



PRESS RELEASE

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Mexico City: ARTICLE 19 Expresses Concern Regarding Amendments to Access to Information Law

The amendment to the Act of Transparency and Access to Public Information in Mexico City was published in the Official Gazette of the Federal District on 28 March. On 25 February, the Local Civil Service Commission of Mexico City Legislative Assembly ruled on a number of reform initiatives and additions to the Law of Transparency and Access to Public Information of the Federal District by members of the Social Democratic Parliamentary Coalition and the National Action Party (PAN); New Alliance and the Democratic Revolution Party (PRD). While there is some progress in the legislation there are provisions that contradict freedom of information international standards.

ARTICLE 19 welcomes advances in the law regarding the protection of the right of access to information; including the formation of a Transparency Committee composed by the holder of the Internal Control Body; the obligation of the authorities to submit to the relevant authorities requests for access to information that are not within its competence; the inclusion to rule private bodies exercising public resources, the provision of creating a Law on the Protection of Personal Data for the Federal District, and the processing of requests for information that come through the call centre's Institute of Transparency and Access to Information Public Federal District (DF INFO).

However, ARTICLE 19 identifies the following flaws and omissions for the effective guarantee of the right of access to information:

- Article 4 of the Act defines the right of access to information as the prerogative of every individual to obtain public information without intermediaries. The right of access to information is a fundamental right enshrined in various international instruments and should be recognised as such. The Sixth Article of the Act states that the right of access to public information should be constructed according to the National Constitution, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the American Convention on Human Rights and other international instruments signed by the Mexican State, and that these instruments should be born in mind in the interpretation of the right to access to information in Mexico.
- Article 7 of the rule states that Mexico City Administrative Procedure Law should be used to rule everything that is not foreseen in the Law on Access to Information. The

experience of ARTICLE 19 is that the application of other rules in this area impedes the exercise of the right of access to information. The regulation of this right must be simple and clear. The Special Rapporteurs of the United Nations noted in their Joint Declaration of 2004¹ that the right of access to information is a citizen's right, so access to information should be simple, fast and inexpensive.

- Article 45 of the Act provides as a principle of the procedures for access to information that there has to be good faith of the applicant regarding the submission of information requests. Also, Article 37, section XII states that any information that can generate an unfair advantage to the detriment of a third party or public authorities can be denied. These forecasts are contrary to international standards, allowing the implementation of discretionary criteria. The Johannesburg Principles on National Security, Freedom of Expression and Access to Information² stipulate that any restriction on the right to information must be prescribed by law in a specific form, unambiguously, in a manner that establish accurately the individual actions to restrict this right.
- Article 9 concerning the objectives of the law fails to consider the obligation of the government to proactively disseminate information of public interest, in other words, any information which enables society demands of other human rights. In this regard, Article 14 concerning transparency obligations also fails to include this requirement. The Declaration of SOCIUS³ stipulates that the free flow of information is integral to the protection and enhancement of a wide range of other rights, such as the right to non-discrimination, health and education, among others. The information belongs to the people, even if in most cases is in possession of the government.

ARTICLE 19 respectfully calls on the Federal District Legislative Assembly to legislate at the earliest the Law of Personal Data and legislation on public archives. Without this regulation, the right of access to information is still lacking the resources to its fulfilment and the regulatory framework that should protect him is incomplete.

NOTES TO EDITORS

- For more information please contact Ricardo González, ricardo@article19.org (55)1054-6500.
- ARTICLE 19 is an independent human rights organization that Works around the world to protect and promote the rights to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, witch guarantees freedom of expression

¹ Joint Declaration Of Rapporteurs2004, <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=319&IID=1>

² <http://www.article19.org/pdfs/standards/joburgprinciples.pdf>

³ Declaration of the SOCIUS Peru 2003: Access to Information Seminar