



## MEMORANDUM

on the draft

# Law of the Kyrgyz Republic on Access to Information

October 2006

ARTICLE 19 · 6-8 Amwell Street · London EC1R 1UQ · United Kingdom  
Tel +44 20 7278 9292 · Fax +44 20 7278 7660 · info@article19.org · <http://www.article19.org>

# TABLE OF CONTENTS

Summary of Recommendations .....	ii
Introduction.....	1
1. International Standards on Freedom of Information .....	2
2. Analysis of the Draft.....	5
2.1. Purpose of the draft Law .....	5
2.2. Scope of the draft Law .....	5
2.2.1. Persons with the right to access information .....	5
2.2.2. Bodies obliged to provide information.....	6
2.2.3. Information covered by the draft Law.....	8
2.3. Exceptions .....	9
2.4. The process for requesting information .....	11
2.4.1. Form of reply to a request .....	11
2.4.2. Unclear requests.....	12
2.4.3. Rules of procedure for oral requests .....	12
2.4.4. Application forms .....	13
2.4.5. Anonymous requests .....	13
2.4.6. Time limits and forwarding of requests .....	13
2.5. Proactive publication and direct access .....	14
2.6. Access to meetings of public bodies.....	15
2.7. Enforcement of the draft Law.....	16
2.8. Protection of whistleblowers .....	17
Annex – Text of the draft Law .....	18

## SUMMARY OF RECOMMENDATIONS

### Recommendations on the scope of the draft Law:

- The draft Law should state explicitly that the right to access information is enjoyed by every natural or legal person, regardless of nationality, residence or any other status.
- The use of the term ‘citizen’ throughout the draft Law should be reviewed and where possible, the word ‘individual’ or ‘person’ should be used in substitution.
- Article 2(2) should make it clear that private bodies owned, controlled or substantially financed by public bodies or the State, and private bodies carrying out statutory or public functions, are included in the definition of ‘state body’ or ‘self-government body’, so that it reflects the extent of their public function.
- Article 2(2) should also recognise a separate category of ‘private body’. Private bodies which are not performing a public function should be required to provide access to information when it is necessary for the exercise of protection of a right.
- The draft Law should draw a clear distinction between the right to request information on the one hand, and the duty to provide information *contained in records* on the other hand.
- The definition of ‘record’ should be as broad as possible and cover any information in recorded form, regardless of its form, source, date of creation or other status.

### Recommendations on exceptions to the right to access information:

- The exceptions on the duty to provide access to information should not be left to external secrecy laws, but must be dealt with in the draft Law.
- A 3-part test should be inserted to govern the regime of exceptions to the draft Law, and the present provisions governing exceptions should be deleted. The 3-part test should provide that information should never be withheld, unless:
  - It relates to a legitimate interest recognised by law; and
  - Its release would cause harm to this interest (‘harm test’); and
  - This harm would be greater than the harm of non-disclosure (‘public interest override’).

### Recommendations on procedural matters:

- Individuals requesting information should be permitted to indicate a preference as to the form of communication of the information. This request should be granted, unless doing so would cause significant extra work for the information holder or could harm the preservation of the record in question.
- The draft Law should indicate in which forms information may be provided, such as an opportunity to inspect the information, to make a copy with the requester’s own equipment, to receive a photocopy made by the information holder, and so on.
- An official processing a request for information should be under an obligation to contact the requester for clarification when the request is insufficiently clear. The time limit for responding can be suspended until a reply is received.
- The current provision enabling an official to unilaterally amend a request for information should be removed from the draft Law.

- When clarification of a request is needed, the official should be under an obligation to seek such clarification within a set number of days, and to use the fastest means of communication available.
- The draft Law should clarify whether use of an information request form is mandatory, and if so specify that this form may not go beyond what is necessary to process the request.
- Consideration should be given to adopting one or a small number of generic, national forms, rather than specific forms for every public body. These forms should be available online.
- Consideration should be given to permitting anonymous requests for information. If anonymous requests are permitted, the generic form for requesting information should indicate that including personal details is optional.
- The draft Law should permit public bodies to extend the deadline for providing information only once, to prevent potential denials of a request by continuous extension of the deadline.
- When a public body receives a request for information held by another public body, it should always be under an obligation to transfer this request by a set deadline, informing the requester of its actions.

#### **Recommendations on proactive disclosure and direct access:**

- An oversight and coordination body, such as an Information Commissioner, should be established to assist public bodies with fulfilling their duties of proactive disclosure and direct access.

#### **Recommendations on access to the meetings of public bodies:**

- The rules of Article 28(2) concerning how to decide between competing applications to attend the meeting of a public body should be revised - to remove the need for establishing a database of visitors.
- Journalists should be given preferential access to meetings of public bodies. Such access should be granted on the basis of objective criteria and should prevent exclusions based on the content of a journalist's work.

#### **Recommendations on appeals:**

- Consideration should be given to establishing a dedicated body, such as an Information Commissioner, to process appeals against refusals to provide access to information.
- Any dedicated freedom of information body should be given further responsibility to educate the public about the access to information law and ensure its proper implementation.

#### **Recommendations on whistleblowers:**

- A provision should be added to the draft Law, guaranteeing protection for good faith whistleblowers against sanctions of any kind.

## INTRODUCTION

This Memorandum contains an analysis by ARTICLE 19 of the draft ‘Law of the Kyrgyz Republic on Access to Information Held by State Bodies and Local Self-Government Bodies of the Kyrgyz Republic’ (draft Law), prepared by an expert group composed of media, business, NGO and government representatives.<sup>1</sup> We understand the draft Law will soon be tabled before Parliament.

ARTICLE 19 is an international, non-governmental organisation with a specific mandate to promote the rights of freedom of expression and access to information. Through the provision of legal expertise and training, we have been involved in the adoption and implementation of access to information legislation in many countries across four continents.

ARTICLE 19 warmly welcomes the efforts of the Kyrgyz government and Kyrgyz civil society to adopt a freedom of information law. Access to information is a fundamental human right, crucial to the functioning of democracy and key to the enforcement of other rights. The right to access information has been codified both in international human rights law as well as in anti-corruption conventions.

Our overall assessment of the draft Law is very positive; it includes a broad definition of the right to access information, good process guarantees, very broad obligations of proactive disclosure and direct access, and the right to access public meetings. At the same time, the draft Law suffers from some, significant, weaknesses which we consider could be easily remedied. The most serious is the regime of exceptions, which presently relies on external secrecy laws, rather than defining exceptions in the draft Law itself. This Memorandum sets out our main concerns with the draft Law and our drafting recommendations.

Our analysis of the draft Law is based on international law and best practice in the field of access to information, as summarised in two key ARTICLE 19 documents: *The Public’s Right to Know: Principles on Freedom of Information Legislation* (ARTICLE 19 Principles)<sup>2</sup> and *A Model Freedom of Information Law* (ARTICLE 19 Model Law).<sup>3</sup> Both publications represent broad international consensus on best practice for access to information. We are pleased to note that it appears these have been consulted in the promulgation of the draft Law. Section I of this Memorandum provides an overview of international standards on access to information, while Section II contains the substantive analysis of the draft Law and our drafting recommendations.

---

<sup>1</sup> Our comments are based on an unofficial English translation of the draft Law, which is annexed to this analysis. ARTICLE 19 takes no responsibility for comments based on mistaken translation.

<sup>2</sup> (London: June 1999). Available at <http://www.article19.org/pdfs/standards/foi-the-right-to-know-russian.pdf>

<sup>3</sup> (London: July 2001). Available at <http://www.article19.org/pdfs/standards/foi-model-law-russian-.pdf>

## 1. INTERNATIONAL STANDARDS ON FREEDOM OF INFORMATION

The right of access to information has long been recognised as an extremely important human right, both in its own regard within a democratic society, and also in the realisation of a number of fundamental human rights. The United Nations, at the very first meeting of the General Assembly, adopted a Resolution on the free circulation of information in its broadest sense, stating:

Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated.<sup>4</sup>

Furthermore, freedom of information has been recognised as an integral part of the right to freedom of expression, which includes the right to “seek, receive and impart information”. Article 19 of the UDHR states:

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Similar guarantees of freedom of expression can be found in the ICCPR, again under Article 19, as well as in the three regional human rights treaties, the *European Convention on Human Rights*,<sup>5</sup> the *African Charter on Human and Peoples’ Rights*<sup>6</sup> and the *American Convention on Human Rights* (ACHR).<sup>7</sup>

That the right to freedom of information is an aspect of freedom of expression has repeatedly been confirmed by United Nations bodies. The UN Special Rapporteur on Freedom of Opinion and Expression declared in 1998 that:

[T]he right to seek, receive and impart information imposes a positive obligation on States to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems....<sup>8</sup>

In 2000, the Special Rapporteur provided extensive commentary on the content of the right to information, as follows:

- Public bodies have an obligation to disclose information and every member of the public has a corresponding right to receive information; “information” includes all records held by a public body, regardless of the form in which it is stored;
- Freedom of information implies that public bodies publish and disseminate widely documents of significant public interest, for example, operational information about how the public body functions and the content of any decision or policy affecting the public;
- As a minimum, the law on freedom of information should make provision for public education and the dissemination of information regarding the right to have access to information; the law

---

<sup>4</sup> Resolution 59(1), 14 December 1946.

<sup>5</sup> Adopted 4 November 1950, E.T.S. No. 5, entered into force 3 September 1953.

<sup>6</sup> Adopted at Nairobi, Kenya, 26 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

<sup>7</sup> Adopted at San José, Costa Rica, 22 November 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force 18 July 1978.

<sup>8</sup> Report of the Special Rapporteur, 28 January 1998, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1998/40, para. 14.

