

Recommendations Developed from Comparative Legal Analysis

Bosnia

It is recommended that the governments of Bosnia:

1. Harmonize the laws of the Republika Srpska and the Federation in line with the state law of Bosnia and Herzegovina regarding sanctions of public authorities and public officials who do not comply with the requirements of the law on freedom of access to information.
2. Ensure that documents of public interest are created, filed and managed in a way that ensures that they can be easily accessed when requested under the law on freedom of access to information.
3. Ensure that requests by e-mail and those not signed are accepted and facilitated by providing e-mail addresses to which requestors can write and reform law and practice so that public bodies accept requests made orally.
4. Permit requestors to state the preferred format in which they wish to receive information and try to accommodate these preferences wherever possible.
5. Reform the pricing structure by reducing official rates at all levels of government so that excessive rates are no longer able to act as discriminatory measures discouraging those with least economic means from accessing information.
6. Appoint information officers within all public bodies as required by law.
7. Develop and undertake training programmes for public officials on the implementation of the Freedom of Access to Information laws with particular focus on how to apply the harm and public interest tests when considering the relevance of exceptions to information requested.
8. Develop and undertake citizen education programmes on the right to know.
9. Harmonize laws on personal data protection, secrecy, tax administration and others that allow for the withholding of information in accordance with the freedom of access to information law.
10. Amend law and practice in the Republika Srpska to oblige public bodies to give information about appeals procedures in all cases in which information is denied, including those where rejection of information is given in formats not provided for in the Law on the Right to Access Information.

Croatia

It is recommended that the government of Croatia:

1. Sign and Ratify the Council of Europe Convention on Access to Official Documents.
2. Amend the law to incorporate a public interest test so as to ensure that exemptions are applied proportionally taking into account the public interest in as well as the damage that could result from releasing information.
3. Amend the law to incorporate an information commissioner as an independent ombudsman appointed by the Croatian Parliament who investigates complaints from people who believe they have been denied rights provided under the Freedom of Information Act and who is empowered to act as a second instance body.
4. Amend the law to remove the exception on intellectual property in order to bring it into line with the Council of Europe Convention on Access to Official Documents.
5. Reform the law to limit the overly broad exceptions on national security and commercial and economic interests.
6. Review the list of public bodies subject to the law to ensure it includes all bodies functioning with public funds as should be covered according to the law. Ensure furthermore that all these bodies submit an annual report on implementation of the law to the supervising institutions.
7. Amend the Constitution of Croatia to establish full recognition of the right of access to information.
8. Develop and undertake citizen education programmes on the right to know.
9. Ensure that requesters are able to submit requests for access to information by e-mail and by fax as provided for by the law.
10. Amend law and practice to oblige public bodies to give information about appeals procedures in all cases in which information is denied, including those where rejection of information is given in formats not provided for in the Law on the Right to Access Information.

Montenegro

It is recommended that the government of Montenegro:

1. Promote proactive disclosure of information through reform of implementation and through promotion of best practices.
2. Define who is in charge for imposing sanctions in cases of breaches of the law.
3. Ensure that public bodies comply with the law that prescribes that they must accept access to information requests submitted by e-mail and that they also accept requests submitted by fax.
4. Ensure that, as stated by the Council of Europe Convention and Montenegrin jurisprudence, requesters are granted a right to copies of documents.
5. Ensure that requestors are not required to provide justifications when submitting requests for information.
6. Put into place efficient document management practices by public officials to facilitate the accessing of this information when it is requested under the law.
7. Develop and undertake education programmes for public officials on proactive publication and on the balancing of access to information with data protection laws.
8. Improve the application of the free access to information law to contracts and information related to commercial works and privatisation and ensure that where full access is denied, partial access to documents is granted.
9. Ensure that, as stated in the Council of Europe Convention on Access to Official Documents, all bodies exercising public power should be subject to the Access to Information Law.
10. Improve the handling of information requests and incorporate in practice a duty to assist in the role of public officials wherever citizens need help in accessing public information.