ABUSE OF THE RIGHT
TO ACCESS INFORMATION OF PUBLIC IMPORTANCE

Research Study

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Niš, 2026

Publisher
Committee for Human Rights Niš (CHRIN)

For the Publisher
Dragan Đorđević, President of the Committee for Human Rights Niš (CHRIN)

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Electronic edition
https://www.pravosudnabaza.org/publikacije

This publication was prepared as part of the work of the Judicial Base South (JBS) coalition.

All gender-specific terms used in this publication apply equally to persons of every gender.

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FOREWORD

The right to access information of public importance is one of the fundamental mechanisms for democratic oversight of public authorities. It ensures institutional transparency, strengthens the accountability of persons exercising public powers, and helps secure the public's right to receive timely and complete information. At the same time, practice shows that this important legal mechanism can also be used in ways that depart from its essential purpose. Drawing on the experience acquired through the work of Judicial Base South, we recognized a need to analyze the forms that such practices take, their causes and consequences, and possible mechanisms for addressing them, while fully safeguarding the public's right to know.

This research does not seek to restrict the right to access information of public importance. Rather, it aims to contribute to the consistent, purposeful, and responsible exercise of that right. Based on an analysis of positive law, judicial and administrative practice, and empirical data collected through questionnaires, interviews, and focus groups, the study offers conclusions that may benefit public authorities as well as the professional and academic communities.

The study's lead author and research director is Dr. Nebojša Stanković, an attorney from Niš. The research and writing team also included Stefan Vlatković, an attorney from Niš, and Marina Petrović, a judicial assistant at the Basic Court in Niš. Employees of the Committee for Human Rights Niš provided logistical, organizational, and administrative support to the authors. The research and drafting of the study were carried out from August 2024 through October 2025. The findings and data presented in this publication reflect the conditions established during that period.

We are convinced that safeguarding the public's right to know and preventing its misuse are not competing objectives, but two inseparable prerequisites for building a responsible, transparent, and efficient public administration. If this publication contributes to that goal, we will consider its purpose fully achieved.

Mihajlo Čolak
Judicial Base South

EXECUTIVE SUMMARY

The right to free access to information of public importance is guaranteed first by the Constitution, the country's highest legal act, through the citizens' right to be informed, and is regulated in greater detail by the lex specialis—the Law on Free Access to Information of Public Importance.

Citizens exercise this right by submitting a request for access to information of public importance to the authority that holds the requested information. Information of public importance is information held by a public authority, generated in the course of or in connection with its work, and contained in a particular document, relating to anything that the public has a justified interest in knowing.

This research examines different forms of abuse of the right to access information of public importance, the consequences of such abuse, the means available to curb it, and whether abolishing the statutory concept of abuse of that right was justified. The research covers the territory of the Republic of Serbia, with particular emphasis on public authorities in southern Serbia.

The study considers the conduct of requesters, the conduct of authorities to which requests are submitted, the powers and practice of the Commissioner for Information of Public Importance and Personal Data Protection, and practical examples, while also examining the causes of abuse of the right to access information of public importance.

The research aims to determine the extent to which the existing legal framework provides effective protection of citizens' right of access to information and to identify legal gaps that permit abuse of that right. It then proposes potential mechanisms for addressing the specific problem and preventing future abuse.

The data obtained through the research instruments and methods are analyzed and discussed and serve as the basis for the study's conclusions and recommendations in this field.

I INTRODUCTION

The right to free access to information forms part of freedom of information—namely, the freedom to access information held by public authorities. It developed from freedom of thought and expression, later from the right to be informed and freedom of public information, and today constitutes an independent right.[1] It may also be defined as the right of every person to request and obtain relevant information of public interest from holders of governmental or public authority, thereby enabling effective scrutiny of the work and conduct of those whom citizens have entrusted to exercise governmental functions and manage public affairs in their name and on their behalf.[2]

In contemporary society, the right to free access to information is a cornerstone of openness and transparency in the work and conduct of public authorities. Freedom of access to information derives from the principle that government work must be public, which also entails a duty to make information held by public authorities accessible because such information is considered a public good belonging to all citizens. Free access to information held by public authorities helps citizens become better informed about government work and makes public officials more accountable, thereby reducing the risk of abuse of power and helping ensure respect for human rights and freedoms.

Article 51 of the Constitution of the Republic of Serbia[3] guarantees everyone the right to be informed. It provides that everyone has the right to receive true, complete, and timely information about matters of public importance and that the media must respect that right. It also provides that everyone has the right

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[1]See Jelena Vučković, LL.M., The Right to Free Access to Information of Public Importance, Collected Papers of the Faculty of Law in Niš, No. 54, Niš, 2009, p. 183.

[2]Dejan Milenković, Freedom of Access to Information as a Human Right, Free Access to Information and Public Administration, Human Rights Committee, Belgrade, 2005, p. 5.

[3]Constitution of the Republic of Serbia (Official Gazette of the Republic of Serbia, Nos. 98/2006 and 115/2021).

to access information held by state authorities and organizations entrusted with public powers, in accordance with the law.

The Law on Free Access to Information of Public Importance[4] (the Law) is the direct legal framework governing the right to access information of public importance held by public authorities, for the purpose of realizing and protecting the public's interest in knowing. The Law is an important mechanism for preventing corruption, abuse, negligent performance, and inefficiency in the machinery of government.

The right to access information of public importance comprises the following entitlements:

1) the requester's right to be told whether a public authority holds particular information of public importance or otherwise has access to it;
2) the requester's right to have information of public importance made available by being permitted, free of charge, to inspect the document containing that information;
3) the requester's right to receive a copy of the document containing the requested information upon payment of the prescribed fee covering the necessary copying costs; and
4) the requester's right to have a copy of the document sent by mail, fax, electronic means, or otherwise, upon payment of the prescribed fee covering the necessary transmission costs.

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[4]Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia, Nos. 120/2004, 54/2007, 104/2009, 36/2010, and 105/2021).

If the requested information is already publicly available, the requester is entitled to be directed to where and when it was published. If a document contains portions that the public has no justified interest in knowing, the requester is nevertheless entitled to have the remaining portions made available by the public authority.

Under Article 2 of the Law, information of public importance is information held by a public authority, generated in the course of or in connection with its work, and contained in a particular document, relating to anything that the public has a justified interest in knowing. Whether information qualifies as information of public importance does not depend on whether the public authority or another person is its source; on the medium bearing the document that contains it (paper, tape, film, electronic media, and the like); on the date on which the information originated; on the manner in which it became known; or on any other similar characteristic.

The entities subject to the Law are public authorities. Article 3 defines them as authorities of the Republic of Serbia (for example, the Government, the National Assembly, ministries, courts, public prosecutor's offices, and others); authorities of an autonomous province and local self-government authorities (for example, provincial secretariats, mayors, municipal presidents, and municipal administrative authorities); public enterprises, institutions, organizations, and other legal entities established by a regulation or decision of any of the foregoing authorities (for example, agencies responsible for privatization, telecommunications, or environmental matters; faculties and other cultural institutions; health-care institutions; and state funds); companies wholly or predominantly founded or owned by any of the foregoing authorities; and legal entities founded by such companies.

Article 4 of the Law establishes presumptions concerning the public's justified interest in knowing. An irrebuttable presumption exists for information held by a public authority that concerns a threat to, or the protection of, public health or the environment. For other information held by a public authority, the public's justified interest in knowing is rebuttably presumed, and the authority bears the burden of proving otherwise. In practice, this means that when a public authority refuses to provide requested information,

it must demonstrate either that no public interest exists in disclosure or that another interest outweighs the public's right to know.

The right to access information of public importance is exercised by submitting a request. Article 15 of the Law regulates requests for notice, communication of information, issuance of a copy, and transmission.

Proceedings are initiated when a requester submits a written request for access to information of public importance to a public authority. The request must state the authority's name, the requester's first and last name and address, and as precise a description as possible of the information sought. It may include other information that facilitates locating the requested information, but the requester need not state the reasons for the request. A public authority may prescribe a request form,[5] but it must also consider a request not made on that form.

A public authority must also provide access to information in response to an oral request, which is entered into the record and a special register. The same deadlines apply as if the request had been submitted in writing.

Without delay, and no later than 15 days after receiving a request, a public authority must notify the requester whether it holds the information, permit inspection of the document containing the complete and accurate requested information, or issue or transmit a copy of that document. If the authority decides to grant the request, it must notify the requester accordingly and state when and where the requester may inspect the requested document or when a copy will be issued. The authority does not issue a separate decision for these actions; it prepares only an official note.

If a public authority refuses, in whole or in part, to notify the requester whether it holds the information, to permit inspection of the document containing the requested information, or to issue or transmit a copy of that document, it must, without delay and no later than 15 days after receiving the request, issue a decision

[5] A sample form issued by the Commissioner for Information of Public Importance and Personal Data Protection is available at:
https://poverenik.rs/formulari/.

denying the request. The decision must be reasoned in writing and must advise the requester of the legal remedies available against it.

A requester's rights are not unlimited. Article 9 of the Law provides for exclusions from and limitations on free access to information of public importance—that is, circumstances in which a public authority may deny access if disclosure would endanger life, health, personal safety, the administration of justice, national defense, national or public security, the country's economic welfare, protected secrets, intellectual or industrial property, artistic, cultural, or natural assets, or the environment. These limitations are prescribed in Articles 9 and 14 of the Law.

Under Article 22 of the Law, a requester may file an appeal with the Commissioner for Information of Public Importance and Personal Data Protection within 15 days after service of a decision if the public authority dismisses or denies a request for access; fails to respond within the prescribed period; conditions the issuance of a copy of the requested document on payment of a fee exceeding the necessary copying costs; fails to permit inspection of the document containing the requested information or to issue a copy of it, depending on what the initial request sought; or otherwise hinders or prevents exercise of the right.

The Commissioner decides appeals and issues a decision without delay, and no later than 30 or 60 days after receipt of the appeal, depending on the ground asserted, after allowing the public authority—and, where necessary, the requester—to submit a written statement. The Commissioner dismisses an appeal that is inadmissible, untimely, or filed by an unauthorized person. If the Commissioner finds the appeal well-founded, the decision orders the public authority to provide the requester free access to the information of public importance. If an appeal based on failure to act on a request (administrative silence) is well-founded, the Commissioner orders the public authority to act on the request within a specified period. A decision issued by the Commissioner on appeal may be challenged in an administrative dispute. The Commissioner's decisions are binding, final, and enforceable against public authorities.

II DEFINITION OF THE RESEARCH SUBJECT

Practice among public authorities has revealed various forms of abuse of the right to access information of public importance.

In most cases, abuse takes the form of a small number of persons submitting large numbers of requests seeking similar or identical information.

On the other hand, the most recent amendments to the Law[6] deleted the provisions on abuse of the right to access information of public importance formerly contained in Article 13. That article had authorized a public authority to deny access if it determined that the right was being abused: A public authority shall not permit a requester to exercise the right to access information of public importance if the requester abuses that right, particularly if the request is unreasonable or frequent, repeats a request for the same information or information already received, or seeks an excessive volume of information.

The legislature's reasons for removing the concept of abuse of the right to access information of public importance—that is, for deleting Article 13 of the Law—were stated in the Explanation accompanying the Draft Law Amending the Law on Free Access to Information of Public Importance:[7] The manner in which the current Article 13 of the Law attempts to define abuse of the right to access information of public importance by listing possible forms of conduct that may indicate such abuse is not an appropriate means of eliminating adverse practices in the exercise of the public's right to know. Frequent requests, including requests for a large amount of information, cannot by themselves be considered an abuse. Because everyone holds the right to access information, refusing a request solely because the same person has previously requested other information has no practical effect, since another person may formally request that information on the requester's

[6]Law Amending the Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia, No. 105/2021).

