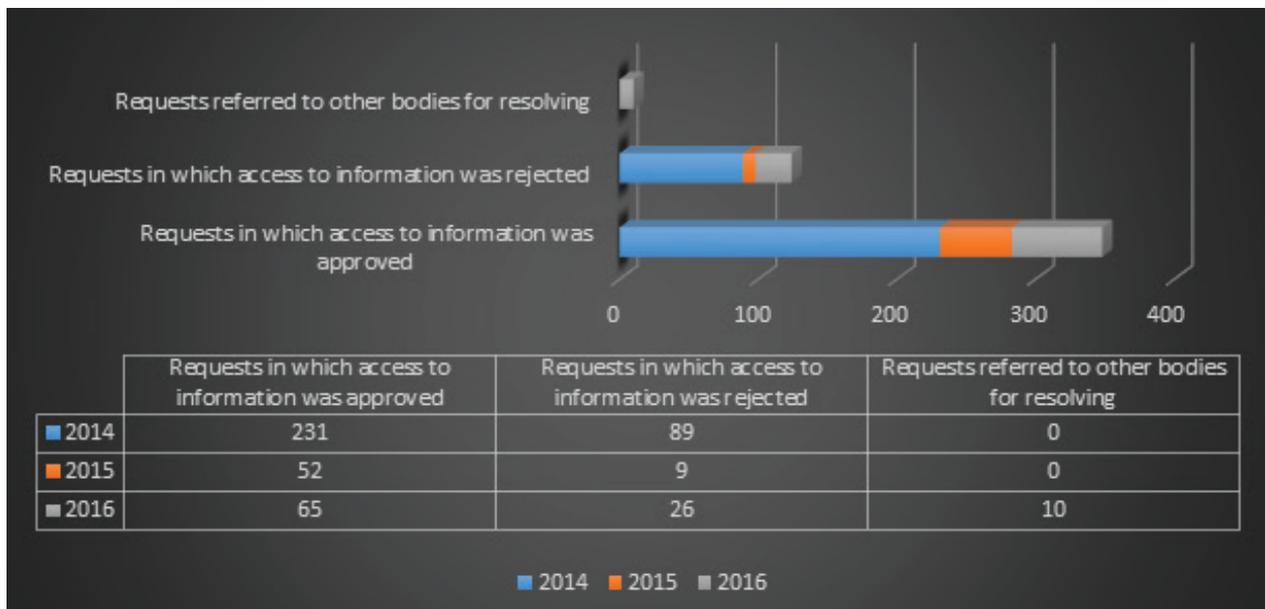


Graphic 6. Overview of manner of resolving upon requests for free access to information in the Municipality of Kotor, per years

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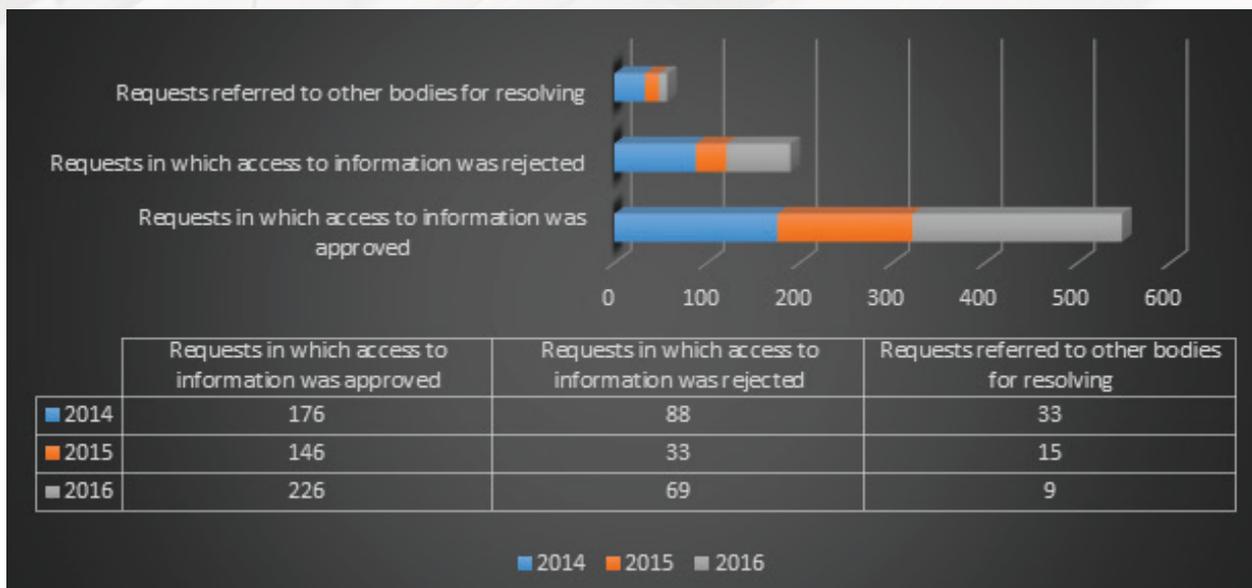
RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS