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

- should also provide for a number of mechanisms to address the problem of a culture of secrecy within Government;
- A refusal to disclose information may not be based on the aim to protect Governments from embarrassment or the exposure of wrongdoing; a complete list of the legitimate aims which may justify non-disclosure should be provided in the law and exceptions should be narrowly drawn so as to avoid including material which does not harm the legitimate interest;
  - All public bodies should be required to establish open, accessible internal systems for ensuring the public's right to receive information; the law should provide for strict time limits for the processing of requests for information and require that any refusals be accompanied by substantive written reasons for the refusal(s);
  - The cost of gaining access to information held by public bodies should not be so high as to deter potential applicants and negate the intent of the law itself;
  - The law should establish a presumption that all meetings of governing bodies are open to the public;
  - The law should require that other legislation be interpreted, as far as possible, in a manner consistent with its provisions; the regime for exceptions provided for in the freedom of information law should be comprehensive and other laws should not be permitted to extend it;
  - Individuals should be protected from any legal, administrative or employment-related sanctions for releasing information on wrongdoing, viz. the commission of a criminal offence or dishonesty, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty or serious failures in the administration of a public body.<sup>9</sup>

His views were welcomed by the UN Commission on Human Rights.<sup>10</sup>

In December 2004, the three special mandates on freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the Representative on Freedom of the Media of the Organisation for Security and Cooperation in Europe and the Special Rapporteur on Freedom of Expression of the Organisation of American States – issued a Joint Declaration which included the following statement:

The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example Freedom of Information Acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions.<sup>11</sup>

The right to freedom of information has also been explicitly recognised in all three regional systems for the protection of human rights. Within Europe, the Committee of Ministers of the Council of Europe adopted a Recommendation on Access to Official Documents in 2002.<sup>12</sup> Principle III provides generally:

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.

The Council of Europe's Group of Specialists on Access to Official Documents is currently developing a binding treaty in the area of freedom of information.

Within the Inter-American system, the Inter-American Commission on Human Rights approved the *Inter-American Declaration of Principles on Freedom of Expression* in October

---

<sup>9</sup> Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2000/63, 18 January 2000, para. 44.

<sup>10</sup> Resolution 2000/38, 20 April 2000, para. 2.

<sup>11</sup> See <http://www.cidh.org/Relatoria/showarticle.asp?artID=319&IID=1>.

<sup>12</sup> Recommendation No. R(2002)2, adopted 21 February 2002.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

2000.<sup>13</sup> The Principles unequivocally recognise freedom of information, including the right to access information held by the State, as both an aspect of freedom of expression and a fundamental right on its own:

4. Access to information held by the state is a fundamental right of every individual. States have obligations to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

In an important decision on 19 September 2006, the Inter-American Court of Human Rights confirmed that a right to access publicly-held information is included in the right to freedom of expression under the ACHR:

77. In respect of the facts of the present case, the Court considers that article 13 of the Convention, in guaranteeing expressly the rights to “seek” and “receive” “information”, protects the right of every person to request access to the information under the control of the State, with the exceptions recognised under the regime of restrictions in the Convention. Consequently, the said article encompasses the right of individuals to receive the said information and the positive obligation of the State to provide it, in such form that the person can have access in order to know the information or receive a motivated answer when for a reason recognised by the Convention, the State may limit the access to it in the particular case.<sup>14</sup>

In 2003, the African Commission on Human and Peoples’ Rights adopted a *Declaration of Principles on Freedom of Expression in Africa*,<sup>15</sup> Principle IV of which states, in part:

1. Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.

The growing international consensus that there is a fundamental right to access officially held information is further reflected in the rapid growth in the number of such laws worldwide over the past ten years. States which have recently adopted freedom of information legislation include India, Israel, Jamaica, Japan, Mexico, Pakistan, Peru, South Africa, South Korea, Thailand, Trinidad and Tobago, and the United Kingdom, as well as most of East and Central Europe. These countries join a number of other countries which enacted access laws some time ago, such as Sweden, the United States, Finland, the Netherlands, Australia and Canada, bringing the total number of States with freedom of information laws to more than 65. A growing number of inter-governmental bodies, such as the European Union, the UNDP and the World Bank, have also adopted policies on the right to information.

Kyrgyzstan, as a State Party to the ICCPR since 7 January 1995, is obliged to take practical measures to give effect to the right to access to information. Indeed, a first version of the *Law of the Kyrgyz Republic on Guarantees and Free Access to Information* came into effect in 1997.

---

<sup>13</sup> 108<sup>th</sup> Regular Session, 19 October 2000.

<sup>14</sup> *Claude Reyes and Others v. Chile*, 19 September 2006, Series C No. 151, para. 77 (Inter-American Court of Human Rights). Unofficial translation from the Spanish judgement.

<sup>15</sup> Adopted at the 32nd Session, 17-23 October 2002.



## **2. ANALYSIS OF THE DRAFT**

### **2.1. Purpose of the draft Law**

Article 1 of the draft Law defines its purposes:

The purposes of this Law are providing the realisation and defence the right of access to information held by state bodies and local self-government bodies, and achieving the maximum informational openness, publicity and transparency in an activity of state bodies and local self-government bodies.

ARTICLE 19 strongly supports this provision. Importantly, access to information is described as a *right*, as required by international law. This implies that individuals are able to challenge a decision not to provide information through an appropriate legal procedure (as is indeed provided for by Article 35 of the draft Law).

The principle of maximum disclosure, according to which all information held by any public body should be accessible unless a specific legally recognised exception applies, forms the basis of any good access to information law. Accordingly, we welcome its explicit recognition in Article 1.

### **2.2. Scope of the draft Law**

The principle of maximum disclosure implies that the scope of a freedom of information law should be as broad as possible. ‘Scope’ has a number of dimensions: (i) who has the right to access information; (ii) who has an obligation to provide information; (iii) third, what type of material is included in the concept ‘information’.

#### ***2.2.1. Persons with the right to access information***

According to Article 3, “everyone” has a right to access information. This is a very progressive provision since it ostensibly means that any individual, regardless of nationality and place of residence, will be able to use the draft Law to access information held by Kyrgyz public bodies.

While it may seem generous to give foreign nationals or stateless persons, including those living outside Kyrgyzstan, access to official files, this is standard practice of most countries which have adopted freedom of information laws in recent years. For example, Macedonia’s recent *Law on Free Access to Information of Public Character*, which entered into force in September of 2006, states in Article 1:

Any national or foreign legal and natural entity shall be entitled to access information filed with government agencies.

In fact, common sense argues in favour of recognising a right to access information for non-residents. National security will not benefit from excluding foreigners, when the same information is available to 5 million citizens. Moreover, the level of requests from abroad is likely to be small, causing little expense to the State. Permitting such requests projects the image of Kyrgyzstan as an open country which upholds the rights of non-nationals both within and outside of its borders, which will help stimulate foreign investment and tourism, while encouraging other States to adopt a similarly progressive stance.

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

In short, ARTICLE 19 supports the wide formulation of the right to access information in Article 3. We believe it would be a good idea to replace the word “everyone” with a phrase which explicitly includes both foreign nationals and legal persons, such as the one found in the Macedonian law. In addition, we recommend reviewing the terminology used throughout the draft Law to refer to persons exercising the right to access to information. In several provisions, such as Article 9(b) and 13(1), the word “citizen” is used – this should be changed to “individual”, to reflect the fact that information may be requested by non-citizens too.

#### *2.2.2. Bodies obliged to provide information*

The draft Law recognises two categories of bodies which are required to provide access to information: ‘state bodies’ and ‘local self-government bodies’. These terms are defined in Article 2(2) as follows:

State bodies are organizations, established on permanent basis in accordance with Constitution of the Kyrgyz Republic, constitutional and other laws, decrees of the President of the Kyrgyz Republic, authorised to realize the functions of legislative, executive or judicial powers, as well as to take the decisions obligatory for execution and provide their realisation, financing from state budget, and also any territorial subdivision or structural unit realising the functions or part of functions of the central state body.

Local self-government bodies are representative, executive-administrative and other bodies, forming by population itself for solving issues of local meaning, and also any territorial subdivision or structural unit realizing the functions and part of the functions of local self-government body.

By terms “state body” and “local self-government body” comprehends also any institution, including its territorial subdivision or structural unit, financing fully or partly from republican or local budget and realizes functions not related with realisation of state power or functions of self-government, including institutions of health, education, informational, statistics, advisory, on credit issues.

It is very positive that the duty to provide information will apply to all public bodies, whether national or local, and whether executive, legislative or judicial. In some countries, certain bodies, such as the secret service or the courts, are exempted from the freedom of information regime. This fails to recognise that what is important is not *where* information is stored, but rather *whether or not it is in the public interest to release the information*. Certainly, the secret services and the courts hold significant amounts of information which should not be disclosed; at the same time, they may also hold large volumes of information which the public should be entitled to receive. In the case of the secret services, this could for example include old files which have little value to national security or privacy but are useful for historians.

Our main concern in relation to Article 2(2) is to what extent private bodies are required to provide access to information. There are, in ARTICLE 19’s view, three types of situations in which private bodies should be subject to a freedom of information regime:

1. *Private bodies owned, controlled or substantially financed by public bodies or the State.* Most governments worldwide participate to some extent in the domestic economy through ownership of, or voting rights in, corporations established under civil law. Usually these are industries in strategic areas such as energy and mining, or old State monopolies established by previous socialist governments. The way in which the government uses its control over these parts of the economy is a matter of legitimate concern to the public and it should be possible to scrutinise it.

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

Modern governments also often provide substantial levels of funding to private bodies to achieve a certain goal. For example, artistic or civic institutions such as museums and charities may receive subsidies from the public budget, because they are recognised as making an important contribution to society. The public has a right to verify that these funds are being used efficiently to advance the public interest.