[7]http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2021/1758-21.pdf

behalf. The mere resubmission of a request for the same information likewise cannot be sufficient grounds for denial, because the public authority may not have responded to the first request or may not have responded in the manner requested—for example, it may have permitted inspection but not provided a copy, or supplied transcripts but not the audio recording. Nor can a request for voluminous information, standing alone, justify denial, because that determination would depend on the public authority's subjective assessment. Where a large amount of information is sought, the Law already permits a longer response period, so volume cannot validly justify denying the request on grounds of possible abuse. Moreover, in an era of rapid scientific and technological development and electronic communication, the size of a document or the volume of requested information should not present a problem for most public authorities. Accordingly, deletion of Article 13 of the Law is proposed.

This research therefore examines different forms of abuse of the right to access information of public importance, the means available to curb them, and whether abolition of the statutory abuse doctrine was justified.

III RESEARCH OBJECTIVE AND TASKS

The research aims to identify the different forms of abuse of the right to access information of public importance; the purpose, consequences, and frequency of such abuse; whether deleting the abuse doctrine from the Law was justified and what consequences followed; the success of arguments based on abuse; and the means available to public authorities to prevent abuse of the right.

To achieve these objectives, the research tasks are to analyze the practice of public authorities and the Commissioner concerning abuse of the right to access information of public importance; analyze domestic and comparative legislation in this field; analyze different approaches to regulating and applying an abuse doctrine; and analyze methods of preventing abuse.

IV SCOPE OF REVIEW

The research covers the territory of the Republic of Serbia, with particular attention to public authorities in southern Serbia.

V RESEARCH METHOD

The research was conducted in five phases.

The first phase involved collecting and analyzing the relevant legislation.

The second phase consisted of: (i) submitting requests for access to information of public importance to public authorities, including local self-government units, authorities, institutions, and other entities subject to the Law; (ii) conducting interviews and distributing questionnaires to public authorities; (iii) researching publicly available data and databases; and (iv) analyzing the practice of public authorities and the Commissioner.

The third phase involved analyzing the collected data, compiling statistics, and drawing conclusions.

The fourth phase considered whether legislative amendments were necessary and, where appropriate, developed proposals for improving conditions in this field.

The fifth and final phase involved preparing and revising the draft report and presenting the final report.

All phases of the research were carried out by the study's coauthors.

VI RESEARCH TIMELINE

Phase	
I	August–October 2024
II	November 2024–June 2025
III	July 2025
IV	August 2025
V	September–October 2025

VII RESEARCH ETHICS

The research report was prepared without including any personal data concerning participants in the proceedings.

VIII FINDINGS AND DISCUSSION

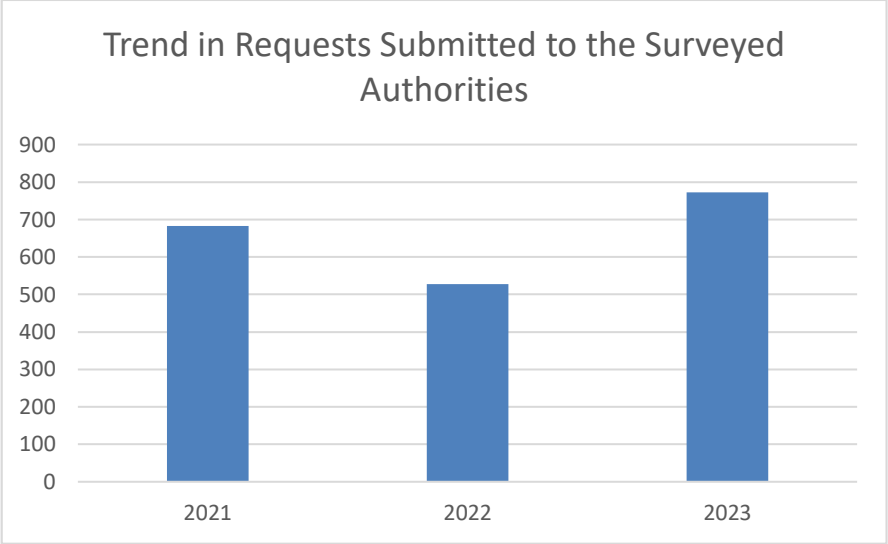
Various instruments were used to collect relevant data from which conclusions concerning the research topic could be drawn. The data obtained through each research instrument are presented below. The researchers' conclusions based on the research material are also presented, together with an analysis of the legislation in force.

(i) Questionnaires

To collect data on problems observed in practice when handling requests for access to information of public importance; identify forms of abuse; determine the objectives that requesters seek to achieve by abusing the right; and ascertain the consequences of such abuse and possible methods and proposals for preventing it, questionnaires were sent to national-level public authorities and to public authorities in southern Serbia. A sample questionnaire is included as an appendix to the Report.

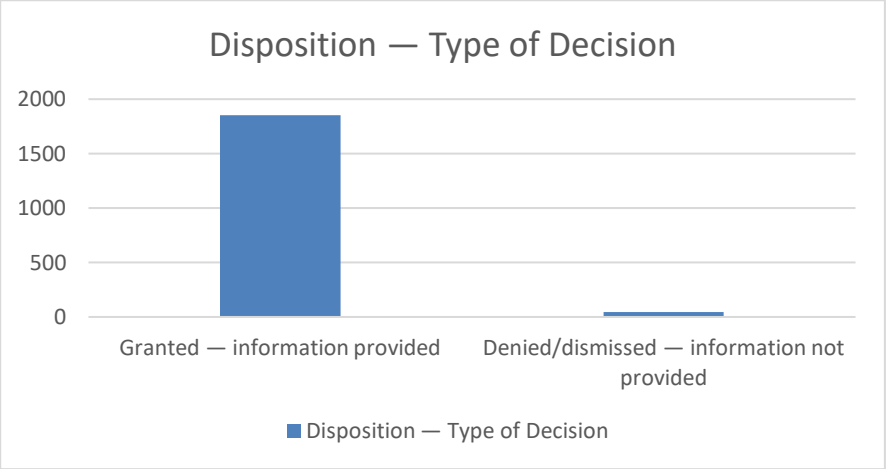
The questionnaire, accompanied by an invitation letter and a request to participate in the research, was sent to more than 20 national-level public authorities and public authorities in southern Serbia. Only 12 authorities responded. The National Employment Service was the sole national-level respondent. The sample from southern Serbia consisted of the Local Ombudsman of the City of Niš; the Medijana and Pantelej city municipalities; the Niš City Administration for City Authorities, Civil Status, and Human Resources; the Vranje and Leskovac city administrations; and the municipal administrations of Blace, Babušnica, Doljevac, Aleksinac, and Kuršumlija. By completing the questionnaire, these authorities contributed relevant information about their handling of the matters under study. The analysis of the responses was based on this sample of 12 authorities.

Analysis of the questionnaire data showed that the surveyed public authorities received a total of 683 requests for access to information of public importance in 2021, 527 in 2022, and 773 in 2023, indicating an upward trend in the number of requests submitted.



Notably, the Vranje City Administration received the largest number of requests in 2021 (214), while the Leskovac City Administration received the largest number in both 2022 (148) and 2023 (272). The Office of the Local Ombudsman of the City of Niš received no such requests in 2021, only one in 2022, and two in 2023.

Of all requests received by the authorities, 1,855 were resolved favorably. Data were unavailable for one municipal administration, although requests had been submitted to that authority during the period examined. A total of 46 requests were resolved unfavorably, again without data for the same municipal administration, while five respondents had no requests resolved unfavorably at all.



During the period examined, a total of 163 appeals were filed in the ordinary course and 47 appeals were filed on the ground of administrative silence.

When asked whether the public authority had paid costs incurred in proceedings on a request for access to information of public importance or pursuant to a second-instance decision of the Commissioner for Information of Public Importance, four respondents answered yes and the remaining eight answered no.

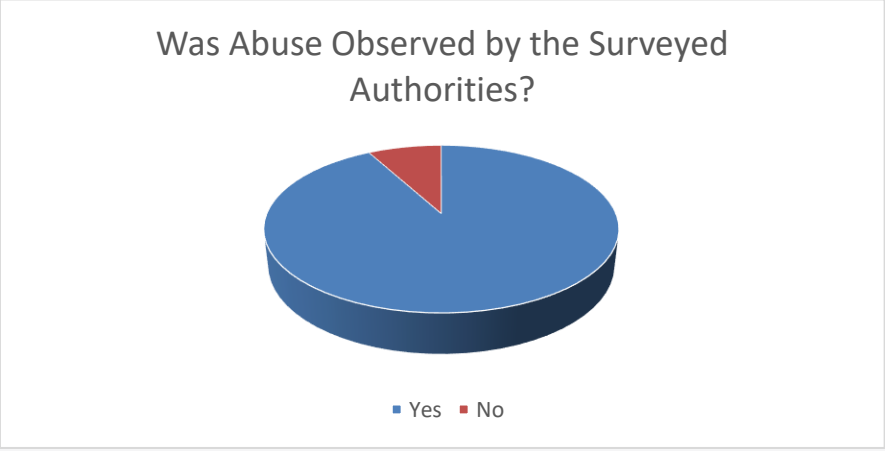
The authorities that answered yes were also asked to state the amounts paid. Analysis of their responses yielded the following data:

- In 2023, based on successful appeals, the Medijana City Municipality paid requesters a total of RSD 45,375.00 in costs;
- In 2022, based on successful appeals alleging administrative silence, the Niš City Administration for City Authorities, Civil Status, and Human Resources paid requesters a total of RSD 30,000.00 in costs;
- In 2023, based on successful appeals, the Doljevac Municipal Administration paid requesters a total of RSD 61,875.00 in costs;

- In 2022, based on successful appeals, the Vranje City Administration paid requesters a total of RSD 30,000.00 in costs.

The processed data further show that, in 2023, these authorities paid requesters a total of RSD 107,250.00 from their budgets for proceeding costs, while in 2022 they paid a total of RSD 60,000.00 for such costs.

As many as 92% of respondents reported observing abuse of the right to access information of public importance in practice, while 8% had not observed abuse of that right.