In Municipality of Pljevlja, in 2014, access was approved for 231 requests, while on 89 requests access to information was rejected. During 2015, access was approved for applicants of 52 requests, in the case of 9 requests it was rejected, and as in the previous year there were no requests referred to other bodies upon resolving. In 2016, access to information was approved for 65 requests, rejected for 26 requests and for the first time in these years we have had 10 requests that were referred to other bodies for resolving.



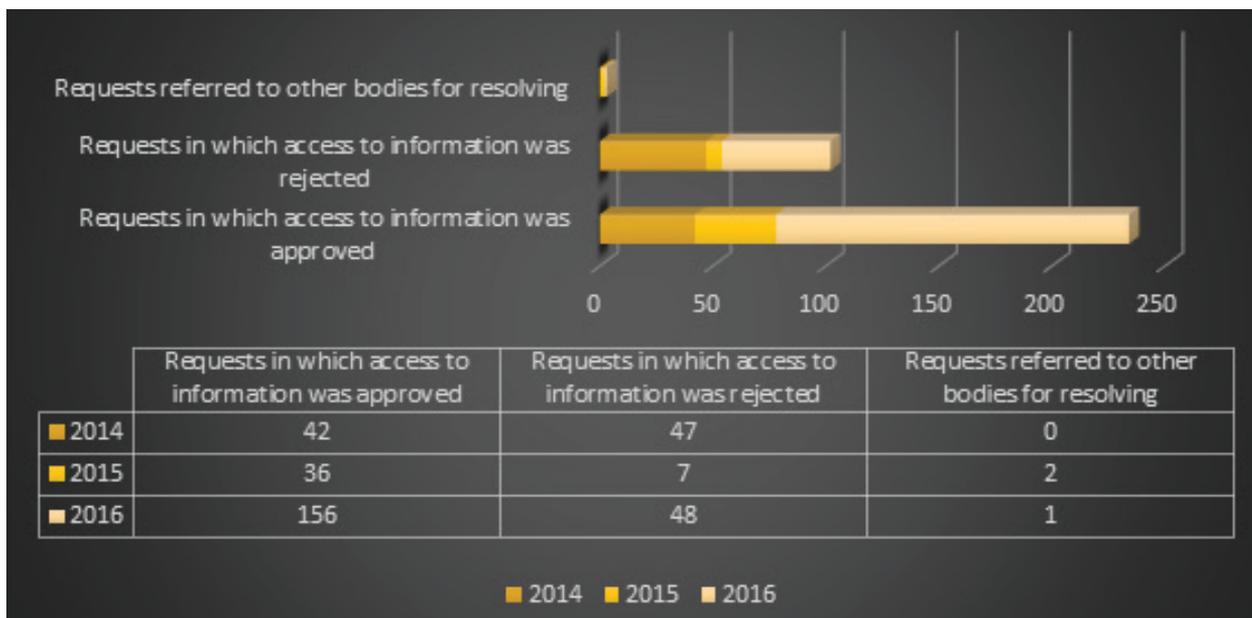
Graphic 7. Overview of manner of resolving upon requests for free access to information in the Municipality of Pljevlja, per years

Capital City of Podgorica has in 2014 responded positively to 176 requests, while 88 requests were rejected and 33 were referred to other bodies for resolving. In 2015, 146 requests were adopted, 33 were rejected and 15 were referred to other bodies for resolving. Upon 226 requests access to information was approved (in entirety or partially), 69 requests were rejected and 9 were referred to other bodies for resolving in 2016.



Graphic 8. Overview of manner of resolving upon requests for free access to information in the Capital City of Podgorica, per years

Commercial associations founded by the Capital City have in 2014 approved access for 42 requests for free access to information while 47 requests were rejected. In 2015 they have approved access for 36 requests, in 7 cases access was rejected and 2 requests were referred to other bodies for resolving. During 2016, 156 requests were approved, 48 were rejected and 1 was referred for resolving to another body.

