

The project "Access to information – source for better information quality" contributes to raising the journalists' awareness of the need for a greater application of the access to public information, as well as enabling the journalists to use this right of theirs more efficiently. In this respect, the project encompassed the following: research on the application of this right amongst journalists to date; testing on how institutions respond to the requests submitted by the journalists; a series of debates and trainings of journalists from all over the country for greater application of this right; publishing the most widely used European guide for journalists for access to public information, the Legal Leaks Toolkit, both in Macedonian and Albanian; launching a specialized webpage, www.freeinfo.mk, containing tools for aiding journalists in implementing their right to access, as well as providing continual guidance to journalists on how to submit requests for information.

SUGGESTIONS FOR AMENDMENTS to the Law on Free Access to Public Information and for enhancing its application on the part of journalists

INTRODUCTION

The right to access information is based on the principle that public institutions' representatives are elected by the citizens and are funded by the taxpayers' money, so the public has the right to know how that power is being used and how their money is spent.

In a democracy, it is crucially important that people are able to access a wider array of information in order to participate meaningfully and efficiently in matters that affect their life and work. Thus, all the information that public institutions possess or have at their disposal should essentially be made public, since they have been gathered and processed with the citizens' money and thus, just like the government, should be made available to the public.

The public has the right to demand of the government and state officials accountability for their actions, as well as for the decisions they make. In order to be able to do this, however, it needs information. The role of the media is especially important in this respect, since the journalists have the role of "watchdogs of the public interest" –

something that, as the European Court for Human Rights keeps maintaining, is their right.

The Law on Free Access to Public Information, as the basis for fulfilling this right, is at the threshold of the seventh year of its coming to pass. However, it appears that it still hasn't managed to function as an efficient mechanism that would enable the flow of relevant and accurate information. The inconsistent application of this law, coupled with the arbitrariness of the institutions and the limited transparency, limits the flow of information in the country. Hence, the media are faced with serious problems in providing the needed information.

The Center for Civil Communications (CCC), advocating for transparency, accountability and responsibility of the institutions, remains committed to its efforts to strengthen the role of the media in society, bearing in mind that they are of vital importance for democracy and for securing the conditions for a responsible and accountable work of the authorities.



In order to obtain a clearer image of the implementation of the right to free access to information on the part of the journalists, in 2012, CCC conducted a thorough research, which provided a valid representation of the current state of affairs and was used as a starting point for the efforts to increase the application of the Law by the journalists. The journalists were insufficiently familiarized with the right to free access to information and they demonstrated a low level of awareness of the advantages of using the Law. Only 50% of the journalists stated that they were fully familiar with this right of theirs, while only 42% of them, in a period of 6 years, have used this right provided by law. The findings concerning the poor familiarity with the right to free access to public information on the part of the journalists came as no surprise, although more than six years have passed from its application. Amongst other things, this is due to the minimal tools that the state awards to the Commission for promoting the right to free access to public information. Thus, for instance, it has not yet conducted a promotional campaign whose focus would be this right and the possibility to seek information from the institutions verbally. The benefit for the journalists of knowing about this possibility to seek information via a verbal request

is the short deadline of 5 days by which they are to obtain the requested information. This failure, i.e. the lack of familiarity with the possibility for obtaining information within 5 days if requested verbally emerged on the surface during the research as well. Only 3% of the surveyed journalists knew about the short deadline of 5 days for obtaining public information if they requested it verbally.

The research has also shown a high percentage of distrust on the part of journalists (56%) that the institutions would supply the requested information. The journalists point to the long deadline of 30 calendar days for obtaining a response as one of the greatest issues concerning the poor application of the Law, as it is one of the longest deadlines in Europe.

Through the activities it conducted as part of the project "Access to Information – Source of Greater Quality Informing": the research conducted amongst 60 journalists; the institutional screening involving 40 submitted requests for public information by journalists; a series of debates with more than 60 journalists from the whole country involved in promoting the application of this law; the trainings of journalists from 22 national and local media; the publication of the guide for journalists for accessing public information, the Legal Leaks

Toolkit, both in Macedonian and Albanian, delivered to about 150 journalists from all relevant media in the country; the launching of a special webpage, www.freeinfo.mk, containing tools for helping journalists use their right to access, as well as providing continual guidance for journalists – CCC has made its contribution towards raising the awareness of the journalists regarding the necessity of greater application of the access to public information, as well as towards enabling the journalists to make use of this right of theirs more efficiently.