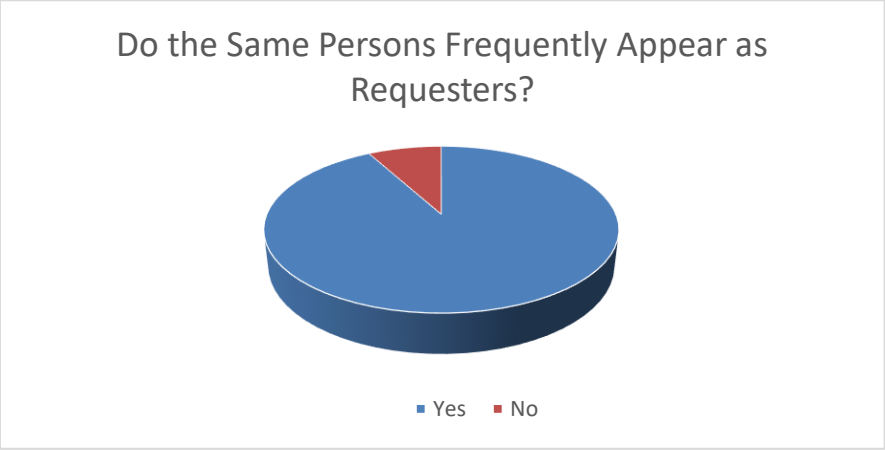


Respondents described various examples of observed abuse of the right to access information of public importance:

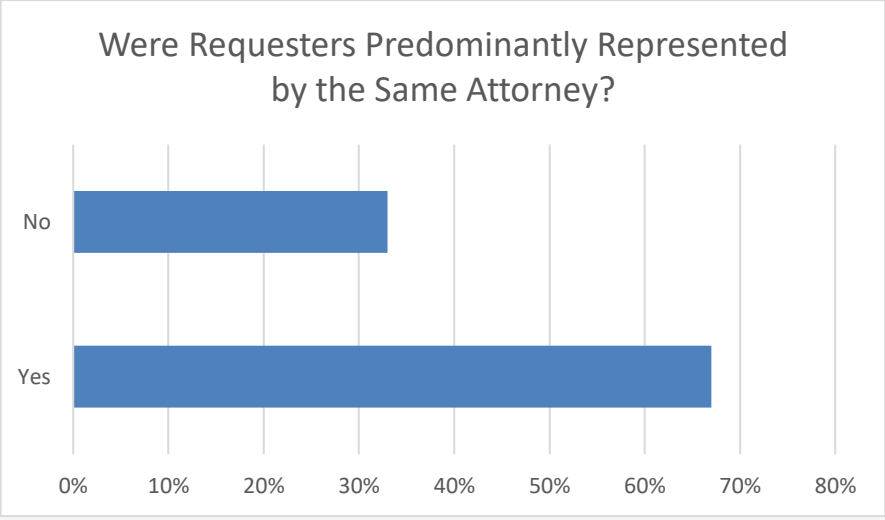
- submitting large numbers of identical or similar requests, often by the same or related persons, without a genuine need for the information;
- sending requests from an unofficial address without fully identifying the requester;
- requesting publicly available documents or information already held by the requester;

- filing an appeal to obtain financial gain, most often an award of attorney's fees;
- submitting requests during holidays or near the end of the business day;
- submitting requests that demand urgent action without a legal basis;
- seeking voluminous data covering different periods without a public interest in knowing that data;
- manipulating proof of receipt—for example, by failing to confirm receipt by email;
- insisting on inspecting documents even after a copy has been provided;
- using the right of access to induce procedural errors by public authorities and thereby create grounds for an appeal, a court action, or misdemeanor proceedings against the responsible person; and
- pursuing personal gain rather than the public's right to be informed.

When asked whether the same persons frequently appeared as information requesters, 92% of respondents answered yes and 8% answered no. Natural persons were identified most often, by 10 respondents, followed by associations, identified by five, and attorneys acting in their own names or as representatives, identified by four. Only two respondents mentioned the media and nongovernmental organizations, and they ranked them last.



As many as 67% of respondents observed that the same attorney represented natural persons in proceedings to obtain information of public importance. Seven respondents reported that attorneys first appeared when an appeal was filed with the Commissioner, while only two reported that attorneys appeared when the initial request was submitted. One respondent reported equal representation at both stages, and two lacked information on this issue. The remaining 33% had not observed a trend of the same attorneys representing requesters.



When asked what types of information were most frequently sought through requests for access to information of public importance, respondents gave various answers, including:

- data on the expenditure of public funds;
- data on salaries and other compensation paid to employees and public officials;
- budget and public-procurement data;
- data on competitions and public calls for associations and media outlets;
- information concerning the work of inspectorates, public-utility services, and assembly bodies;
- personnel data;
- data concerning job classifications;
- data on employees, attendance at work, and jubilee-award payments, including periods longer than ten years;
- health and environmental information, as well as information and documents originating from the work of other authorities.

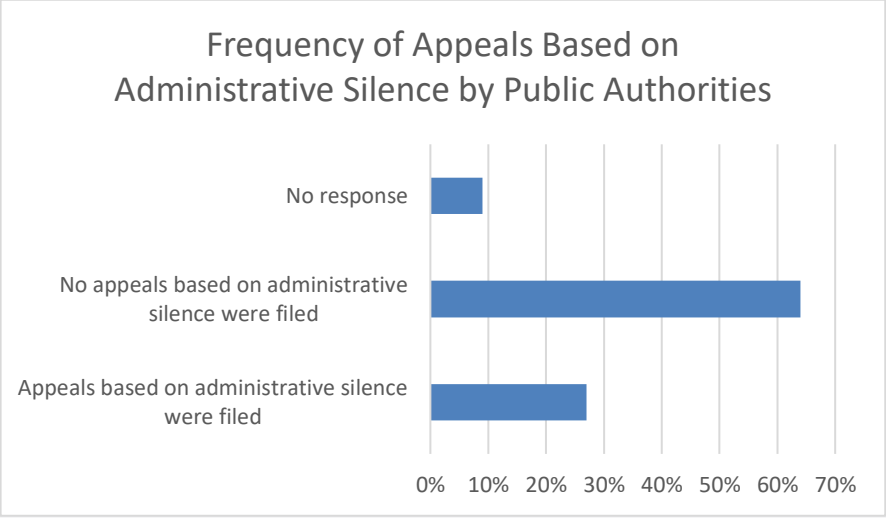
Some of the requested information often has no particular public significance and consists of generally known facts. This suggests that requests are not always filed to exercise the right to be informed, but sometimes to burden public authorities or for other purposes, such as initiating appeal proceedings and recovering costs.

None of the respondents had denied access to information of public importance on the ground of abuse. However, 50% had taken steps to prevent or sanction abuse, most often by notifying the Office of the Commissioner about observed abuses, frequent requesters, and identical requests sent to multiple authorities.

Only 11 respondents answered the question, "Have information requesters successfully argued on appeal that the doctrine of abuse of the right to access information of public importance was applied improperly and, if so, what were the reasons for the second-instance decision?" Of those respondents,

82% answered "No," 9% answered "Yes," and 9% gave a mixed answer. None stated the reasons for the second-instance decision.

Among respondents, 27% had experienced situations in which information requesters frequently filed appeals with the Commissioner based on administrative silence, while 64% had not. The remaining 9% did not answer the question.

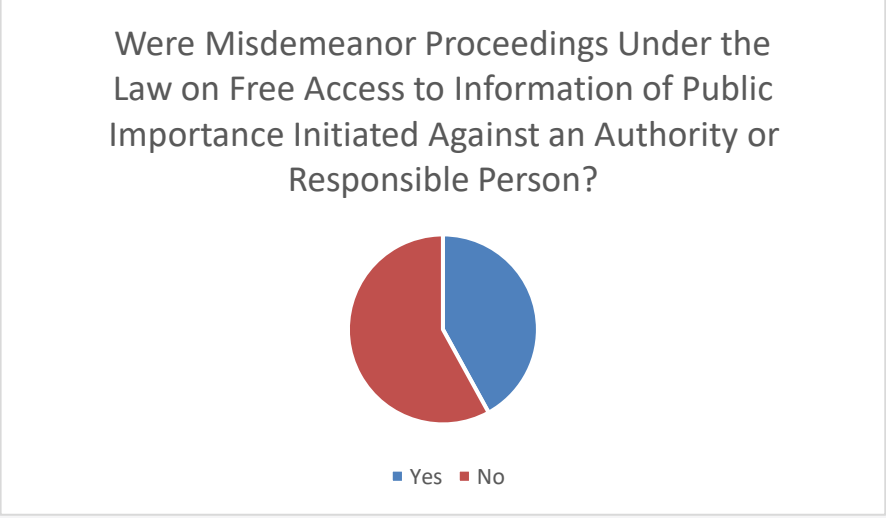


In appeal proceedings, 42% of respondents had been required to pay proceeding costs to information requesters acting as appellants, while 58% had not.

The authorities were also asked whether they perceived deficiencies in the Law's prevention and sanctioning of abuse and, if so, what those deficiencies were. As many as 92% answered yes. The most frequent response was the deletion of the statutory abuse doctrine. Respondents also cited the ability of requesters to demand information that is neither significant to the public nor in the interest of third parties because requesters need not demonstrate a legal interest, as well as the absence of adequate sanctions for abuse. They also identified the ability to submit an unlimited number of requests as a deficiency. Finally, one respondent proposed adding a provision under which attorneys would not be entitled to compensation for preparing an appeal

because an appeal form is available on the Commissioner's website and does not require an attorney to prepare it. The remaining 8% perceived no deficiency in the current Law.

Misdemeanor proceedings had been initiated by the Commissioner or an information requester against 42% of respondents; 58% had not experienced such proceedings. Of the respondents against which proceedings had been initiated, five stated that the proceedings were discontinued because the limitations period had expired or because no misdemeanor was found. In some cases, a warning or fine was imposed together with an obligation to reimburse proceeding costs. One respondent reported that, during the period examined, information requesters had initiated two misdemeanor proceedings: one concluded with rejection of the application, and the other with a misdemeanor fine of RSD 5,000.00. Another respondent stated that proceedings initiated by the Commissioner ended with a misdemeanor fine of RSD 15,000.00. For a third respondent, proceedings were initiated against the authorized person, who was found responsible, issued a warning, and ordered to pay RSD 27,500.00 in proceeding costs. The remaining respondents stated only that the authorized person had been penalized, without providing the outcome or other details.



Finally, 58% of respondents were aware that other public authorities had also encountered problems involving abuse of the right to access information of public importance, while 42% had no such knowledge. Respondents had learned of those problems indirectly, through communication with other public authorities or from the Commissioner's Report.

(ii) Focus Group

On April 2, 2025, a focus-group meeting was held with persons authorized to handle requests for access to information of public importance at several public authorities. The meeting sought to identify all circumstances relevant to problems observed in practice when such requests are handled; present the forms of abuse that had been observed; determine what requesters seek to achieve by abusing the right to access information of public importance; and identify the consequences of abuse and possible means of preventing it.

At the outset, participants unanimously observed that the number of requests began to rise when judicial practice changed concerning the costs of representation by an attorney in proceedings before the Commissioner for Information of Public Importance and Personal Data Protection. They raised questions about whether proceeding costs were justified and attributable to fault, and discussed the party's conduct during the proceedings and the model under which attorneys represented parties. They also observed a trend in which particular associations or similar groups, represented by the same attorney or group of attorneys, submitted identical requests. Participants further considered how effective deletion of the abuse doctrine from the current Law on Free Access to Information of Public Importance had been, whether the doctrine should be restored to the statutory framework, and whether another means could be found to curb abuse of the right.

One participant first emphasized abuses involving requests by natural persons seeking voluminous data from different fields and periods. Locating, sorting, and providing such large amounts of data takes time. Another problem is a requester's lack of patience

and understanding of how an administrative authority operates. After receiving a request, the responsible person must contact the unit holding the data, request its delivery, await a response, sort the material received, and prepare the authority's response. An authority may not hold certain data because another administrative body is competent, in which case it must forward that portion of the request or direct the requester to the competent authority. A further problem arises when, following an untimely response or denial of a request submitted by a natural person, an appeal drafted by an attorney is filed with the Commissioner and billed under the applicable attorney fee schedule. Another potential problem occurs when a party's request or a communication from the Commissioner is received and entered into the system on a Friday, when the response period begins to run. The weekend days are then lost, reducing the time available to act. This problem is particularly acute when a request is deliberately sent immediately before New Year's Day or another holiday, with knowledge that nonworking days are approaching, to cause a late response and permit a later appeal through an attorney.

Another example involved a requester who repeatedly submitted the same request concerning whether a person met the requirements for a particular job. The person had held that job for many years and nothing had changed, as the requester knew, so the authority issued the same answer to every request. This specific case also raises the question whether the requester had a legitimate interest.

