

ENFORCEMENT OF FREEDOM OF INFORMATION ACT



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Analysis of Enforcement of Freedom of Information Act in State and Municipality-owned Enterprises in Czech Republic, Estonia, Hungary, Slovakia and Poland

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IPA is a leading Polish think tank and an independent centre for policy research and analysis established in 1995. Its mission is to contribute to informed public debate on key Polish, European and global policy issues. Main areas of study include European policy, social policy, civil society, migration and development policy as well as law and democratic institutions.

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Civic association Oživení is a non-profit non-governmental organization founded in 1997. Oživení endeavours to increase the transparency of decision-making processes and financial management at public institutions in the Czech Republic, as well as the personal liability of public officials, and thereby boost the active participation of citizens. The main areas of interest include the right to information, public procurement and management of public property. Last but not least, Oživení is involved in spreading anti-corruption know-how and educating and networking anti-corruption and civic activists.

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Transparency International Estonia is a leading civil society organization in the fight against corruption in Estonia. TI Estonia is an accredited national chapter of Transparency International. TI Estonia's main fields of activity are analysing and highlighting the risks of corruption, awareness raising and strengthening cooperation between public institutions and private persons in the fight against corruption.

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1. Executive summary

State-owned enterprises (SOEs) and municipality-owned enterprises (MOEs) manage public properties. At the same time, they operate in some of the key industries, such as transport, energy industry, infrastructure and housing. Therefore, due to inefficient management and a lack of public oversight over their activities this may lead to enormous losses for the public.

Unlike the ministries and other main state authorities, these enterprises are less scrutinised by the public and therefore face less pressure related to their management. The media frequently highlights new scandals related to the bad management of these companies, suspicious tenders or inappropriately high bonuses for their managers.

Similarly to public administration authorities, the main tool for the public control of the management of the state and municipality-owned enterprises is the Freedom of Information Act. Despite the importance of this law, political efforts have appeared in CEE countries (in Hungary, Czech Republic or Slovakia)¹, seeking to weaken its powers.

The objective of this study is to highlight the weak points of the Freedom of Information Act enforcement in relation to the SOEs and MOEs in the Czech Republic, Estonia, Hungary, Poland, and Slovakia, and offer recommendations for their reinforcement.

1.1. Main findings

The possibilities of using the Freedom of Information Act for the public control of the state and municipality-owned enterprises are insufficient in all the observed countries. Almost one quarter of the total number of 85 obliged entities in the five countries use loopholes in the legislation to avoid providing any information to the public, or even to completely deny their obligation to provide information.

– In Slovakia, the Czech Republic and Estonia we were able to collect more than half of the requested information. **The Slovak enterprises provided 65.1%, the Czech enterprises 61.6% and Estonian enterprises 61% of the information.** The Polish enterprises provided 46.1% of the requested information. The Hungarian enterprises were much worse in disclosing information on their activities, they only 32.2% of the requested information. Slovakia and Estonia are the only two countries where all of the requests for information were answered. Previous NGO activities in Slovakia aimed at FOI enforcement regarding SOEs and MOEs may help explain the Slovak results. In the Estonian case, an official oversight body, the Inspectorate, may help explain the high response rate. The recent changes to the FOI Act in Hungary may help explain the Hungarian results, as relevant entities may not have yet been sure what the newly applicable rules were. The hardest to get were CVs of the main representatives of the enterprises (in Slovakia this request was rejected in 75% of the cases) and contracts (69% of requests were rejected by Estonian enterprises).

¹ See: <http://www.freedominfo.org/2013/07/hungarian-ngos-call-foi-changes-as-unconstitutional/>, <http://www.vz24.cz/clanky/novelu-zakona-o-pristupu-k-informacim-mv-prepracuje-rekl-kubice/> and http://spectator.sme.sk/articles/view/46589/10/fair_play_alliance_concerned_about_opening_slovakias_freedom_of_information_law.html.

Table: The rate of provided, rejected and ignored requests for information per country

	Hungary	Poland	Estonia	Czech Republic	Slovakia
Rejected	19.5 %	21.6 %	39.0 %	18.5 %	34.9 %
No answer	48.3 %	32.3 %	0.0 %	19.9 %	0.0 %
Provided	32.2 %	46.1 %	61.0 %	61.6 %	65.1 %

– **In Slovakia, the Czech Republic and Hungary the municipality-owned enterprises provided less information on their management than the state-owned enterprises, therefore the control of their management is harder.** The least information was provided by Hungarian MOEs, who received only 29% of the requested information, compared to 36% made available by Hungarian SOEs. On the contrary, Polish and Estonian MOEs disclosed more information than SOEs in respective countries. In Estonia, MOEs disclosed 69% of the requested information as opposed to only 56% of requested information disclosed by Estonian SOEs.

– **Another obstacle to the public control of enterprises in all the five countries is the fact that the requests for information submitted by the general public were less successful than the requests submitted on behalf of non-profit organisations.** Hungarian citizens have the poorest access to information compared to the NGOs from their country. They only received 28% compared to 35% gained by the organisation. The best results were achieved by the Slovak citizen, who gained 57% of the requested information. However, the chances of this citizen to oversee the enterprises are still considerably low compared to the Slovak organisation, which gained 71% of the information.

– In all these countries the state and municipality-owned enterprises can refuse to provide the information related to their management by taking advantage of the vague definition of the obliged organisations in the legislation. In order to be an obliged entity, it must for example “discharge a public function” or “manage public means” this wording leaves space for debate and circumventing the legislation. However, the courts in the surveyed countries tend to decide in favour of the citizen’s right to information and against the abuse of legislation and its deficiencies. For example, the Czech courts decided that a football club established by the city, Czech Power Company with the state as the main shareholder, and a university hospital founded by the state were also public institutions, and thus had the duty of providing information. Nevertheless, lengthy judicial procedures or the inability of courts to directly force enterprises to provide the required information often discourage from attempting to acquire information via legal action.

