NOTE

on

The Draft Law of the Republic of Tajikistan on Mass Media

by

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1. Introduction

This Note by ARTICLE 19, Global Campaign for Free Expression, analyses the draft Law on Mass Media (draft Media Law), dated April 2002. It has been prepared following a formal request from the OSCE office in Tajikistan. This draft law has been prepared with a view to replacing the 1990 Law on Press and Other Mass Media.

The draft Media Law contains a number of positive features, including a ban on censorship, anti-monopoly principles, protection of the rights of journalists and a rule requiring provisions in the Media Law to comply with international laws recognised, and international treaties signed, by Tajikistan.

However, the draft also includes a large number of provisions which are in breach of international standards relating to freedom of expression and other provisions which, while not necessarily formally in breach of international law, are unnecessary or could be improved. ARTICLE 19 has concerns in the following areas:

- General principles on mass media freedom, including the absence of provisions protecting freedom of expression, setting out the test for restrictions and establishing independent regulatory bodies;

- Regulatory issues, including registration, broadcasting, the Internet, the regulation of journalists and advertising;
- State subsidies;
- Content issues, including prohibitions on pornography and hate speech and the administration of justice;
- Protection of sources;
- Remedies, including the right of refutation and compensation for moral damages; and
- Freedom of information.

This Note should be read in conjunction with the ARTICLE 19 Memorandum on *The Laws in Tajikistan Regulating Mass Media*, November 2002 (companion Memorandum). The companion Memorandum contains an outline of Tajikistan's obligations to promote and protect freedom of expression under international law, as well as the limited scope of restrictions on freedom of expression which international law permits and the test against which any restriction must be judged. The companion Memorandum also contains detailed discussions of the implications of these guarantees in a number of specific areas.

This Note assesses the draft Media Law against the standards outlined in the companion Memorandum, highlighting some of ARTICLE 19's key concerns and recommendations on how to address these concerns. Reference is made to the companion Memorandum as appropriate.

2. Analysis of the Draft Media Law

2.1 General Principles

Chapter I of the draft Media Law sets out the general principles on regulating the mass media, including a ban on censorship (Article 4), the inadmissibility of abuse of mass media freedom (Article 5) and assigning responsibility for development and implementation of State policies in regard to mass media to a specially authorised "State body" (Article 8(3)). While these provisions are largely consistent with international law, they could be improved and supplemented.

Guaranteeing Freedom of Expression

Freedom of expression is not explicitly guaranteed in the draft Media Law. Article 4, which bans censorship, could be supplemented by a provision specifically guaranteeing freedom of expression in accordance with international law. The following provision, based on Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), is one possibility:

> Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

Restrictions on Mass Media Freedom
Article 5 of the draft Media Law prohibits abuse of mass media freedom, but the test for restrictions on freedom of expression is not set out in this provision. Article 5 could incorporate a test based on Article 19(3) of the ICCPR, stating that any restriction on freedom of expression must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society.

Role of State Policy Body
Article 8(3) assigns responsibility for the development and implementation of policies in this area to a "State body". The same body is given the power to intervene in court cases based on media laws. It is appropriate for a State body to be given responsibility over media policy but it is not legitimate for the same body to play a role in court consideration of these policies, as represented in law. Courts are supposed to be independent of the executive and legislature; granting exceptional audience rights to specialised executive bodies undermines this principle.

Recommendations:
- The General Principles in Chapter I should be supplemented by the following:
  - Article 4 should include a specific guarantee of freedom of expression;
  - Article 5 should incorporate the three-part test for restrictions on freedom of expression; and
  - Article 8(3) should not grant special rights of audience before the courts to the State body responsible for media policy.

2.2 Registration

Articles 11-20 of the draft Media Law set out the registration system for the mass media. Article 11 requires the mass media to register with the local State notary office. Article 13 sets out the documents which must be submitted in order to register. Article 16(3) states that denial of registration is possible if, among other things, the name, tentative subject matters and/or specialisation contain abuse of mass information freedom as set out in Article 5.