One group of participants stated that they frequently encountered abuse of the right to access information of public importance and had observed the pattern of a natural person filing the initial request and an attorney later representing that person on appeal before the Commissioner. One example involved an association requesting a list of employees, gross and net salary data for a specified period, and identification of who had received the highest and lowest salary. On the request form, the association had selected all three options: delivery of the information, inspection of the documents, and delivery of copies containing the requested information. The request itself was unintelligible because it did not make clear precisely what information was sought or for what

period. When the authority returned the request for clarification, as was necessary, an attorney newly representing the requester submitted an amended request together with a new, identical request that also required clarification. Timely responses to all such requests demanded substantial effort and additional time. The participants resolved the problem by consolidating all such requests from the same association into a single case and invoking the excessive volume of the requested data and the inability to provide the information. They then received no further such requests, and the particular requester did not submit another request.

Another possible abuse arose after a towing service removed a vehicle for illegal parking. The requester sought the business or private telephone number of the employee who removed the vehicle, video recordings from the scene and from the impound lot, and information on whether third parties were present during the removal. The requester neither stated nor provided proof of whether he owned the vehicle or had merely been driving it at the relevant time. The request also stated that the information was needed to bring court proceedings against the person who removed the vehicle. The request was denied to protect the employee's privacy: the employee had merely performed assigned duties within the scope of the job. The authority regarded disclosure as an intrusion on the employee's privacy and found no public interest in making the information available at the request of a natural person. An appeal was filed against that decision, and the Commissioner's decision is pending.

Some participants stated that, although various laws require them to make certain information publicly available, citizens still request that information through access-to-information requests, creating additional work. They also identified problems with requests received by email that are not initially labeled as requests for access to information of public importance. Their nature becomes apparent only from the attached request, after part of the response period has already elapsed. Another problem involves circular requests—the same request sent by the same person to numerous authorities. One example was a request submitted by a natural person immediately before the Day of Mourning following

the fire in North Macedonia. The requester asked "which law was applied when deciding to lower flags to half-staff and whether they were lowered at all." Other focus-group participants confirmed that they had received the same request from the same person.

Another cited example involved an authority mailing a response to an attorney's request. The attorney refused to accept the document, and the authority was later fined because it was deemed not to have acted on the request in time. Similarly, when delivery by email is requested and the authority asks for confirmation of receipt, that confirmation is almost always withheld, creating opportunities for further abuse.

Participants also stated that abuse may occur when requests are not submitted to obtain information about an authority's work or operations, or information within its remit, but instead are standardized, frequent, and identical requests that demand effort and appear designed to hinder the authority's work. They again cited requests for employee lists, the total number of employees, gross and net salaries for different periods, months, or years, explanations of salary differences among groups of employees, and similar data. To respond without disclosing employment contracts and pay statements containing employees' personal data, the authority must spend time creating an employee list, entering the requested data, and explaining the job-classification and pay-grade systems—in other words, creating an entirely new document. While the authority handles one such request, several similar requests may arrive, further impeding timely action and leading to appeal proceedings before the Commissioner. At the same time, the public's right to know the data requested in this way cannot be disregarded.

Another notable example involves requesters who repeatedly submit unintelligible or incomplete requests because they provide no address and do not specify the data sought. The authority must return the request for correction, burdening it with repeatedly seeking clarification or interpreting such requests. In one striking case, a city administrative authority received a request for access to information of public importance identifying the requester only as Donald Duck, without further detail. This example illustrates the

extent to which persons who abuse the right trivialize the entire process and the statutory rights involved, and it reflects their attitude toward the public authority.

Participants reported that, from July 2023 through September 2024, one association filed a total of 2,337 appeals with the Commissioner through an attorney.

A final problem is that authorities subject to the Law on Free Access to Information of Public Importance must appoint a person authorized to handle access-to-information requests, but often appoint someone who already performs another function within the authority. That person must carry out the duties of the primary position in addition to handling free-access matters. The problem could be addressed by appointing a person whose sole responsibility is handling requests for access to information of public importance and who specializes in that field. Meetings or conferences attended by authorized persons from different authorities could also help harmonize practice, facilitate recognition of abuse, and support the exchange of experience and views.

The representatives present unanimously identified the Administrative Court's adoption—or change—of its position on recovery of costs in appeal proceedings before the Commissioner as a principal cause of the problem. Under that position, appellants are entitled to reimbursement of representation costs when the Commissioner finds an appeal well-founded—that is, when the Commissioner orders the public authority to provide free access to information of public importance, to notify the requester whether it holds the requested information, or when the Commissioner vacates the first-instance decision and remands the matter for reconsideration. After more than 13 years, the Administrative Court changed its position and held that public authorities must reimburse appellants for attorney-representation costs whenever the Commissioner finds the appeal well-founded. The applicable attorney fee schedule is high, so the obligation to pay attorney's fees places an additional burden on public-authority budgets and has financial consequences. It is evident that some individuals and associations use the free-access mechanism not to advance the

public interest, but to obtain financial gain or obstruct the work of public authorities.

(iii) Interview with a Representative of the Office of the Commissioner for Information of Public Importance and Personal Data Protection

On May 22, 2025, the researchers interviewed Slavoljupka Pavlović, a representative of the Office of the Commissioner for Information of Public Importance and Personal Data Protection. The interview sought information directly from a person who handles second-instance proceedings—appeals against decisions by public authorities on requests for access to information of public importance and appeals based on failure to decide those requests. The questions and answers from the interview follow.

1. **What are the most prevalent forms of abuse of the right to access information of public importance?**

In the representative's view, the legal position adopted at the plenary session of the Administrative Court on June 21, 2022 was the principal cause of the increase in abuse of the right to access information of public importance.

Under the legal position adopted by all judges of the Administrative Court on June 21, 2022, future administrative disputes challenging the portion of a Commissioner's decision concerning costs were to be resolved in accordance with decision 12 U 16603/19.[8] In judgment 12 U 16603/19 of March 3, 2020, the panel relied on Article 86(6) of the Law on General Administrative Procedure, which provides that when an appeal is upheld, the authority that decided at first instance bears the costs of the second-instance proceedings. The panel held that, in the challenged second-instance decision, the Commissioner—as the defendant authority—had upheld the appeal and vacated the public authority's decision but denied reimbursement of proceeding

[8] https://www.up.sud.rs/wp-content/uploads/2023/06/1678285367Bilten-Upravni-sud-9-2022.pdf

costs, and therefore should have ordered the first-instance authority, as the information provider, to reimburse the plaintiff for the cost of preparing the appeal.

According to the representative, certain attorneys recognized an opportunity to obtain proceeding-cost awards because the right to access information is particularly susceptible to this form of abuse. The right is guaranteed by the Constitution and international instruments, and Serbia's law governing access to information of public importance is sound and liberal. Any person may submit a request without limitation and need not demonstrate a legal interest. Many other proceedings require proof of a legal interest; access-to-information proceedings do not. The right can therefore be abused through its ostensible exercise by persons with no genuine interest in the requested information, for the purpose of recovering attorney's fees in appeal proceedings and proceedings based on administrative silence.

Other cases involve information requesters who are in conflict with a particular public authority and inundate that authority with access-to-information requests. Those cases, however, are much less common than cases in which the primary objective is recovery of proceeding costs from the public budget.

2. What recurring examples of observed abuse have arisen?

In the representative's view, a lack of professionalism, integrity, and ethical principles is the fundamental reason for the large number of abuses. To avoid encouraging further abuse by publicizing adverse examples and ideas, particularly among attorneys, the Office of the Commissioner stopped publishing individual data on different forms of abuse.

According to informal information known to the Office of the Commissioner, attorneys employ people whose task is to prepare a specified number of submissions each day so that a daily quota is met for requests for access to information of public importance, appeals to the Commissioner, or actions before the Administrative Court. First, a model request is prepared seeking standardized, recurring information—for example, the five highest or lowest salary payments or fuel costs at a public authority—and only the authority's name is changed. Such requests are sent to dozens or

hundreds of addresses. An appeal based on "administrative silence" is filed on day 16, because the statutory response period is 15 days, without waiting for or analyzing the authority's response. The appeals are standardized and identical regardless of the response and documents received, and are filed to burden public authorities and the Office of the Commissioner. Most are unfounded, but the Commissioner must decide them nonetheless. The Commissioner's report shows a large number of rejected appeals, very often because unfounded appeals were filed even after access had been provided. This indicates that the purpose is not to challenge the first-instance decision, but to inundate the Office of the Commissioner with appeals so that actions may later be filed with the Administrative Court based on the Commissioner's administrative silence.

Requests are also artificially divided even when they could be submitted as one request. Thus, 50 separate requests may be submitted with the evident purpose of burdening a public authority. One memorable case from the Commissioner's practice involved an attorney who, on behalf of a client, submitted 35 access-to-information requests to a single school on the same day. The requests sought data on the number of students by academic performance and school year, whether the school used LED or conventional lightbulbs, and how many balls the school had in its gym.

The manner in which such requests are made and the types of information sought show that the objective is not to exercise the public's right to know, but solely to recover proceeding costs from the budget and prevent public authorities from responding promptly.

The Office of the Commissioner has also observed cooperation between law offices and postal workers who retain mail until deadlines expire.

The Office of the Commissioner filed criminal complaints in egregious cases.

3. What types of information are most frequently requested in practice, and can they be linked to abuse?

Requests frequently seek information that has no public significance.

One example involved an attorney who, on behalf and for the account of requesters, asked local communities whether a soccer field was registered and how many balls, goals, and soccer players they had. In another case, an attorney acting as a representative asked health-care institutions for the serial number of an order to drill a tooth in the dental service.

In one case, a requester acting through an attorney sought inspection, a copy, and notice of information contained in a document. Many public authorities supplied a copy and considered the request satisfied. They did not, however, issue a decision permitting inspection. Acting as the second-instance authority, the Commissioner ordered the first-instance authority to permit inspection and notify the requester of the time for inspection. Because the requester prevailed on appeal, the first-instance authority was also required to pay the costs. In the renewed proceedings implementing the second-instance decision, inspection was made available, but no one appeared at the appointed time. This shows that the sole purpose of the appeal asserting the formal omission—failure to permit inspection or provide notice of the inspection time—was to obtain costs in the second-instance proceedings, not to exercise the right of inspection. Because of the number of requests and the geographic dispersion of the authorities from which information was sought, the attorney who filed the appeals based on failure to permit inspection had no practical ability to attend all the inspections made available.

The conclusion is that requesters ostensibly seek information that unquestionably must be publicly available, particularly because it concerns expenditure of public funds. Their conduct, however, shows that they are not genuinely interested in the information itself. Their later behavior demonstrates that the objective is not to obtain the information, but solely to recover proceeding costs.

4. What types and characteristics of requesters have been observed?

In cases where abuse was observed, attorneys generally acted as representatives of the requesters.

Attorneys organize teams to submit requests. In one observed case, a natural person acting as an information requester retained an attorney for representation in proceedings to obtain information of public importance. The attorney then authorized that same client to collect the Commissioner's decision. This suggests that the person was engaged in some capacity as part of an organized group that carried out the work associated with submitting requests. Although such arrangements may be apparent in practice, proving them as a form of abuse before the Administrative Court is difficult.

It has also been observed that a requester who is an attorney engages another attorney. A person who was the requester in one matter appears in a new request as the attorney for a person who had acted as an attorney in another proceeding. These are persons working in the same office who engage one another and alternate between the roles of party and attorney. It is not a typical attorney–client relationship; instead, the attorney has "engaged" the party.

Politically delicate or sensitive information is never sought in these cases. Abuse generally involves standardized information.