1.2. Recommendations

Based on our findings we have formulated recommendations to reinforce the Freedom of Information Act:

– The legislation must more clearly define the state-owned and municipality-owned enterprises as the obliged entities pursuant to the Freedom of Information Act. The new definition could for example consider whether the state, a state authority, a higher territorial unit or the municipality has the majority holding or plays the main role in the decision making of the enterprise. The current definitions are vague and leave too much space for the state and municipality-owned enterprises to interpret them in a manner limiting the access of the public to the information on their activities.

– The state and municipality-owned enterprises should be legally bound to full information disclosure, similar to that of the Polish and Hungarian enterprises.

- The legislation should provide for and expand the scope of information that an enterprise has to supply on management, mainly information about companies' spending (e.g. on salaries and bonuses) and managers (e.g. professional background).
- Mandatory publishing of all contracts concluded by the enterprise should be enacted (with the exception of contracts related to their main business – trade secret).

2. Methodology

We first analysed the wording of the respective Freedom of Information Acts in relation to the state and municipality-owned enterprises, the exemptions from the law and the loopholes in legislation frequently used by the enterprises and rulings of the courts.

Subsequently, in the survey, carried out between August and November 2013, we tested the power of the following laws in relation to access to the information about state-owned and municipality-owned enterprises:

- 1. Act no. 211/2000 Coll. on Freedom of Information, as amended (Zákon č. 211/2000 Z. z. o slobodnom prístupe k informáciám v znení neskorších predpisov)²,**
- 2. Act. no. 106/1999 Coll. on Free Access to Information (Zákon č. 106/1999 Sb. o svobodném přístupu k informacím)³,**
- 3. Act RT I 2000, 92, 597 of 2000 (entry into force January 1, 2001) on Access to Public Information (Avaliku teabe seadus)⁴,**
- 4. Act CXII of 2011 on Informational self-determination and Freedom of Information (Törvény az információs önrendelkezésről és az információs szabadságról)⁵,**
- 5. Act of 6 September, 2001 on Access to Public Information/ Ustawa z dnia 6 września 2001 r. o dostępie do informacji publicznej, Dz. U. z 2001 r. Nr 112, poz. 1198 z późn. zm.⁶**

The survey takes inspiration from the previous evaluation and ranking of the SOEs and MOEs⁷, which was carried out by Transparency International Slovakia in 2012. The organisations participating in the project *"Promoting effective anti-corruption framework in the CEE countries"*⁸ selected a sample of 14 – 18 organisations from each of their countries, who were wholly or majority-owned by the state or the municipality. The condition of majority ownership by the state or the municipality was an important criterion that should have helped prevent the enterprises from challenging their obligation to respond to the request in line with the Freedom of Information Act.

The enterprises were selected from pre-defined categories according to their industry, to guarantee their comparability across the five countries. All in all there were 85 surveyed companies in five countries. All the organisations tried to stick to the following list as much as possible (see Annex for the complete list of enterprises).

² Available at: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_mini_zak_zobraz_clanok1.asp?kotva=k1&skupina=1.

³ Available in Czech version at: <http://bit.ly/15lkt3k>, in English version at: <http://www.mvcr.cz/odk2/soubor/106-aj-pdf.aspx>.

⁴ Available in Estonian version at: <https://www.riigiteataja.ee/akt/822692?leiaKehtiv>, in English version at: <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=tex-t&dok=X40095K6&keel=en&pg=1&ptyyp=RT&tyyp=X&query=avaliku+teabe>.

⁵ Available in Hungarian version at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100112.TV.

⁶ Available in Polish version at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20011121198>.

⁷ Available at: <http://firmy.transparency.sk/sk/sets/firms2012/>.

⁸ Eötvös Károly Institute (HU), IPA Polska (PL), Oživení (CZ), Transparency International Slovakia (SK) and Transparency International Estonia (ET).

STATE-OWNED ENTERPRISES	MUNICIPALITY-OWNED ENTERPRISES
<ul style="list-style-type: none"> - State post - State airport - State lottery - State nuclear and decommissioning company - State television/radio - State hospital (2x) - State railway company (passenger transport) - State railway company (cargo transport) - State railway company (railway and asset management) 	<ul style="list-style-type: none"> - Municipal heating company (3x) - Municipal transport company - Municipal housing company (3x) - Municipal waste management company - City sports club

The selected companies in each country received 2 kinds of requests for information (hereinafter referred to as a “request”). The first one was signed by a common citizen, so called “Mystery Shopper”, who cooperated with one of the five involved organisations. The purpose of this request was to test the reaction of the enterprises to requests for information submitted by the general public and possible differences in the range of information provided compared to the request submitted by an organisation. The second request was sent on behalf of one of the implementing organisations two weeks later.

The following information was requested from the enterprises:

REQUEST ON BEHALF OF AN IMPLEMENTING ORGANISATION	REQUEST SUBMITTED BY MYSTERY SHOPPER
<ul style="list-style-type: none"> - Contract for legal services - Contract for energy supplies - Annual report for 2011 (including the financial statement) - Performance indicators for 2011 - Terms of Office of all directors and members of executive council and supervisory board since 2000 - Salaries of company top managers and members of the executive council and supervisory board (for 2011) 	<ul style="list-style-type: none"> - CVs of the current top management, members of the board of directors and supervisory board - List of subsidies and grants awarded by the enterprise in 2011 - Code of conduct - Contract for paper supplies

These types of information were selected because they were related to the management of the SOEs and MOEs.

If any request or a part of it were rejected, the implementing organisations tried to obtain the information by appealing.

The responses of the enterprises to individual requests were categorised into five groups: provided, no answer, rejected, not applicable or not obliged entity. The category “not applicable” was used if the enterprise claimed that they did not have the requested information (e. g. the code of conduct, CVs). The label “not obliged entity” was used for the cases, where the reasoning of the enterprise persuaded us that it really was not an obliged entity. The responses “not applicable” and “not obliged entity” were not considered in the statistic evaluation of the survey.