Registration requirements are ongoing. Article 20(2) requires the mass media to submit annual activity reports and Article 26(7) requires the mass media to submit a copy of its editorial charter or substituting agreement within three months of its first publication or broadcast. Articles 19 and 12(4) provide that a mass media can be discontinued by a court, upon request of the owner or founder, and the mass media cannot then be registered again for three years after the decision has taken effect. Articles 18 and 12(5) provide that a registration certificate can be voided by a court for, among other reasons, failing to adopt an editorial charter, and the mass media cannot then be registered again for two years after the decision has taken effect. Article 20(4) provides that a mass media can be excluded from the Register for up to one year for failing to comply with the requirement to submit annual activity reports.

As noted in the companion Memorandum (Section 4.1), licensing requirements for the print media are not legitimate but technical registration requirements do not, *per se*, breach the guarantee of freedom of expression as long as there is no discretion to refuse registration, the system does not impose substantive conditions upon the print media and is not excessively onerous, and the system is administered by an independent body. However, registration of the print media is unnecessary and may be abused, and, as a result, ARTICLE 19 recommends that the print media not be required to register.

In any case, the registration system established under the draft Media Law fails to meet the minimum conditions noted above and, as a result, breaches the right to freedom of expression. First, the system imposes substantive conditions upon the press by requiring that the name, tentative subject matters and/or specialisation not contain abuse of mass information freedom. The illegitimacy of this provision is compounded by the fact that some of the "abuses" of mass information freedom listed in Article 5 are themselves illegitimate restrictions on the right to freedom of expression (see below). Second, the ongoing registration requirements, particularly the requirement to submit an editorial charter and annual activity reports, are excessively onerous. Third, there is discretion to refuse re-registration for up to three years or exclude a mass media from the Register for up to one year, because of a past technical violation of the law, even if the mass media has submitted all the requisite information.

The registration requirement under the draft Media Law also applies to broadcasters. Given that broadcasters are also required to obtain a license (see below), there is no reason to impose this additional administrative requirement on them.

Recommendations:
- The registration system should be abolished.
- Alternatively, if the system is retained, Articles 12(4), 12(5), 16(3), 20(2), 20(4) and 26(7) should be deleted and broadcasters should not be required to register in addition to obtaining a licence.

2.3 Broadcasting

Articles 46-50 contain some basic provisions on the licensing of broadcasters, most of which are in accordance with international law and standards. A few provisions, however, could be improved.

Article 46(3) provides that political parties, movements, religious associations and advertising agencies have no right to be eligible for a broadcast license. There should be no blanket prohibitions on awarding broadcasting licenses to applicants based on either their form or nature, except in relation to political parties, where a ban may be legitimate. Other types of applicants, however, such as religious bodies, should not be subject to a

blanket ban on receiving licenses. Instead, the regulatory body should have the power to make licensing decisions on a case-by-case basis.[1]

Article 47(1) provides that broadcast licenses are issued by the National Council on Television and Broadcasting, which is defined in Article 49(2) as "a non-departmental State regulatory body." Article 49(3) provides that provisions regarding its establishment will be set out in another law. It is well established that bodies with regulatory or administrative powers over the media should be independent of government. The mechanisms for ensuring such independence will presumably be included in that other law but the draft Media Law should at least make it clear that the independence of the National Council on Television and Broadcasting shall be guaranteed.

Articles 47(3) and (4) provide that licenses are granted on a competitive or non-competitive basis and based on objective, non-discriminatory, detailed, transparent and commensurate eligibility criteria taking into account the necessity of promoting the development of competition and satisfaction of consumer demands. It would be preferable for the draft Media Law to set out clearly the specific criteria for deciding between competing licence applications, which should include promoting a wide range of viewpoints which fairly reflects the diversity of the population.[2]

Recommendations:

- Article 46(3) should be amended limiting non-eligibility to political parties.
- Article 49(2) should be amended to make it clear that the National Council on Television and Broadcasting should be an independent body.
- Article 47(4) should specify precise criteria for deciding between competing licence applications, including the necessity of promoting a wide range of viewpoints which fairly reflect the diversity of the population.

2.4 The Internet

Article 30 provides that the rules in relation to registered print periodicals also apply to mass media which are distributed electronically, via the Internet.

