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## NEZADOVOLJAVAJUĆA PRIMJENA ZAKONA O SLOBODI PRISTUPA INFORMACIJAMA UGROŽAVA TRANSPARENTNOST U BIH

**Sarajevo, 27. septembar 2024. godine** – Prekoračenje rokova, dostavljanje odgovora koji su nepotpuni ili slanje informacija u obliku koji nije propisan zakonom samo su neki od pokazatelja neozbiljne i proizvoljne primjene zakona o slobodi pristupa informacijama u Bosni i Hercegovini, zbog čega je građanima otežan pristup podacima koji su po svojoj prirodi javni.

Skoro polovina javnih organa **ne odgovara na zahtjev** za slobodan pristup informacijama u zakonskom roku odgovara a tek **nešto više od trećine** institucija odnosno 140 od 394 obuhvaćenih istraživanjem, dostavilo je sve tražene podatke u zakonskom roku, pokazatelji su istraživanja koje prezentovano danas u Sarajevu u sklopu Međunarodnog dana slobode pristupa informacijama.

*„Pristup informacijama jeste ključni pokazatelj stepena demokratičnosti države i to je mehanizam koji građanima daje mogućnost da učestvuje u javnim procesima“* izjavila je Aurélie Valtat, šefica Odjela za evropske integracije, politička i ekonomska pitanja pri Delegaciji Evropske unije u BiH u svom obraćanju na otvaranju konferencije *„Izazovi pristupa javnim informacijama u BiH: Od usvajanja zakona do primjene“*.

*„Sloboda pristupa informacijama je jedan od temelja transparentne i odgovorne javne uprave ali i tekovina na kojima počiva ideja EU te napredak na tom polju predstavlja jedan od najvažnijih aspekata za razvoj demokratije“* dodala je Valtat.

Istraživanje, koje je Transparency International u BiH sproveo u saradnji sa organizacijom „Vaša prava“ Bosne i Hercegovine u okviru projekta *„Access for all - Jačanje pristupa informacijama za učešće građana“* uz podršku Delegacije Evropske unije u BiH, obuhvatilo je **394 javna organa** na svim nivoima vlasti u Bosni i Hercegovini, a tražene su informacije o izdvajanjima za plate, zapošljavanju u 2022. i 2023. godini, te ugovorima o djelu zaključenim u posljednje tri godine.

Podaci ukazuju da javni organi svoje odbijanje dostavljanja podataka najčešće pravdaju **zaštitom ličnih informacija**, kao što je u slučaju sa detaljima ugovora o djelu za koje je većina institucija da tvrdila da nisu od javnog interesa, uprkos zakonskim odredbama ali i tumačenjima Agencije za zaštitu ličnih podataka BiH koji primanja zaposlenih u javnom organu **ne uživaju isti stepen zaštite** privatnosti.

Istraživanje je ukazalo na vidljivu razliku u postupanju između nivoa vlasti u Bosni i Hercegovini, pa su tako ministarstva na nivou BiH **u zakonskom roku** odgovorili u 88,9% slučajeva, dok je tek 68% kantonalna ministarstva odgovor dostavilo na vrijeme. Podaci takođe pokazuju da, iako se sporovi

zbog kršenja zakona o slobodi pristupa informacijama rješavaju u okviru **jedne do dvije godine**, postoje značajna odstupanja pa je tako Kantonalni sud u Novom Travniku odluku donio za svega mjesec dana, dok se na odluku Kantonalnog Suda u Sarajevu čekalo od januara 2019.

*„Cilj zakona o slobodi pristupa informacijama u BiH jeste osigurati da informacije pod kontrolom javnog organa predstavljaju javno dobro te da promoviše veću transparentnost i odgovornost tih javnih organa, dok analiza primjene ovog zakona pokazuje da to nije slučaj“* rekao je Marko Vujić, saradnik za pružanje pravne pomoći u TI BiH ALAC.

TI BiH je u proteklih pet godina pokrenuo 93 upravna spora protiv javnih organa zbog kršenja zakona o slobodi pristupa informacijama a sam podatak da je 86% riješenih predmeta bilo u korist Transparency International u BiH govori da javni organi **nedovoljno precizno tumače zakon**, umanjujući značaj javnog interesa prilikom odluke da ne objave podatke koji su im traženi.