3. State and Municipality-owned enterprises in the Freedom of Information Act

3.1. Definition of information obligation of enterprises

Each of the five countries defines the information obligation in a slightly different way.

– **The Czech Republic** – the law applies to **public institutions, which have a full information obligation**. The definition of the public institution is missing in Czech law. According to the Constitutional Court of the Czech Republic, a public enterprise, as well as state-owned and municipality-owned enterprises, can be identified based on the following features: (i) it was established by law or an act of public authority, (ii) it discharges a public purpose, (iii) its powers are defined by legislation, (iv) it is supervised by public authority (v) its activities are subject to examination or other forms of control.

– **Hungary** – the full information obligation **applies to any legal or natural person acting with the purpose of discharging any state or municipal tasks or any other public tasks defined by law**. Until 2011 the Act on Public Finances stipulated that these persons included any entity, in which the state, municipality, state authority or public foundation were the major shareholders, and thus this entity was considered as discharging public functions for the purposes of the Freedom of Information Act. This provision was revoked in 2011 and since then the classification of Hungarian enterprises as the institutions discharging public functions is less clear.

– **Estonia** – **there is a reduced information obligation for legal persons governed by public law. These persons must only provide information related to the performance of public service tasks** pursuant to the law, administrative law decision or a contract, in the field of provision of education, health care, social services and other public services.

– **Slovakia** – **there is a reduced information obligation for legal persons established by the state authorities, municipalities and higher territorial units, including the state and municipality-owned enterprises**. They have the duty to provide information on public means management and management of state property, property of a higher territorial unit or municipality property, on the environment, tasks and professional services related to the environment and on the content, fulfilment of and performance of activities based on the concluded contract.

– **Poland** – **legal persons, which perform public functions and have the state or a municipality (local, economic or professional) as one of the shareholders**, i.e. also the SOEs and MOEs, have **full information obligation**.

An ambiguous legal definition of the obliged entity may provide space for circumvention. The claim that the enterprise is not an obliged entity pursuant to the Freedom of Information Act, is often used in Hungary and Slovakia, where the Hungarian enterprises assert that they do not discharge public functions and the Slovak entities claim that they do not manage public finances, even though their basic capital is to a certain extent composed of public means.

3.2. Exemptions from the Freedom of Information Act

All the assessed laws contain similar exemptions, which allow the enterprises to limit or completely rule out the right to access to information. The main examples of such exemptions are:

- Personal data and information on the privacy of a natural person,
- Classified information not available to the applicant,
- Trade secrets and other legal secrets,
- Information related to tasks performed within criminal proceedings (prosecution) and decision-making procedures of the courts,
- Information related to intellectual property and industrial property (trade secret),
- Information related to the environment etc.

The obliged entities in the surveyed countries frequently take advantage of these exemptions, even if it is contrary to their original purpose. Their interpretation as presented by the obliged entities is often wrong or even illegitimate. In order to avoid disclosure of the requested information, the obliged entities use the argument that this information cannot be provided, since it contains personal data, trade secrets or classified information.

4. Court rulings

The courts in the surveyed countries tend to decide in favour of the citizen's right to information and against the abuse of legislation and its deficiencies.

4.1. Obligated entities

Hungarian, Czech, Polish and Slovak enterprises often claim that they are not obliged entities pursuant to the Freedom of Information Act. The Czech courts decided that a football club established by the city⁹, Czech Power Company with the state as the main shareholder¹⁰, and a university hospital founded by the state, were also public institutions¹¹. As defining features they considered participation in their founding, ownership, management or supervision, or the fact that the enterprise performs public functions or that the profit from its privatisation becomes part of the state budget.

Similarly, the Polish court decided about the Municipal Water Company being an obliged entity, since it was completely owned by the state and discharging public function¹². The duty to provide information was acknowledged even for an enterprise, in which the state holds less than 100% of its shares, namely a power company, which is only a subsidiary of another enterprise, where the state is the main shareholder.¹³

The Slovak Constitutional Court also expressed its conviction that legal persons founded by state authorities, a higher territorial unit or municipality (i.e. an enterprise) worked with public means and therefore were obliged to disclose information¹⁴.

The Hungarian Court of Appeal decided that an enterprise wholly owned by the state or a municipality had to inform of its investments¹⁵. However, the court rulings are not always consistent. In another case, the Hungarian Supreme Court of Appeal decided that an enterprise, which was a 98% subsidiary to another enterprise, wholly owned by the state, did not discharge public duties and therefore was not obliged to disclose information¹⁶.

⁹ Decision of the Supreme Administrative Court on the football club FK Hradec Králové (http://www.nssoud.cz/files/SOUDNI_VYKON/2006/0057_8As__0600067A_prevedeno.pdf).

¹⁰ Decision of the Supreme Administrative Court on ČEZ (http://www.nssoud.cz/files/SOUDNI_VYKON/2009/0057_8As__0600067A_prevedeno.pdf).

¹¹ Decision (10 Ca 402/2009 – 38) on the Faculty Hospital.

¹² Decision (II SAB/Gd 115/12) of the Administrative Court in Gdansk.

¹³ Decision (sign II SAB/Lu 302/13, II SAB/Lu 294/13, II SAB/Lu 295/13, II SAB/Lu 306/13, II SAB/Lu 251/13) of the Administrative Court in Ljubljana.

¹⁴ Ref.: I. ÚS 236/06.

¹⁵ Decision (2.Pf.22.156/2011.5.) of the Court of Appeal of Budapest in the case of MVM Zrt.

¹⁶ Decision (Pf. IV.20. 015/2012/4.) of the Supreme Court of Appeal in the case of Vértesi Erőmű Zrt. (Vértes Power Plant Co.), which is 98% owned by MVM Zrt.