It is well established that different regulatory approaches are required for different media in accordance with the guarantee of freedom of expression. As the European Commission of Human Rights has stated:

> Article 10 of the [European Convention on Human Rights] clearly distinguishes between the degree of control that the State may legitimately exert over broadcasting, television or cinema enterprises, precisely by regulating access to these commercial activities by licensing procedures in which a wider margin of discretion is left to the States, and control over forms of exercise of freedom of expression,

[1] ARTICLE 19, *Access to the Airwaves: Principles on Freedom of Expression and Broadcast Regulation* (London: March 2002), Principle 20.1.
[2] *Ibid.*, Principle 21.2.

including the press and other printed media, which are subject only to the limitations laid down in para. 2 of Article 10.[3]

Mass media on the Internet cannot be regulated in the same way as print or broadcast media. The Internet did not exist when the major international human rights treaties were adopted and it is clearly very different than either the print or broadcast media; any regulatory mechanism needs to take this into account. In many cases, it will not be possible to apply print or broadcast media standards to the Internet.

This was also the conclusion of a US Supreme Court decision striking down the Communications Decency Act (CDA).[4] A key problem with the Act, according to the Court, was that it treated the Internet as though it were analogous to broadcasting by allowing restrictions regarding the time and manner of transmission, which is not possible with the Internet.[5] Special factors that have been used to justify regulation broadcasting – such as the history of regulation,[6] the scarcity of available frequencies,[7] and its 'invasive' nature[8] - do not apply to the Internet.

There are a number of problems with requiring Internet media to register. First, it imposes administrative fetters on Internet publishing, without any clear justification. Second, it would appear to apply to all Internet media, regardless of size. It is clear from the jurisprudence of the United Nations Human Rights Committee that a requirement for occasional or small-scale publishers to register is incompatible with the right to freedom of expression.[9]

Because of the many practical and freedom of expression difficulties associated with government regulation of the Internet, many countries have opted for self-regulatory approaches. At the policy level in the US and Europe, there is strong support for self-regulation.[10] Within the Council of Europe, the Committee of Ministers recently adopted Recommendation R (2001) 8, which strongly advocates the establishment of self-regulatory mechanisms for the Internet in all Member States.[11]

Article 30 of the draft Media Law fails to address the special nature of the Internet and the complexities and difficulties involved in regulating it. The government should follow the trend in the US and Europe, which is to allow for self-regulation by Internet Service Providers and other Internet actors.

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[3] *Gaweda v. Poland*, Commission Report of 4 December 1998, Application No. 26229/95, para. 49.
[4] *Reno v. American Civil Liberties Union*, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997).
[5] *Ibid.*, pp. 17-21.
[6] See, for example, *Red Lion Broadcasting Co. v. FCC*, 395 U. S. 367, 399–400 (US Supreme Court).
[7] See, for example, *Informationsverein Lentia and Others v. Austria*, 24 November 1993, 17 EHRR 93 (European Court of Human Rights).
[8] See, for example, *Sable Communications of Cal., Inc. v. FCC*, 492 U. S. 115, 128 (US Supreme Court).
[9] *Laptsevitch v. Belarus*, 20 March 2000, Communication No. 780/1997, paras. 8.1-8.5.
[10] For EU policy, see the 'Safer Internet Action Plan' described at http://europa.eu.int/information_society/programmes/iap/index_en.htm.
[11] Recommendation No R (2001) 8 on self-regulation concerning cyber content (self-regulation and user protection against illegal or harmful content on new communications and information services), 5 September 2001.

Recommendation:
- Article 30 should be deleted.

2.5 Regulation of Journalists

2.5.1 Responsibilities

Articles 68(1)-(3) set out journalists' "responsibilities", including a duty to follow professional ethics, such as verifying the reliability of information they have prepared and disseminated (Article 68(1(2)), and a duty to follow the law, for example, respecting the rights and legitimate interests, honour, dignity and business reputation of citizens and the business reputation of organisations (Article 68(3)). Article 68(4) provides that honouring the rules of professional standards is a moral duty of the journalist, and that disputes and complaints should be addressed by professional journalists' associations.

Article 57(1) prohibits journalists, editors-in-chief and editorial offices from disclosing data provided by a citizen on condition that it remains confidential. This prohibition is repeated in Article 68(4) as one of the responsibilities of journalists. Article 58(4) states that a letter addressed to the editorial office can be used in reports and materials of a mass media only if the meaning of the letter is not distorted.

