



# **ACCESS TO INFORMATION RIGHT OF JOURNALISTS**

## **RESEARCH**

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## **Introduction**

Journalists cannot carry out their main mission of informing the public without having sufficient information. Violation of journalists' right of access to information leads to violation of the entire society's right to receive information. On September 23, 2003 the Republic of Armenia adopted the Law on Freedom of Information (henceforth referred to as FOI law). However, until now the implementation of FOI law continues to pose a significant challenge for national and local authorities, as well as for journalists and the society at large. In practice, journalists encounter many obstacles and difficulties when trying to obtain information. One of the main reasons for the current situation is that information holders in government agencies do not provide information, because they are not sufficiently aware of their duties under the law, while journalists do not fully exercise their right to obtain information, because they do not possess sufficient knowledge and skills to implement the FOI law.

## **Purpose and Methodology of the Study**

The purpose of this study is to promote the Armenian media's access to information by

- summing up journalists' experience with obtaining information from state agencies since the adoption of the FOI law (since 2003);
- observing how effectively are journalists able to exercise their constitutional right of access to information and the FOI law in their daily work, and how open and transparent are state agencies for the media;
- identifying the current obstacles and challenges affecting the journalists' right to obtain information (what obstacles do journalists face while trying to obtain information from state agencies and what mechanisms do they use to redress their violated information rights?).

For this purpose, 105 journalists have been interviewed (60 journalists representing Yerevan-based media, 40 journalists representing media operating in the marzes and 4 journalists representing foreign media working in Armenia). This study was compiled by a working group on the basis of the qualitative and quantitative data collected during the interviews. The group also developed special recommendations on how

to improve the journalists' knowledge of FOI and the mechanisms used for implementing the FOI law, as well as to provide a wider protection for the journalists' right to obtain information.

Interviews were conducted and the study was compiled by the Freedom of Information Center.

# Section 1

## Overview on FOI Legislation

### ***Constitutional Rights***

Amendments to the RA Constitution adopted in November 2005 declared access to information right as a constitutional right. Access to information was recognized as one of the fundamental human rights.

Articles 27 and 27.1 of the Constitution enshrine freedom of expression and right to access to information. Articles 23 and 33.2 provide additional guarantees for the right to access to state hold information.

### **Article 27**

"Everyone shall have the right to freely express his/her opinion. No one shall be forced to recede or change his/her opinion.

Everyone shall have the right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers.

Freedom of mass media and other means of mass information shall be guaranteed.

The state shall guarantee the existence and activities of an independent and public radio and television service offering a variety of informational, cultural and entertaining programs".

### **Article 27.1**

"Everyone shall have the right to submit letters and recommendations to the authorized public and local self-government bodies for the protection of his/her private and public interests and the right to receive appropriate answers to them in a reasonable time".

**Article 23** of the Constitution stipulates everybody's right to have access to the data concerning him/her available in the state and local self-government bodies.

**Article 33.2** of the Constitution declares access to environmental information:

"Everyone shall have the right to live in an environment favorable to his/her health and well-being and shall be obliged to protect and improve it in person or jointly with others.

The public officials shall be held responsible for hiding information on environmental issues and denying access to it".

### ***Law on Freedom of Information (2003)***

The Armenian law "On Freedom of Information" was adopted by the National Assembly on September 23, 2003 and came into force on 15 November 2003. It covers not only state and self-government bodies but also some private organizations which conduct public functions or have monopoly or a leading role in the product market.

Although the law is in place, the government has not yet adopted the sub-legal acts which are required by the law and would facilitate its implementation.

The FOI law specifies a precise time frame of 5 days for answering information requests. If additional work is needed to provide the requested information, then the information is provided to the applicant within 30 days after the application is filed, about which a written notice should be provided within 5 days after the application submission, highlighting the reasons for delay and the final deadline when the information will be provided.

The FOI law also obliges state and local self-governing bodies to publish periodically, at least once a year, the list of information concerning its activities. This information includes, for example, activities and services, implemented for the public, budgets, staff-lists, names of official persons, their education, specialty, position, salary, work phone number, e-mail address, list of available information and procedure of providing such information, impact of the respective body on the environment, etc.

The FOI law also clarifies the basis and procedure for refusing to provide information, requiring that all denials should be justified according to the grounds established in the law. These provisions should prevent officials from behaving arbitrarily.

Another advantage of the Armenian FOI Law is that it provides legal protection for whistleblowers. Article 8 states that three specific groups of information can not be classified as a secret and should be released immediately. For example, information that concerns urgent cases threatening public security and health, as well as natural disasters and their aftermaths, etc. Any public official releasing this kind of information even if it has been classified as a secret, is not liable to administrative or criminal liability (Article 14).

The FOI law requires that an official (or officials) be appointed to receive and process information requests in the state agencies.

**Article 13 of the FOI law states:**

1. The responsible for information freedom official can be the official appointed by the information holder or the supervisor of the information holder.
2. A person responsible for the freedom of information according to the law:
  - a) ensures that the responsibilities of the information holder in the field of FOI are exercised;
  - b) explains thoroughly the procedures, conditions and forms of providing information to the person seeking information;
  - c) elaborates the statistical and complete data of inquiries received.

The law declares that for illegal refusal to provide information, or for the incomplete information disposal, as well as for other infringements of access to information, the officials are held responsible according to the Code of Administrative Violations or the Criminal Code.