Requesters target public authorities with the least capacity: local communities, preschools, schools, primary health-care centers, social-work centers in small communities, authorities with limited human resources, and authorities without lawyers. Formally, an authority's status is not legally relevant, but it matters when abuse is assessed.

The problem of abuse of the right to access information of public importance appears to have begun in southern Serbia—in Niš, Vranje, and Surdulica. Requests are now submitted to public authorities throughout the country.

5. How have legislative amendments affected the ability—or inability—to prevent abuse?

Before the latest amendments to the Law, adopted in November 2021 and applicable since February 2022, a requester did not have to appeal to the Commissioner before filing an application to initiate misdemeanor proceedings. Information requesters could file directly, leaving the misdemeanor courts to determine and explain whether abuse existed.

After the Law was amended, an application to initiate misdemeanor proceedings could no longer be filed directly. An appeal must first be filed with the Commissioner. Only if the Commissioner does not issue a misdemeanor order may the party submit an application to the misdemeanor court to initiate misdemeanor proceedings.

In the representative's view, the current Law does not make it possible to prevent abuse effectively. Authorities are required to provide information that the parties will not use.

In the representative's view, the prohibition of abuse need not be expressly codified because it is a generally applicable legal principle that officials charged with protecting the public interest may derive through systemic interpretation of the legislation.

Abuse is not solely a question of applying the Law on Free Access to Information of Public Importance. It also concerns society's system of values and, above all, the ethics and morality of attorneys. An attorney must possess integrity and be guided by ethical principles. Bar associations, which exercise broad public powers, should play a more active role in disciplinary proceedings.

The burden placed on the Administrative Court by access-to-information cases—generally brought by attorneys—limits individuals' ability to resolve matters affecting their livelihoods. Through its decisions, the Administrative Court should halt abuses that predominantly originate with attorneys. Public authorities and the Commissioner must do the same through existing mechanisms. First-instance public authorities and the courts bear the greatest burden of proving abuse.

Dramatic differences have also been observed between attorney fee schedules in Serbia and other countries for preparing actions based on administrative silence. The high fees prescribed by the Serbian Bar Association give attorneys an incentive to prepare such actions.

The consequences of abuse are not solely financial, although financial harm is most visible. Nonfinancial consequences are also significant: impairing the rights of others, restricting access to justice before the courts and the Commissioner, and limiting the ability of environmental activists, investigative journalists, and citizens to exercise the right to easy, prompt, and effective access to information.

6. **Before the Law was amended, was abuse successfully sanctioned in practice, and if so, how?**

In the earlier period, abuse was not widespread.

There were cases in which numerous misdemeanor proceedings were initiated, which burdened the misdemeanor courts to some extent. The scale, however, was not significant, unlike today.

The Administrative Court's change of position on proceeding costs at its 105th session was the event that contributed most to the increase in the number of abuses.

7. **What deficiencies were observed in the reasoning of public-authority decisions denying access on grounds of abuse, and was the abuse doctrine applied improperly?**

Before the Administrative Court changed its position on costs in access-to-information proceedings, and while the statutory abuse doctrine still existed, public authorities engaged in the phenomenon of "abusing the abuse doctrine" by invoking abuse uncritically in their decisions.

One example involved a journalist from the only media outlet in a community. The public authority considered the journalist's repeated requests an abuse. In the representative's view, a journalist asking questions of public importance to the local community cannot be abusing the right. In some cases, public authorities also considered that a citizen could not "oversee the salary of a public-enterprise director" because budget inspection performed that oversight; such circumstances were therefore classified as abuse.

In most cases, public authorities' reliance on abuse was unfounded. For that reason, the "SIGMA" Initiative[9] insisted that the doctrine be deleted.

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[9]A joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the EU, intended to strengthen and improve public-administration systems in countries covered by the EU enlargement and neighborhood policies.

Today, however, when genuine abuses exist, the doctrine is no longer available.

The amendments also brought positive changes, including personal responsibility for authorized persons. Previously, approximately 80% of appeals were based on administrative silence. With personal responsibility now in place, the proportion has fallen to 40%.

8. How is abuse identified and proved?

In numerous decisions, the Commissioner has taken the position that the prohibition of abuse is a general legal principle. In cases where abuse was observed, appeals were rejected by reference to protection of the public interest and third-party rights.

Those cases involved an in-depth analysis. The Commissioner examined the requester's conduct before the Administrative Court changed its position; appeals filed through attorneys; the individual conduct of the requester; and the requester's treatment of the documents received. The decisions contained extensive reasoning that investigated and demonstrated an evident abuse of rights. Because such decisions limit a right, they could not be arbitrary or unexplained. A right cannot be restricted arbitrarily, and a decision must therefore explain carefully why the legal and moral boundary was crossed so that the conduct qualifies as an abuse.

In cases where the Commissioner failed to issue a second-instance decision within the statutory period and an action was filed based on the Commissioner's administrative silence, the Commissioner later issued a decision rejecting the appeal. The plaintiffs did not amend their previously filed actions before the Administrative Court to challenge the newly issued decision. Instead, they stated that they were satisfied with the subsequent decision rejecting their appeal. The Administrative Court discontinued the administrative disputes but awarded the plaintiffs costs because their actions based on administrative silence had succeeded. This example shows that the requester had no substantive interest in the outcome or in access to the information; the sole objective was plainly to recover proceeding costs.

9. Should the statutory abuse doctrine be restored to the Law?

Restoring the doctrine of abuse of the right to access information of public importance to the Law would be a double-edged sword.

Based on current experience, the representative believes that restoring the doctrine would probably be preferable, but it should be defined more precisely. In particular, the Law should specify circumstances in which the doctrine cannot apply, such as requests made by journalists.

If the doctrine is restored, it must be understood as an exception and interpreted narrowly. Its application would require greater responsibility from all participants—public authorities, the Commissioner, attorneys, and courts—particularly in their dealings with citizens.

The Law should be amended as soon as possible.

(iv) Data from the Office of the Commissioner

The researchers requested various categories of data from the Office of the Commissioner that could support conclusions concerning the existence of abuse. They requested data for 2023 and 2024—the years following the Administrative Court's change of position on the award of proceeding costs, during which recurring patterns of requester conduct became established. In some instances, the Office provided information for other periods or more detailed data than requested. Those data are identified and presented because they permit a more complete assessment of the problem.

1. The ten public authorities whose decisions generated the largest numbers of appeals

In 2023 and 2024 combined, the largest numbers of appeals to the Commissioner were filed against decisions—formal decisions, conclusions, notices having the elements of a decision, and various other responses—issued by the following public authorities:

- Ministry of the Interior — 520 appeals;

- Pension and Disability Insurance Fund — 518 appeals;
- Air Serbia — 447 appeals;
- Koceljeva Municipal Administration — 374 appeals;
- Telekom Srbija — 371 appeals;
- Republic Geodetic Authority — 328 appeals;
- Vlasotince Municipal Administration — 325 appeals;
- Administration for the Enforcement of Criminal Sanctions, including correctional institutions — 268 appeals;
- Republic Health Insurance Fund — 160 appeals;
- Belgrade City Administration — 144 appeals;
- Electric Power Industry of Serbia — 125 appeals.

2. The ten public authorities whose failure to act generated the largest numbers of appeals based on administrative silence

In 2023 and 2024 combined, the largest numbers of appeals to the Commissioner based on administrative silence were filed against the following public authorities:

- Public Enterprise Srbijagas — 1,385 appeals;
- Pension and Disability Insurance Fund — 461 appeals;
- Air Serbia — 433 appeals;
- Ministry of the Interior — 272 appeals;
- Republic Health Insurance Fund — 203 appeals;
- Koceljeva Municipal Administration — 192 appeals;
- Administration for the Enforcement of Criminal Sanctions, including correctional institutions — 189 appeals;
- Telekom Srbija — 187 appeals;

- Belgrade City Administration — 175 appeals;
- Vlasotince Municipal Administration — 77 appeals.

3. Numbers of appeals filed by the ten most frequent appellants or by appellants who filed large numbers of appeals

Data for 2023 and 2024 were examined separately and are presented by requester category.

a. Media

2023:

- CINS — 29;
- N1 — 16;
- Youth Association of Journalists of Serbia — 15;
- Radio Free Europe — 12;
- CINS, second requester from the organization — 12;
- BIRN — 11;
- Pištaljka — 12.

2024:

- BIRN — 25;
- CINS — 14;
- CINS, second requester from the organization — 11;
- SNEWS Novi Pazar — 7;
- Žig Info Media Center — 7;
- CINS, third requester from the organization — 5;
- Pištaljka — 5.

b. Nongovernmental organizations and associations

2023:

- Center for the Rule of Law — 1,288, through attorney I. N.;
- PraviLaw Association — 257, of which 256 were filed through attorney D. V. and one through attorney T. M.;
- Protecta Center for the Development of Civil Society — 88, of which 85 were filed through attorney J. V. and three through attorney M. M.;
- Spektra Center for Human Rights and Civil Society Development — 126, of which 123 were filed through attorney S. M. and three through attorney J. V.

2024:

- Center for the Rule of Law — 1,508, through attorney I. N.;
- Association of Politically Persecuted Persons and Victims of Acts of Torture and Crimes Against Humanity — 114, of which 113 were filed through attorney M. T.;
- Exclusive Discovery Association, Leskovac — 96, of which 61 were filed through attorney L. R. and 35 through attorney M. V.;
- AEP Environmental Protection Association — 56, through four attorneys.

c. Citizens

2023:

- Citizen 1 — 3,133, of which 3,130 were filed through attorney B. Č.;
- Citizen 2 — 1,299, through attorney N. Đ.;
- Citizen 3 — 668, through attorney M. S.;
- Citizen 4 — 544, through attorney B. Č.;

- Citizen 5 — 498, through attorney M. S.;
- Citizen 6 — 461, through attorney B. Č.;
- Citizen 7 — 269, of which 244 were filed through attorney M. Š. and 25 through attorney M. C.;
- Citizen 8 — 276;
- Citizen 9 — 219, through attorney D. N.;
- Citizen 10 — 211, through attorney B. Č.;
- Citizen 11 — 183, of which 160 were filed through two attorneys;
- Citizen 12 — 155, through attorney B. Č.;
- Citizen 13 — 175, through four different attorneys;
- Citizen 14 — 149, of which 146 were filed through attorney B. G. and 3 through attorney S. G.

2024:

- Citizen 1 — 602, of which 149 were filed through two attorneys;
- Citizen 2 — 484;
- Citizen 3 — 229, of which 212 were filed through four attorneys;
- Citizen 4 — 191;
- Citizen 5 — 184, through attorney M. V.;
- Citizen 6 — 179, through attorney S. D.;
- Citizen 7 — 116, through attorney N. Đ.;
- Citizen 8 — 94, through attorney M. M.;
- Citizen 9 — 82, through attorney M. V.

