

## A FOIA for Italy Could Be a Weak One

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A draft freedom of information law currently pending before the Italian parliament would not significantly improve the right to information in Italy.

Right to information specialists at [Access Info Europe](#) have given the draft law a score of 68 points on the global RTI Rating, which would be only a minimal improvement on the current law's 57 out of 150 points, putting it among the ten worst FOIA laws out of 102 worldwide.

The draft law is limited in terms of the information it applies to (archives and databases only) and the profile of applicants (Italian citizens over 18). It contains a series of very broad exceptions, does not apply to all public bodies, and does not establish a specific independent oversight mechanism.

"It is clear from the language of the new draft that the government is making an effort, but it is also clear they are still constrained by an Italian administrative mentality," said Helen Darbishire, Executive Director of Access Info Europe and a founder board member of Italian NGO Diritto di Sapere.

Italy's current access to documents law dates back to the 1990 and contains the controversial "Andreotti provision" (Article 24.3) which denies access to requests "aimed at controlling the actions of the public administrations". Another huge obstacle to that requesters have to justify an interest in accessing information.

The current law also does not work in practice. The 2013 report "[The Silent State](#)" by Diritto di Sapere shows that public administrative bodies don't reply to 73% of the requests for information.

The first half of 2015 has been very fruitful for freedom of information activists in Italy. After campaigning since 2013 for a comprehensive reform of the FOIA law, in February a proposal by the [Foia4Italy](#) coalition, was taken up by the all-party parliamentary group "Innovation". On 15 April 2015, the parliamentary group presented the proposed FOIA law ([n.3042](#)).

The FOIA proposal still has to be discussed in the Parliament but things could move fast thanks to the support of the current government, which has even put a provision in the draft 2016 budget law which expressly says that "in the perspective of a freedom of information act" investments on transparency will be increased. This indicates that the government is expecting the law to come into force at some point during 2016. Interestingly the words "Freedom of information act" were written in English in the text, a first for Italy.

The strengths and weaknesses of this [FOIA proposal](#) were discussed during a high level panel on 18 April at the [International Journalism Festival](#), in Perugia.

### Fast Track Possible

During the panel, Anna Ascani, deputy of the Democratic Party and promotor of the FOIA proposal, announced a plan to use Article 1 of the Public Administration Reform law to mandate the government to write a FOIA. This would permit the government to adopt the FOIA proposal by a decree, which would become a law with the same value as one which has been voted by the Parliament. In this way approval could be smoother and faster than expected.

Ascani stressed that the draft law can still be changed and recognized that there is room for improvement. She expressed a clear desire to bring the draft into line with international standards. The next step will be to seek expertise from international bodies such as the Special Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE).

During the panel, Ernesto Belisario, lawyer and FOIA expert, explained the main points of the proposal. Requests can be addressed to any public administrative body and any company which receives public money. Requests are free of charges and don't require any kind of justification. After 30 days, administrative silence is considered as a refusal and the applicant can appeal to the courts. Appeals are free and fines are fixed for those administrative bodies which illegitimately refuse access.

"FOIA is not only about transparency and anticorruption" said Belisario, "but also about making the country more

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competitive and creating services for citizens and enterprises".

Helen Darbshire of Access Info Europe recognized that progress is being made but argued that the law needs considerable work to meet international standards. Priorities are broadening the scope of the law so that it applies to all information held by all public bodies, and eliminating from the exceptions all references to other laws. Anyone, not only Italian citizens over 18 should be able to make a request.

David Cabo, of Spanish organization Civio advised the Italian legislature to avoid some of the mistakes made in Spain. He recommended that the process for making a request should be simple, not requiring an electronic ID, and that the oversight body should be genuinely independent, not the case of Spain's Transparency Council.

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