

Recommendations from the International Workshop “Access to information in the Republic of Tajikistan, Law and Practice”

The Republic of Tajikistan is the second country in Central Asia to adopt a freedom of information law (FOI law). The law was drafted based on key international principles, including the model law on access to information of the CIS.

Nine months after passage of the law, a working meeting was held 1-3 May in Khodja Obi Garm, outside Dushanbe, dedicated to this issue. The meeting was held under the auspices of the Civil Internet Policy Initiative (CIPI), in partnership with UNESCO Almaty and with support from Internews Tajikistan.

34 participants from regions of Tajikistan, from the President’s administration, Majlis Namondagon Majlis Oly RT (parliament), government ministries and state committees, media, non-governmental and international organizations took part in the meeting. International experts from Kazakhstan and the London-based ARTICLE 19¹ also took part in the meeting.

Discussions during the working sessions included the following major issues and challenges;

- Access to information is a basic human right; the Tajik FOI law represents an important step towards the fulfillment of this right.
- Implementation of the law has not yet started. Public institutions are still adopting internal rules for public information management and are appointing officials who will examine information requests as required by the law.
- Different institutions are still working on by-laws necessary for implementation of the FOI law, for example regulation of the costs of information service provision
- Not all heads of governmental organs and organizations, local government officials have sufficient preparation and training to implement the law properly.
- The population is not sufficiently informed regarding new government documents in general, and of the FOI law in particular.
- Issues of access to public information are regulated not only by the FOI law but also by other legal acts. The need for harmonization of these laws was raised.
- The time deadlines for responding to information requests from the public and media, as outlined in the FOI law, contradict deadlines written in other various legal acts, in particular in the law “On Citizen Requests.”
- The geographic particularities of the country, i.e. its mountainous terrain, present serious challenges to information access.
- The ARTICLE 19’s expert voiced concern about ensuring the accountability of officials, since the FOI law neither defines procedural rules nor penalties for violations of the law.

¹ www.article19.org

- In line with international standards, refusals to fulfil information requests can be appealed before courts; in this regard some participants pointed out as problematic that the procedural rules for the examination of these appeals are not consolidated into a single law.

Recommendations:

- 1) An awareness raising campaign on the FOI law should be conducted for the general population.
- 2) Information of public interest should be made available by all means, including the Internet and offline ICTs so that all people in the country regardless of remote location have access to it.
- 3) The Majlis Namoindagon Majlis Oly RT should adopt and disseminate an authoritative and comprehensive interpretation of the provisions and terms in the law
- 4) The details of the new FOI law must be harmonized with other existing laws that cover information and access to it.
- 5) Review (reduce) the time period indicated in the law for responding to information requests, given the specific nature of such requests.
- 6) Training for public officials as well as others who participate in information exchange should be provided on the implementation of the FOI law, taking into account international "good practices."
- 7) The heads of government and regulatory authorities should carry out their duties under Article 8 of the FOI law to ensure the operation of the access to information regime within each authority).
- 8) An annual report should be published showing data on citizen requests for information.
- 9) Whistleblowers² should receive adequate protection.
- 10) The experience of Tajikistan in access to information should be shared with neighboring countries considering adopting similar legislation, i.e., Kazakhstan.
- 11) Because the FOI law applies to the information relationship between the state and the public, the name of the law should be changed to the Law of Tajikistan "On ensuring the right of access to information resources of public authorities."
- 12) In Article 2 of the FOI law the understanding of "information" should be deleted, as it is already clearly defined in other laws of RT (RT Law "On Information, RT Law " On Normalization ")

² See Part VII, Model Law on Access to Information (Article 19)

http://portal.unesco.org/ci/en/files/26159/12054862803freedom_information_en.pdf/freedom_information_en.pdf

- 13) Article 15 of the FOI law, reimbursement for the provision of information, should be clarified to read: " the cost of services refers to technical expenses associated with transfer of information (paper, electronic media etc.), reproduction, postage etc. "