4.2. Personal data

In connection with the exemption concerning the protection of personal data, the Hungarian court decided that the salaries of the university representatives (rectors and deans) were public information and their disclosure could not be rejected as a matter of privacy protection. Its reasoning was that the schools discharge a public function related to education, therefore they fell into the category of obliged entities¹⁷. According to the Supreme Court of the Slovak Republic, the exemption concerning personal data does not apply to the information on vote of the members of a selection committee in an open competition which involves the management of the municipality property.

4.3. Trade secret

The Hungarian court of appeal expressed an opinion that Hungarian TV, being a state-owned enterprise, could not refuse disclosing its contracts with external private businessmen related to the production of TV programs, not even in order to protect the trade secret of the private businessmen¹⁸.

When it comes to trade secrets, the Estonian Inspectorate establishes the duty for the obliged entities to thoroughly consider whether the requested document really contains a trade or a state secret, and if so, to only leave out the relevant parts. The ruling concerned an Estonian Road Administration contract. Similar procedures were applied by the Czech¹⁹ and Slovak²⁰ courts, which requested the obliged entities to critically evaluate the data designated as a trade secret by contractual parties represented by private businesses.

Poland is out of line on this matter, since the Polish courts ruled that the obliged entity cannot use the trade secret as an argument in cases, where parts of the contract were not explicitly designated as such by the private entity. However, the Polish courts do not require the obliged entities to critically evaluate the designated parts of contracts and decide, whether these pieces of information really are a trade secret²¹.

5. Survey of enforcement of the Freedom of Information Act

5.1. Overall enforcement in the Czech Republic, Estonia, Hungary, Poland and Slovakia

A closer look at the results for the respective countries reveals that the largest proportion of information was collected in Slovakia, the Czech Republic and Estonia, where the state-owned and municipality-owned enterprises provided more than half of the requested information. At the same time, Slovak enterprises refused to reveal 35% of the information mainly concerning the salaries and CVs of their top management. Slovakia and Estonia were the only countries where all the companies responded to the requests. TI Slovakia's previous activities focused on requesting information from SOEs and MOEs may go some way to explain these results, as Slovak companies' failure to provide information or respond altogether had been widely publicized. In Estonia, the activities of an oversight body responsible for access to information may help explain the high response rate.

The results from Slovakia and Estonia are also interesting due to the fact, that out of the five countries, their obliged entities have the first and second shortest time to deal with the request. Slovak enterprises are obliged to respond within 8 working days, while Estonian enterprises only have 5 days. In Poland and Hungary the obliged entities have to respond within 14 days, in the Czech Republic within 15 days.

¹⁷ Decision (2.Pf.20.520/2010/4).

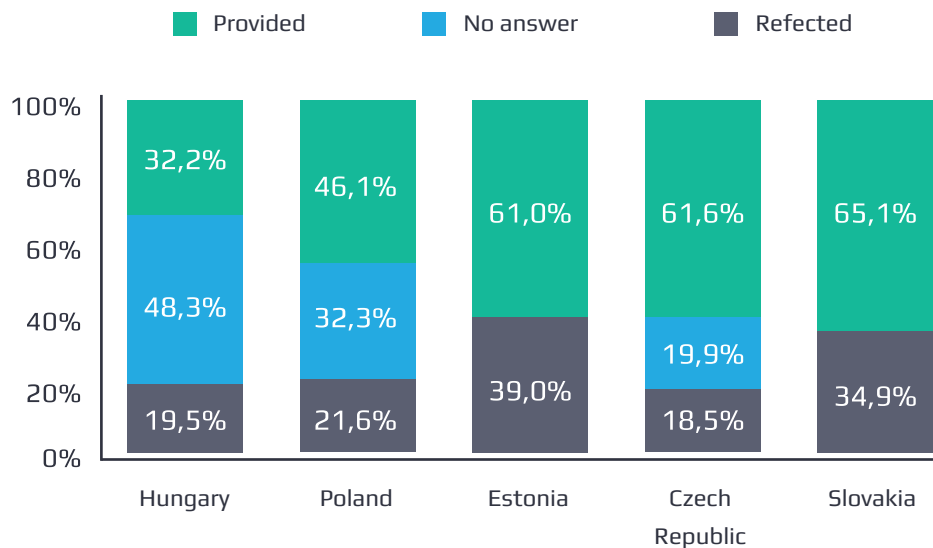
¹⁸ Decision (2.Pf.20.543/2012/6) of the Court of Appeal of Budapest in the case of MVM Zrt. (Hungarian Television Corporation).

¹⁹ Decision on ČEZ (http://www.nssoud.cz/files/SOUDNI_VYKON/2007/0057_8As__0600067A_prevedeno.pdf).

²⁰ Decision (Ref.: 25 424/06) of the Regional Court in Bratislava.

²¹ Decision (II SA/Wa 1939/12) of the Administration Court in Warsaw.

Access to information in Hungary, Poland, Estonia, Czech Republic and Slovakia



Source: TIS

In the Czech Republic the proportion of rejected information was lower than in Slovakia (18.5%); however the requests for information were not answered in almost 20% of the cases. Also, in the Czech Republic the main problem was with the disclosure of CVs and salaries of the top management, and partly also disclosure of contracts.

In Poland the enterprises made 46% of the information available. They rejected 21.6 % and did not respond to 32.3% of the requests. The ratio of unanswered requests was approximately the same for the official requests and the requests submitted by the “mystery shopper”. The most problematic was the information on performance indicators.

In Estonia the enterprises provided 61% of the requested information. The main issue was the disclosure of contracts. The enterprises also often claimed that they did not have the CVs of their management.