2. *Private bodies carrying out statutory or public functions.* Private bodies may also be entrusted with substantial public responsibilities, such as the provision of utilities (water, gas, electricity), infrastructure, healthcare, security and other vital services. Even if the body in question has been fully privatised and is not controlled or financed by the State, it should be accountable to the public for how it fulfils the public function entrusted to it.
3. *Private bodies holding information necessary in order to protect or exercise a right.* Third, in exceptional situations it may be justified to require *any* private body to give access to information, regardless of whether it is under public control or is fulfilling a public function. This will be the case when an individual needs the information in order to protect or exercise a right. For example, an individual who has fallen ill as a result of illegally dumped chemical waste should be able to obtain information on its composition from the company which produced or dumped the waste, so as to make medical treatment possible.

It appears to us that Article 2(2) intends to include certain types of private bodies within the definition of ‘state body’ or ‘self-government body’. For example, bodies “including institutions of health, education, informational, statistics, advisory, on credit issues” are subject to the draft Law, at least if they are financed with public money.

We are concerned, however, that the terminology used is vague and capable of different interpretations. It is not clear to us, for example, whether a State oil company would be covered by the draft Law – such a company would normally not be created through a specific law or decree, nor would it fulfil executive, legislative or judicial functions. It is also doubtful whether the draft Law would apply to private bodies which fulfil public functions but are *not* financed with public money, such as a fully privatised and unsubsidised rail, water or energy company. And no provision is made for access to information held by private bodies when necessary to protect or exercise a right.

Accordingly, we recommend amending Article 2(2) to clarify that private bodies owned, controlled or substantially financed by public bodies or the State, and private bodies carrying out statutory or public functions, are included in the definition of ‘state body’ or ‘self-government body’. We also recommend creating a separate category of ‘private body’ to cover the situation mentioned under point 3 above.

By way of example, the ARTICLE 19 Model Law provides the following provision:

6. (1) For purposes of this Act, a public body includes any body: –
  - (a) established by or under the Constitution;
  - (b) established by statute;
  - (c) which forms part of any level or branch of Government;

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

- (d) owned, controlled or substantially financed by funds provided by Government or the State; or
  - (e) carrying out a statutory or public function,
- provided that the bodies indicated in sub-section (1)(e) are public bodies only to the extent of their statutory or public functions.
- (...)
- (3) For purposes of this Act, a private body includes any body, excluding a public body, that: –
    - (a) carries on any trade, business or profession, but only in that capacity; or
    - (b) has legal personality.

#### 2.2.3. Information covered by the draft Law

The draft Law guarantees a right of ‘access to information’, but the meaning of the term ‘information’ is not defined anywhere. In some places, it seems to be used interchangeably with the term ‘documents’. This is bound to give rise to all sorts of uncertainty, disagreement and unnecessary litigation.

One question in particular that should be settled is whether the right applies only to information which can be extracted from existing records, or whether public bodies may be required to generate new information upon the request of an individual. For example, an environmental NGO might ask the ministry responsible for environmental matters how many birds of a certain species currently live in Kyrgyzstan. If no statistics are available, is the ministry required to go out and count the birds?

For obvious reasons, many freedom of information laws draw a distinction between ‘information’ on the one hand, and ‘records’ on the other hand. An individual has the right to request information, and the information holder has an obligation to provide any records, in whole or in part, which contain this information – but is not required to collect new information to answer the request. In this arrangement, it becomes important to define what a ‘record’ is. The ARTICLE 19 Model Law provides the following definition:

#### **Records**

7. (1) For purposes of this Act, a record includes any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified.

The definition is as broad as possible, in line with the principle of maximum disclosure – any recorded information should in principle be open, unless it has been ‘closed’ by a specific legal exception. It should not escape disclosure because it falls outside the definition of ‘record’.

We believe the Kyrgyz draft Law would benefit from introducing a similar distinction between the right to request information, and the duty to provide relevant records, along with a suitably broad definition of ‘records’.

#### **Recommendations:**

- The draft Law should state explicitly that the right to access information is enjoyed by every natural or legal person, regardless of nationality, residence or any other status.
- The use of the term ‘citizen’ throughout the draft Law should be reviewed and

## ARTICLE 19

- where possible, the word ‘individual’ or ‘person’ should be used in substitution.
- Article 2(2) should make it clear that private bodies owned, controlled or substantially financed by public bodies or the State, and private bodies carrying out statutory or public functions, are included in the definition of ‘state body’ or ‘self-government body’, to the extent of their public function.
  - Article 2(2) should recognise a separate category of ‘private body’. Private bodies should be required to provide access to information when it is necessary for the exercise of protection of a right.
  - The draft Law should draw a clear distinction between the right to request information on the one hand, and the duty to provide information *contained in records* on the other hand.
  - The definition of ‘record’ should be as broad as possible and cover any information in recorded form, regardless of its form, source, date of creation or other status.

### 2.3. Exceptions

It is clear that while access to information is an important right, it needs to be balanced against other important social interests, such as national security, economic stability, privacy, the fairness and effectiveness of justice, and so on. At the same time, the reasons for withholding information should be genuine and important, and should take account of the importance of maximum openness.

As noted above in Section 1, the UN Special Rapporteur on Freedom of Opinion and Expression has outlined the requirements under international law for exceptions to the right of access to information. As noted above, in his 2000 Report, the UN Special Rapporteur specifically noted that:

- A refusal to disclose information may not be based on the aim to protect Governments from embarrassment or the exposure of wrongdoing; a complete list of the legitimate aims which may justify non-disclosure should be provided in the law and exceptions should be narrowly drawn so as to avoid including material which does not harm the legitimate interest<sup>16</sup>

There are three parts to this test required by international law, and this test is adopted by most contemporary access to information laws around the world. First, information should only be withheld for a legitimate reason recognised by law. The information holder should be required to indicate which interest it is trying to protect when it refuses to provide access to information; otherwise, requests might be denied simply out of convenience or to avoid embarrassment. The Council of Europe Recommendation on Access to Official Documents contains the following list of ten legitimate interests:

- i. national security, defence and international relations;
- ii. public safety;
- iii. the prevention, investigation and prosecution of criminal activities;
- iv. privacy and other legitimate private interests;
- v. commercial and other economic interests, be they private or public;
- vi. the equality of parties concerning court proceedings;
- vii. nature;

<sup>16</sup> Note 9.

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

- viii. inspection, control and supervision by public authorities;
- ix. the economic, monetary and exchange rate policies of the state;
- x. the confidentiality of deliberations within or between public authorities during the internal preparation of a matter.

Second, the information holder should not only indicate which interest it is trying to protect; it should also explain how releasing the information would actually *harm* this interest (this is known as the ‘harm test’). For example, a request for information about the number of trained fire fighters in a municipality certainly *relates to* public safety, but releasing this information would under normal circumstances not cause any *harm* to that interest (although it could cause embarrassment to the local government). It should be noted here that *harm* is a time-sensitive concept. Information which may harm a legitimate interest at one point in time may not still actually harm a legitimate interest, say, six months later.

Also, merely pointing to harm is still not enough. There are situations, quite often in fact, in which releasing information causes some harm to a legitimate interest, but not releasing the information causes even more harm to the same or another interest. A straightforward example is information about an infectious disease: releasing such information might harm public safety, if people start to panic; but withholding it could be far more catastrophic, if it prevents doctors and ordinary citizens from taking protective measures. Therefore, in the third place, the information holder should apply a *public interest override*: it should balance the harm caused by disclosing the information against the harm caused by not disclosing it, and act accordingly.

In short, the best practice of modern freedom of information laws is to recognise a three part test:

Information cannot be withheld, unless:

- 1) It relates to a legitimate interest recognised by law; and
- 2) Its release would cause harm to this interest (‘harm test’); and
- 3) This harm would be greater than the harm of non-disclosure (‘public interest override’).

The Kyrgyz draft Law takes a different approach, which, we fear, might seriously undermine effectiveness of the freedom of information regime and lead to information being withheld against the greater public interest.

According to Article 5, the task of distinguishing ‘open’ information from ‘closed’ information is simply entrusted to other laws, namely all the various legislation of the Kyrgyz Republic concerning state secrets and confidential information. Any information which is defined as either a state secret or confidential under any other law is automatically excluded from disclosure under the freedom of information law; regardless of whether disclosing it would in fact cause harm, and regardless of whether the public interest is really best served by withholding it.

There are, then, various problems with this approach. While we are not familiar with the secrecy laws of Kyrgyzstan, in our experience, such laws do not limit secrecy to important legitimate matters, and do not contain any careful balancing provisions like the harm test or public interest override. In fact, they are often characterised by an obsession with secrecy. One important purpose of adopting an access to information laws is precisely to reverse the culture of secrecy engendered by longstanding secrecy laws and practices.

Moreover, given its purpose of promoting transparency of public institutions, a freedom of information law itself should aim to be as clearly and simply drafted as possible, so that it can be understood and used by ordinary citizens without legal advice. By referring to a potentially large number of unspecified pieces of legislation in Article 5, the draft Law fails to achieve this important characteristic of an access to information regime.

We therefore strongly recommend that the draft Law should contain a three-part test along the lines described above, along with a statement that it will prevail over any existing secrecy legislation.

This does not mean, incidentally, that the secrecy legislation becomes completely meaningless. In many countries where the freedom of information law supersedes secrecy laws, these laws continue to be applied for internal use by public bodies. Documents which are deemed sensitive by civil servants can be marked as a ‘State secret’ or ‘confidential information’ as an internal guideline, so that special care can be taken when processing a request for a document of this kind. For example, the responsibility to decide whether such a document should be released could be entrusted to the highest officer in the public body in question.