Ovo istraživanje potvrđuje ranije nalaze i [analize](#) koje je radio TI BiH kako javni organi pokazuju **nezadovoljavajući stepen transparentnosti** i zaštite javnog interesa stvarajući svojevrsnu pravnu nesigurnosti u postupku dobijanja javnih informacija. TI BiH je ranije ukazao da nakon usvajanja četiri reformska zakona značajna za evropski put Bosne i Hercegovine, među kojima se nalazi i novi Zakon o slobodi pristupa informacijama na nivou BiH nije ubrzano objavljivanje podataka od javnog interesa te nisu zabilježeni pozitivni pomaci.

## UNSATISFACTORY IMPLEMENTATION OF THE LAW ON FREEDOM OF ACCESS TO INFORMATION THREATENS TRANSPARENCY IN BIH

**Sarajevo, 27 September 2024** – Missed deadlines, incomplete responses, or providing information in formats not prescribed by law are just some indicators of the lax and arbitrary application of the Freedom of Information Law in Bosnia and Herzegovina, making it difficult for citizens to access data that is, by nature, public.

Nearly half of public authorities fail to respond to freedom of information requests within the legal timeframe, and only slightly more than a third of institutions—140 out of 394 surveyed—provided all requested data within the legal deadline, according to research presented today in Sarajevo as part of International Freedom of Information Day.

"Access to information is a key indicator of a state's level of democracy, and it is a mechanism that allows citizens to participate in public processes," said the Head of Section for the European Integration, Political Press and Information at the Delegation of the EU to BiH Ms. Valtat in her address at the opening of the conference "Challenges of Access to Public Information in BiH: From Law Adoption to Implementation."

"Freedom of access to information is one of the cornerstones of transparent and accountable public administration, as well as a fundamental value on which the EU is built. Progress in this area represents one of the most important aspects for the development of democracy," added the Head of Section for the European Integration, Political Press and Information at the Delegation of the EU to BiH Ms. Valtat.

The research, conducted by Transparency International in BiH in cooperation with the organization "Vaša prava" Bosnia and Herzegovina, as part of the project "Access for All – Strengthening Access to Information for Citizen Participation," supported by the EU Delegation in BiH, covered 394 public authorities at all levels of government in Bosnia and Herzegovina. It requested information on salary allocations, employment in 2022 and 2023, and contracts for temporary work concluded over the past three years.

The data shows that public authorities most often justify their refusal to provide information by citing the protection of personal data, such as in the case of temporary contracts, where most institutions claimed these details were not of public interest. This is contrary to legal provisions and the interpretations of the Personal Data Protection Agency of BiH, which states that the salaries of public employees do not enjoy the same level of privacy protection.

The research also revealed a noticeable difference in response rates between different levels of government in Bosnia and Herzegovina. Ministries at the state level responded within the legal

timeframe in 88.9% of cases, while only 68% of cantonal ministries provided timely responses. The data also shows that while disputes over violations of the Freedom of Information Law are resolved within one to two years, there are significant discrepancies. For example, the Cantonal Court in Novi Travnik issued a decision in just one month, while a decision from the Cantonal Court in Sarajevo has been pending since January 2019.

"The purpose of the Freedom of Information Law in BiH is to ensure that information under the control of public authorities is considered a public good and to promote greater transparency and accountability of these authorities. However, the analysis of the law's implementation shows that this is not the case," said Marko Vujić, a legal aid associate at TI BiH ALAC.

In the past five years, TI BiH has initiated 93 administrative disputes against public authorities for violations of the Freedom of Information Law, and the fact that 86% of resolved cases have been in favor of Transparency International in BiH suggests that public authorities often misinterpret the law, downplaying the importance of the public interest when deciding not to release requested information.

This research confirms previous findings and analyses by TI BiH, which show that public authorities demonstrate an unsatisfactory level of transparency and protection of the public interest, creating a kind of legal uncertainty in the process of obtaining public information. TI BiH has previously pointed out that, following the adoption of four reform laws important for Bosnia and Herzegovina's European path, including the new Freedom of Information Law at the state level, there has been no acceleration in the publication of information of public interest, and no significant positive developments have been recorded.