The results were significantly worse in Hungary, where we managed to get the answers in only 32.2% of the cases. We noticed that the rejections were much more frequent for the requests submitted by the “mystery shopper”. In Hungary the least answered request was the disclosure of contracts for paper supplies. However, a more serious problem in Hungary was that almost one half of the requests (48.3%) were totally ignored by the enterprises and we did not manage to obtain any responses. This problem was more frequent in the case of the official requests submitted by the partner organisation (the enterprises did not answer 56% of the questions) than requests submitted by the “mystery shopper” (36%).

In each country there were several enterprises that did not provide any of the requested information they either rejected the request or did not respond at all. The worst results were achieved in Hungary, where no information was obtained from 8 enterprises.

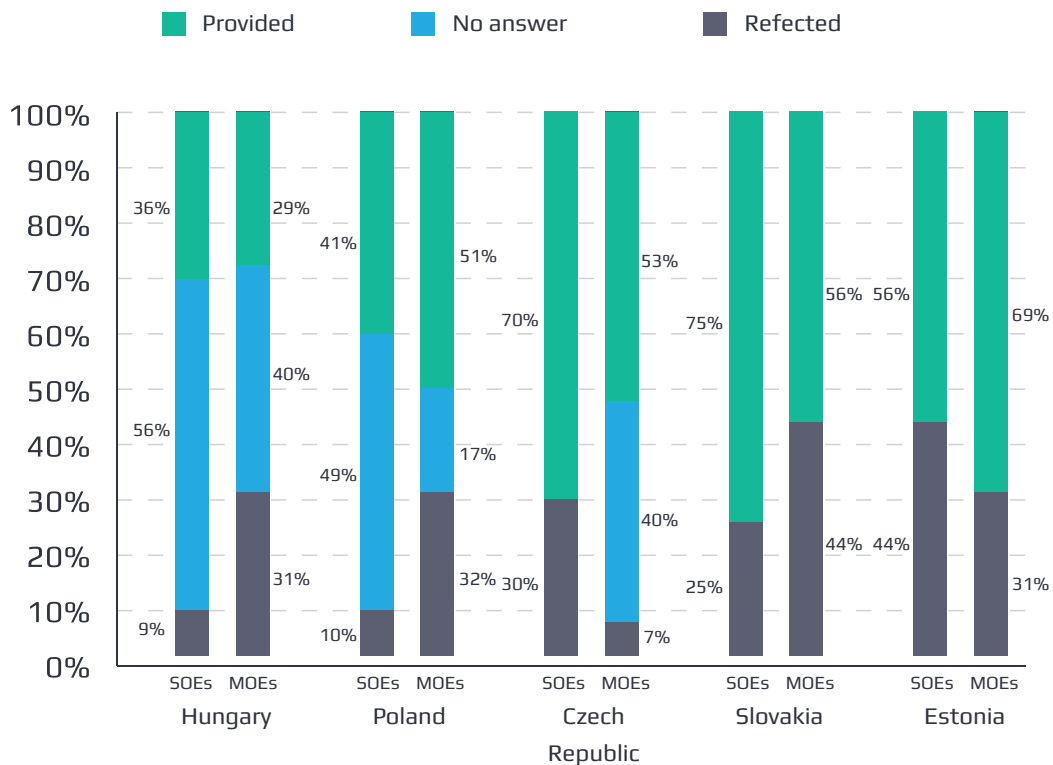
We did not receive any information from the following enterprises:

HUNGARY	POLAND
<ul style="list-style-type: none"> - Pécs Holding - MVM Paksi Atomeromu - GYSEV Cargo - Szent Janos Korhaz - Uzsoki Utcai Korhaz - Szegedi Hozszolgaltato - Debreceni Tavhoszolgaltato - Zugloi Vagyonkezelo 	<ul style="list-style-type: none"> - Instytut "Centrum Zdrowia Matki Polki" w Łodzi - PKP Intercity - PKP Cargo - Miejskie Przedsiębiorstwo Gospodarki Mieszkaniowej w Zgierzu - Wisła Płock
CZECH REPUBLIC	SLOVAKIA
<ul style="list-style-type: none"> - ČD Cargo - Správa majetku Královské Poříčí - Správa majetku města Jemnice 	<ul style="list-style-type: none"> - VÚSCH - Mestský bytový podnik Púchov - Prievidzské tepelné hospodárstvo - Nitrianska teplárenská spoločnosť
ESTONIA	
<ul style="list-style-type: none"> - Eesti Raudtee 	

5.2. Municipality-owned vs. State-owned enterprises

The state-owned enterprises were better in disclosing information than the enterprises owned or co-owned by municipalities. The latter are under less public pressure when it comes to information disclosure than the state-owned enterprises. In Slovakia we encountered situations when the MOEs were apparently not familiar with the official procedures for responding to the requests for information.

