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* [Makedonski](#)

* [Shqip](#)

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* [Albania](#)

* [Bosnia and](#)

[Herzegovina](#)

* [Croatia](#)

* [Kosovo](#)

* [Macedonia](#)

* [Montenegro](#)

* [Serbia](#)

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* [Guides](#)

* [Opinion and](#)

[Analyses](#)

* [Interviews](#)

* [Multimedia and](#)

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* [Latest Partner](#)

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* [Training and](#)

[Education](#)

* [Campaigns](#)

* [Funding](#)

[Opportunities](#)

* [Jobs &](#)

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TYC: Confidentiality of Data Should Be Exception, Not the Rule

[Transparency International Hrvatska](#)

The [Transparency International Croatia \(TIC\)](#) reports that the Draft-Law on Classification of Information, in its current form, may make the Law on the Right to Access Information totally obsolete and endanger the very progress of democracy in the country.

The Draft offers a whole series of solutions that could be abused in practice, lead to a situation where bodies of public administration would close their doors to the public and prevent the citizens from realizing their fundamental right to information.



Zorislav Antun Petrovic, TIC President

The Draft proposes four levels of data classification, with the remark that "Restricted access" level could practically apply to all information owned by bodies on all levels of public governance. It is defined as "data and information which, if disclosed in unauthorized fashion, may damage the work and activities of state bodies, bodies of local and regional self-government and public entities with public competences".

The data can be labelled as such by the heads of such bodies and legal entities. In more practical terms, it could declare secret and confidential any public competition opened for the needs of any city or municipality.

With the exception made for inspection of procedure of classification which, under the Law is conducted by the Office of the National Security Council, no other instrument of control of implementation is provided: there are no bodies for inspection of decisions on classification, testing of proportionality, or body to protect the public interest and the right to access information. This problem could be solved with future changes in the Law on Access to Information to introduce the office of information commissioner.

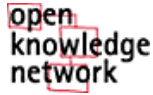
The Draft, on the other hand, introduces for the first time in Croatian legislation the test of public interest principle, which was the main defect of the current Law on the Right to Access Information. However, the solution it offers is highly questionable, having in mind that the test of public interest is implemented by the same body that did declare an information classified in the first place. An independent body would be far better solution.

Every regulation that regulates access to information in

democratic countries and provides confidentiality is an exception rather than the rule. The current Draft-Law could, if not amended and changed, lead to a dangerous situation of return of relationships between citizens and public authority bodies to their levels of several decades ago.

[Back to top](#)

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