**Recommendations:**

- The exceptions on the duty to provide access to information should not be left to external secrecy laws, but be dealt with in the present law.
- The rules regarding exceptions should be based on a three part test. Information should never be withheld, unless:
  - It relates to a legitimate interest recognised by law; and
  - Its release would cause harm to this interest (‘harm test’); and
  - This harm would be greater than the harm of non-disclosure (‘public interest override’).

## **2.4. The process for requesting information**

Articles 7 – 15 of the draft Law deal with the provision of information to an individual on the basis of a request.

These provisions are on the whole sensible and comprehensive. We have a few minor concerns, which are detailed below.

### ***2.4.1. Form of reply to a request***

According to Article 7(2), replies to requests for information shall be given in the form in which the request was presented. In other words, if the request was made orally, the information should be provided orally, if it was made in writing, the reply should be in written form too. This seems unnecessarily restrictive: if a request is made by telephone, in many cases it will be more convenient for both sides to send the information through the mail, or make an appointment for inspection of the relevant records at the information holder’s offices.

We recommend instead following the practice of many countries, whereby the requester can

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

indicate a preference as to the form of communication of the information. This request should be granted, unless doing so would cause significant extra work for the information holder or could harm the preservation of the record in question.

We also believe the draft Law should indicate in which forms information may be provided, and that this should include more options than a written or oral reply only. Article 12(2) of the ARTICLE 19 Model Law lists the followings ways to provide access to information:

- a. a true copy of the record in permanent or other form;
- b. an opportunity to inspect the record, where necessary using equipment normally available to the body;
- c. an opportunity to copy the record, using his or her own equipment;
- d. a written transcript of the words contained in a sound or visual form;
- e. a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or
- f. a transcript of the record from shorthand or other codified form.

#### *2.4.2. Unclear requests*

Article 9 of the draft Law states that an individual requesting information should formulate the request so that it is possible to judge unambiguously which information should be provided (although it is not necessary to indicate specific documents). If the request is insufficiently clear, the person processing it may decide to contact the requester, or if no telephone number is known, simply amend the request himself or herself.

We are concerned that this arrangement is inadvertently open to abuse – a civil servant might claim that a request is unclear and amend it, simply to avoid revealing embarrassing information. Instead, the person processing the request should always be under an obligation to seek clarification of any unclear request, if need be in writing.

Because written clarification causes delay, the draft Law could recognise that the time-limit for responding to the request will stop running while the information holder awaits a response from the requester. To prevent this procedure from being used as a delay tactic, the draft Law could further specify that a request for clarification must be sent within a certain number of days, and may be sent by ordinary mail only when no faster alternative is available, such as telephone, fax or e-mail.

#### *2.4.3. Rules of procedure for oral requests*

We note that most of the draft Law's procedural rules, such as the rules on how to deal with unclear requests (Article 9), the time limits for responding to requests for information (Article 10) and the manner of considering and satisfying requests (Article 11), apparently apply only to requests for information in writing and not to oral requests. For example, the title of Article 10 is "Terms of provision with replies to *written* requests" (emphasis added).

It seems to us that this is an oversight and that the same rules of procedure should, at least for the most part, apply to oral requests for information. There is no reason, for instance, why it would not be possible to impose a two-week time limit on responding to oral requests. An individual could telephone the information holder's office and receive a promise that the answer would be faxed to him or her within 14 days.



#### **2.4.4. Application forms**

Article 9 states that State and local self-government bodies must prepare sample forms for requesting access to information. These forms are to be made available at the offices of the body in question and at post offices.

Having an application form can be a good idea, but the draft Law needs to clarify certain things. First, use of the application form should not be mandatory – at least not for requests by e-mail or telephone, since this would be complicated or impossible. Second, it should be borne in mind that there are probably hundreds, or even thousands, of State and local self-government bodies: if each one creates its unique application form, post offices will be overwhelmed by all the different forms. It would be better to have one generic, universal form, or to require each body to make the form available on its website (or even better, both). Finally, if use of the form is made mandatory under certain circumstances, the draft Law should specify that a form may not go beyond what is strictly necessary to process an application for access to information.

#### **2.4.5. Anonymous requests**

According to Article 10, an individual requesting information is required to specify his/her full name, date of birth and place of residence.

Experience in other countries has shown that there are significant public benefits in permitting anonymous requests, by a person providing only a correspondence address or number. Civil servants have been known to use freedom of information laws to anonymously request specific documents exposing corruption of their colleagues or superiors and forwarding these to anti-corruption agencies. Moreover, anonymous requests prevent the possibility of a public body discriminating against unfavoured individuals in the processing of requests, thus strengthening the operation of the access to information regime.

We recommend considering abolishing the requirement of providing a full name and date of birth, which is not strictly necessary for any reason for processing a request.

#### **2.4.6. Time limits and forwarding of requests**

The draft Law provides a time limit of two weeks for responding to a request for information (Article 10). If responding within this limit is not possible, the information holder may prolong the period for another two weeks, informing the requester of the reasons. In case the information requested is not held, but there is another body which is ‘obligated’ to hold the information, the request must be forwarded to that body (Article 12(1)). In these cases, the time limit for responding starts running from the moment the transfer of the request is complete (Article 10).

These provisions are generally good, but we have some minor concerns. First, it should be clarified that the time limit for responding may only be extended *once*. Otherwise a body might abuse the provision by continually extending the deadline by another two weeks. Second, there should be an additional, short deadline for accomplishing transfers from one body to another, and the requester should be notified of any transfer of the request, to enable him/her to calculate when the deadline for receiving an answer will expire. Third and finally, we are not sure why requests must only be transferred when another body is ‘obligated’ to hold the information. It seems more sensible that any request should be transferred if another

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

body can be identified which does hold the information, regardless of whether it is actually required to do so.

### **Recommendations:**

- Individuals requesting information should be permitted to indicate a preference as to the form of communication of the information. This request should be granted, unless doing so would cause significant extra work for the information holder or could harm the preservation of the record in question.
- The draft Law should indicate in which forms information may be provided, such as an opportunity to inspect the information, to make a copy with the requester's own equipment, to receive a photocopy made by the information holder, and so on.
- An official processing a request for information should be under an obligation to contact the requester for clarification when the request is insufficiently clear. The time limit for responding can be suspended until a reply is received.
- The current provision enabling an official to unilaterally amend a request for information should be removed from the draft Law.
- When clarification of a request is needed, the official should be under an obligation to seek such clarification within a set number of days, and to use the fastest means of communication available.
- The draft Law should clarify whether use of an information request form is mandatory, and if so, specify that this form may not go beyond what is necessary to process the request.
- Consideration should be given to adopting one or a small number of generic, national forms, rather than specific forms for every public body. These forms should be available online.
- Consideration should be given to permitting anonymous requests for information. If anonymous requests are permitted, the generic form for requesting information should indicate that including personal details is optional.
- The draft Law should permit public bodies to extend the deadline for providing information only once.
- When a public body receives a request for information held by another public body, it should always be under an obligation to transfer this request by a set deadline, informing the requester of its actions.

### **2.5. Proactive publication and direct access**

Chapters III and IV of the draft Law deal, respectively, with the duty of public bodies to proactively publish certain types of information, and to provide direct access to other types of documents by opening up archives, libraries and databases.

These provisions are very comprehensive and progressive. Requiring public bodies to publish information at their own initiative will benefit individuals who are not even aware of their right to information under the draft Law, and will probably also reduce the need for requests from those who are.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

Article 20 contains 36 headings of information which each public body should publish annually. These headings make good sense, although they are, by necessity, quite general and vague, to take account of the differing nature of public bodies. We have two main concerns: first, the possibility that some public bodies will interpret their duties under Article 20 in a minimalist way; and second, that some smaller public bodies, like local schools or clinics, may feel a bit overwhelmed by the extent of their obligations under this provision.

One solution we could imagine is giving an Information Commissioner (see below for further discussion) the responsibility to monitor and assist with the implementation of Article 20, and Chapters III and IV in general. Larger public bodies, such as ministries, local governments, parliament, the police, the army and so on, could be required to adopt an annual publication scheme, setting out exactly which information they propose to make available in compliance with Chapters III and IV during the next 12 months. The Information Commissioner could then approve this scheme or suggest improvements, taking into account the capacities of the body. A similar model is followed in the United Kingdom, under the *Freedom on Information Act 2000*; it has the advantage that over the years, large volumes of public information can be accumulated and organised according to a planned process, using modern technologies such as the Internet.

Meanwhile, the Information Commissioner could assist smaller public bodies by publishing a Guidance Note on how to implement Chapters III and IV. This Guidance Note could for example take the form of a checklist and advice on how most cheaply and effectively to publish the information in question or provide direct access.

### **Recommendations:**

- An oversight and coordination body, such as an Information Commissioner, should be established to assist public bodies with fulfilling their duties of proactive disclosure and direct access.

## **2.6. Access to meetings of public bodies**

The draft Law includes progressive provisions on access to public meetings in Articles 24-29. This is welcome in an access to information law. The rules of Article 28(2) on how to proceed when the number of interested citizens exceeds available seating, however, might be difficult to implement in practice: this requires the establishment of some sort of database of visitors, keeping track of the frequency of the visits. Such a database is probably unfeasible and also raises privacy concerns as well.

We also believe special priority should be given to journalists, since they can disseminate information about meetings of public bodies to a much wider audience. Such is the rationale for press accreditation procedures, which grant members of the press preferential access to public meetings and events. The criteria for admitting journalists should be objective in nature, and measures should be put in place to prevent journalists from being excluded from future meetings in retaliation for a critical report.

### **Recommendation:**

- The rules of Article 28(2) concerning how to decide between competing applications to attend the meeting of a public body should be revised - to remove

the need for establishing a database of visitors.

- Journalists should be given preferential access to meetings of public bodies. Such access should be granted on the basis of objective criteria and should prevent exclusions based on the content of a journalist's work.