There are other rules relevant for the freedom of information in the Criminal and Civil Procedure Codes of the Republic of Armenia, which contain one article each on the public nature of the trial, although with restrictions to be specified by the law. Pursuant to Article 8 of the Civil



Procedure Code of the Republic of Armenia, in-camera sessions are allowed in adoption cases and those involving the privacy or inviolability of family lives of individuals. Article 16 of the Criminal Procedure Code of the Republic of Armenia stipulates that in-camera sessions shall be held in cases provided by law, in the interests of public morality, national security, and privacy of an individual or the administration of justice.

### ***Law on the Dissemination of Mass Media (2003)***

This law, commonly known as the Mass Media law, provides for a general right of mass media and journalists who work for mass media organizations to operate without unreasonable restrictions. It reaffirms the constitutional right to seek, receive and disseminate information. It prohibits censorship, interfering with “the legitimate professional activities of a journalist”, disclosure of sources without a court order for revealing serious crimes, and requires government bodies not to favor some journalists over others.

### ***Criminal and Administrative Codes***

According to the Amendments to the Code of Administrative Violations adopted on December 1, 2003 (Article 1, point 1) the official who illegally does not fulfill his/her obligation to provide information should be held responsible by paying a fine up to 10 to 50 times of the minimum salary (from 50 to 100 times in case the violation is replicated).

According to the Article 148 of the new Criminal Code an illegal refusal by an official to provide information or documents to a person immediately concerning his rights and legal interests and collected in accordance with established procedure, or provision of incomplete or willfully distorted information, if this damaged the person’s rights and legal interests, is punished with a fine in the amount of 200 to 400 minimal salaries.

It is also a criminal offence under Article 282 to withhold information about environmental pollution. An official can be imprisoned or deprived of certain posts maximum for three years.

However, neither administrative nor criminal sanctions have been applied in practice since their adoption. In the court practice the plaintiffs claim only disclosure of information and compensation of state taxes and do not demand application of sanctions against the respondent party.

It should be noted that the Criminal Code also ensures special protection for journalists' right of access to information. Article 164 protects the journalists' legal professional activities which includes the right to have access to information: it is part of a journalist's professional legal activity.

**Article 164 defines:**

1. "Hindrances to the legal professional activities of a journalist, or forcing the journalist to disseminate information or not to disseminate information, is punished with a fine in the amount of 50-150 minimal salaries,
2. The same actions committed by an official abusing one's official position, is punished with a fine in the amount of 100-250 minimal salaries or imprisonment for the term of up to 3 years, by deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or without that".

It is worth mentioning that this provision was applied for the first time on October 11, 2004. The Kotayk region first instance court found guilty the bodyguard who attacked journalists in Tsaghkadzor and didn't allow them to take photos. According to the court verdict, he was sentenced to 6 months imprisonment. This was the first case in the history of Armenia that anybody was sentenced to imprisonment for illegally interfering in the journalists' work and restricting their access to information rights.

***Environmental Legislation***

As mentioned above, Armenia signed the Aarhus Convention in 1998 and ratified it in 2001. The Convention provides for a right of individuals to be able to access environmental information. As an international treaty, this obligation of the treaty should be directly applicable for the government of Armenia.

The Law on Environmental Impact Assessment requires that bodies inform the mass media of environmental impact assessments and to hold public hearings.

***Law on Personal Data (2002)***

The Law on Personal Data provides for a right of citizens to obtain

personal information about themselves for free. It also allows for them to correct, block or destroy personal information.

### ***Withholding Information***

Article 8 of the Law on Freedom of Information defines five categories of information that can be withheld. These are the cases when information:

1. contains state, official, bank or trade secrets;
2. infringes upon the privacy of a person and his family, including the privacy of correspondence, telephone conversations, post, telegraph and other transmissions;
3. contains pre-investigation data not subject to publicity;
4. discloses data that require accessibility limitation, conditioned by professional activity (medical, notary, attorney secrets).
5. infringes upon copyright and associated rights.

The above are the FOI exemptions and are not subject to a requirement that harm to the public interest is shown or that the public interest must be satisfied before categorizing information as subject to be withheld.

The harm test is not included in the law. However, point 3 of Article 8 defines several cases when information provision can not be declined even if it contains the above-mentioned categories protected by the law. Those cases are:

- a. if information concerns urgent cases threatening public security and health, including natural disasters and their aftermath;
- b. if information presents the overall economic situation of the RA, as well as the real situation in the spheres of nature and environment protection, health, education, agriculture, trade and culture;
- c. if declining the information request will have a negative influence on the implementation of state programs of the Republic of Armenia directed at socio-economic, scientific, spiritual and cultural development.

The official publication of this kind of secrets can not carry a legal responsibility. Point 2, article 14 stipulates that in the cases foreseen by the 3rd clause of Article 8 of the FOI law, the disclosure of information can not cause administrative or criminal responsibility.

When refusing to provide information, the public body should justify the refusal by making reference to the exemptions defined by the law.

### ***Law on State and Official Secrets (1996)***

The Law on State and Official Secrets sets up a comprehensive system of classifying information.