Comparison of Countries: SOEs vs. MOEs



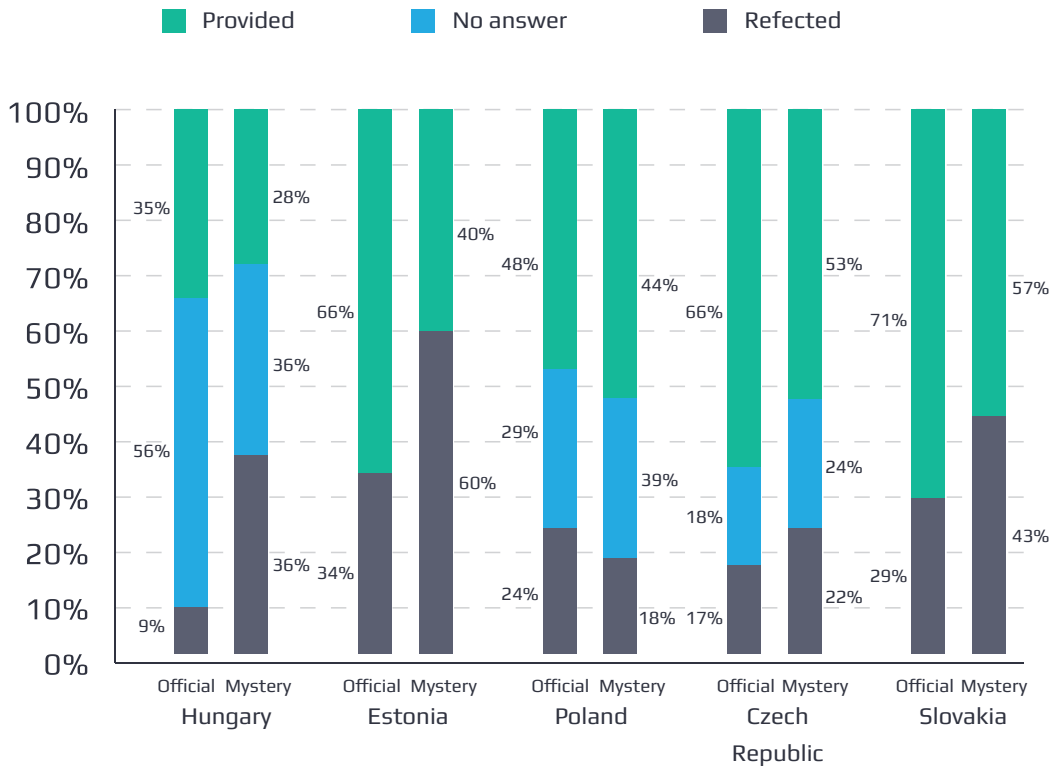
Source: TIS

In Slovakia, the Czech Republic and Hungary state-owned enterprises provided a higher proportion of the requested information. The least information was provided by the Hungarian MOEs they only provided 29% of the requested information. On the contrary, Estonian MOEs disclosed the highest proportion of information of all the surveyed countries. The highest rate of unresponsiveness was achieved by the state-owned enterprises in Hungary, where 56% of the SOEs did not send any response to the request.

5.3. Organisations vs. general public

The requests submitted on behalf of the respective implementing organisations were generally more successful in getting information than the requests submitted by the “mystery shopper” that makes public supervision over the activities of the municipal and state-owned organisations even harder. Hungarian citizens are in the most difficult situation, since we only received positive responses to Hungarian mystery shopper in 28% cases. The most successful in obtaining information within our survey were the citizens of Slovakia, where the enterprises disclosed 57% of the information requested by the mystery shopper.

Comparison of Countries: Official vs Mystery Shopper Request

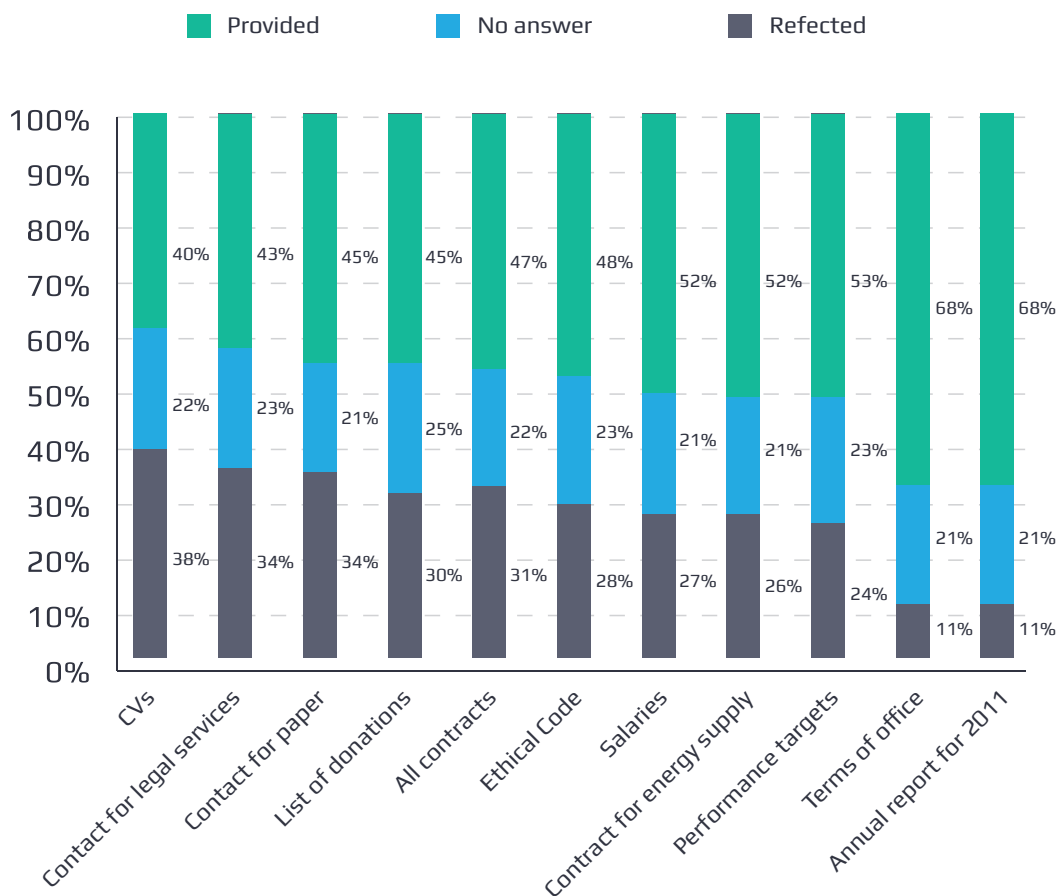


Source: TIS

5.4. Hard to get information

From among the types of information requested, the poorest results were recorded for the provisions of CVs of the top management of enterprises, contracts, lists of subsidies and grants, codes of conduct and top management salaries. The low rates of disclosed lists of subsidies and ethical codes of conduct were however influenced by the fact, that 29% of the obligated organisations claimed that they had not granted any subsidies and 24% of them said they did not have any code of conduct therefore they were not considered in the statistics.