## **2.7. Enforcement of the draft Law**

Article 35 of the draft Law deals with appeals against a refusal to provide access to information, as well as other failures to comply with the access to information law. Plaintiffs can address their appeals to a superior officer, the national Ombudsman or the ordinary courts.

It is positive that the draft Law guarantees the possibility of an appeal; however, experience across those countries which have adopted a freedom of information law shows that internal appeals, Ombudsman procedures and ordinary courts often fail to provide an effective remedy for a violation of the right to information. This is because of the special nature of information as a 'perishable commodity' – in many cases, if information cannot be obtained quickly, it will become useless. As an example, the legal advisor of the British government prepared a recommendation on the legality of going to war in Iraq prior to the invasion of 2003. A document of this kind should be released as soon as possible (provided that it is, on balance, in the public interest to do so); if the matter has to be fought over in court, the war might be over by the time the public learns whether it was legal to attack in the first place.

To ensure that refusals to provide access to information can be contested quickly and at low cost, without compromising the quality of the final decision, many countries have established a dedicated legal body to handle complaints. These bodies are composed of experts in the field of freedom of information and are often called the "Freedom of Information Commission" or "Commissioner's Office".

There are several other benefits to a dedicated freedom of information body besides efficiency. An information commission can play a significant role in educating public officials and members of the public about the existence and implications of access to information law, and advising public bodies on ways to improve implementation. It can organise and run training programmes for public officials, or advise public bodies in putting together their own programmes. By issuing annual reports with statistics about the number of requests, the processing time, the number of refusals and the grounds for refusals, it can raise concerns regarding the implementation of the draft Law and provide a focus point for periodic debate.

An Information Commission can also be given special powers which an ordinary court or the Ombudsman do not have, such as the power to inspect information behind closed doors, to verify the public body's claim that releasing it will harm the public interest; or the power to order immediate release of a record or even seize it at the offices of the body in question.

We therefore recommend that the draft Law should require the establishment of an Information Commission and an Information Commissioner, with powers to consider complaints, make binding orders to release information and make general recommendations for best practice on freedom of information. This Commission should also be in charge of

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

organising public education campaigns about the draft Law and assisting public bodies with its implementation.

### **Recommendation:**

- Consideration should be given to establishing a dedicated body, such as an Information Commissioner, to process appeals against refusals to provide access to information.
- Any dedicated freedom of information body should be given further responsibility to educate the public about the access to information law and ensure its proper implementation.

## **2.8. Protection of whistleblowers**

Whistleblowers are civil servants who, in good faith, release information that reveals official wrongdoing or serious threats to the health and safety of the public or the natural environment. The draft Law does not refer in any way to whistleblowers; this is a shame, since protection of whistleblowers is an important part of any effective freedom of information regime, and can help tackle a culture of secrecy. Article 47 of the ARTICLE 19 Model Freedom of Information Law provides an example of how protection of whistleblowers might be formulated:

1. No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.
2. For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.

### **Recommendation:**

- A provision should be added to the draft Law, guaranteeing protection for good faith whistleblowers against sanctions of any kind.

## **ANNEX - TEXT OF THE DRAFT LAW**

**Draft**

### **LAW OF THE KYRGYZ REPUBLIC**

**On access to information held by state bodies and  
local self-government bodies of the Kyrgyz Republic**

#### **CONTENT:**

#### **CHAPTER I. GENERAL PROVISIONS**

**Article 1. Purposes of the Law**

**Article 2. Purview of this Law**

**Article 3. Guarantees and principles of access to information**

**Article 4. Openness, publicity and transparency in an activity of state bodies and local self-government bodies**

**Article 5. Restrictions of access to information**

**Article 6. Means of providing with information**

#### **CHAPTER II. PROVISION WITH INFORMATION ON THE BASIS OF ORAL OR WRITTEN REQUEST**

**Article 7. Forms of making requests for information**

**Article 8. Oral addressing for providing with information**

**Article 9. Form and content of a written request**

**Article 10. Terms of provision with replies to the written requests**

**Article 11. Order of consideration and satisfaction the written request**

**Article 12. Additional guarantees of receiving information**

**Article 13. Expenses related with provision with information**

**Article 13. Requests on provision with information in a form of text communication, transmitting on communication channels**

**Article 15. Basis for rejection in provision with information on a request**

#### **CHAPTER III. PROMULGATION OF INFORMATION ABOUT ACTIVITY OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 16. Provision with official information**

**Article 17. Promulgation of information about current decisions and official events**

**Article 18. Annual reports of state bodies on work results**

**Article 19. Publication of informational materials**

**Article 20. Duties of state bodies and local self-government bodies on providing the dissemination information**

**Article 21. Dissemination of official information in mass media**

#### **CHAPTER IV. PROVIDING THE DIRECT ACCESS TO DOCUMENTS AND MATERIALS OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 22. Forms of providing the direct access**

**Article 23. Providing access of publicity to state foundations of official information of state bodies and local self-government bodies**

**Article 24. Access to library stocks of official information**

**Article 25. Access to data bases**

**CHAPTER V. PROVIDING ACCESS TO SESSIONS OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 24. Openness of sessions**

**Article 27. Notice of publicity about conducting sessions**

**Article 28. Organizations of sessions attendance**

**Article 29. Order of providing the sessions with participation of visitors**

**CHAPTER VI. ORGANIZATION OF ACCESS TO INFORMATION HELD BY STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 30. Organizational measures on assistance to access to information**

**Article 31. Organization of access to information in automatized informational systems**

**Article 32. Duties of state bodies and local self-government bodies on providing the access to information**

**CHAPTER VII. REALIZATION GUARANTEES OF THIS LAW**

**Article 33. Organizational guarantees**

**Article 34. Informing of publicity about realization of this Law**

**Article 35. Appealing the rejection in provision with information**

**Article 36. Responsibility for violation duties on provision with information**

**CHAPTER VIII. CONCLUSION PROVISIONS**

**Article 37. Effectiveness of this Law**

## CHAPTER I. GENERAL PROVISIONS

### Article 1. Purposes of the Law

The purposes of this Law are providing the realization and defense the right of access to information held by state bodies and local self-government bodies, and achieving the maximum informational openness, publicity and transparency in an activity of state bodies and local self-government bodies.

### Article 2. Purview of this Law

1. This Law shall regulate relations related with access of individuals and legal entities to information held by state bodies and local self-government bodies.
2. In accordance with provisions of this Law all state bodies and local self-government bodies obligated to provision with information.

State bodies are (*recognize*) organizations, established on permanent (*continuing*) basis in accordance with Constitution of the Kyrgyz Republic, constitutional and other laws, decrees of the President of the Kyrgyz Republic, authorized to realize the functions of legislative, executive or judicial powers, as well as to take the decisions obligatory for execution and provide their realization, financing from state budget, and also any territorial subdivision or structural unit realizing the functions or part of functions of the central state body.

Local self-government bodies are (*recognize*) representative, executive-administrative and other bodies, forming by population itself for solving issues of local meaning, and also any territorial subdivision or structural unit realizing the functions and part of the functions of local self-government body.

By terms “state body” and “local self-government body” comprehends also any institution, including its territorial subdivision or structural unit, financing fully or partly from republican or local budget and realizes functions not related with realization of state power or functions of self-government, including institutions of health, education, informational, statistics, advisory, on credit issues.

3. Force (*purview*) of this Law shall not apply:
  - to relations, arising on citizens’ addressing with suggestions, complaints and petitions to the state bodies and local self-governments;
  - to relations, related with access of state bodies or local self-government bodies to information held by other state bodies or local self-government bodies;
  - to relations, related with provision with information, to which access is restricted in accordance legislation of the Kyrgyz Republic.

### Article 3. Guarantees and principles of access to information

Everyone has a guarantee of the right to access to information held by state bodies and local self-government bodies.



The main principles of freedom of access to information are accessibility, objectivity, timeliness, openness and truthfulness of information.

State shall defend the right of each person to seek, receive, research, produce, impart and disseminate information.

Restrictions of access and dissemination information shall be established only by law.

**Article 4. Openness, publicity and transparency in an activity of state bodies and local self-government bodies**

1. Activities of state bodies and local self-government bodies are open, transparent and public.
2. Information about activity of state bodies and local self-government bodies are available to all. Any restriction of access to information held by state bodies and local self-government bodies is prohibited, except cases specified by article 5 of this Law.
3. Decision on refusal the access to information should be motivated and founded, only through the basis, provided by article 15 of this Law.
4. It may not be restricted the familiarization with the decision, on the basis of what access to information is restricted. Documents and materials which contain information, to which the access to information should be restricted in accordance with legislation of Kyrgyz Republic, shall be provided with that part which don't include such as information.

**Article 5. Restrictions of access to information**

1. Information with restricted access is (*recognizes*) the information attributed to the state secrets as well as confidential information.

Attribution of information to the state secrets shall realize in accordance with legislation of the Kyrgyz Republic on state secrets.

Confidential information is information containing official secret of state bodies and local self-government, as well as held by state bodies and local self-government bodies containing secrets of other people protected by law.

2. Confidential information containing official secret of state bodies and local self-government with purpose of this Law is (*recognizes*) the information:
  - 1) concerned only technical-organizational rules of protection the work of state bodies and local self-government bodies;
  - 2) describing the concrete content of closed hearings and sessions, as well as personnel position of official during closed session or voting.
3. Confidential information containing secret of other people protected by law is (*recognize*) information attributed in accordance with legislation of the Kyrgyz Republic to the secrets of private life, commercial, professional or other kinds of secrets. Officials of state bodies and local self-government bodies have responsibilities established by legislation of the Kyrgyz Republic for disclosure of confidential information, containing protected by law secrets of other people, if they have become familiar with them because of realization the powers established by law.