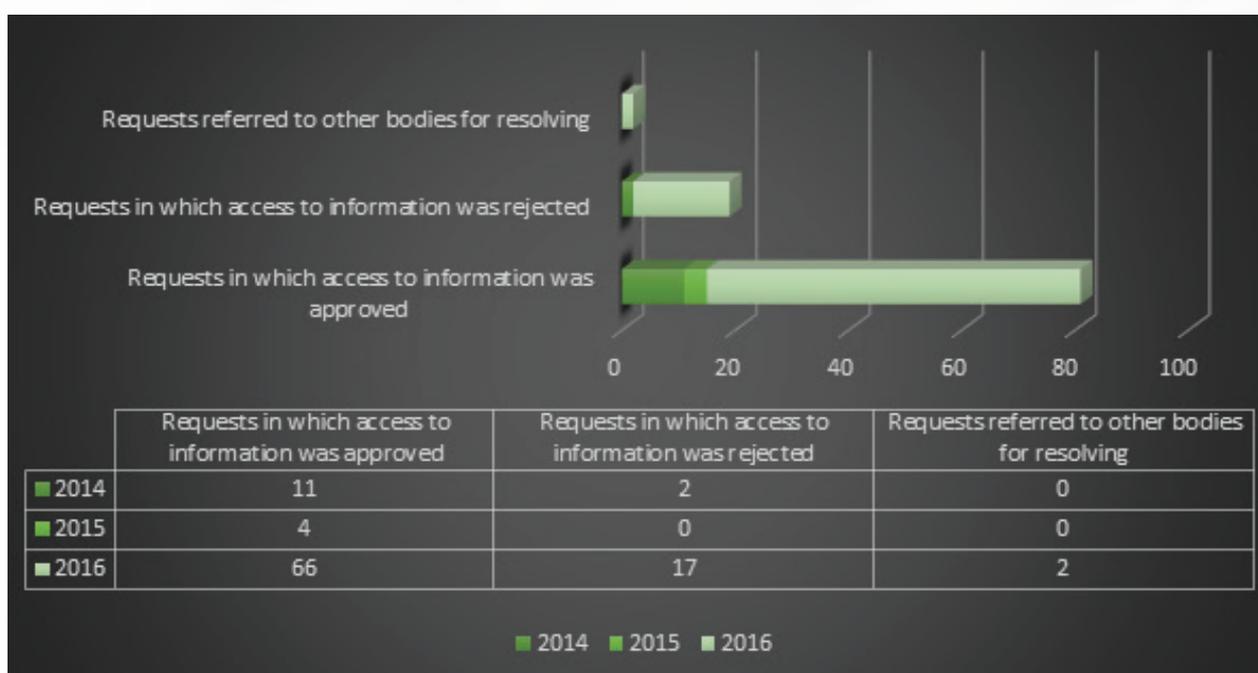


Graphic 9. Overview of manner of resolving upon requests for free access to information in commercial associations founded by the Capital City Podgorica, per years

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RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS

Public institutions founded by the Capital City Podgorica have in 2014 approved access for 11 requests, rejected 2, while in 2015 access was approved for 4 requests, and none was rejected nor referred to further resolving, and in 2016 66 requests were approved, 17 rejected and 2 were referred to competent bodies for resolving.



Graphic 10. Overview of manner of resolving upon requests for free access to information in public institutions founded by Capital City Podgorica, per years

Municipalities in the formation of Capital City Podgorica have approved 6 requests in 2014, 5 requests in 2015 and 8 requests in 2016. In 2014 3 requests were rejected, and one each for 2015 and 2016. Not even one request has been referred for resolving to other bodies.