The reiteration in a media-specific law that journalists have to obey the law, as in Articles 68(2) and (3), is redundant, since this is clearly already the case. It is illegitimate to give journalists a "double warning" of this sort as it suggests that journalists will be watched more closely than others in society, which is bound to have a chilling effect on media freedom.

All the other matters noted above are of a professional nature. It is contrary to international standards and best practice to legislate professional responsibilities of journalists. In most democratic countries, journalistic ethics of are matters for self-regulation. Experience has shown that legal regulation of ethical matters often leads to harassment of journalists who are critical of the government. Article 68(4), noting that respect for professional standards is a moral duty, also has no place in a law.

Recommendation:
- Articles 57(1), 58(4) and 68(1)-(4) should be deleted.

2.5.2 Rights

Article 65 sets out the rights of journalists, including the right to search, request, obtain and disseminate information. However, this is followed by Article 70, setting out a list of prohibited practices which constitute abuse of those rights by journalists. Article 70(1)

prohibits using journalists' rights for profit motives, settling personal accounts, hiding or falsifying publicly important information, disseminating rumours under the likeness of reliable reports, or collecting information in favour of a non-mass media person or organisation. Article 70(2) prohibits using the rights of journalists to disseminate information to defame a citizen or category of citizens on the basis of sex, age, racial national or regional origin, language, attitude to religion, profession, area of residence and work, or political conviction.

The list of prohibitions in Article 70(1) cannot be justified as legitimate restrictions on freedom of expression because they do not pursue legitimate aims recognised under international law. These issues should be addressed as a self-regulatory matter by professional journalists' associations, not in the law. The prohibitions in Article 70(2) are already listed under Article 5, which prohibits hate speech and defamation. As such, it is redundant to mention them again.

Recommendation:
- Article 70 should be deleted.

2.5.3 Accreditation

Article 67 covers accreditation. Article 67(1) states that editorial offices have the right to apply to State bodies and organisations and public and religious associations for accreditation of their journalists. Accreditation must be granted if the editorial offices comply with the rules of accreditation. Article 67(2) states that the rules must be based on principles of openness, prudence, equality and fairness which ensure the right of the public to receive information from the mass media. Article 64(5) states that a journalist can be deprived of accreditation for violating the rules or being convicted by a court for defaming the business reputation of the organisation accrediting the journalist. Article 74(3) provides that foreign journalists must accredited by the Ministry of Foreign Affairs in accordance with Article 67.

It is well established that bodies with regulatory or administrative powers over the media should be independent of government. This applies equally to accreditation as to other matters.[12] State bodies and government ministries are not independent bodies and so should not exercise direct control over accreditation. Furthermore, it is not legitimate to deny a journalist accreditation for defaming the business reputation of an organisation. Defamation should be remedied through a court judgment which orders disproof or compensation for damages, not through the accreditation system.

Recommendations:
- Articles 67(1) and 74(3) should be amended to provide for an independent body to accredit journalists.

[12] See, for example, the UN Human Rights Committee case holding that Canadian accreditation procedures to parliament breached the guarantee of freedom of expression. *Gauthier v. Canada*, 7 April 1999, Communication No. 633/1995.

- The provision on defamation in Article 64(5) should be deleted.

2.6 Advertising

Article 33 regulates advertising in the mass media. Article 33(2) places a cap on advertising of 25% for printed media and 10% for broadcasters.

Placing a legal limit on the amount of advertising in the print media is an illegitimate restriction on freedom of expression. It does not pursue any of the legitimate aims listed under international law. It is up to readers to decide whether or not to purchase newspapers and the amount of advertising will be one consideration.

In the broadcasting field, where the State has greater regulatory powers, the amount of advertising may be subject to overall limits but these should not be so stringent as to undermine the development and growth of the broadcasting sector as a whole. Agreements in some regions, such as the European Convention on Transfrontier Television (ECTT),[13] establish regional limits on advertising (in that case of 20%).

The imposition of a 10% cap on advertising in radio and television programming is probably too low for countries in economic and political transition such as Tajikistan and may undermine growth in its emerging broadcast sector. Indeed, it is lower than that permitted for States Parties to the ECTT.

Recommendations:
- Article 33(2) should be amended as follows:
  - The cap on the amount of advertising in the print media should be deleted.
  - The cap on the amount of advertising on airtime on radio and television programmes should be increased.