**Article 6. Means of providing with information**

1. The main means of providing with information by state bodies and local self-government bodies are:
  - a) publication and dissemination of appropriate materials;
  - b) providing individuals and legal entities with information on the basis of their request;
  - c) promulgation of information about activity of state bodies and local self-government bodies;
  - d) providing the direct access to the documents and materials of state bodies and local self-government bodies;
  - e) providing of direct access to open sessions of state bodies and local self-government bodies.
2. State bodies and local self-government bodies have a right to use any other means, not prohibited by legislation of Kyrgyz Republic, for informing population about own activities.
3. Providing by state bodies and local self-government bodies with one of means of access to information about own activity may not be the basis for rejection in provisioning with information by any other legal mean.

## **CHAPTER II. PROVISION WITH INFORMATION ON THE BASIS OF ORAL OR WRITTEN REQUEST**

### **Article 7. Forms of making requests for information**

1. Requests for information to state bodies and local self-government bodies may be sent in a form of:
  - oral direct addressing or by telephone;
  - written request, delivering by personal handing over, by post, by courier or by delivering on electronic communication channels.
2. Reply to a request shall satisfy in that form, which was delivered a request.
3. In case when the document held by state bodies or local self-government bodies exists in more than one language, the document must be provided in that language which was preferred by person concerned.

### **Article 8. Oral addressing for providing with information**

1. In case of orally addressing for receiving information or addressing by telephone, the appropriate information shall be provided in oral form.
2. In oral form shall be provisioned the short information obviating (*eliminating*) the necessity of making the written requests to provision with information. Responsibility persons for provision with information not obligated to consult requesting citizens on components of the request subject.
3. If oral reply to a request is not irrefragable answer for citizen, he/she shall be explained about order of making requests, as well as other means of receiving information in accordance with the provisions of this Law.
4. Every oral addressing should be fixed (registered) in a journal, in which shall be indicated author of addressing, its telephone number, home address, date and time of addressing,

subject or question of addressing, as well as information about state or municipal employee, who has replied on the addressing.

Journal form and order of its journaling shall be established by Government of the Kyrgyz Republic.

#### **Article 9. Form and content of a written request**

In a written request without fail must be indicated:

- a) name of the state body and (or) surname of official of state body and local self-government body, who is recipient of a request;
- b) for citizens - surname, name, patronymic, date of birth, place of residence; for legal entities (their branches and representative offices) - full name of a legal entity (branch, representatives office), location of management body (postal address), information about registration as a legal entity, surname and position of person who signed a request;
- c) subject of a request, which allow to judge unambiguously which kind of information, should be provided.

Person making a request not obligated to motivate the reason of his/her request. Person, asking information has a right to include to the request number of contact telephone, and other information which on his/her opinion could assist for executing of a request.

State body and local self-government shall elaborate the example forms of the requests for provision with information and provide access to such as forms in places of location of the state bodies, local self-government bodies and in post offices. On the underside of a request form for provision with information may be included the explanation of the order of filling out, terms, order of receiving and payment for provision with information.

It is not required precise indicating of all properties of necessary documents or materials in formulating the subject of a request. If it is necessary to make more accurate the subject of a request, person responsibility for preparation the reply has a right to make more accurate the subject of a request by contact telephone on personal initiative. In a case of absence of a contact telephone, person responsibility for preparation a reply indecently shall make more accurate the subject of a request.

The request for provision with information may be sent by citizen via post, courier, on electronic communication channels or personally delivered to appropriate state body and local self-government body.

#### **Article 10. Terms of provision with replies to the written requests**

Preparation of a reply to the written requests shall be executed within two weeks term.

The calculation of a term for replying to a request starts from the day of receiving a request by state body and local self-government body and ends in day when a reply to a request shall be transferred by it to the department of mail service, personally to author, or to his/her courier or representative or day of fixing the sending on electronic communication channel.

If a request in accordance with requirements of this Law needs in forwarding to another state body and local self-government body, the calculation of the term for the reply to the request starts from the day of receiving the request by other state body or local self-government body, which obligated to provision with information in accordance with this Law.

If within two weeks term a reply to a request may not be prepared, person who sent a request shall be informed about it with the reason of prolongation. Period of prolongation may not exceed two weeks term.

Not providing with reply to a request within term, established by this article or absence of confirmation about prolongation of the term for reply shall consider as a refusal in provision with reply to a request.

**Article 11. Order of consideration and satisfaction the written request**

1. Every request for provision with information shall be registered state body and local self-government or private organization with specifying:
  - date of receipt a request;
  - information about sender of request;
  - short statement of the request subject;
  - surname and position of the responsible person for preparation of the reply;
  - motivation of refusing in provision with information (in the presence of information);
  - size of payment for preparation the reply to the request (in the necessity of paying);
  - information about forwarding of the request to other state body and local self-government body;
  - date of sending the reply to the person enquiring;
  - other information, describing the main stages of preparation the reply to the request.
2. Request for receiving information after registration shall be sent to person responsible for preparation the reply. Responsible person shall retrieval the necessary documents and materials, copy and form the set of documents for the reply.
3. Answer to the written request about provision with information shall be irrefragable, cutting out the necessity of repeated addressing by the person concerned on the same subject of request. Executor of the request not obligated to consult person interested in provision with information about order of using the required documents and materials.
4. Reply to the request must contains:
  - 1) indication of responsibility person about performance the request including the short formulation the request subject, list of giving documents, surname and position of the request executor, date of signature the answer;
  - 2) texts of provisioning documents, or information about them or part of the documents, if such as information or part of them contain exhaustive information for satisfaction of the request and their provision instead of the documents, unambiguously available in accordance with character of the request;
  - 3) price list of consumables costs and information services, as well as list of names and contact information of the main state bodies and organizations located in a district of inhabited locality, where live person addressed the request, and realizing the human rights protection, their I&R and library service and provision with information on the basis of this Law.

**Article 12. Additional guarantees of receiving information**

1. If the state body or local self-government does not hold and not obligated to hold in accordance with this Law the requesting documents and materials, then person concerned shall be informed about it.
2. When another state body or local self-government body obligated to hold the requiring documents, then a request shall forward to the appropriate body which shall obligated to reply to this request. If in a request indicated the number of the contact telephone or information about other vehicle of communication, the request executor shall inform the person enquiring about forwarding the request and makes note about it in a written request.
3. If the required documents were promulgated, the executor of a request has a right to give a reference in a reply to the appropriate source of information's promulgation.

**Article 13. Expenses related with provision with information**

1. Preparation the replies to the requests of citizens and organizations shall be realized by state bodies and local self-government bodies free of charge, with the exception of cases established by point 3 of this article.
2. Person enquiring the written request for information shall pay by payment forward the postal services on delivering the reply to the request.
3. For the requests for information which need copying the documents or their parts in a volume exceeding 5 pages, there shall admit the payment for providing the appropriate copying services, not exceeding their cost price. Unified price lists for the copying services and repayment terms shall be approved by Government of the Kyrgyz Republic. State bodies and local self-government bodies have a right to dispense from payment for provision with information persons relevant to social unprotected category of the population.

**Article 14. Requests on provision with information in a form of text communication, transmitting on communication channels**

1. The requests received in a text form, transferring on communication channels shall satisfy by sending in an appropriate form the documents, if the technical opportunities of the state body or local self-government body allow it.
2. If the request received via e-mail, reply to the request shall send to the return e-mail address of person enquiring. If there is not the electronic version of the requesting documents, then information shall be provided in another forms and means of receiving the information in accordance with provisions of this Law. To the reply may be attached the files with requesting documents, or may be indicated the concrete links to the electronic versions of the accessible documents and materials in the global network.
3. If the request to provision with information received by fax, the reply to it may be send also by fax, if the volume of the required documents for satisfaction the request shall not prevent to it. In another case in the answer shall be indicated the order of receiving the information on the request by another ways and means of receiving information in accordance with provisions of this Law.
4. Registration and preparation of the reply to the request receiving on e-mail or on fax, shall realize in order provided for the written requests.

**Article 15. Basis for rejection in provision with information on a request**

1. It may be rejected in provision with information on the request in the presence of the following basis:
  - 1) the requesting information contains in parts of the documents which on the basis of the appropriate laws of the Kyrgyz Republic and provisions of this Law putted to the category of information with restricted access;
  - 2) the request developed with infringement the requirements provided by article 8 of this Law;
  - 3) the request of this person on the same subject is on the considering of the headquarter of the body and its department, as well as in cases when state body and local self-government body does not hold and not obligated to hold appropriate documents in accordance with requirements of this Law.
2. State body and local self-government body have a right to refuse in provision with information to the request, which is the essentially coincide with information given out on a request to that person in a period equal 3 months before receipt the repeated request.
3. Rejection in provision with information must include the following information:
  - 1) motivation with indication the concrete links to the norms of legislation of the Kyrgyz Republic, on which basis there was rejected the provision with information;
  - 2) means (ways) and order of appealing the rejection in provision with information.

**CHAPTER III. PROMULGATION OF INFORMATION ABOUT ACTIVITY OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 16. Provision with official information**

1. The official information shall be provisioned by its promulgation. Additionally there may be provided the other means of access to official information.
2. Provision with official information shall realize by means of promulgation:
  - 1) laws (statutory acts) in compliance with order and terms of publication, established for that;
  - 2) information about current decisions and official events of state bodies and local self-government bodies;
  - 3) annual reports of state bodies and local self-government bodies about results of work;
  - 4) other informational materials.