Information can be protected if it relates to military affairs, including strategies and operations plans, mobilization of troops, programs of the military industrial complex, organization structure and location of the armed forces; external affairs and foreign economic activity; economics, science and technology relating to defense programs and arms production, precious metals and stones, reserves, government finances and budget policy, and intelligence including counterintelligence, informants, encryption and protection of state and official secrets.

There are limits similar to the restrictions in the Law on Freedom of Information on information that cannot be withheld. Information cannot be classified as a state or official secret if related to accidents which threaten the health and safety of the citizens, the general economic consideration or the real situation on the environment, health, culture, education, agriculture and trade, violations of law or rights, or would limit government programs relating to socio-economic, scientific spiritual or cultural development.

Information is divided into three categories: "Of Special Importance", "Top Secret" and "Secret". The first two categories are for State Secrets and can be classified for thirty years. Documents in the "secret category" are considered "Official Secrets" and can be classified for ten years. It must be reviewed every five years. A decision to classify information can be appealed. Declassified information must be sent to Public Archive within three months.

### ***Law on the Dissemination of Mass Media (2003)***

Article 7 of the Law on Mass Media provides limits for publishing certain information, including secret information, or information advocating criminally punishable acts, as well as information violating the right to privacy of personal or family life; and information obtained by video and audio recording conducted without notifying the person of the fact or recording, except "if it is necessary for the protection of public interest".

## ***Criminal Code***

There are numerous provisions in the Criminal Code relating to restrictions on publishing information including personal or family life (Article 144), medical secrets (145), secrecy of communications (146), espionage (302), revealing state secrets (306), breach of rules for handling state secrets (307), revealing the data of an inquiry or investigation (342).

# Section 2

## Profile of Interviewed Journalists

In total, 105 journalists have been interviewed. The overall picture of the respondents is as follows: 60 persons (or 57%) representing Yerevan-based media, 40 journalists (or 38%) from marz media and 5 Armenian correspondents of foreign media (5%).

35 of the 105 interviewed journalists (33%) represent television. 32 respondents (30.4%) represent print media. 16 of the interviewed journalists (15%) work for radio (public and private). 10 journalists (9.5%) are from news agencies. 12 journalists (11.4%) work for online media. The latter are all from Yerevan, since this type of media has not developed in the marzes yet, due to the low level of Internet accessibility and quality. 68 of the 105 interviewed journalists (64.7%) are female and 37 (35.2%) are male. Even though the working group conducting the interviews tried to involve an equal number of male and female journalists, the majority of the journalists it met at various media outlets were female. This shows that women form a majority among Armenian journalists: journalistic profession has become a mostly female profession. This is coupled with another fact that the journalistic profession is becoming younger. There are more young people in journalism today than persons over the age of forty. The interviewed journalists fall into the following age groups:

- 18 to 24 years old 36 persons or 34%
- 25 to 40 years old 50 persons or 48%
- Over 40 years old 17 persons or 17%

It is noteworthy that only three of the respondents from the marzes are more than 40 years old. One of the reasons could be that journalists are paid very poorly in the marzes, and therefore most of the marz journalists are young people who often work not for the money, but with enthusiasm or for promoting certain ideas.

The interviewed journalists possess an exceptional level of education: 103 of the 105 interviewed journalists (or 98%) have university-level (higher) education. Only two of the respondents have secondary education. 64% of the respondents have higher education in journalism,

while 34% have higher education in various fields, such as economics, history, philosophy, etc. However, it is worth noting that humanities (particularly, philology) prevail among other, non-journalistic, specializations (13 persons, or 12%).

It is notable that many of the interviewed journalists have extensive professional experience. 40% of the respondents have 6 to 10 years of professional experience. 24% of the respondents have 10 and more years of professional experience. 16% have three to five years of experience, while 12% have one to two years of experience. 10 persons (or 8%) have been working in journalism for less than a year. 15 of the interviewed journalists said they only report news. Most of them are working for a news agency. 4 of the journalists said they only produce investigative and analytical stories, whereas all the others produce stories of more than one genre. Moreover, many of the journalists said they produce not only news stories, but also analytical materials. Investigative reporters also write analytical articles. It is worth mentioning that none of the journalists working for television and news agencies mentioned investigative reporting as something they did. In the case of reporters from news agencies, it may be understandable that investigative reporting is not their narrow specialization. However, in the case of television, this shows that the genre of television investigation is not developed yet in this country.

The overall picture is as follows:

**Journalists mainly write and publish:**

- News 65%
- Analytical stories 42%
- Investigative stories 24%
- Entertainment stories 11%

All of the respondents noted that they cover more than one sector, and sometimes these sectors have very little in common. This is particularly typical for journalists reporting news. Twelve people (30%) noted that they cover everything, as required at any given moment. Politics is the most covered area by print and electronic media journalists (70%). Social issues are more often covered by marz and print media journalists (55%). The economy and education sectors receive equal coverage (43%). Similarly, issues related to culture and the environment are covered by 41% of the respondents. 32% of the respondents write on legal topics, and 18% report about sports.