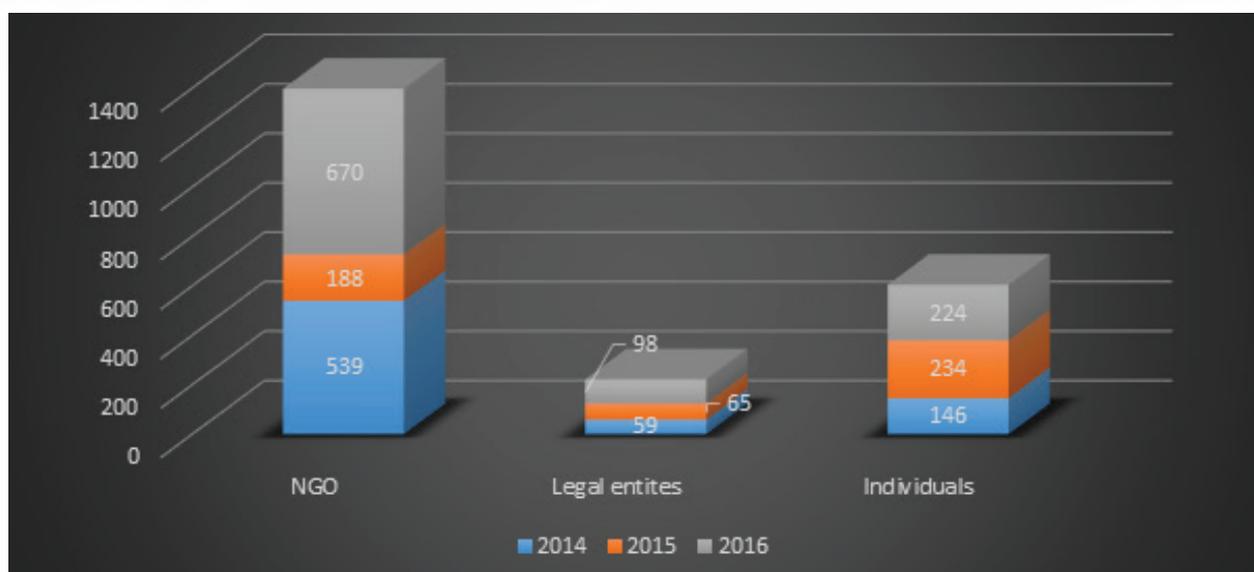
When we convert this in percentages, these three municipalities have in previous three years received 2, 561 requests for free access to information, whereby Municipality of Kotor responded in 93% cases, Municipality of Pljevlja in 72% cases, and Capital City of Podgorica in 53% cases.

3.2. Who are applicants of requests on local level?

The most frequent applicants for requests to free access are civil society organizations i.e. non-governmental organizations which have submitted 1,397 requests for free access to information or 63% in past three years, while other legal entities have submitted 222 requests or 27%, and individuals 604 requests

i.e. 10% of the total number of submitted requests.

It is obvious that this legal mechanism is mostly used by non-governmental organizations for the purpose of exercising monitoring, work on analysis and reports, etc. experience indicate that despite years of pointing out the deficiencies of Internet pages of municipalities and data that still do not exist at the same, while they must be there, this is imposed as only manner of gathering data that are not publicly available elsewhere.



Graphic 11. Review of applicants of requests per subject and per years

3.3. Work of Agency for Protection of Personal Data and Free Access to Information

Agency for Protection of Personal Data and Free Access to Information, as a second instance body in the system of free access to information, in the entire blockage i.e. tardiness of other bodies, suffers the most in the sense of workload. Agency has a problem with lack of administrative capacities that could cover all systematized position since its establishment. That this situation has continued even in the previous year proves also *Report on state of protection of personal data and state in the area of access to information for 2016*, wherein it is stated that of total of 26 systematized workplaces with 35 executants during 2016, 20 executants have for the most part of time performed defined tasks and duties (57,14%)¹⁸. During 2016, Agency received 3,554 complaints, of which it upheld 1,122, and passed decisions in 2,687 cases¹⁹,

¹⁸ Report on state of protection of personal data and state in the area of access to information for 2016, Agency for Protection of Personal Data and Free Access to Information, page 7. http://www.azlp.me/docs/zajednicka/izvjestaj_o_stanju/IZVJESTAJ%202016%20final.pdf

¹⁹ Report on state of protection of personal data and state in the area of access to information for 2016, Agency for Protection of Personal Data and Free Access to Information, page 72

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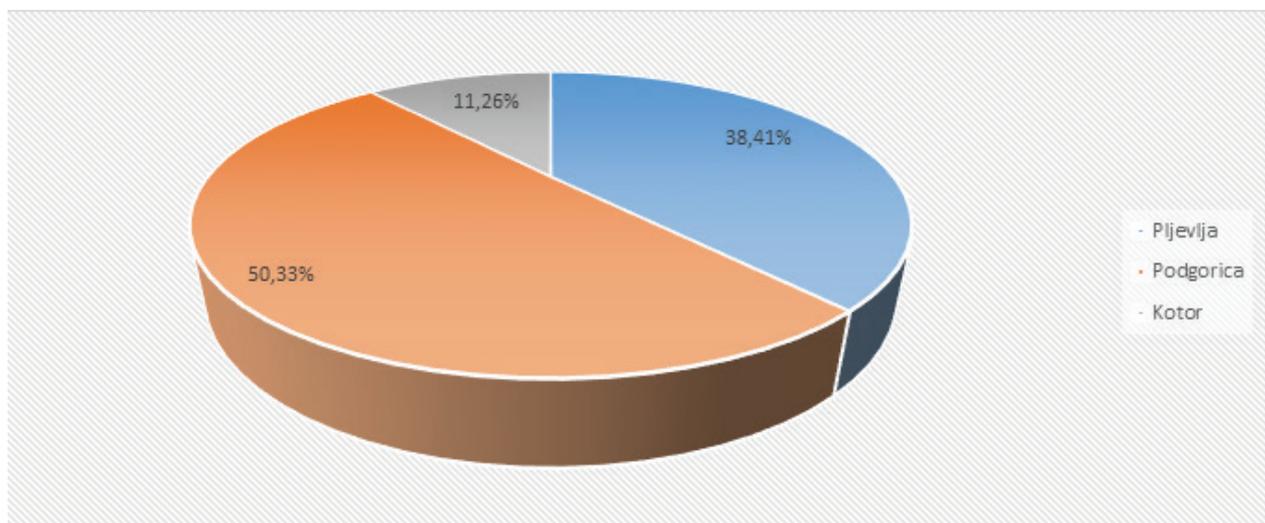
RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS

which indicates that this body is overburdened by cases it receives due to insufficient promptness of first instance bodies and their choice to rather be silent than to submit requested information.

In the part of cases that Agency has been resolving upon complaints to first instance decisions of the Capital City Podgorica, municipalities of Kotor and Pljevlja or silence of administration per years, as follows:

- 2014 – 88 complaints
- 2015 – 29 complaints
- 2016 – 85 complaints²⁰

Agency has received 17²¹ complaints against decisions that were passed by Municipality of Kotor in the case of administration silence. Number of received complaints by the Agency is increasing per year, but it is also expected according to trend of increase of number of requests in this municipality. In Pljevlja, however, we have a trend of decrease of number of complaints in last two years, wherein from 46 complaints that have been submitted to the Agency in 2014, this number in 2015 dropped to 6 while 9 complaints were submitted in 2016. For Podgorica we have 23 complaints submitted to the Agency in 2014, 12 were submitted in 2015 and 41 in 2016.



Graphic 12. Overview of percentage representation of complaints per municipalities received by Agency for Protection of Personal Data and Free Access to Information

²⁰ Data include also numbers relating to commercial associations and public institutions founded by the Capital City
²¹ 2014 – there were no complaints; 2015 – 4 complaints and 2016 – 13 complaints



In the period of 1/1/2014 to 31/12/2016, Agency did not perform any control over legality of resolving upon requests for access to information of administrative acts. Furthermore, there was no request for initiation of misdemeanour procedure for violation of provisions of the Law on Free Access to Information relating to making and updating of guidelines for access to information, proactive publishing of information and submitting acts and data for the purpose of maintaining of informational system of access to information for Capital City Podgorica, Municipality of Kotor and Municipality of Pljevlja. In this period, Agency performed two inspection controls over implementation of the Law on Free Access to Information in relation to making and updating of guidelines for access to information, proactive publishing of information and submitting of acts and data for the purpose of maintaining of informational system of access to information in Municipality of Kotor.

Also in the case of complaints before Agency, NGO are the most frequent applicants, followed by individuals and finally legal entities.

Internet pages of municipalities – how much they conceal and how much they reveal?

For the purpose of adequate informing on all events and decisions taken and undertaken by local self-governments, Internet portals must be adequately updated and be compliant to legal framework, but also to needs of local population. Clarity of these sites, availability and extent of basic and advanced information, followed by information relating to legal framework, managerial structure, plans and reports on work, budgets, cooperation with NGO sector, procedures of public discussions, etc. are some of segments in the focus of this pilot research.

In order to have measurable and comparative data, we selected a scale of marks from 1-5, whereby 1 represents quite low and 5 high level of transparency of local self-government.

4.1. Municipality of Kotor – average mark of transparency and availability of data - 4

a) Application of Article 12 of the Law on Free Access to information – **mark 3.20**

Data which should be publicly available on website	To which extent are data available or non-available on website	Mark
<i>Guideline for access to information</i>	Guideline is available on website of Municipality of Kotor, together with expenses and form for writing requests for free access to information. Information is easily accessible, situated in the part named Free Access to Information, and thereunto a refined version of Law on Free Access to Information is also published	5
<i>Public registers and public records</i>	Certain public registers and public records are situated at the municipal website, however, clarity must be significantly improved	3
<i>Programmes and plans of work</i>	In the part of website of Municipality of Kotor named Plans and programmes, local strategic and perennial plans of this municipality are situated but there are no annual plan of work of municipality	4
<i>Reports and other documents on work and state in areas of their jurisdiction</i>	Some information is available at website, but mostly with no date of publishing, with no adequate distinguishing of data and there is no annual report on work of Municipality of Kotor, its bodies or Parliament at website	2
<i>Drafts, proposals and final texts of strategic documents and plans and programmes for its implementation</i>	Final plans and programmes are available in the column Documents, while drafts are available via search of key words	3