4. Recurring attorneys: the ten attorneys who filed the largest numbers of appeals as representatives of information requesters

1. **Attorney B. Č.**
- 4,892 appeals in 2023
- 18 appeals in 2024

2. **Attorney N. Đ.**
- 71 appeals in 2022
- 1,300 appeals in 2023
- 128 appeals in 2024

3. **Attorney I. N.**
- 8 appeals in 2022
- 1,288 appeals in 2023
- 1,508 appeals in 2024

4. **Attorney M. S.**
- 1,233 appeals in 2023
- 57 appeals in 2024

5. **Attorney L. B.**
- 297 appeals in 2024

6. **Attorney D. V.**
- 51 appeals in 2022
- 257 appeals in 2023
- 7 appeals in 2024

7. **Attorney D. N.**
- 109 appeals in 2022
- 313 appeals in 2023
- 10 appeals in 2024

8. **Attorney M. V.**
- 318 appeals in 2024

9. **Attorney M. J.**
- 1 appeal in 2022
- 128 appeals in 2023
- 122 appeals in 2024

10. **Attorney M. D.**
- 23 appeals in 2023
- 235 appeals in 2024

11. **Attorney M. B.**
- 244 appeals in 2023

12. **Attorney M. B.**
- 181 appeals in 2023
- 227 appeals in 2024

13. **Attorney N. M.**
- 193 appeals in 2023

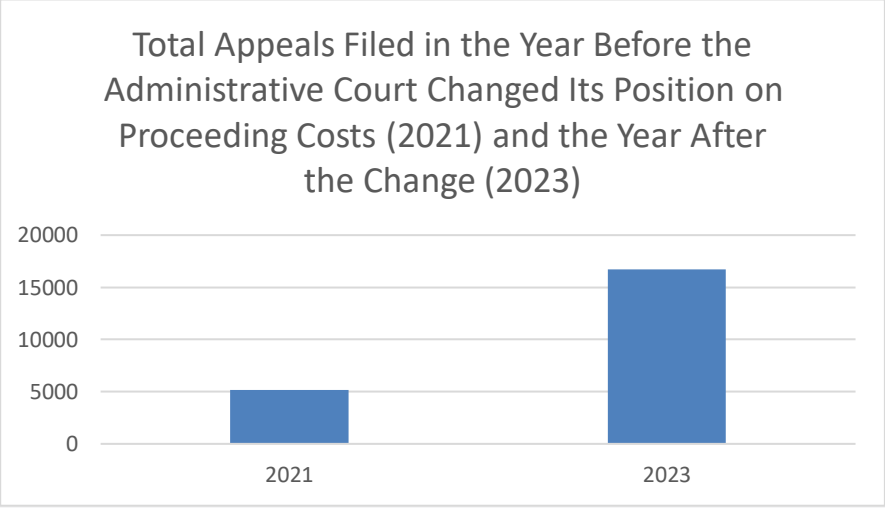
14. **Attorney S. S.**
- 160 appeals in 2024

15. **Attorney S. G.**
- 263 appeals in 2023
- 33 appeals in 2024

16. **Attorney S. D.**
- 208 appeals in 2024

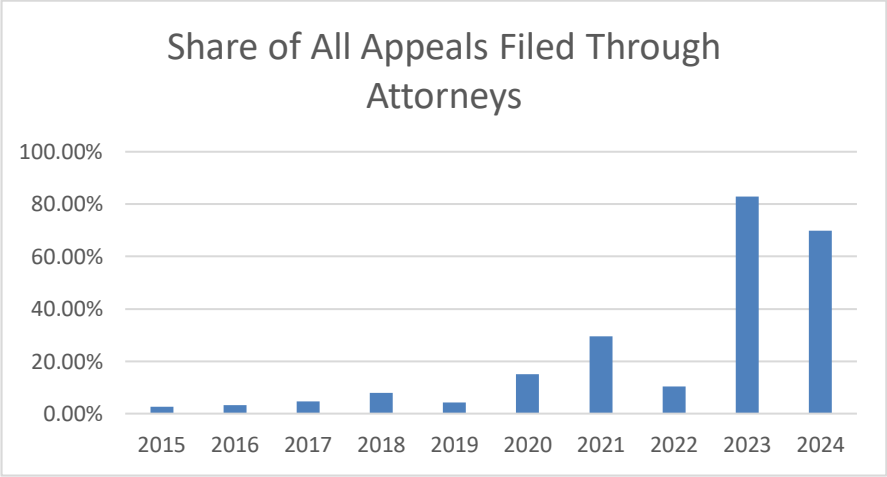
5. **Total appeals filed in the year before the Administrative Court changed its position on proceeding costs (2021) and the year following that change (2023)**

2021 — 5,174 appeals
2023 — 16,711 appeals



6. **Percentage of all appeals filed through attorneys**
- 2015 — 2.73%

- 2016 — 3.32%
- 2017 — 4.6%
- 2018 — 8.02%
- 2019 — 4.35%
- 2020 — 14.97%
- 2021 — 29.53%
- 2022 — 10.45%
- 2023 — 82.82%
- 2024 — 69.95%.



7. Data on attorneys who acted in cases in which the Commissioner ordered first-instance authorities to pay appeal-proceeding costs, together with the aggregate costs awarded in the cases handled by each attorney

As of April 30, 2025, the Commissioner had ordered first-instance authorities to pay a total of RSD 70,504,600.00 in costs arising from appeal proceedings.

- **I. N. — RSD 9,083,250.00;**
- **B. Č. — RSD 8,617,125.00;**

- **D. V. — RSD 4,240,500.00;**
- **N. M. — RSD 3,836,250.00;**
- **N. Đ. — RSD 3,126,750.00;**
- **B. G. — RSD 2,821,500.00;**
- **L. Đ. — RSD 2,099,625.00;**
- **S. G. — RSD 1,674,000.00;**
- **V. M. — RSD 1,540,875.00;**
- **L. B. — RSD 1,076,625.00.**

(v) Analysis of Current Practice and Legislation

The data collected during the research show that abuse of the right to access information of public importance is widespread and has significant consequences.

The data reveal a variety of tactics, mechanisms, and opportunities used to abuse the right. The most significant are identified and discussed below.

- **Geographic dispersal of requests among public authorities**

Requests are not concentrated within a single public authority, but are submitted to numerous authorities of the same or a similar type throughout the country. As a rule, requests are sent to the same type of authority simultaneously or within a short period.

This approach is practical because data are requested through a standardized template in which only the public authority's name generally changes. Requests are sent by mail, and the filing date is deemed to be the date on which the item was delivered to the postal service. This shortens the period during which the authority can respond and creates conditions for filing numerous appeals based on administrative silence at the same time. If the Office of the Commissioner cannot process all cases promptly, conditions are also created for a subsequent demand

that the Commissioner decide and for an action based on the administrative silence of the Commissioner as the second-instance authority.

- **Standardized requests**

Identical or substantially similar requests are submitted, seeking the same types of information characteristic of a particular kind of public authority. This substantially simplifies the requesters' "work" and enables them to submit large numbers of requests simultaneously to hundreds of addresses using an established template that requires little adaptation. They select data characteristic of the work of a particular information holder, as well as data common to different types of authorities, so no individual tailoring or specification is required.

- **Volume of data and difficulty of collection**

Requests seek large amounts of data or data that are difficult to obtain within a short period because the process requires the participation of different units within an authority, analysis, retrieval from various electronic or physical databases and archives, and transmission. The requests generally concern financial or statistical data that are not necessarily easy to determine or communicate. Some requests seek extreme values, such as the highest or lowest salaries paid, so that dispersing the inquiry makes it harder for the authority to process it in a focused manner. Requests sometimes seek data from several organizational units at once, complicating the authority's internal collection process.

- **Publicly available data**

Requests seek data that are already publicly available. Most often, this is financial information—such as budgets, expenditures, or salaries—that is published in the ordinary course. The purpose is not to collect data, but to create a basis for pursuing legal remedies.

- **Irrelevant data**

Requests seek data that the public is entitled to know but that objectively have no significance or interest for either the public or the requester. They also seek data that the public authority does not hold. Requesters often state that they are inspecting or

monitoring data or conducting research in the field to which the requested data relate, thereby attempting to justify their apparent interest. Although the Law does not require a requester to demonstrate an interest, such requesters seek to make their requests appear legitimate. The actual purpose becomes evident over time when it is established that they had no genuine need for the information or were simultaneously submitting numerous requests with differing characteristics.

- **Exploiting limited institutional capacity**

Requesters target authorities whose resources are limited or already overextended, particularly those without specialists responsible for access to information of public importance. Such requests typically target schools, preschools, and social-work centers—institutions with limited material resources. They also target entities subject to the Law that have virtually no capacity to provide an adequate response and often lack awareness of their obligations under the Law on Free Access to Information of Public Importance, such as local communities, sports clubs, and associations that use public sports grounds. Requesters also attempt to inundate authorities with an excessive number of requests so that responses cannot be provided within the statutory period, thereby creating an opportunity to appeal on grounds of administrative silence and recover proceeding costs.

- **Exploiting procedural defects**

Information requesters exploit every procedural defect, incomplete response, or delay by a public authority to file an appeal or an application to initiate misdemeanor proceedings. This conduct makes clear that the principal objective is not to obtain information, but to initiate other proceedings or use other procedural mechanisms that may generate additional costs and thus produce financial gain. In some situations, it is reasonable to conclude that the authority's omission was not intentional or designed to deny the right, and that access could have been obtained through a supplemental or new request. Instead, requesters pursue legal remedies, successfully challenging the legality of the first-instance proceedings and thereby recovering costs.

- **Exploiting statutory deadlines and rules governing filing and service**

The deadlines for action by public authorities are short. A request sent by registered mail is deemed filed on the day it is delivered to the postal service, further shortening the period available to the authority. At the other end, the requester must receive the response within that same period, even though postal delivery may extend beyond the statutory deadline through no fault of the authority. Requesters exploit the time required for postal delivery and the statutory rules governing the filing of submissions and notice to parties.

- **Exploiting institutional overload**

Most public authorities have no unit whose sole responsibility is handling requests for access to information of public importance. Instead, individual officials receive this work as part of their portfolios in addition to their primary official duties. Submitting large numbers of requests therefore overburdens public authorities. The Commissioner is likewise overburdened when many appeals are filed within a short period, preventing the Office from issuing second-instance decisions within the relatively short statutory deadlines.

A well-known case in the Commissioner's practice involved related persons from Vranje who filed more than five thousand appeals within a short period during the summer 2022 vacation season. The number received in a single month exceeded the five-year annual average of approximately four thousand appeals. They filed appeals based on administrative silence as well as appeals against decisions that public authorities issued on the requests after the administrative-silence appeals had been filed. During that period, the entire capacity of the Office of the Commissioner was committed to processing the unexpected influx within the statutory period and preventing actions based on administrative silence. This produced substantial savings, measured in tens of millions of dinars, that the Commissioner—as the defendant authority in actions before the Administrative Court based on administrative silence—would otherwise have had to pay if the appeals had not been decided in time. The work of the Office was slowed because,

after receiving these appeals, it devoted most of its activity to deciding the appeals filed by those persons.[10]

- **Absence of risk to the requester**

An information requester cannot suffer adverse consequences in proceedings to exercise the right of access. Most importantly, the requester cannot be ordered to bear proceeding costs. The absence of risk is one of the principal drivers of the mass submission of requests. Attorney-representation costs need not be paid in advance, so the requester's total expense may be limited to postage; moreover, a request may be filed electronically.

Data from the public authorities that participated by answering the questionnaire and attending the focus group indicate that most had not been significantly affected by large-scale abuse in access-to-information proceedings during the preceding period.

Some of the surveyed authorities appeared to be more frequent potential targets of abuse, as reflected by the number of requests filed. Those authorities, however, did not identify other characteristic requester conduct to an extent that would support a finding of systemic abuse. They successfully managed the influx of requests for access to information of public importance, most of which were resolved favorably by providing a response or the requested information. Abuses were sporadic and not sufficiently prevalent to identify a concentrated pattern among the surveyed public authorities in southern Serbia.

The authorities' data also show that they did not pay unusually disproportionate proceeding costs. Some reported paying costs for attorney representation, but neither the number of such cases nor the amounts paid indicate systemic abuse.