**Article 17. Promulgation of information about current decisions and official events**

1. State bodies and local self-government bodies shall promulgate official information regarding:
  - 1) assumption of an office or resignation of the heads of the state bodies and local self-government bodies;
  - 2) adoption of the republican and local budgets of the Kyrgyz Republic, as well as budgets of state bodies and local self-government bodies, change rates and order of

discharge of republican and local taxes and tallages, including municipal and other payments;

3) adoption of legal acts on management the material (property) objects, which are on the state or municipal properties balance;

4) adoption of legal acts related with allocation of land resources;

5) adoption of legal acts related with building which are fully or partly in the property of foreign persons (legal entities);

6) signing and course of implementation of the international treaties;

7) measures, undertaking for liquidation of the extreme events (incidents) menacing to the life and health of the people.

2. State bodies and local self-government bodies have a right to bring to publicity's attention other information about current decisions and official events with using the resources of printing, audio-visual mass media and other means of information the population.

#### **Article 18. Annual reports of state bodies on work results**

1. By Government of the Kyrgyz Republic shall be provided promulgation the annual messages of President of the Kyrgyz Republic to the people of the Kyrgyz Republic on state of affairs in a country, reports of the Constitutional court of the Kyrgyz Republic on the status of the constitutional legality and Ombudsman (Akyikatchy) of the Kyrgyz Republic on the state of affairs in the country in the field of human and citizens rights and freedoms.
2. State bodies and local self-government bodies shall promulgate reports on own activity for reporting period, describing reflecting the happened during reporting period dynamics of changes in a social-political, economic and cultural spheres, namely: the main statistic indicators on such as directions as spending the budgetary funds, sources and volume of the tax proceeds in the republican budget and local budgets, production volume and consumption on separate sectors of the market, volume of the internal and external investments, combating with criminality, health protection, migration of the population, ecology, as well as other important directions of the activity.

#### **Article 19. Publication of informational materials**

1. The Government of the Kyrgyz Republic shall promulgate the summary information materials in about structure of the executive powers bodies and order of their work the mass media. The summary information materials shall include description of the structure of public authorities, including their main powers and object of the jurisdiction, also surnames of the employees, deputizing the executive positions, their work telephones, work addresses, routine of work with population.
2. By Government of the Kyrgyz Republic or on its behalf by other bodies of the executive power shall be financed the promulgation of the official information materials in a form of manuals (collections). The official editions, apart from the mentioned in the point 1 of this article, shall contain the information in the sphere of activity, names and addresses of other state bodies, as well as public unions, mass media, legal consultations, notaries, libraries, educational institutions, communal services and other organizations which purpose of activity is protection of rights and legitimate interests, service of citizens. The

term, after which expires the official reference media shall republish, shall be estimated reasoning from supporting the urgency the contained in it information. Edition of the manuals shall be defined on the basis of amount of distributed copies during previous period.

The manuals must be accessible for acquisition at the points of retail sale of the mass media.

**Article 20. Duties of state bodies and local self-government bodies on providing the dissemination information**

1. State body and local self-government body obligated annually and in available form to promulgate information, which includes:
  - 1) its functions and tasks, powers, duties and annual budget;
  - 2) list and description of services rendering by state body and local self-government body;
  - 3) order of consideration and satisfaction of requests or complaints, which can use citizens and organization concerning activity of state body and local self-government body, and example of preparation of request, complaint and other actions of turned persons;
  - 4) information about system of documentation of the materials, types and forms of information which is at the disposal of organization, categories of information and description of procedure of preparation of request on information;
  - 5) description of authorities and duties of the heads and procedures of decision making by them;
  - 6) manual, rules and collections containing information about performing by own duties state body or local self-government body;
  - 7) any mechanisms and procedures which allow citizens and organizations to present own judgment (*opinion*) or influence to forming of politics or fulfilling the powers of this state body and local self-government body;
  - 8) generalized information about addressing of citizens and organizations received by state body and local self-government body, about results of consideration and taken measures;
  - 9) lists of information systems for general use, data bank, rolls, registers which are under competence of state body and local self-government body, and rolls (*lists*) of rendering for citizens and organizations information resources and services;
  - 10) information about official visits and business trips of the heads and official delegations of state body and local self-government body;
  - 11) information about official activities, organizing by state body and local self-government body, including sessions, meetings, briefing, collegiums;
  - 12) information about decisions adopted during official activities, organizing by state body and local self-government body;
  - 13) information about policy plans of state body and local self-government body;
  - 14) texts of official statements and formal addresses of heads and representatives of state body and local self-government body;



- 15) information about projects (*drafts*) of special and other programs elaborating by state body and local self-government body;
- 16) information about special and other programs which customer or executor is state body or local self-government body, goals and main tasks, customers and main executors of programs, terms and expected results of realization, amount of financing, stage of their realization;
- 17) information about execution of budget by state body and local self-government body;
- 18) information about spending the funds of foreign technical assistance on projects and activities realizing with participation of state body and local self-government body;
- 19) analytical papers, work reports, informational reviews about activities of state body and local self-government body;
- 20) information about main indexes showing the situation and epigenetics of spheres which are in competence of state body and local self-government body;
- 21) forecasts prepared by state body and local self-government body;
- 22) official statistical information collected and processed by state body and local self-government body;
- 23) information about open competitions, auctions, tenders, expertise and other activities conducting by state body and local self-government body, including:
  - rules of their conducting;
  - order of participation of individuals and legal entities;
  - staff of competitive commissions for conducting the competitions to delivery the goods (execution of works, rendering of services) for state or municipal needs;
  - journals of competitive commission's sessions;
  - order of appealing the decisions adopted by state body and local self-government body;
- 24) forms of complaints, established by legislation of the Kyrgyz Republic and entertaining to consideration state body and local self-government body;
- 25) information about checks conducted by state body and local self-government body within their competence, and checks conducted in state body and local self-government body;
- 26) information about conditions of defense of population and its territory from emergency situations and assumed measures on protection, about forecast emergency situations, methods and ways of protection of population from them, as well as other information liable in accordance with laws to bring to citizens and organization in accordance with laws;
- 27) list of civil agreements concluded by state body and local self-government body with individuals and legal entities;
- 28) information about entrance of citizens to state and municipal service in this state body and local self-government body:
  - order of entrance of citizens to state and municipal service;

list of existing vacant public positions of public service, municipal positions of municipal service;

qualification requirements to candidates for vacant positions in public service, municipal positions of municipal service;

conditions and results of competitions for filling of vacant position of public service, municipal positions of municipal service.

29) information about interaction of state body and local self-government bodies with other state bodies and local self-government bodies, public unions, political parties, trade unions and other organizations, including international organizations;

30) information about heads of state body, its organization departments, foreign branch offices, territorial departments, lower organizations (surnames, names and patronymics, biographical information – by the approval with mentioned persons);

31) structure of state body and local self-government body, information about tasks and functions of their organization departments, postal addresses, telephones of referrals services and address properties, including postal address, e-mail address, number of their employees and size of salary fund;

32) information about organizations which under jurisdiction of state body and local self-government body: list of organizations, their postal and legal addresses, telephone; description of fulfilling by them tasks and functions, information about their establishment, reorganization and liquidation, number of their employees, main indicators of activities, size of salary fund;

33) telephone numbers and address data, including postal address, e-mail address, subdivisions of state body and local self-government body on working with requests of citizens and organization, information about order of these subdivisions' work.

34) list of foreign representative offices of state body and local self-government body, telephones and address details, e-mail address;

35) list of international organizations in which activity takes participation state body and local self-government body;

36) information about participation of state body and local self-government body in realization of international treaties of Kyrgyz Republic and programs of international cooperation.

#### **Article 21. Dissemination of official information in mass media**

1. Press-cutting service of the state bodies and local self-government bodies, as well as employees responsible for informational work with population obligated to supply the editorial staff of the mass media with information and materials on activity and decisions of the state bodies and local self-government bodies.
2. State bodies and local self-government bodies obligated to encourage employees who actively addressing (*appearing*) in mass media with addresses, statements, official explanation the position of state bodies and local self-government bodies on actual issues of their activity.

#### **CHAPTER IV. PROVIDING THE DIRECT ACCESS TO DOCUMENTS AND MATERIALS OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 22. Forms of providing the direct access**

Direct access to the documents and materials of state bodies and local self-government bodies shall be provided by:

- 1) foundations of the official information of state bodies and local self-government bodies;
- 2) library foundations of the official information;
- 3) databases.

**Article 23. Providing access of publicity to state foundations of official information of state bodies and local self-government bodies**

1. State bodies and local self-government bodies shall form available to all foundations of the official information.
2. Access to the foundations of the official information of state bodies and local self-government bodies must be provided by means of direct familiarization of citizens with them in a location of the appropriate body.
3. Legal acts, other documents and materials shall be included to the foundation of the official information and become available for familiarization not later than after week from the date of their signing, or signing the acts because of what has been considering the appropriate documents and materials.
4. For providing the safety of the confidential information shall make an examination determining the part of the documents and materials to which the access should be restricted. The parts of the documents and materials which don't include the confidential information must be prepared for familiarization and accessible no later than after week from the day of signing the appropriate document. Surname and position of the expert shall be indicated in the document or material prepared for familiarization of society.
5. For providing the access to the documents and materials in the appropriate state body and local self-government body shall be formed the filing for familiarization and the filings with control check copies of the documents and materials. Documents and materials in the filing shall be putted in a chronological order. No seldom than one time in a month there shall execute the inventory of the documents and materials composing the filing for familiarization. For accommodation to search the necessary documents, the inventory shall be putted into the filings. Data (*information*) of the inventories of the document filings and materials may be unit to the catalogues.
6. State bodies and local self-government bodies obligated to take measures on providing the safety of the documents and materials, composing the filings and establish appropriate requirements for access to them.
7. For working with the filings there shall be supplied the special places with conditions allowing to do abstract (*abbreviate*) from the documents and materials, and make copies from them. The conditions and order of provision documents and materials for copying shall be established by appropriate state bodies and local self-government bodies.