<i>Drafts and proposals of laws and other regulations, as well as experts' opinions on those regulations</i>	Only one opinion of experts on regulation is available i.e. Consideration of conclusion regarding proposal of the Law on Urban Planning, while drafts are mostly available via calls for public discussions	2
<i>Particular acts and contracts on disposal of financial resources from public incomes and state assets</i>	A list of all public procurement in last 7 years is available as well as decisions and contracts that municipality has concluded	5
<i>List of state officials and employees, with their official and employee titles</i>	Does not exist	1
<i>List of public official and lists of calculation of their salaries and other earnings and remunerations in relation to performance of public function</i>	Does not exist	1
<i>Decisions and other particular acts that are of importance for rights, obligations and interests of third persons</i>	Available within numerous columns	4
<i>Information to which access was approved per request</i>	List of requests to which Municipality of Kotor has responded is within the part relating to free access to information and is divided per years in which it was decided upon requests and bodies within Municipality of Kotor which have been resolving upon requests	5

b) Public discussion, public procurement and budget – **mark - 5**

There are three separate sections that encompass these three parts on website. In the section public discussion and releases there are posts of public discussions per bodies of local self-government, with documents relating to those discussions. In the section for public procurement we have published public procurement, decisions on selection of best bidders and plans of public procurement for the given year, and it encompasses a period of last seven years. As far as the budget of Municipality of Kotor is concerned proposals of budget are in the part of public discussions, and budgets themselves and accompanying documents (such as decisions on amendments of decisions on budget and other) are in the part of budget, for last five years.

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RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS

c) Clarity of website and presence of other data – **mark 4**

Website is moderately clear and possesses a series of information relating to daily functioning of municipality, over cultural events, 48 hours' system, which in addition to Podgorica only this municipality possesses, up to regular updating of data that exist on website. Certain columns on website are not sufficiently clear and layout might be more susceptible for users, and thereunto the basic appearance of page might be unburdened. However, website abounds informative data for citizens such as example of a request, appeals and other documents which are needed for them in order to easier exercise rights. There are links to other relevant websites.

4.2. Municipality of Pljevlja – average mark of transparency and availability of data – 3,54

a) Application of Article 12 of the Law on Free Access to Information – **average mark 3,63**

Data that should be publicly available on website	To which extent are data available or non-available on website	Mark
<i>Guideline for access to information</i>	Guideline is published on website of Municipality of Pljevlja, especially for each organizational unit. Information is easily available, it is situated in separate shortcuts at the very top of website. They do not possess cost pricing and form for writing requests for free access to information.	4
<i>Public registers and public records</i>	Public registers and public records are available in the Main Menu – Useful Information. Information is easy accessible.	5
<i>Programmes and plans of work</i>	In the shortcut Documents Urban plan of municipality exists, but page is under construction. In lower right corner of website there is Plan of public procurement, which contains plans for 2013, 2014 and 2015. Programme of work is not available. Information is not situated in one place, thus it is harder to find, while some is not complete. Likewise, there are plans of certain administration bodies, that are situated in main menu – Administration bodies – hence, by clicking on a certain body a plan of work appears, which is not easily accessible if a person looking for information is not familiar with the exact location in which these Plans should be looked for.	3
<i>Reports and other documents on work and state in areas of their jurisdiction</i>	In the part Documents, section containing reports on work of various organizational units, state in various areas, on public discussions etc. is situated, but reports are not updated, namely, they do not exist for all units for all years. Information is easily accessible.	4
<i>Drafts, proposals and final texts of strategic documents and plans and programmes for its implementation</i>	There are final texts of work plans of certain administration bodies in their jurisdiction, that are not easily accessible, i.e. they are available by clicking on a certain administration body. Strategic documents and programmes are not available. There is Programme of discussion on development plan of Municipality of Pljevlja for period 2013–2017, that is not easily accessible, i.e. it is accessible if one types 'strategic' in the search.	3