Still, in order to create a wider room which would enable a more efficient application of the Law on Free Access to Public Information, arose the need for the creation of this kind of document, which would pinpoint the problems that still need to be overcome, providing concrete suggestions for measures that need to be taken on the part of both the institutions and the media. Namely, transparency is not solely the responsibility of the public institutions. The media also need to be active in fulfilling their commitment to secure the necessary information, which would enable the citizens to make a realistic assessment on the quality of work on the part of institutions and on their consistency in abiding by the principles of good governance.

PROBLEMS THAT NEED TO BE OVERCOME

State institutions do not consistently uphold the Law on Free Access to Public Information.

The institutional screening on how they respond to journalistic requests for information, conducted as part of the research of CCC in 2012, has shown that only 37.5% of the institutions supplied the requested information. Having this in mind, it is understandable that journalists assess the availability of public information as difficult, even six years after the Law's implementation. That the Law is inconsistently abided by can be seen from the findings obtained from the constant assistance that CCC provides to journalists in submitting requests for access to information. This state of affairs has an exceptionally discouraging effect on journalists and maintains the unfavorable climate in which this legal mechanism is not seen as a useful tool for the media.

Institutions predominately use the maximum legal deadline of 30 days for supplying the requested information.

This suggests that institutions inconsistently abide by Article 21, paragraph 1 of the Law, where it is stated that the holder of information is obliged to immediately respond to a request from a suppliant, no later than 30 days from the reception of the request. The institutional screening, as well as the cooperation with journalists, has shown that only a small number of

the institutions supply the requested information within only several days, unlike most, which literally wait for 30 days before supplying a response. In this manner, the long deadline for supplying the information, which is one of the longest in Europe, particularly comes to the fore. Hence, it is not surprising that 75% of the journalists identified that it is necessary to shorten this deadline, which would in turn influence the increase of the Law's application.

Journalists insufficiently use the right to access information, as well as the right to appeal to the State Commission for Prevention of the Right to Free Access to Public Information in cases where institutions did not supply them with the requested information

The cooperation with the journalists for greater application of the Law highlighted the problem of the scarce usage of the right to appeal to the Commission, which constitutes part of the prevailing ambience. Namely, although a rise in the number of submitted requests has been noted over the years (in 2007, 1.476 requests were submitted, while in 2011, the number of requests jumped to 3.496, with requests from the NGO sector as dominant, while journalists are not recorded as a separate category of suppliants), the ratio of submitted requests from year to year is proportional and presents approximately 1/5 of the number of requests.

SUGGESTIONS FOR GREATER APPLICATION OF THE LAW AND ITS AMENDMENT

Bearing in mind the present situation, the recommendations are given in mainly two directions: amending the Law and its consistent upholding.

Implementing these recommendations would also aim at fulfilling the responsibilities of the country within the framework of the global initiative for "Open Government Partnership", whose objective is to make governments devote themselves to promoting transparency and the fight against corruption.

1 It is also necessary to revise Article 21, paragraph 1 of the Law, i.e. to shorten the deadline for responding to requests for access from the current 30 calendar days to 15 working days. At the moment, our Law stipulates one of the longest deadlines for supplying the requested information. By implementing the proposition to shorten the maximum deadline for supplying information to 15 working days, the Law would be harmonized with that of a number of European states (Croatia, The Czech Republic, Hungary, Serbia, Bosnia & Herzegovina, Moldova, Latvia, Kosovo, etc.), as well as with the institutions of the European Union. It is important to note that a number of countries have even shorter deadlines from the proposed one of 15 working days. For instance, Portugal and Romania have a deadline of 10 working days, whereas Poland, Bulgaria and Lichtenstein have a deadline of 14 calendar days. The goal of the proposed shortening of the deadline is to stimulate as many journalists as possible to use the Law. Given that the Law was passed as early as 2006, the institutions have thus far had sufficient time to set the system of implementing the obligations for supplying information in place and to readily accept the proposed shortening of the deadline and the harmonization with a greater number of the European countries..