*Summing up the data received from interviews, one can say that most of the journalists working in Armenia today are young and female; this is true both in Yerevan and the marzes. Most of the journalists have higher journalistic education. According to the interviews, the most common journalistic genre is news reporting, followed by analytical articles. One can also say that politics is the most commonly covered subject by journalists.*



# Section 3

## **Right to Access to Information**

98 of the 105 interviewed journalists (93%) are familiar with legal provisions related to the right to obtain information provided for in the RA Constitution, while 7 persons (7%) are not familiar with them. Especially large is the number of respondents who are not aware of the FOI law (20 persons, or 19%). 15 persons said they are aware of the law, but don't remember it. The respondents who are familiar with both the Constitution and the FOI law mainly said that the Constitution and the FOI law stipulate that "everyone has the right to obtain information." A Yerevan newspaper reporter, who is more than 40 years old, gave a surprising answer, saying that, while he/she was aware of the legal norms, he/she was against the freedom of speech.

All the five journalists representing foreign media gave a positive answer to both questions and accurately quoted the appropriate legal norms. Even though the majority of the respondents were familiar with the legal grounds for obtaining information, other answers to interview questions have demonstrated that that majority of journalists (59%) do not quote the appropriate laws in their written information requests (see "Section E. Information Requests"). In other words, the majority of reporters do not use the law in practice. This is confirmed by the fact that most of the journalists do not appeal illegal decisions to refuse information in courts, most frequently saying they simply do not trust the courts or do not want to get involved in long judicial processes.

Almost every respondent agreed that officials differentiate between regular citizens and journalists when providing information, giving priority to journalists. Only 3 out of 105 respondents said there was no differentiation, but 2 of them explained their view by saying that officials simply do not provide the required information to both journalists and citizens alike. 102 respondents explained this discrimination on the part of officials by saying that officials are afraid of journalists or are especially careful with them. "They are afraid of being criticized by journalists or losing their post," one of the marz journalists explained his/her position.

There are some other explanations as well. For example, journalists are aware of their rights and are able to protect them, whereas citizens are

more unaware of their rights. At the same time, journalists noted that officials often differentiate between different journalists. This discrimination is especially noticeable in the case of opposition and pro-government media representatives. One of the journalists from Gyumri described a situation where he/she concealed the fact of being a journalist and tried to wait with other citizens for information to be provided by an official. He/she was forced to wait for hours, because, as the secretary said, the official was at a meeting. However, as soon as he/she produced his/her press ID, the official finally came out of his/her office.

One of the journalists from Syunik marz also confirmed that in practice there is differentiation between citizens' and journalists' right to obtain information. He/she explained it by saying that often officials have no time to provide information to all the applicants and prefer to work with journalists, who, once they obtain the information, will share it with the public.

*Thus, despite the fact that 98 of the 105 interviewed journalists (93%) said they were familiar with the legal grounds for obtaining information, particularly the FOI provisions of the Constitution and the FOI law, in practice not everyone exercises the right provided for by the law, particularly when officials arbitrarily refuse to provide information. The results of the survey presented in Section F demonstrate that 67 of the 105 interviewed journalists (63.8%) prefer to simply mention the fact of refusal in their story. Only 29 of the 105 interviewed journalists (27.9%) are prepared to dispute the illegal refusals of information in a court. One of the arguments is that they simply do not believe or trust the courts; they do not believe that a court can restore their violated rights in a fair and unbiased fashion. Also, the requested information becomes outdated during long court proceedings and loses its importance. Other survey results show that journalists practically do not use the FOI law provisions. Journalists rarely send written information requests to officials (69 persons or 65.7%). It is noteworthy that 25 of the 105 interviewed journalists have never had the need to send written information requests.*

*However, sending information requests in writing can protect journalists from illegal refusal to provide information: officials are especially careful when it comes to written requests, and they are forced to reply to them. If they refuse to provide the requested information, they have to cite the applicable grounds for refusal described in the law, which they do not*

*have to do when refusing information orally. Finally, written refusals can serve as evidence when appealing the decision in court.*

*Journalists also state that, even though everyone has the right to obtain information, officials differentiate between citizens and journalists. There is also discrimination in the treatment of journalists from different media outlets. Journalists explain this by saying that officials are either unaware of the legal grounds for providing information or are careful with journalists, as they don't want to have any problems with them, whereas citizens are particularly unprotected in this regard.*

# Section 4

## **Official and Other Sources of Information**

The vast majority (92%) of the interviewed journalists prefer state agencies as sources of information, followed by experts (72%) and personal contacts in state agencies (65%). Non-governmental organizations are used as sources by 52% of the respondents. It is noteworthy that journalists from the marzes trust their marz state agency and their personal contacts within these bodies more than the representatives of the Yerevan-based media. It is also interesting to note that journalists from Yerevan and representatives of foreign media mentioned the Internet and newspapers as additional sources of information, whereas none of the marz journalists mentioned any additional sources, including the Internet.