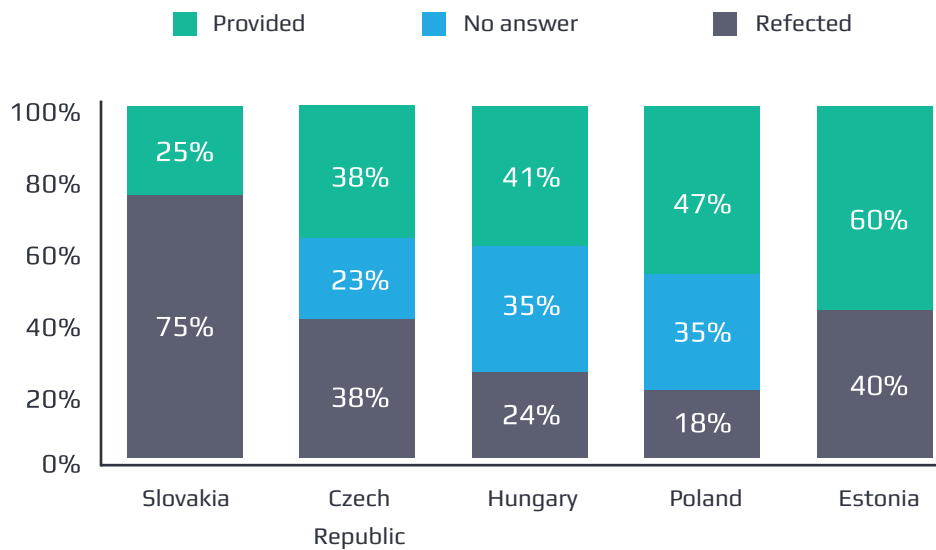
Availability of respective information



Source: TIS

Forty percent of the enterprises refused to provide the CVs – usually they gave the reason that it is personal data and they must ask for permission from the persons affected or that this information is not related to public means management. Many enterprises also claimed that they did not have this information. The highest rate of negative answers to this request was in Slovakia. The highest number of CVs of managers was collected in Poland. The purpose of this question was to allow the general public to monitor whether the enterprise was managed by qualified professionals or whether they had been appointed politically, without any regard to the effect on the management of the enterprise.

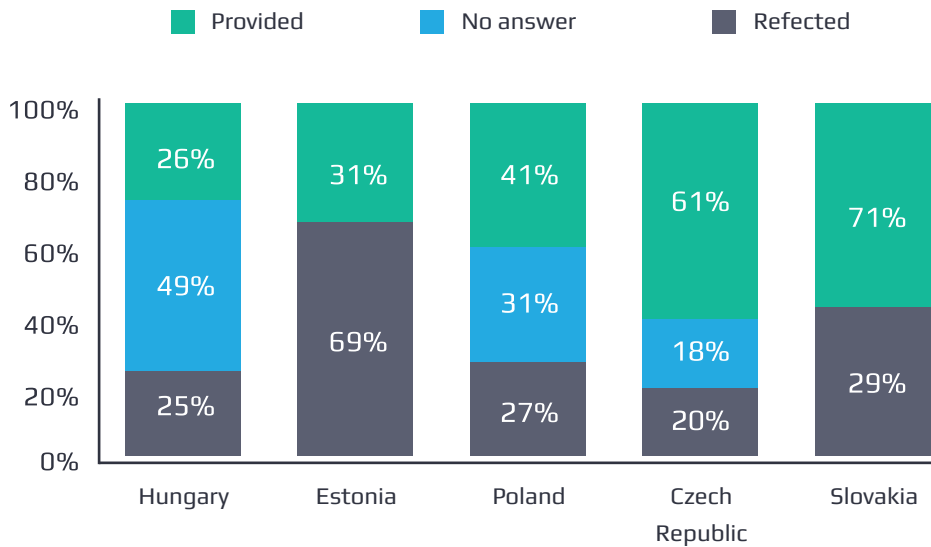
Disclosure of top management CVs



Source: TIS

As for the contracts, the requested information was not obtained in 53% of the cases. Disclosure of contracts poses the biggest problem in Hungary, where we only acquired 26% of the contracts. In Slovakia we obtained 71% of the contracts. However, in this case Slovakia holds a special position, since it is the only country where the obligatory disclosure of contracts is provided for by legislation. The situation is a bit different for the state-owned and municipality-owned enterprises, compared to the other obliged entities, as they are absolved from disclosing the contracts related to their main businesses. As proven by our survey, this provision is extensively abused by the enterprises. Although we did not ask for any contracts relating to their main business, and thus had the right to obtain all of them, in one third of the cases the enterprises refused to provide the contracts.

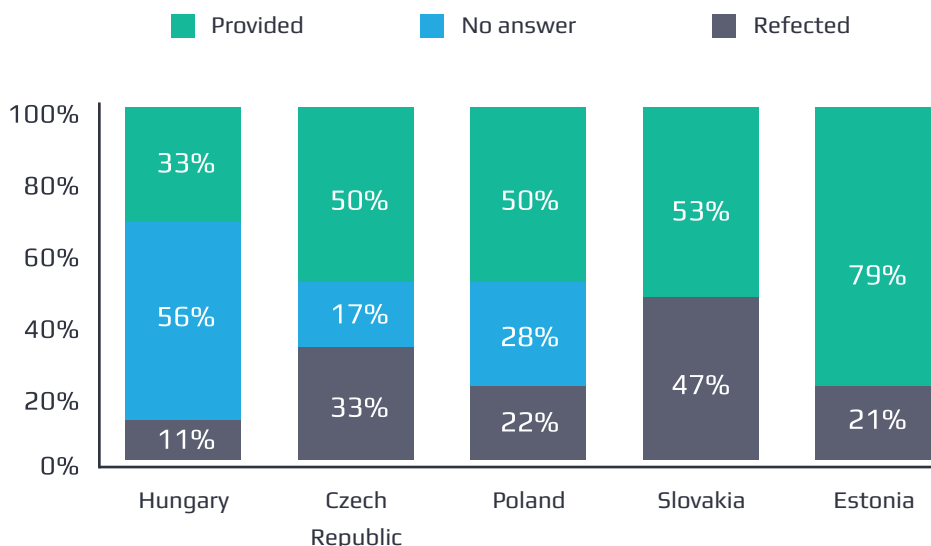
Disclosure of all requested contracts in respective countries



Source: TIS

More than half of the information on salaries was only acquired from the Estonian and Slovak enterprises (79% of the required information in Estonia and 53% in Slovakia), the results were significantly worse in Hungary, where only 33% of the information was disclosed.