2.7 State Subsidies

Chapter III sets out economic support measures for the mass media. Article 36(1) provides for subsidies for mass media editorial offices. Article 36(1) states that mass media editorial offices specialising in children and juveniles, women, disabled and educational and cultural activities are eligible for subsidies and interest-free loans. Article 36(2) states that allocation of subsidies and loans is implemented by an authorised "State body".

As noted above, it is well established under international law that bodies with regulatory or administrative powers over the media should be independent of government. As such, an independent, not a State, body, should be responsible for administering the provision

[13] E.T.S. 132, in force 1 May 1993, as amended by the Protocol Amending the European Convention on Transfrontier Television, E.T.S. 171, in force 1 October 2000.

of subsidies and interest-free loans. Indeed, experience in other countries shows that subsidy systems are particularly prone to abuse if they are not well-insulated from political interference.

Recommendation:
- Article 36(2) should be amended to provide that the allocation of subsidies and loans is implemented by an independent body.

2.8 Content Issues

2.8.1 Abuses of Mass Media Freedom

Article 5 of the draft Media Law prohibits abuses of mass media freedom, including disseminating or advertising "pornographic" materials and objects and fomenting "national, social, religious and regional intolerance and dissention."

As noted in the companion Memorandum (Section 4.4.1), "pornographic" is an unacceptably vague and broad term. ARTICLE 19 believes that the law should only restrict sexually explicit materials which can be shown to be harmful and which lack serious literary, artistic, political, or scientific value.

Again, as noted in the same section of the companion Memorandum, the prohibition against hate speech is too broad and may be subject to abuse. It should, instead, be modelled on Article 20(2) of the ICCPR which requires States to prohibit hate speech.

Recommendations:
- Article 5 of the draft Media Law should be amended as follows:
  - The prohibition on "pornographic" materials and objects should be deleted and replaced with a prohibition on "sexually explicit material which is harmful and lacks serious literary, artistic, political or scientific value."
  - The prohibition on fomenting "national, social, religious and regional intolerance and dissention" should be replaced with a prohibition on "advocacy of racial, national or religious hatred that constitutes incitement to discrimination, hostility or violence."

2.8.2 Administration of Justice

Article 66(3) and (4) prohibits a journalist from interfering with the administration of justice. Article 66(3) states that a journalist's investigations should not "affect" the course of investigation and judicial process and Article 66(4) states that a journalist has the right to publish and disseminate on the air his assessment information after a court decision or conviction have taken effect.

As noted in the companion Memorandum (Section 4.4.3), there is serious doubt as to whether restrictions on freedom of expression are necessary to maintain the authority of the judiciary but some restrictions may be necessary to ensure the right to a fair trial. ARTICLE 19 therefore believes that media reporting on pending legal proceedings should only be restricted where it can be shown that it would seriously harm the right to a fair trial. The test in Article 66(3), to "affect" the administration of justice, is not strict enough and should be replaced with a serious harm test.

Recommendations:

- Article 66(3) should be amended to provide that the journalist's investigation should not cause serious harm to the administration of justice.

2.9 Protection of Sources

Article 57(2) provides that the journalist, editor-in-chief and editorial office are required to keep confidential the source of information and do not have the right to name the person who has provided information with the condition not to disclose his name, except for cases when such a requirement has been issued by a court in the context of a case under its consideration. This provision is repeated in Article 68(4) as one of the responsibilities of journalists.

As noted in the companion Memorandum (Section 4.7), the right to protect the confidentiality of sources is an important element of the guarantee of freedom of expression. There are, however, two problems with Article 57(2). First, it reverses the traditional presumption that protection of sources is the *right* of journalists and turns it into a legal *obligation* not to disclose information. Second, it fails to specify the conditions that must be met before a court can order disclosure.

Recommendations:

- Articles 57 (2) and 68(4) should be deleted.
- Article 65 (Journalist Rights) should incorporate the right of journalists not to disclose information identifying a source except when ordered by a court.
- Article 65 should make it clear that a court order for disclosure cannot be made unless:
  - reasonable alternative measures to disclosure do not exist or have been exhausted;
  - disclosure is justified by an overriding requirement in the public interest; and
  - the circumstances are of a sufficiently vital and serious nature to justify overriding this important right.

