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MACEDONIA МАКЕДОНИЈА



ТРАНСПАРЕНТНОСТ МАКЕДОНИЈА  
TRANSPARENCY INTERNATIONAL  
MACEDONIA

Open letter to:

The President of the Republic of Macedonia  
The President of the Parliament of the Republic of Macedonia  
The President of the Government of the Republic of Macedonia

12 January 2006

Dear Sirs,

We are writing to express our concern about serious flaws in the latest draft of Macedonia's Law on Free Access to Information, as well as the lack of genuine progress towards its adoption. More than two years have passed since the first draft was prepared, during which time the Macedonian authorities have had the benefit of extensive advice and assistance from local and international experts. Due to repeated delays, Macedonia now finds itself in the position of being the only country in the region without an access to information law.

Article 16 of the Macedonian Constitution guarantees the right of access to publicly held records but the failure until now to adopt implementing legislation seriously inhibits the ability of Macedonian citizens to exercise this important constitutional right.

At the same time, it is of the greatest importance that the law eventually adopted be consistent with international and European standards in this area. The latest version of the draft Law, which was recently presented to Parliament, unfortunately falls significantly short of these standards and, indeed, actually represents a step backwards in comparison to earlier versions.

Our main concerns are as follows:

- The right to access information as provided for in the access to information law should not be able to be limited by other laws. The draft Law does not presently ensure this.
- The draft Law, unlike previous drafts, does not envisage the establishment of an information commission, which would have the power to decide upon complaints from individuals about refusals to provide information. Experience around the world shows that an independent administrative complaints mechanism is essential to the effective functioning of an access to

information system; court procedures are simply too lengthy and costly for the vast majority of potential information complainants.

- Central to the success of an access to information system is the 'harm test', under which requests should be granted unless disclosure of the information would cause harm to a protected interest, such as national security or internal decision-making. Instead, the draft Law exempts entire *categories* of information, regardless of whether or not disclosure poses any actual risk of harm.
- The draft Law does not provide protection to whistleblowers, that is, protection against wrongful dismissal or other adverse consequences for civil servants who, in good faith, reveal information concerning official wrongdoing, or serious threats to the health or safety of human life or the environment.

A more comprehensive overview of our concerns, prepared by ARTICLE 19, Global Campaign for Free Expression, is appended to this letter and is available [here](#). We urge you to do all within your power to promote the early adoption of a Law on Free Access to Information which takes these recommendations into account and is consistent with international standards.

Yours truly,



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