2 Institutions need to practice "active transparency," which entails publishing (without their being requested) of all information that stem from their jurisdiction and the work of the holder of information.

Active transparency means that the holders of information are obliged to inform the public about their programs (and proposal-programs), strategies, attitudes, opinions, case studies, and other similar documents within the jurisdiction of the holder of information; the organization and expenditures of their work; a commitment to publish informative brochures and other forms of disseminating information, as well as publishing on their respective web pages their decisions, actions, and measures which affect the life and work of the citizens. On the other hand, journalists need to submit as many as possible requests that refer specifically to the information outlined in Article 10 of the Law, which institutions are obliged to publish, honoring the principle of "active transparency." In this manner, the media will not only increase the quality of their informing, but will also exert an influence over the institutions to work on increasing their transparency by publishing information within their jurisdiction without being officially prompted to, with the purpose of "saving" their time otherwise spent in responding to individual requests in a written form.

3 **The efforts of journalists for defending the right to access public information need to be strengthened.** In order to improve the effect of the application of the right to access information and to decrease the number of cases in which institutions do not supply the requested information, it is necessary for journalists to increase the pressure on the institutions which do not supply responses to the submitted requests. This means that journalists should publicly, via their media, report cases in which the requested information was not supplied, and, at the same time, launch an appeal to the Commission against the decisions and conclusions which the holder of information stated as a reason for rejecting the requests for access to information.

4 **The realm of jurisdictions of the Commission for Protection of the Right to Access Public**

Information should be widened, so that it would be authorized to conduct a misdemeanor procedure and to impose misdemeanor sanctions in cases where access to information is limited.

These amendments and additions to the Articles 32 and 45-6 of the Law are deemed essential, bearing in mind the demeanor of the holders of information, who, in a great number of cases, limit the access to information through tacit refusal, written refusal or by supplying an inappropriate response, thus not honoring their legal obligation to enable access to public information. In the application of the Law thus far, the Commission has been tolerating the holders of information who do not honor their legal obligations and hasn't initiated any legal proceedings against them in a court of law. Thus, in order to ensure a consistent upholding of the Law on Free Access to Public Information on the part of holders of information, as well as a greater transparency and accountability, an amendment to the Law have been suggested; its compliance with the Law on misdemeanors, the Commission will be enabled to initiate a legal proceedings and to pronounce/impose misdemeanor sanctions in cases where access to information was limited..

5 **A continual promotion of the right to access public information is necessary.** In order to improve the application of the Law, as well as to ensure that journalists are continually encouraged to make use of their guaranteed right to free access to information, it is necessary for all concerned parties to work on further promotion of this right, but also on creating preconditions for an efficient and consistent application of the Law. The state needs to allocate a greater budget for the work of the Commission in order to conduct a constant promotion of the right to free access to public information, placing greater emphasis on the obligation of institutions to be transparent and accountable. The continual affirmation of this right should also be highlighted, as well as the practical application of the legal right to demand information verbally within 5 days.

The Center for Civil Communications was established in 2005 as a non-governmental, nonparty and nonprofit association of citizens, whose main mission is to enhance and develop communication among all societal factors in the Republic of Macedonia regarding processes of wider social importance, as well as to monitor, analyze, and enhance the socio-political and economic processes in the country, primarily in the realms of anticorruption, local self-governance and economic development.

In its 8-years existence, the Center for Civil Communications has focused its work on two groups of mutually related activities: monitoring and revealing corrupt practices and, based on these, recommending measures and policies for narrowing the room for corruption, as well as activities for enhancing the abilities of the journalists and the special role of the media in the fight against corruption in the country.

In this regard, CCC has thus far conducted dozens of projects, within which it has designed and proposed several hundred concrete suggestions and recommendations for improving both the regulations and the practice in order to ensure more transparent, more accountable, and more responsible work of the central and local governments; it has trained over 250 journalists from both national and local media on researching and reporting corruption, as well as representatives of more than 200 NGOs on conducting anticorruption activities, and it has published over thirty research papers and manuals.

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