Despite these statistical data—which may indicate the presence of abuse but do not establish a systemic problem—a majority of the surveyed authorities, indeed almost all of them, reported observing abuses. Those abuses most often consisted of seeking large amounts of data, submitting large numbers of requests, manipulating delivery or requester information,

[10]Report on the Work of the Commissioner for Information of Public Importance and Personal Data Protection for 2022, Belgrade, March 2023.

strategically timing requests, and filing requests to obtain personal gain.

Almost all authorities observed that the same persons frequently appeared as requesters, and a majority also observed attorneys representing requesters of information of public importance.

The requested data fell predominantly into two broad categories: expenditure of public funds, and employment status and compensation. These are the most typical forms of data and were generally requested from most authorities participating in the research.

Appeals were filed with the Commissioner against public-authority decisions in a smaller number of cases, and only some of those authorities were required to pay proceeding costs to requesters.

The conclusions drawn from public-authority practice indicate that the Administrative Court's change of position concerning reimbursement of the costs of representation by an attorney in access-to-information proceedings contributed to a substantial increase in the number of requests, an increase in requests submitted by associations or similar groups represented by attorneys, and the use of requests with identical content.

A recurring pattern is that a natural person submits the request, while an attorney appears later as representative, beginning at the appeal stage. This approach is common because the party cannot recover costs at the request stage: those administrative proceedings are initiated on the party's request and in the party's interest. A party that prevails on appeal, however, may recover the resulting costs from the first-instance authority. To give the authority the impression that the party is unrepresented, the requester therefore files directly, while an attorney appears only when the appeal is filed.

Unlike the data from public authorities in southern Serbia, the data supplied by the Office of the Commissioner reliably establish that abuse of the right to access information of public importance is widespread throughout the country and enormous in scale.

The number of appeals unquestionably multiplied after the Administrative Court changed its position on awards of appeal-proceeding costs to requesters: it tripled. The share of appeals filed through attorneys also increased. In the year before the Court

changed its position, approximately 30% of appeals were filed through attorneys; by 2023, the share exceeded 80%.

The data also show that requests were deliberately directed in large numbers to particular public authorities and that particular participants stand out because of their dominant presence. Among public authorities, the Ministry of the Interior, the Pension and Disability Insurance Fund, Public Enterprise Srbijagas, and Air Serbia are especially prominent. Some associations filed as many as one thousand requests and appeals, some natural persons filed several thousand appeals, and some attorneys filed several thousand appeals as representatives. It is difficult to imagine that any person genuinely needs hundreds or thousands of pieces of information from one public authority or has a genuine need to submit several thousand requests to different authorities that later produce several thousand appeals.

Various circumstances demonstrate that individual requests and the requested information are not substantively important to the requester and are not sought either to inform the requester or to serve the public interest. The information sought is often diverse, with no necessary connection or common relationship to one field of a public authority's work. Requests may be insufficiently specific, making it impossible to determine reliably what data are sought or from which authority. Other requests fall within statutory exceptions or concern data accessible only through another type of proceeding. Requesters seek large amounts of data at once, copies of numerous documents, or documents containing protected data that must be redacted. These practices are intended to prolong and complicate the process and burden the authority, making it harder to act and issue a notice or a decision denying the request, while creating an opportunity for the party to appeal based on administrative silence or improper procedure.

A party's conduct during the proceedings may likewise show that its interest lies not in exercising the right of access, but in achieving another objective. Requesters may submit multiple requests within a short period for different kinds of data, or submit complicated or unclear requests intended to induce procedural errors that will support a successful appeal. When, because of volume, they are offered direct inspection of the requested data, they do not respond to the invitation and never inspect the documents. Sometimes they provide false requester information,

such as a false name or address, to prevent delivery of the requested notices and information.

Article 13 of the Law on Free Access to Information of Public Importance formerly regulated abuse of rights as follows: A public authority shall not permit a requester to exercise the right to access information of public importance if the requester abuses that right, particularly if the request is unreasonable or frequent, repeats a request for the same information or information already received, or seeks an excessive volume of information.

The amendments to the Law on Free Access to Information of Public Importance abolished the abuse doctrine. One important reason for the change was that public authorities had often used the doctrine to justify decisions denying access requests. This phenomenon, described as "abuse of abuse," led in practice to frequent application and broad interpretation of the statutory exception, predominantly to the detriment of requesters, and unjustifiably denied or restricted access. Removing the doctrine, however, also prevented authorities from relying on it directly to address abuses that later became even more prevalent.

Although the statutory doctrine of abuse of the right of access was removed, the Commissioner takes the position that the prohibition of abuse, as a general legal principle, may be applied in any situation regardless of whether the Law expressly codifies it. When abuse was identified, the Commissioner rejected appeals to protect third-party rights and legal interests, protect the public interest, and address the absence of a public interest in knowing where requests and appeals were filed solely to advance a private interest by recovering proceeding costs. The Commissioner based such decisions on Articles 1, 2, 4, 23, and 24(1) of the Law on Free Access to Information of Public Importance and Articles 6 and 7 of the Law on General Administrative Procedure.[11]

Article 4 of the Law on Free Access to Information of Public Importance establishes a statutory presumption that the public has a justified interest in knowing: The justified interest of the public in knowing, as referred to in Article 2 of this Law, shall always be deemed to exist with respect to information held by a public

[11]Report on the Work of the Commissioner for Information of Public Importance and Personal Data Protection for 2023, Belgrade, March 2024.

authority that concerns a threat to, or the protection of, public health or the environment. With respect to other information held by a public authority, the justified interest of the public in knowing, as referred to in Article 2 of this Law, shall be deemed to exist unless the public authority proves otherwise.

In its practice, the Commissioner has relied on the fact that the presumption of a justified public interest in knowing is not absolute and that the public authority bears the burden of proving that no public interest exists in a particular case. Because this is a restrictive provision, however, the authority must provide detailed reasoning and prove the absence of a justified public interest—that is, that the request is contrary to the public interest.

The Law on General Administrative Procedure, which applies as appropriate in proceedings to exercise the right to access information of public importance, provides in Article 6: (1) An authority may restrict a party's right or affect its legal interest only by action necessary to achieve the purpose of the legislation and only if that purpose cannot be achieved by other action that would restrict the party's rights or affect its legal interest to a lesser extent. (2) When imposing an obligation on a party or another participant in the proceedings, the authority shall apply the prescribed measures that are more favorable to them if those measures also achieve the purpose of the legislation. Article 7 provides: An authority shall enable a party to protect and exercise its rights and legal interests as easily as possible, but not to the detriment of the rights and legal interests of third parties or the public interest.

In its elements, purpose, and content, the quoted provision of the Law on General Administrative Procedure may be interpreted as regulating abuse of rights in administrative matters. As a provision of the general law, it may also be applied as appropriate in proceedings to exercise the right to access information of public importance.

One significant decision of the Commissioner for Information of Public Importance and Personal Data Protection addressed an appeal against an act of a public authority that had not complied

fully with a requester's request.[12] The Commissioner rejected the appeal as unfounded to protect third-party rights and legal interests and the public interest, and because the requisite public interest—the public's interest in knowing—was absent. The appellant asserted that the public authority had neither provided a copy of the document containing the requested information nor designated a time and place for inspection of the original. The Commissioner relied on the following legal framework: provisions of the Constitution of the Republic of Serbia guaranteeing human rights; provisions governing the conditions and manner in which human rights may be restricted; provisions on freedom of thought and expression and the conditions under which it may be restricted to protect the rights and reputation of others, preserve the authority and impartiality of the courts, and protect public health, the morals of a democratic society, and national security; provisions on the right to be informed and to access data held by state authorities and organizations entrusted with public powers; provisions of the European Convention on Human Rights governing freedom of expression and permitting restrictions to protect morals and the reputation and rights of others; provisions of the Law on Free Access to Information of Public Importance governing the right of access, the definition of information of public importance, the presumption of a justified public interest in knowing, and appropriate application of the law governing general administrative procedure; provisions of the Law on General Administrative Procedure permitting restriction of a party's rights where necessary to achieve the purpose of the legislation; and provisions requiring an authority to enable a party to protect and exercise its rights and legal interests as easily as possible, but not to the detriment of third-party rights and legal interests or the public interest.

The Commissioner further explained that rights prescribed by the Law on Free Access to Information had been exercised on a mass scale in a manner contrary to the substance, purpose, and objective for which the right was established, and described the role of the appellant and the appellant's attorney. The

[12]Decision of the Commissioner for Information of Public Importance and Personal Data Protection No. 071-11-9023/2023/03 of October 24, 2023.

Commissioner explained the methods and scale of the abuse in detail, referring to the number of appeals filed and its multiple annual increase; the average number of appeals per appellant and the substantial increase in that average; the numbers of individual appeals filed by citizens, associations, and media outlets; and the increase in appeals filed through representatives.

The Commissioner explained how the multiplication of appeals affected the work, functioning, budget, and workload of the Office. Several persons acting through the same attorney had filed several thousand matters with the Commissioner within a short period, seeking the same types of information from different public authorities throughout Serbia. After obtaining substantive access to the requested information, they exploited formal defects in first-instance responses—such as failure to designate a time and place to inspect the original document—and filed appeals solely to recover proceeding costs. The decision noted that the particular appellant exploited such formal defects. When the defects were cured and inspection was made available, the requester did not appear. Inspection was practically impossible because that appellant had filed more than 2,700 appeals concerning the conduct of different public authorities throughout Serbia. The appellant's appeals were highly generalized. They asserted that "the information in the response does not relate fully to the question posed in the request for information of public importance," thereby challenging every response regardless of the authority's actual conduct. Other appeals contained false allegations unrelated to the particular case, such as asserting that no copy had been provided when the requester had been told that the authority did not hold the requested data.

The Commissioner concluded that when a requester does not act as a representative of the public and its right to know, but submits a request to advance a personal interest, an essential element of information of public importance—the justified interest of the public in knowing—is absent, and so is the public interest in disclosure. The Commissioner also concluded that the appellant did not represent the public and, given the volume of documents received, could not realistically inspect, read, and analyze the documents and information, as further demonstrated by the manifestly unfounded and false content of the appeals. The appeals were filed to overburden first-instance authorities and the

Commissioner so that decisions could not be issued within statutory deadlines, thereby creating grounds for actions based on administrative silence with a single motive: obtaining financial gain at the expense of the budget of the Republic of Serbia. This harmed the public interest and other information requesters and appellants who could not exercise their rights in accordance with the Law, and provided justified grounds for rejecting the appeal. The Commissioner stated that when appellants' conduct shows that their objective is not to protect their own right but to create a potential administrative dispute, allowing that result would violate the public interest. In the Commissioner's view, the appeal was not filed to protect the public's right to know but from dishonorable motives and the appellant's private interests.

Through this decision, the Commissioner sought to sanction conduct contrary to the purpose for which the right to access information of public importance and the corresponding special administrative-protection system were established. The Commissioner relied on existing legal doctrines that incorporate protection against abuse and safeguard the public interest and the interests of others. The reasoning nevertheless shows that sanctioning abuse that harms the public interest and third-party interests is primarily possible in second-instance proceedings before the Commissioner. Reliance on the cited constitutional, statutory, and Convention principles is difficult at the first-instance stage when an individual public authority has not itself been burdened by a large number of cases revealing systemic abuse—the circumstance that supported application of the norms protecting the public interest and the interests of others. Other means of curbing abuse at the earliest stage should therefore be considered.

IX CONCLUSION

The right to access information of public importance is guaranteed by the Constitution and is susceptible to abuse for several reasons. It is an extensive right held by every person, and its exercise does not depend on satisfying preliminary conditions or proving a legal interest or other facts.