**Article 24. Access to library stocks of official information**

1. State bodies and local self-government bodies shall send to the libraries the official reports, informational materials, official manual editions and other documents and materials, which are at their disposal.

2. On the basis of receiving documents and materials in the libraries of the Kyrgyz Republic shall form available to all the foundations of the official information.

**Article 25. Access to data bases**

1. State bodies and local self-government bodies shall realize the activities on developing and support the centralized automatized informational system of the official information uniting the database of the official information of the state bodies and local self-government bodies.
2. System of the official information must include the database with full list and texts of the laws currently in force within territory of the Kyrgyz Republic. State bodies and local self-government bodies shall organize the access to the electronic versions of the documents and materials.
3. System of the official information must be accessible for users of the global digital networks. There shall be provided free of charge familiarization and free of charge electronic copying of the documents and materials containing in the centralized automatized informational system of the official information. State bodies are responsible for the trustworthiness of the electronic version of the document or other official information included to the centralized informational system of the official information.
4. State bodies and local self-government bodies have a right to involve, on the contractual basis, the specialized organizations for execution of the requests on provision with information on the basis of using databases of specialized organizations. The responsible for the accuracy, the irrefragable character of the information providing by specialized organization and execution of other requirements of this Law shall hold the appropriate state body and local self-government body. If specialized organization does not have the required documents and materials which should be provisioned in accordance with this Law, information on the request shall be provided by official of the state body and local self-government body, who responsible for that.

**CHAPTER V. PROVIDING ACCESS TO SESSIONS OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 24. Openness of sessions**

1. Sessions of state bodies and local self-government bodies are open for publicity, except of closed sessions.
2. Openness of the sessions shall be guaranteed with opportunity of the presence on them the interested citizens by whom were sent applications for participation in the appropriate sessions.
3. Closed sessions of state bodies and local self-government bodies shall be conducted in cases of discussion restricted information, in accordance with article 5 of this Law.

**Article 27. Notice of publicity about conducting sessions**

1. State bodies and local self-government bodies shall publish monthly in mass media the session plan with indicating the agenda, as well as date, time and place of conducting.
2. State bodies and local self-government bodies obligated shall the informational stand equip on the location, to which no later than one week before the session day shall be

putted information on its agenda, time, as well as whether open or close regime of the holding (*conducting*). In case of conducting the session in the close regime on the informational stand shall be putted decision on the basis of what restricts the access of the publicity to the sessions.

**Article 28. Organizations of sessions attendance**

1. Citizen of the Kyrgyz Republic, representatives of legal entity of the Kyrgyz Republic are entitled to attend on the session of state bodies and local self-government bodies. In an effort to provide attendance of citizens and (or) representatives of legal entities, state bodies and local self-government bodies shall keep record of persons wishing to attend on appropriate session. Information record about visitors and presence of document establishing his/her identity are the basis for access to the session. Record should be include surname, name, patronymic of citizen wishing to attend on the session, and for representative of legal entity - surname, name and patronymic, name of the legal entity, an also work status of representative. It is not obligated to produce other information and documents.
2. In the hall of conducting the session shall equip the places for visitors. The number of the places shall estimate reasoning from number of the registered, but the total number of the places shall not be less than five on the sessions of executive bodies of public authority and local self-government bodies, and less than ten on the session of the Jogorku Kenesh of the Kyrgyz Republic and representative bodies of the local self-government bodies. At depletion of the limit of the visitors and non-appearance of someone the priority of attendance of the sessions shall have, firstly, citizens, which rights and freedoms may directly touch the approving on the session decision, secondly, citizens who have not attended before on the sessions of this body or have not attended more than registered persons, thirdly, registered for attendance on the session earlier than others.
3. State bodies and local self-government bodies have a right to additionally organize the access to sessions by means of direct transmission of signal on the television set, based in other indoors situated in the place of location of the appropriate body.

**Article 29. Order of providing the sessions with participation of visitors**

1. The maxim of the presents on the session of the visitors shall mention in the regulation of work of the appropriate state body and local self-government bodies. In case of violation of established rules of attendance on session the chairman shall make reprove to the disturber, at the violation the second time shall evict him from the session hall.
2. Visitors attending on session have a right to make minutes, and make photos, audio and video records, if it does not disturb to conduct the session.

**CHAPTER VI. ORGANIZATION OF ACCESS TO INFORMATION HELD BY STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES**

**Article 30. Organizational measures on assistance to access to information**

1. For organizing the access to information in structure of state bodies shall be established special services authorizing with appropriate functions and powers in accordance with established procedure, or fulfilling of these functions shall be entrusted to other services and subdivisions, existing in a structure of state body and local self-government body, or to concrete official.

2. The function on providing persons enquiring with information should be stated in the provision (*regulations*) on appropriate state body and local self-government body.
3. The rights, duties, and responsibilities of the special services, subdivisions, and officials fulfilling activity on realization these functions shall establish by provisions on these services and subdivisions and job descriptions which shall be approved in accordance with established procedure.
4. At discretion of state body or local self-government body for realization the functions on providing access to information on contractual stipulation can be involved the organizations fulfilling own activity on the legal ground (*basis*) on provision with information services. Properties of these organizations (name of organization, post address, telephone and fax number, e-mail address, network address, and – properties of organization) should be brought to general notice.
5. The rules on fulfilling of the requests for information shall be established state body and local self-government in accordance with this Law.
6. The rules, indicated in point 5 of this article should contain the name and behavior of appropriate organizations, services, subdivisions or officials which obligated to provide access to information; category of provisioning information, types of services related with its providing (including order of access to the automatized information system), order or payment of these services and other conditions of access.

**Article 31. Organization of access to information in automatized informational systems**

1. State bodies and local self-government bodies for ensuring the right to access to information from automatized information systems shall:
  - connect mentioned systems to public network and place (*put*) information on the official server (site, portal) of state body and local self-government body for unlimited access of citizens and organization, connected to this network;
  - create user stations, connected to public networks in the places easy available for citizen and organization: in the building state bodies and local self-government bodies, state and municipal libraries, post offices and in other places considered by legislation);
  - provide with e-mail address for receiving requests and sending requested information;
  - have a responsibility for content, trustworthiness and fullness of information placing on official server (site, portal).
2. It is obligatory indicating in the documents created with the help of computer and sending on telecommunication channels all properties established for these documents. In a case of providing with information in electronic version its trustworthiness shall confirm by digital electronic signature or other electronic mean in the course of established by legislation.

**Article 32. Duties of state bodies and local self-government bodies on providing the access to information**

1. State bodies and local self-government bodies obligated to:
  - provide the technical-organizational and other necessary conditions for realization of the right of access to information;

- custody during set time the official documents comprising the information which liable to provision in accordance with this Law, adopted by them acts, as well as acts of that state bodies and local self-government bodies, which assignees they are;
  - provide the trustworthiness and fullness of providing information, keeping statutory terms and conditions of provisions (providing);
  - keep statute-established order of promulgation of official documents.
2. If provisioned information contains inaccurate or incomplete information, state bodies and local self-government bodies, on reasoned written complaint of person enquiring, obligated to make the provided information more accurate or complete in a possible short term, but not later than seven working days, following the date of receipt.
  3. State bodies and local self-government bodies shall hold the roll (*list*) of official documents what about they obligated to notice all. The role (*list*) must include a name, date of adoption, number of each publishing document and information about its promulgation. Bodies holding the role may establish other mandatory requirements to this role.

## **CHAPTER VII. REALIZATION GUARANTEES OF THIS LAW**

### **Article 33. Organizational guarantees**

1. State bodies and local self-government bodies shall:
  - establish in own structure the structural subdivisions and entrust the responsibility persons with obligations on direct (*immediate*) providing the provision with information of population;
  - organize the opportunity of citizens receiving by telephone the short free of charge information regarding the order of realization of the provisions of this Law, including regarding specification of the request subject on provision with information, regime of work of the state body and local self-government body officials, order of familiarization with funds of official information.

### **Article 34. Informing of publicity about realization of this Law**

1. State bodies and local self-government bodies shall conduct explanatory work with the help of mass media among population on order of realization guaranteeing by this Law the opportunities of the receiving the information.
2. Prepared by appropriate state bodies and local self-government bodies reports on results of implementing the requirements of this Law shall be published in mass media.

### **Article 35. Appealing the rejection in provision with information**

Refusal of the responsibility person in provision with information, as well as other actions and decisions of responsibility person, violating the requirements of this Law, may be appealed to the superior officer, to the Ombudsman (Akyikatchy) of the Kyrgyz Republic or in the court in according with legislation of the Kyrgyz Republic.

### **Article 36. Responsibility for violation duties on provision with information**

Persons, who are guilty in default or improper execution of responsibilities on provision with information shall bring in accordance with legislation of the Kyrgyz Republic to criminal, administrative, civil, disciplinary or material liability in accordance with legislation of the Kyrgyz Republic.

## **CHAPTER VII. CONCLUSION PROVISIONS**

### **Article 37. Effectiveness of this Law**

1. This Law shall come into the force from the date of its official publication.
2. To Government of the Kyrgyz Republic during three months:
  - to bring to the consideration of the Jogorku Kenesh of the Kyrgyz Republic suggestions on bringing legal acts to conformity with this Law;
  - to bring to the consideration of the President of the Kyrgyz Republic suggestions directed to solve managerial (*organizational*) procedures, following from this Law;
  - to bring own statutory acts to conformity with this Law;
  - to provide bringing to conformity with this Law statutory acts of ministries, state committees and administrative departments and local state administrations.
3. To local self-government bodies to assume the necessary measures, following from this Law, and to bring own statutory acts to conformity with this Law.

### **President of the Kyrgyz Republic**