2.10 Remedies

2.10.1 Right of Refutation

Article 59 provides for a right of disproof in defamation cases and Article 62 provides for a right of response where a person's rights and legitimate interests are infringed. Article 60 sets out the procedure for disproof. Article 60(1) states that the disproof should indicate what information is not consistent with reality. Article 60(2) states that the disproof should be typed in the same font and placed in the same place of the column where the disproved information was (print media) or broadcast at the same time of day and in the same program as the disproved information was (broadcast media). Article 60(3) states that the space or time of the disproof is limited to twice the space or time of the disproved portion. The same rules apply to the right of response.

As noted in the companion Memorandum (Section 4.5.3), a mandatory right of reply is a highly disputed area of media law and is, in any case, legitimate only if it meets strict conditions. The Right of Disproof is largely in accordance with these conditions. Article 60(1) fails, however, to make it clear that the disproof or response must only address *incorrect facts*, not opinions, other correct facts or unrelated issues. In addition, Article 60(3) allows a disproof to be up to twice the length of the original article or broadcast when it should be proportionate in length.

Recommendation:

- Article 60 should be amended to provide that the disproof/response can only address incorrect facts and that it must be proportionate in length to the original article or broadcast.

2.10.2 Compensation

Article 82 provides that a citizen can be compensated for moral detriment in defamation cases. Article 82(1) states that a citizen about whom information has been disseminated defaming his honour, dignity or business reputation has the right, apart from disproving the claim, to claim compensation for moral detriment. The moral detriment is compensated by the court based on the nature of the physical and moral suffering of the victim and judgement and fairness.

As noted in the companion Memorandum (Section 4.5.3), there are a number of principles which should be respected when awarding pecuniary damages for defamation. Article 82(1) fails to respect these principles. First, it should clearly state that moral damages can only be awarded where the publishing or broadcasting of a refutation is insufficient to redress the harm caused by the defamatory statement(s). Second, it fails to require the court to take into account the potential chilling effect on freedom of expression when assessing the quantum of moral damages. And third, the quantum of moral damages should be subject to a fixed ceiling.

Recommendation:

- Article 82(1) should be amended to conform to the conditions set out above.

2.11 Freedom of Information

Articles 54-56 set out the right of the mass media to access information held by public bodies. Article 54 provides that where the editorial office of a mass media has requested information, the public body must disclose it within seven days. Article 56(1) provides that denial of requested information is only allowed if it contains information constituting a State, commercial or other secret specially protected by law. The notification of a denial must be given to the editorial office within three days from receiving the request. Article 56(2) states that deferment of providing information is allowed if the data requested cannot be provided within seven days. The deferment notification must indicate the date by which the requested information will be provided.

Tajikistan already has a Law on Information,[14] which has detailed provisions that guarantee the right of all citizens to access information held by public bodies. As such, it is not strictly necessary to have special guarantees for the media in the draft Media Law. As the Committee of Ministers of the Council of Europe has stated:

> Member states should guarantee the right of *everyone* to have access, on request, to official documents held by public authorities. *This principle should apply without discrimination on any ground*, including that of national origin.[15] [Emphasis added]

In any case, there are some problems with these provisions. Articles 54 and 56 set out a deadline of seven days for responding to an access to information request, and three days if the request is denied or deferred. These deadlines are probably too short, particularly if the access to information request is complex. If deadlines are not met or information is released in an incoherent or disorganised manner, the underlying objective of freedom of information law will be undermined.

Article 56, which exempts State, commercial or other secrets from disclosure, is not consistent with international law. Under international standards, a refusal to disclose information is not justified unless the public authority can show that the information meets a strict three-part test:

(1) the information must relate to a legitimate aim listed in the law;
(2) disclosure must threaten substantial harm to that aim; and
(3) the harm to the aim must be greater than the public interest in having the information.

Protecting State, commercial or other secrets is a legitimate aim, but the public authority must also show that the disclosure threatens harm to protecting a secret and the harm is greater than the public interest in disclosure.

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[14] No. 55, 10 May 2002.
[15] Recommendation No. R (2002) 2 on Access to Official Documents, adopted 21 February 2002, Principle III.

Recommendations:

- Article 54 should be amended to provide for a more reasonable deadline for responding to an access to information request.
- Article 56 should incorporate a harm test and a public interest override.