

The Global Network of Freedom of Information Advocates

Ukraine Parliament Adopts Access to Information Law

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Ukraine's parliament Jan. 13 easily adopted new two new laws on access to public information.

The bills got 412 and 408 votes, well above the 226 votes necessary for approval.

The new laws, expected to be signed by President Viktor Yanukovich, mandate that public officials voluntarily disclose information while also establishing a system for requesting information, all subject to various limitations.

According to a description on the official site of the Verkhovna Rada, bill No. 2763, entitled "On Access to Public information" defines public information as "the information displayed and fixed in the documents by any means and on any data carriers, received or created by the state authority subjects while fulfilling their duties as required by the Law or the information in the ownership of the state authority subjects, and other public information administrators defined by this Law." [See version in Ukrainian.](#)

<http://freedominfo.org/documents/ukrainian2011lawukrainian.rtf>

The law would guarantee the right of access to the public information, stating that "the right to access the public information is supported by the obligation of the information administrators to give and promulgate information as public, unless otherwise is provided by the legislation of Ukraine," according to the Rada website.

The other bill, No. 7321, passed concurrently, "regulates creation, collection, access to, storage, use, distribution, protection, and safety of information." The description says further that the law "sets the fundamentals of the information relations and state information policy."

According to a Ukrainian News Agency [report \(http://un.ua/eng/article/306990.html\)](http://un.ua/eng/article/306990.html) and other media accounts, the legislation distinguishes types of public information with restricted access: confidential, secret and insider information. Also, access can be restricted to protect: the national security, the territorial integrity or civic order for the purpose of preventing disorder or offenses, the population's health or safety, other peoples' reputation or rights, and information obtained in a confidential way.

Non-disclosure would be permitted if the release of the information risks causing more harm than benefit to the public.

The law would permit disclosure of documents, with redactions.

Penalties for not disclosing information are included.

The law would go in the effect three months after publication.

The main terms of the legislation were summarized in a memo prepared by UNITER Project, Pact Inc., which also describes the history of the legislation. The Pact [memo](http://freedominfo.org/documents/ukraine2011pactsummary.pdf) (<http://freedominfo.org/documents/ukraine2011pactsummary.pdf>) states:

The law grants extended access to journalists to report on government activities. It even includes mandatory clauses for government to regularly report on their work without the formal request and opens information on all budget spending.

The access cannot be denied to the information on available budget funds, possession, utilization or controlling of public and communal property, including copies of relevant documents, terms and conditions of receiving such funds or property, names of individuals and legal entities who have received the funds or property.

The law indicates that intentional interference in journalists' professional activities and harassment of journalists for their professional activity or for criticism of officials will result in amenability with the laws of Ukraine.

Classified information does not include income declarations of individuals and their family members who are running for public office or currently has the status of government employee, or public servant of local government of first and second categories.

Every citizen is able to request information from the government, monopolies and businesses that are financed from the state budget. The authorities must reply no later than five days from the day of receiving the request. In cases, when the request is dealing with the information necessary for the protection of life or freedom of an individual, environment, quality of food and household items, accidents, hazards, natural disasters and other emergencies that have occurred or may occur and threaten the security of citizens, the answer must be given no later than 48 hours.

The law "On changes to some laws on access to information" prohibits authorities and their heads to classify the information as secret or confidential by themselves. Classifying documents only possible in accordance with the process described in legislation.

This law allows journalists to freely visit government bodies, unless they applied special restrictions. It also prohibits anybody, even the owners of the media outlets to interfere in journalists professional activities. The media owners can have restrictions only in editorial agreements, agreed by the journalists.

The law will enter into force three month after its publication. It will be published once signed by the President of Ukraine who has publicly promised to do so back in November 2010. Yuriy Miroshnichenko, the representative of the President in the Verkhovna Rada and active member of the working group confirmed that the President aims to sign both laws after they were approved by parliament.

Restrictions:

Even though the law opens more doors it still has some restrictions. For instance, the access to information will be denied if it's in the interest of national security, territorial integrity or public safety or non disclosure will prevent disorder or crime, protect public health, reputation or rights of other individuals as well as prevent exposure of information received in confidence.

The law specifies that only information may be restricted, not a document. In cases when a document contains information with limited access, the non-restricted information should still be released.

Even after the President of Ukraine signs the bills, it does not automatically mean sound implementation. It is still necessary that the Cabinet of Ministers will be actively involved in implementation. The Cabinet should become the key engine of the implementation process. Every public authority and government body must completely change or restructure their system of processing information, determine the structural unit and contact person responsible for information requests, create a public register of information and post it on their web sites, as well as to publish a new manual on determining the status of information, etc.

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