<i>Drafts and proposals of laws and other regulations, as well as experts' opinions on those regulations</i>	Several draft laws are available in the part 'News' or 'Current', but only if one types 'draft law' in the search, or if one manually searches on pages of mentioned sections.	2
<i>Particular acts and contracts on disposal of financial resources from public incomes and state assets</i>	In the part of Documents there is special part, Budget, that contains updated information, even for the ongoing year, while in the lower right corner of website exists part Shortcuts – Bank statements – wherein reports from March until August 2014 are situated. Information is easily accessible.	5
<i>List of state officials and employees, with their official and employee titles</i>	In the main menu on the side – Administration bodies – there is scanned List of state officials and employees for each organizational unit in the part of Guidelines for Free Access to Information. Information is not easily accessible, i.e. it is not easily found, but it is complete.	4
<i>List of public official and lists of calculation of their salaries and other earnings and remunerations in relation to performance of public function</i>	In the main menu on the side – Administration bodies – there is scanned List of state officials and employees wherein salary for chief officials, administrators etc. is stated, for each organizational unit in the part of Guidelines for Free Access to Information.	4
<i>Decisions and other particular acts that are of importance for rights, obligations and interests of third persons</i>	Decisions are situated in the part Documents – Decisions and it contains a large number of documents. Information is easily accessible.	5
<i>Information to which access was approved per request</i>	Approved requests on free access to information are not available.	1

b) Public discussions, public procurement and budget – **mark - 3**

There are two separate sections on website including public discussions and budget, while there are only data on public procurement on the website. In the section public discussions and releases outdated data are given on public discussions and reports and the most recent is from 2012. However, in the part of the current we have data on more recent public discussions, which does not give complete image of state on the field nor is easily accessible to citizens. Only plans of public procurement are available on website that date from 2013, 2014 and 2015, and sporadic releases of published public procurement. As far as budget of

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RESPONSIBLE MUNICIPALITIES IN THE SERVICE OF CITIZENS

Municipality of Pljevlja is concerned, all necessary documents are in this section, but data is dispersed and set without clear division per years.

c) Clarity of website and presence of other data – **mark 4**

Website of Municipality of Pljevlja is well filled with large number of information, solutions, decisions, documents, information on budget, officials, etc. However, in some parts it is not quite accessible, i.e. a user would need more time to find certain information or a knowledge as to where to precisely find them is needed. It would be useful if, for example, all lists of employees are situated in one part, and draft laws, decisions on adoption of laws, drafts and final versions of strategic plans and programmes of Municipality of Pljevlja to be posted, as well as approved requests for free access to information. In a nutshell, website is moderate in terms of content, but its functionality should be improved.

4.3. Capital City of Podgorica –

average mark of transparency and availability of data – 3,21

a) Application of Article 12. of the Law on Free Access to Information – **average mark 2,63**

Data that should be publicly available on website	To which extent are data available or non-available on website	Mark
<i>Guideline for access to information</i>	Guidelines for access to information is not available in the part of website covered by Service of Manager, Communal Police and Communal Inspection.	3
<i>Public registers and public records</i>	They exist, but are divided per organ	4
<i>Programmes and plans of work</i>	There is Plan of work for 2017, in the part of Secretariat for Local Self-Government and Vocational Training Programme of Officials and Employees of Capital City for 2017.	2
<i>Reports and other documents on work and state in areas of their jurisdiction</i>	There are particular reports but not for all bodies	3
<i>Drafts, proposals and final texts of strategic documents and plans and programmes for its implementation</i>	Do not exist	1
<i>Drafts and proposals of laws and other regulations, as well as experts' opinions on those regulations</i>	Do not exist	1

<i>Particular acts and contracts on disposal of financial resources from public incomes and state assets</i>	There are certain contracts e.g. with Directorate for Property, but there are no further data on other acts relating to this area	3
<i>List of state officials and employees, with their official and employee titles</i>	There is and is easily accessible in the part of Secretariat for Local Self-Government	5
<i>List of public official and lists of calculation of their salaries and other earnings and remunerations in relation to performance of public function</i>	Does not exist	1
<i>Decisions and other particular acts that are of importance for rights, obligations and interests of third persons</i>	They exist for some of bodies and are not particularly detailed.	2
<i>Information to which access was approved per request</i>	Data are divided per body, and most of them possess data on manner of resolving upon requests, but there are also bodies which do not have that kind of record available on website. Data are published in various manners which renders them less clear for overview.	4

b) Public discussions, public procurement and budget – **mark – 3**

In the section current public discussion, the newest calls for public discussions are given. Data on public procurement which Capital City has concluded dating from 2013 up to 2017 year are available on website. Data on public procurement are outdated and are easier found by search engine. When it comes to budget of Capital City of Podgorica, all necessary documents are in this section for the ongoing year, while earlier budgets are in an archive.

c) Clarity of website and availability of other data – **mark 4**

Website of Capital City is easily viewed, but it lacks certain number of information that is necessary for achieving an optimal level of transparency of work of Capital City. Even certain parts of website which should contain certain information are with no data. Website is quite informative and service of e-statement can certainly be commended as a step closer to the e-administration, as well as the service 48.