For those reasons, the mechanisms established for exercising and protecting the right also provide fertile ground for abuse in pursuit of personal interests.

The relative simplicity of the procedure; the absence of special procedural prerequisites for initiating it; the absence of risk to information requesters; the ability to submit requests simultaneously to large numbers of authorities; the fact that different authorities hold the same types of information, eliminating the need to individualize each request; and the limited capacity of most public authorities to administer this right all permit these proceedings to be conducted on a mass scale in pursuit of personal interests.

The right to access information of public importance presupposes a public interest, and each individual acts as a representative of the public even though information is generally requested in the individual's own name. The Law's liberal approach, the broad freedom granted to requesters, the expansive definition of information of public importance, and the statutory presumptions placing on the public authority the burden of proving that no public interest exists are unquestionably positive aspects of the right. Yet they also make it easy for individuals to use the right contrary to the purpose for which it was established.

Abuse of the right has produced enormous consequences at several levels: first for the authority holding the requested information, then for the Commissioner, and ultimately for the Administrative Court.

Abolition of the statutory abuse doctrine through amendments to the Law on Free Access to Information of Public Importance, together with the Administrative Court's change of position on the right to recover costs in these proceedings, are identified as the principal reasons for the increase in abuse and its

transformation from an occasional or individual problem into a systemic one.

The available data show that some individuals acting as requesters and some attorneys acting as representatives filed several thousand requests and appeals each. This proliferation of matters has several effects: it prevents authorities from responding properly to other information requesters and resolving these and other types of matters; harms their budgets and allocated funds; and ultimately prevents other requesters and appellants from exercising the right effectively in administrative proceedings and administrative disputes.

Because the statutory abuse doctrine was abolished, the mechanisms available to public authorities and the Commissioner to curb abuse are limited, particularly because they bear the burden of proving facts demonstrating that the public has no interest in knowing.

The provisions of the Law on General Administrative Procedure may be applied to curb abuse. Given the requirements that an authority must satisfy to issue a reasoned decision proving the relevant facts, however, those provisions are primarily suitable for proceedings before the Commissioner. A first-instance authority deciding an individual matter may lack the information, data, and evidence needed to apply the existing doctrines of general administrative procedure, together with the provisions of the Law on Free Access to Information of Public Importance, to circumstances involving abuse.

Changes to the system for exercising the right to access information of public importance should therefore be considered. They should focus principally on restoring the abuse doctrine to the Law, expanding the possible application of existing legal rules, and amending the rules governing reimbursement of costs in this type of proceeding.

X RECOMMENDATIONS

Based on the data obtained and the analysis of practice and legislation, the following recommendations may be made for curbing abuse of the right to access information of public importance.

1. Restore the doctrine of abuse of the right to access information of public importance to the Law

The Law should again regulate abuse of rights in proceedings to exercise the right to access information of public importance. The issue should not, however, be regulated in the same manner as in earlier versions of the Law, because the former provision was particularly susceptible to misuse by public authorities seeking to restrict access.

In defining abuse, the legislature should be guided by the typical elements and mechanisms of abuse examined in detail in this research. Means should be established for first-instance authorities to identify broad or systemic abuse quickly, so that conduct directed toward an impermissible objective contrary to the purpose of the statutory rules can be curbed promptly. The Commissioner's capacity could be expanded, and cooperation between the Office of the Commissioner and public authorities could be encouraged to support preventive action and timely intervention when abuse appears likely.

The purpose of an access-to-information abuse doctrine would be especially evident in proceedings before the Commissioner, who can identify and prove such a phenomenon more readily because of the volume of cases. If there is concern that the doctrine could not be fully and properly applied at first instance, or that public authorities themselves could misuse it, its application could be limited to second-instance proceedings before the Commissioner and, possibly, proceedings before the Administrative Court in administrative disputes—principally disputes based on administrative silence, but also those seeking annulment of the Commissioner's decisions.

Exceptions should be prescribed—that is, circumstances in which the abuse doctrine cannot apply—whether based on the type of information sought, the public authority involved, or the requester, such as journalists, media outlets, state authorities, academic institutions, scholars, and researchers.

2. Apply existing rules of general administrative procedure and the special procedural rules governing access to information of public importance to sanction abuse

The provisions of the Law on General Administrative Procedure, together with those of the Law on Free Access to Information of Public Importance, provide a significant basis for curbing abuse.

By identifying conduct characteristic of abuse, an authority may prove that a request was submitted to advance the requester's personal objective rather than to exercise the public's right to know.

This option is available to public authorities while the legislation in force does not expressly regulate abuse of the right to access information of public importance.

Following the Commissioner's approach, public authorities may rely on Articles 1, 2, 4, 23, and 24(1) of the Law on Free Access to Information of Public Importance and Articles 6 and 7 of the Law on General Administrative Procedure. They must remain aware that they bear the burden of proving the absence of a public interest or the pursuit of a personal interest. Decisions relying on those provisions must therefore contain detailed reasoning, particularly because guaranteed rights are being restricted.

3. Regulate costs in proceedings to exercise the right to access information of public importance differently

Financial gain is unquestionably the principal motive for abuse. Means of reducing, limiting, or eliminating that motive should therefore be considered.

One option is to consider legislation eliminating the obligation to reimburse costs in proceedings to exercise the right

to access information of public importance. The procedure is free of charge and generally very simple, so any person may exercise the right independently, without professional assistance, even at the appeal stage.

In some decisions, the European Court of Human Rights has stated that reimbursement of proceeding costs is not an absolute element of the right to a fair trial. An obligation to reimburse costs should exist where failure to pay them would effectively prevent access to justice.[13] The European Court of Human Rights has also stated that the European Convention on Human Rights itself does not establish a right to reimbursement of proceeding costs as an element of the right to a fair trial.[14]

To permit case-specific assessment in the context of the right to fair proceedings, exceptions could be prescribed to any rule against reimbursement. They might include cases in which a person cannot exercise the right independently or circumstances whose specific nature or complexity genuinely requires an attorney. Such a legal standard would permit a determination in each case whether engaging an attorney was actually necessary, and the award of costs would depend on that determination.

A dialogue could also be initiated with the Serbian Bar Association, which is responsible for prescribing the attorney fee schedule, to regulate differently the amount and manner of payment for attorneys' work in matters concerning access to information of public importance.

[13] Airey v. Ireland, Application No. 6289/73.
[14] Perdigão v. Portugal, Application No. 24768/06.

XI LEGAL SOURCES

Laws and Regulations

1) Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia, Nos. 120/2004, 54/2007, 104/2009, 36/2010, and 105/2021)

2) Law Amending the Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia, No. 105/2021)

3) Law on General Administrative Procedure (Official Gazette of the Republic of Serbia, Nos. 18/2016, 95/2018—authentic interpretation, and 2/2023—Constitutional Court decision)

4) Constitution of the Republic of Serbia (Official Gazette of the Republic of Serbia, Nos. 98/2006 and 115/2021)

Reports

5) Commissioner for Information of Public Importance and Personal Data Protection (2023), Report on Work for 2022, Belgrade, March 2023.

6) Commissioner for Information of Public Importance and Personal Data Protection (2024), Report on Work for 2023, Belgrade, March 2024.

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7) Vučković, J. (2009), The Right to Free Access to Information of Public Importance, Collected Papers of the Faculty of Law in Niš, No. 54, Niš.

8) Milenković, D. (2005), Freedom of Access to Information as a Human Right, Free Access to Information and Public Administration, Human Rights Committee, Belgrade.

Online Sources

9) Draft Law Amending the Law on Free Access to Information of Public Importance, available at: http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2021/1758-21.pdf

10) Administrative Court Decision 12 U No. 16603/19, from the plenary session of the Administrative

Court held on June 21, 2022, available at: https://www.up.sud.rs/wp-content/uploads/2023/06/1678285367Bilten-Upravni-sud-9-2022.pdf

11) Sample forms are available on the official website of the Commissioner for Information of Public Importance and Personal Data Protection at: https://www.poverenik.rs/sr/%D0%BF%D1%80%D0%B8%D1%81%D1%82%D1%83%D0%BF-%D0%B8%D0%BD%D1%84%D0%BE%D1%80%D0%BC%D0%B0%D1%86%D0%B8%D1%98%D0%B0%D0%BC%D0%B0/%D1%84%D0%BE%D1%80%D0%BC%D1%83%D0%BB%D0%B0%D1%80%D0%B8.html

Case Law of the European Court of Human Rights

12) Airey v. Ireland, Application No. 6289/73.

13) Perdigão v. Portugal, Application No. 24768/06.

Practice of the Commissioner for Information of Public Importance and Personal Data Protection

14) Decision of the Commissioner for Information of Public Importance and Personal Data Protection No. 071-11-9023/2023/03 of October 24, 2023.

XII DATA-COLLECTION INSTRUMENTS

The following questionnaire, in the form shown below, was used to collect data.

RESEARCH STUDY
"Abuse of the Right to Access Information of Public Importance"
QUESTIONNAIRE FOR COLLECTING DATA FROM PUBLIC AUTHORITIES

Public authority: _____

Date of data collection: _____

1. How many requests for access to information of public importance did the public authority identified above receive in each of the following years?

	Total requests
2023	
2022	
2021	

2. How many requests were resolved favorably by providing the requested response, and how many were resolved unfavorably by denying the request?

	Granted	Denied
2023		
2022		
2021		

3. In how many cases was an appeal filed against a denial or based on administrative silence?

	Appeals against denials	Appeals based on administrative silence
2023		
2022		
2021		

4. Did the public authority reimburse costs incurred in proceedings on a request for access to information of public importance or pursuant to a second-instance decision of the Commissioner for Information of Public Importance?

5. If costs were paid in connection with any phase of providing information, please state the grounds and amounts in the following table:

	Costs—successful appeal	Costs—appeal based on administrative silence	Costs—total, if no disaggregated data are available
2023			
2022			
2021			

6. Has the public authority observed abuse of the right to access information of public importance in practice?

7. What forms did the abuse take?

8. Has the public authority observed the same persons frequently appearing as information requesters, whether natural persons, legal entities, associations, or attorneys acting directly?

9. Who are the most frequent information requesters—natural persons, associations, businesses, journalists, attorneys acting in their own names, or attorneys acting as representatives?

10. Are requesters predominantly represented by an attorney from the time they submit the request? Is there a discernible pattern in which requesters retain an attorney only when filing an appeal?

11. Has the public authority observed the same attorneys frequently representing information requesters, whether from the beginning of the proceedings or only from the appeal stage?

12. What types of information, data, and documents containing information are requested most frequently?

13. Has repetition in the content of requests submitted by different requesters been observed?

14. Has the public authority denied access to information of public importance on grounds of abuse, and if so, what reasons did it give?

15. Has the public authority taken steps to prevent or sanction abuse and, if so, what steps?

16. Have information requesters successfully argued on appeal that the doctrine of abuse of the right to access information of public importance was applied improperly and, if so, what were the reasons for the second-instance decision?

17. Have information requesters frequently filed appeals with the Commissioner for Information of Public Importance based on administrative silence?

18. Has the public authority been required in appeal proceedings to pay proceeding costs to information requesters acting as appellants?

19. Has the public authority identified deficiencies in the Law concerning the prevention and sanctioning of abuse and, in the authority's view, what are they?

20. Have the Commissioner or an information requester initiated misdemeanor proceedings against the public authority or the person responsible for providing information of public importance? If so, what was the outcome, and were they ordered to reimburse the costs of the misdemeanor proceedings?

21. Is this public authority aware that other public authorities, at the national or local level, have encountered significant abuse of the right to access information of public importance? If so, which authorities?