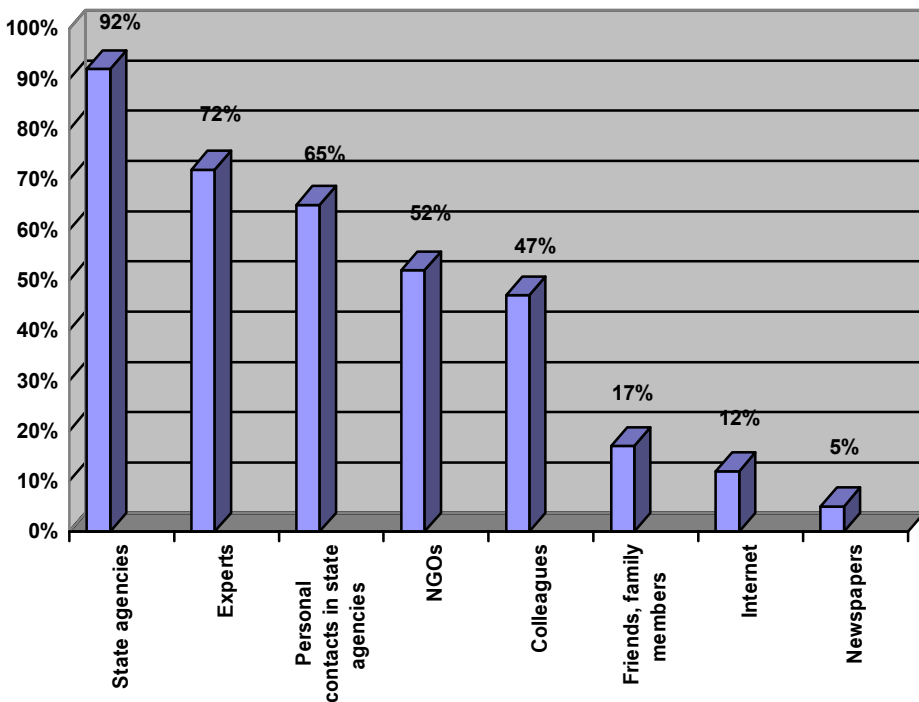
This is, perhaps, due to the fact that the quality of Internet connection in the marzes is extremely low, and many media outlets (especially in remote marzes) are not able to use the Internet. Many marz journalists said that they access the Internet only in Internet cafes, and only when absolutely necessary.

Colleagues also serve as source of information for journalists (47%). Information obtained from friends and family members is used in journalism rarely. According to the interview results, 17% of journalists trust friends as sources for information.

75% of the interviewed journalists said that direct contacts with officials are the most effective, fast and indispensable way to obtain information. Many of them also mentioned obtaining information by phone, including cell phones (52%). Many of the journalists (47%) think that good relations with press secretaries in various state agencies can be an effective means to obtain information. Press conferences also help journalists in obtaining information (36%).

Only 10 of the 105 interviewed journalists obtain information from the Internet. Only three journalists obtain information by means of written requests. Internet is preferred by journalists from news agencies and online media. It is noteworthy that five persons mentioned that the Internet is definitely the fastest and most effective way to obtain

### Sources of Information



information. Journalists from foreign media and online media added that they also obtain information from electronic releases e-mailed to them by various state agencies. This particularly applies to the Ministry of Foreign Affairs.

Six of the 105 interviewed journalists are convinced that, in order to obtain reliable information, one must go directly to the appropriate specialist or the official who possesses the required information. One journalist noted that information can be obtained quickly and effectively only if questions are formulated clearly and submitted in writing.

Most of the interviewed journalists (79%) have not used archive materials, since they have not needed them. Two of them claimed that archive materials are not accessible, while one person thought that turning to archives would simply be a waste of time. 23 journalists (22%) have used archive materials mainly while working on articles about culture or history.

When preparing stories about a state agency, most of the journalists use both the agency's official website (92%) and its public relations department (90.4%). Three of them (all of them being journalists from news agencies) use the Internet only. Few journalists (48%) use official bulletins as sources of information. 9 persons (8.5%) noted that they learn about the state agency's activities also from newspapers, while one person mentioned the agency's internal documents as a source. When preparing stories about a state body, all of the interviewed journalists from the Yerevan media and foreign media also always use the body's official website in addition to other sources. Most of them are from online media or news agencies. However, they also noted that official websites are not updated regularly, and also not all state bodies have websites. Another shortcoming is that in some cases the information presented in official websites is brief and incomplete, which forces journalists to seek out alternative sources after visiting the websites.

*Thus, the vast majority of the 105 interviewed journalists obtain information from state agencies (92%) and experts (72%). It is noteworthy that very few of the journalists ever use the various information obtained from friends or family in their reporting. This indicates that journalists take their profession very seriously and prefer to report official information. However, answers to the next few questions indicate that many of the journalists (75%) get the official information in unofficial ways. They note that they can only obtain the required information quickly and effectively if they have good personal relation with the appropriate officials or information/press officers.*

*Journalists almost never use archive materials. Perhaps this has to do with the fact that most of the interviewed journalists prepare news stories/reports and have to get the information out quickly. However, the low usage of archive materials also indicates that the practice of working with documents has not been developed in our journalism yet. Even many of the journalists, who write analytical or investigative materials, have never used archive documents.*

*Internet is already widely used by both journalists and officials. 15 of the 16 ministries have official websites (the Ministry of Construction doesn't have one, and the website of the Ministry of Territorial Administration does not open and does not function properly). In the first place, journalists use official websites, even though not every official site can provide useful or valid information. At the same time, official websites of state agencies are not updated regularly and, therefore, do not serve their main purpose. For example, on the website of the Ministry of Territorial Administration there is no decision of the minister. On the official website of Aragatsotn Governor's Office the last decision by the governor was published in October 2006, and in the website of Armavir Governor's Office no decision of the governor is posted. Several official websites of public agencies do not function at all. The e-mail addresses indicated on the websites by which people should be able to send their applications and get information fastly and efficiently are not used either.*

