



## **PRESS RELEASE**

For immediate release – 22 February 2007

### **Panama: Proposed Criminal Code Severely Restricts Freedom of Expression and Information**

**ARTICLE 19 is very concerned about proposals to reform the Panamanian Criminal Code and, in particular, Articles 187, 188-A and 422, which would represent a serious threat to freedom of expression and information. According to our information, the proposed changes to the Criminal Code were approved on a second reading by the Panamanian National Assembly, and are just awaiting the third reading to be passed into law.**

The new Article 187 makes it a crime, punishable by up to two years imprisonment, to publish information received, even legally, concerning a third party, including a public official, without the express permission of that third party, if the individual concerned claims that the publication would cause him or her prejudice. In a similar vein, the new Article 422 makes it a crime to publish ‘confidential information...involving state security’, punishable by between two and four years’ imprisonment. At the same time, the new Article 188-A makes it a crime to inquire on someone’s life and activities without official authorisation.

These measures seriously undermine the right to information, which includes the freedom to disclose any information which has been obtained legally. To give third parties a veto right on republication of information relating to them effectively negates the use which investigative journalists may make of the right to information and is clearly contrary to established practice in many democracies. It may be noted that right to information laws normally include protection for privacy. However, the proposed Article 187 does not even recognise a public interest override on the protection of privacy, essential if wrongdoing or incompetence are to be exposed.

The scope of Article 422 presumably encompasses any information marked ‘confidential’, regardless of the legitimacy of this label, although the term is not defined in the provision. Once again, this runs directly counter to the established right to information principles.

The proposed Article 188-A makes it a crime, punishable by between two and four years' imprisonment, among other things, to promote espionage, or to chase or persecute anyone, without official authorisation. The terms "espionage", "chasing" and "persecution" are not defined. It is legitimate to protect individuals' privacy, including for public officials, but this must be balanced against the right to freedom of expression, particularly in cases engaging the public interest. As the European Court of Human Rights notes in *von Hannover v. Germany* (24 June 2004, Application No. 59320/00), public officials are entitled to a private life, but this entitlement ends where their private conduct as public officials impacts upon their suitability for office. In its current formulation, Article 188-A could well be understood to go beyond what is normally considered to be private life and, furthermore, provides blanket protection with no reference to the public interest.

ARTICLE 19 urges the members of the National Assembly either to modify or to remove draft Articles 187, 188-A and 422 from the new Criminal Code.

### **NOTES TO EDITORS**

- For more information, contact Francesca Fanucci, ARTICLE 19, ([francesca@article19.org](mailto:francesca@article19.org)) or Miguel Antonio Bernal, independent journalist and Law Professor at the School of Law, University of Panama, ([mabernal@sinfo.net](mailto:mabernal@sinfo.net)).
- ARTICLE 19 is an independent human rights organisation that works globally to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.