Conclusions and recommendations

System of free access to information and transparency of work of these three local self-governments indicate certain deficiencies, which exist also on national level. Primarily, lack of data of public importance on websites of local self-governments stand out, as well as tardiness in posting data. Also, a problem of websites which are not unified is being imposed, which thus leaves to the local self-governments' free will to according to their preferences and current management deal with availability of data. Furthermore, resolving upon requests for free access to information is in some cases rendered difficult, there are frequent cases of administration silence, which directly results in «congestion» in work of Agency for Protection of Personal Data and Free Access to Information. In addition to that, publishing of data that are not in *open data format* is present, which significantly renders it difficult to use them further. When therein is added lack of motivation of citizens, and insufficiently developed capacities of local NGOs, to follow public discussions and participate in production of documents of importance for local self-government, a «vicious circle» is created that leaves space for various interpretation, but also a space to corruption at the local level.

Three observed municipalities – Kotor, Pljevlja and Capital City of Podgorica – have in previous three years received 2, 561 requests for free access to information, whereby Municipality of Kotor has responded in 93% cases, Municipality of Pljevlja in 72% cases, and Capital City of Podgorica in 53% cases. The most frequent applicants of requests for free access to information in these three municipalities are NGOs i.e. 63% of all requests has been submitted by NGOs, followed by citizens with 27% and other legal subjects with 10% of total number.

Every deficiency in the work at the local level, whether it is a deficiency of service for citizens or non-performance of tasks from jurisdiction of local self-government directly affects all higher levels of government which must compensate what is lacking, and thus are being overburdened by tasks which can be solved on local level, and in accordance with principle of decentralization.

Therefore, CCE gives the following recommendations:

- 1. Relevant Ministry of Public Administration should produce a form of unified websites for all local self-governments, in order to enable easier access to information and improve openness and transparency of work of local self-governments.**

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2. **Relevant Ministry of Public Administration should produce a list of all data and documents which must be available on websites of local self-governments, thus no space will be left for various interpretations of legal provisions and the form itself in order to conduct monitoring of transparency of work of local self-governments' bodies more easily.**
 3. **It is necessary to conduct annual checks of respecting the list of all data and documents that must be available on websites of local self-governments, to produce reports on executed check and publish these individual reports on websites of municipalities.**
 4. **Agency for Protection of Personal Data and Free Access to Information must be conducting periodic training of persons who are working on tasks of free access to information on the manner of resolving in all cases, but to also more proactively exercise supervision over legality by which it is being resolved upon requests for free access to information of administrative acts and to submit requests for initiation of misdemeanour procedure for violations of provisions of Law on Free Access to Information.**

Literature:

Laws:

- Constitution of Montenegro ('Official Gazette of Montenegro' No. 1/07; Art. 113)
- Law on Local Self-Government ('Off. Gazette of RMNE', No. 42/2003, 28/2004, 75/2005, 13/2006 and 'Off. Gazette of MNE', No. 88/2009 (check also Art. 54), 3/2010 38/2012 and 10/2014, check also another law - Art. 62 of the Law 57/2014)
- Law on Free Access to Information ('Official Gazette of Montenegro', No. 044/12 from 9/8/2012, 030/17 from 9/5/2017)
- Statute of the Capital City of Podgorica ('Off. Gazette of RMNE – municipal regulations', No. 28/06)
- Rulebook of the Parliament of the Capital City
- Statute of the Municipality of Kotor ('Official Gazette of RMNE – Municipal regulations', No. 17/08, 31/09, 40/10, 4/11)
- Rulebook of the Parliament of Municipality of Kotor ('Off. Gazette of Montenegro – municipal regulations', No. 09/12)
- Statute of Municipality of Pljevlja (Off. Gazette of Republic of Montenegro – municipal regulations', No. 37/04, 'Off. Gazette of Montenegro – municipal regulations', No. "Sl. list 30/07, 32/09 and 14/11)

Reports:

- European Commission, Report for Montenegro for 2016
- Report of state of protection of personal data and state in the area of access to information for 2016, Agency for Protection of Personal Data and Free Access to Information
- Report of state of protection of personal data and state in the area of access to information for 2015, Agency for Protection of Personal Data and Free Access to Information
- Report of state of protection of personal data and state in the area of access to information for 2014, Agency for Protection of Personal Data and Free Access to Information
- SIGMA, Baseline Measurement Report: The Principles of Public Administration in Montenegro, April 2015
- CDNGO, Report on the framework for action of NGO at the local level, monitoring report (1 January 2015 – 30 June 2016),

Links:

<http://www.podgorica.me>

<https://www.pljevlja.me>

<http://kotor.me/me>

<http://www.azlp.me/me/agencija>