*For instance, an application was sent through the official site of the Government [www.gov.am](http://www.gov.am) to find out whether the promise indicated on the website that every request will be answered is fulfilled or not. No answer was received, the request was not even denied. Nevertheless there are good examples as well. For instance, the websites of the RA President, RA Commission for the Protection of Economic Competition and of the Prosecutor General's Office are updated regularly, and they are quite useful for journalists who can read the news and the decisions adopted by these bodies.*

# Section 5

## Journalists' Experience with Obtaining Official Information

The interviewed journalists were asked to evaluate various sectors in terms of access to information. They were able to choose more than one sector. The overall picture of the survey is as follows:

### From what sector(s) is it easy to obtain information:

- Culture 62 persons or 59%
- Statistics 53 persons or 50%
- Education 52 persons or 50%
- Social Issues 50 persons or 48%
- Sport 47 persons or 45%
- Foreign Affairs 42 persons or 40%
- Environment 33 persons or 31%
- Healthcare 27 persons or 26%
- Economy 26 persons or 25%

10 journalists find it easy to obtain information from the banking and defense sectors. Five journalists can get information without any obstacles from the judiciary and the internal affairs (law enforcement) bodies. It is worth noting that these sectors were chosen by those journalists, who write about these subjects.

Despite the fact that the culture, education and sports sectors received fairly high marks, it is noteworthy that they were chosen mostly by reporters who cover completely different sectors. For example, they were chosen by most of the journalists writing about political and economic issues. Only one journalist from a daily newspaper said there are no closed sectors. In every sector, obtaining information can be either easy or difficult, "depending on what kind of information you want and from whom."

According to the interviewed journalists, the most difficult areas in terms of access to information are the police and the defense sector. This opinion was expressed by 65% and 52% of the interviewed journalists, respectively. The overall picture is as follows:



### **From what sector(s) is it difficult to obtain information:**

- Police 68 persons or 65%
- Military/defense 55 persons or 52%
- Judiciary 51 persons or 49%
- Banking/finance 47 persons or 45%
- Healthcare 39 persons or 37%
- Foreign Affairs 23 persons or 22%
- Economy 20 persons or 19%
- Social Issues 17 persons or 16%
- Environment 15 persons or 14%

Culture, education and sports sectors received equal marks: only two journalists (2%) per sector think it is difficult to obtain information from them. In other answers, four journalists said they have never had any difficulty getting information from any of these sectors. Two of them represent Public Television, and the other two are from Yerevan-based daily newspapers.

Questions on access to information in various state agencies provided almost the same picture. Journalists were asked to name the most transparent and open state agency, which has the most effective procedures for the provision of information, the best technical conditions, well-managed archives and trained staff. The final criterion was: which agency do they get information from in the easiest and fastest fashion. Journalists from the marzes said these criteria apply to governor's offices or municipalities, whereas journalists from Yerevan such open agencies are mainly ministries. The Government and the National Assembly also made it to the list of state agencies that provide information quickly and without protraction.

### **From what agencies is it easy to obtain information?**

- Ministries 67 persons or 64%
- NGOs 62 persons or 59%
- Charities 45 persons or 43%
- Government 44 persons or 42%
- Parties 42 persons or 40%
- National Assembly 40 persons or 38%
- Governor's Offices 35 persons or 33%
- CEC/Electoral Commissions 35 persons or 33%
- Organization of Public Importance 30 persons or 29%
- Municipalities 27 persons or 26%

- City district administrations 24 persons or 23%
- Condominiums 18 persons or 17%
- Commercial organizations 12 persons or 11%
- Cadastre 10 persons or 10%

As you can see, journalists claim that local self-government bodies, which should have been the most open and transparent to the public, are in fact the most closed institutions. Only 23% of the interviewed journalists think it is easy to get information from city district administration, and only 17% think it is easy to obtain information from condominiums. Tax and customs services and the courts are not considered open when it comes to obtaining information from them. Nine respondents (8.5%) consider it to be easy to obtain information from these bodies.

The list of agencies that are not open and do not have the necessary procedures in place is rather diverse and extensive. The interviewed journalists were asked to identify the most inaccessible agencies from that list.

#### **From what agencies is it difficult to obtain information?**

- Tax 58 persons or 55%
- Customs 56 persons or 53%
- Cadastre 55 persons or 52%
- Judiciary 51 persons or 49%
- City district administrations 42 persons or 40%
- Municipalities 35 persons or 33%
- Governor's offices 30 persons or 29%
- Condominiums 28 persons or 27%
- Ministries 22 persons or 21%
- Commercial organizations 21 persons or 20%
- Government 19 persons or 18%
- CEC/Election Commissions 17 persons or 16%
- State Funds 12 persons or 11%

Only nine journalists (9%) mentioned the National Assembly, parties, organizations of public importance and charities. Only one journalists from a marz mentioned NGOs as the most closed institutions, saying that he has repeatedly requested an NGO from Yerevan to provide information about its financial activities, but has never received a reply. Nine journalists added the police and six added the prosecutor's office

to the list. Four journalists said that all the agencies have something to hide, and it is always difficult to get from public officials the kind of information that would shed some light on the abuses on the part of officials. One of the journalists mentioned information about environmental issues as an example.