Disclosure of top management salaries



Source: TIS

The easiest pieces of information to collect were annual reports and the terms of office for the main representatives of the company (in both cases we obtained 68% of the requested information). The majority of the information on the annual reports and the terms of office are usually available online and in the business register. However, the annual reports are the basic documents serving to provide the public with information on enterprise management, therefore the fact, that in 32% of cases we did not receive this information (whether due to rejection or no reaction) is a bad sign for the access to information in general.

6. Annexes

Country	Type	Enterprise
Slovakia	State-owned enterprise	Letisko M.R. Štefánika - Airport Bratislava
		Železničná spoločnosť Slovensko, a.s.
		Železničná spoločnosť Cargo Slovakia, a.s.
		Železnice Slovenskej republiky
		Slovenská pošta, a.s.
		Národný ústav srdcových chorôb, a.s.
		Východoslovenský ústav srdcových a cievnych chorôb, a.s.
		Tipos, a.s.
	Municipality-owned enterprise	Mestské športové kluby Považská Bystrica
		Bytový podnik mesta Košice, s.r.o.
		Bytový podnik Liptovský Mikuláš, a.s.
		Mestský bytový podnik, s.r.o. Púchov
		Tepelné hospodárstvo, s.r.o.
		Prievidzské tepelné hospodárstvo, a.s.
		Nitrianska teplárenská spoločnosť, a.s.
		Odvoz a likvidácia odpadu, a.s.
Dopravný podnik mesta Bratislava, a.s.		
Czech Republic	State-owned enterprise	Česká pošta
		Český Aeroholding
		ČEZ
		Česká televize
		Fakultní nemocnice Olomouc
		Fakultní nemocnice v Motole
		České dráhy
		ČD Cargo
	Správa železniční dopravní cesty	
	Municipality-owned enterprise	Benešovská teplárenská
		Teplárenská novoměstská s.r.o.
		Městská teplárenská Sedlčany s.r.o.
		Dopravní podnik Ostrava, a.s.
		Správa majetku Královské Poříčí s.r.o.
		Správa majetku města Stříbra, s.r.o.
		Správa majetku města, s.r.o. Jemnice
SAKO Brno		

Estonia	State-owned enterprise	AS Eesti Post
		AS Tallinna Lennujaam
		AS Eesti Loto
		ERR
		Lääne-Tallinna Keskaigla
		SA Hiiumaa haigla
		Elektiraudtee
		Eesti Raudtee
	Municipality-owned enterprise	Narva Soojusvõrk
		AS Tallinna Linnatransport
		Vändra alevi sotsiaalmaja
		Tartu Sotsiaalmajutus
		Maardu sotsiaalmaja
Võru Spordikool		
Hungary	State-owned enterprise	Magyar Posta
		Szerencsejáték Zrt.
		MTVA
		MVM Paksi Atomeromu
		MAV Zrt.
		MAV Gepeszet
		Szent Janos Korhaz
		Uzsoki Utcai Korhaz
	Shared state / municipality-owned enterprise	GYSEV Cargo Zrt.
	Municipality-owned enterprise	Főtáv Zrt.
		Pécs Holding Zrt.
		13. kerületi Közszolgáltató
		Haladás SE
		Szegedi Hozszolgáltató
Debreceni Tavhószolgáltató Zrt.		
Debreceni Közlekedési Vállalat		
Zuglói Vagyonkezelő Zrt.		
FKF Zrt.		

Poland

State-owned
enterprise

Przedsiębiorstwo Państwowe Porty Lotnicze

Poczta Polska

Totalizator Sportowy Sp. z o.o.

PGE EJ S.A/PGE EJ1 sp.z o.o.

Telewizja Polska S.A.

Centralny Szpital Kliniczny MSW w Warszawie

Instytut "Centrum Zdrowia Matki Polki" w Łodzi

PKP Intercity S.A.

PKP Cargo S.A.

PKP Polskie Linie Kolejowe S.A.

Municipality-
owned
enterprise

Miejskie Przedsiębiorstwo Energetyki Ciepłej Spółka
z o.o. w Łęborku

Miejskie Przedsiębiorstwo Energetyki Ciepłej
w Przemyślu Sp. z o.o.

Miejskie Przedsiębiorstwo Energetyki Ciepłej
w Białymstoku Sp. z o.o.

Miejskie Przedsiębiorstwo Komunikacyjne we Wrocławiu
Spółka z ograniczoną odpowiedzialnością

Miejskie Przedsiębiorstwo Gospodarki Mieszkaniowej
Sp. z o.o. Ruda Śląska

Miejskie Przedsiębiorstwo Gospodarki Mieszkaniowej
Sp. z o.o. w Zgierzu

Miejskie Przedsiębiorstwo Gospodarki Mieszkaniowej
S.A. w Poznaniu

Miejskie Przedsiębiorstwo Oczyszczania
w m. st. Warszawie Sp. z o.o.

Wiśła Płock Spółka Akcyjna



TRANSPARENCY
INTERNATIONAL
SLOVAKIA