Journalists were also asked to write down the names of what they think were the most open and the most closed institutions. According to many of them, institutions are considered open if their information officers have clear and coordinated procedures for working with journalists, or if officials are always ready to provide information. One of the journalists from online media named the Ministry of Foreign Affairs, and added that they receive electronically about five to ten pieces of information from the Ministry per day and that their phone calls or any information requests are answered promptly. 48 journalists (or 47%) named the Ministry of Foreign Affairs as an open agency (many of these journalists are from news agencies, online and foreign media).

Thus, according to the interviewed journalists, the most open agency is the Ministry of Foreign Affairs (48%), followed by

- Statistics Service 38%
- National Assembly 36%
- Government 33%
- Ministry of Labor and Social Affairs 30%
- Ministry of Culture 24%
- Ministry of Education and Science 15%

27% said they find it difficult to identify a single agency that would be open and transparent at the same time. Three journalists (or 2.8%) wrote that all state agencies are open.

National Security Service, Ministry of Defense and the Police were most frequently named as closed agencies. It is noteworthy that most of the journalists, who named these agencies, added that “it is the nature of these agencies; they have to be closed on many issues.”

**Thus, according to the interviewed journalists, the most closed agencies are**

- National Security Service 40 persons or 38%
- Police 38 persons or 36%
- Ministry of Defense 38 persons or 36%
- Prosecutor's Office 28 persons or 27%
- Municipalities 27 persons or 26%
- Ministry of Healthcare 22 persons or 21%
- Tax Service 22 persons or 21%
- Customs 20 persons or 19%
- Passports and Visas Department 16 persons or 15%
- President's Office 15 persons or 14%
- Judiciary 12 persons or 11%
- Ministry of Communication and Transport 10 persons or 10%

14 persons (or 13%) claimed that all state agencies are closed and not transparent. The respondents mentioned that the main shortcoming is that these agencies do not possess the required information in a systematized way. Other main shortcomings include the non-professionalism of press officers or secretaries. Journalists complain that, because of such officers, they end up getting the worst and the most incomplete information, which arrives very late. In some agencies, information is not systematized and is completely lacking. The police and prosecutor's office are always trying to conceal everything, citing the confidentiality of investigation. Journalists also mentioned that the openness or closeness of a particular agency also depends on the journalist's professionalism, experience and personal contacts. According to one of the investigative reporters, there is no such thing as an open or closed agency: every agency would try to conceal the information related to illegal activities and abuses within the agency.

82 of the 105 interviewed journalists (78%) said that officials usually do not require IDs from journalists when providing information. Many of the television journalists explained it by saying that "the presence of a camera and the logo on the microphone is sufficient as a form of ID." 17 journalists (16%) said they are required to show their IDs in every state agency. 7 journalists said that some agencies require IDs, some don't. Only one journalist from a news agency replied that he/she produces an ID without waiting to be asked for one, and he/she thinks it is one of the most important requirements of journalistic ethics.

*Summing up the results, it is worth mentioning that the replies about closed or open agencies are highly contradictory. As noted above, when choosing open or closed sectors/agencies, many journalists named the bodies they have never covered before. This indicates that even journalists have strong stereotypes: for example, the police and defense/power institutions come to mind when asked about closed institutions. When asked about open and transparent agencies, the first thing they mention is the culture or education sector or NGOs, but when you ask them for concrete examples, it often turns out that they have never actually requested any information from these agencies, but have simply heard about them from friends or colleagues. A few questions about open and closed agencies/sectors were asked of journalists in order to find out the real situation.*

*The existence of stereotypes is also confirmed by the following: even though many journalists mentioned the courts or the tax service as the most closed institutions, the practical experience of the Freedom of Information Center shows quite the opposite. For example, during the 2007 parliamentary elections, the Center had send requests to all the courts of the first instance to provide copies of court decisions related to elections. In response to these requests, the Center had received copies of all the court decisions related to parliamentary elections, adopted on May 12, 2007 by every single court in Armenia (about 200 pages in total). Moreover, most of the courts had provided the requested copies within the five-day period mandated by law – a deadline very often not met by many state bodies that are considered open. Another example: in 2006 and 2007, the FOICA had requested the State Tax Service to provide copies of property and income declarations filed by all the ministers. Once again, a complete written answer was provided to the Center within the timeframe mandated by law.*

*In any case, 46% of the 105 interviewed journalists think that the Ministry of Foreign Affairs is the most open and transparent agency that has clear procedures for providing information and an effective style of working with journalists. This opinion is shared by all the five journalists representing foreign media in our survey. The National Security Service (38%), Police (36%) and Ministry of Defense (36%) are the first three among the most closed agencies where access to information is difficult and which have adopted arbitrary procedures for working with journalists.*

# Section 6

## Information Requests

48% (50 persons) of the 105 interviewed journalists always prefer to obtain information orally rather than in writing. They explain it by tight deadlines, since they are working on news and they want to get the information immediately or at least within a few hours. The majority of the journalists rarely send written information requests to officials (69 persons or 65.7%). 25 journalists (or 23.8%) have never sent a written request. Many of them are journalists working for news agencies or the radio. The overall picture of requests is as follows:

### How do you ask for the information you need?

#### *Orally*

Always	50 persons or 48%
Often	33 persons or 31%
Rarely	0
Never	0

#### *In written*

Always	1 person or 0.9%
Often	10 persons or 10%
Rarely	69 persons or 66%
Never	25 persons or 24%

Even if journalists send written requests, most of them (59%) simply writing down their questions and do not cite the law. Some journalists from newspapers explain this by saying that officials get offended if they see references to legal provisions in requests, as they see it as journalists trying to teach them the law.

35 journalists (or 33.3%) cite the law in their written requests, in addition to specifying what kind of information they want to obtain. Of them, 10

journalists cite both constitutional provisions and the FOI law, 5 journalists cite only the Constitution, and the remaining 20 journalists cite only the FOI law provision. It is worth noting that journalists from the marzes send their questions in writing more often than their colleagues from Yerevan. According to them, the majority of marz officials often refuse to provide information, saying that they do not have the required information and suggesting the journalists to go directly to ministries. Then journalists send written information requests to higher officials in the capital city.

As for the timeframes for receiving replies to information requests, the majority of television journalists say they receive replies immediately. On the whole, 52% of the interviewed journalists receive replies immediately. This has to do with the fact that many of them ask for information orally and many of them are television or radio journalists. 27% of the interviewed journalists have received information within the five-day period mandated by law. 16% of the respondents said it takes them one to three months to receive information. 10% have not received the requested information at all.

The situation with ways of providing information is almost the same: oral answers prevail. Thus:

### **How is the requested information provided?**

#### ***Orally***

Always	45 persons or 42.8%
Often	49 persons or 46.6%
Rarely	4 persons or 3.8%
Never	1 person or 0.9%

***In written***

Always	5 persons or 4.7%
Often	29 persons or 27.6%
Rarely	59 persons or 56.1%
Never	22 persons or 20.9%

***Printed or Copied (Hard Copy)***

Always	4 persons or 4%
Often	26 persons or 25%
Rarely	45 persons or 43%
Never	15 person or 14%

***By e-mail***

Always	10 persons or 9.5%
Often	38 persons or 36%
Rarely	41 persons or 39%
Never	8 persons or 8%

Obviously, the replies to this question are almost the same as the replies to the previous question: journalists get replies to their requests in the same form in which the requests had been addressed. Documents or decisions are sent to journalists in printed or copied (hard-copy) form. However, most of the journalists added that the amount of information they receive does not exceed 10 pages. The most common replies are one- to five-page long. Only one journalist from Vanadzor said he/she has received 273 pages of copies of mayor's decisions. This determines the answers to the next question. The vast majority of the interviewed journalists (98 persons or 93.3%) have never paid for the information their received. The FOI law allows the providers of information to charge for it, if it exceeds 10 pages (charges would start from page 11). Three persons said they have paid state duties for statistical information or for information from address bureau. One of the television journalists from Armavir has paid 8,900 AMD for copies of



mayor's decisions. "The municipality charged me 50 AMD per page. Copies of decisions came to 178 pages," the journalist said.

*Thus, 50 of the 105 interviewed journalists (or 48%) always prefer to ask for information orally. 31% of the journalists often ask for information orally. This corroborates the statement presented in the previous section that, for many journalists, personal contacts with officials are the quickest and the most effective way to obtain information (an opinion shared by 75 of the 105 interviewed journalists). Journalists seldom send written information requests to officials (69 persons or 66%). It is noteworthy that 25 of the 105 interviewed journalists have never had the need to request information in writing. The main reason for avoiding written requests is that written requests are mainly answered within a few days (even though the law mandates that replies be sent within five days, many officials usually fail to meet that deadline. Postal delivery takes a few more days). However, journalists need the requested information as soon as possible. Only investigative journalists can afford to wait for receiving information in writing. This option is almost always unacceptable for journalists working in newspapers.*

*It is worth noting that not only journalists prefer to ask for information orally, but most of the officials prefer to provide information orally. 49 of the interviewed journalists often get the requested information orally, while 45 journalists always get the information orally. The vast majority of the interviewed journalists (98 persons or 93%) have never paid for the requested information. This has to do with the fact that the information received in writing almost never exceeds 10 pages, whereas the law allows charges for information only if it exceeds 10 pages.*

# Section 7

## Refusal to Provide Information

75 of the interviewed journalists (71%) have rarely been refused information in their practice, while 16 persons (15%) have never been refused information. Only 14 persons (13%) said officials often refuse to provide information, and no one said his/her requests have always been refused. Journalists explain this by saying that they are persistent in their work and they try to obtain the information they need in any way they can. Those, whose requests have been refused, are often from opposition newspapers or from the marzes. Many of the television journalists have rarely been met with refusal, while all the five journalists representing foreign media said their information requests have never been refused.

Since many journalists prefer to ask for information orally, as presented in Section E, the refusals to provide information are mainly oral. Moreover, journalists add that they get oral refusals even if information requests were written. By doing this, officials are trying to protect themselves against legal liability.

It is noteworthy that, in the 2004 survey conducted by the Freedom of Information Center, **98%** of the journalists had claimed that they often saw illegal refusals to provide information in their practice. At that time, the FOI law had just gone into effect (being passed in 2003), and both journalists and officials were practically not aware of its provisions. The situation has changed significantly today. This study shows that only 13% of the journalists say they often see illegal refusals to provide information. It is possible to conclude that the application of the law has already produced significant changes in the process of providing information. Journalists themselves have confirmed this. One of the journalists from Lori marz said that “the very existence of the [FOI] law already protects us from illegal refusals in many cases. In our experience, we have already used the FOI law to complain in a court against the mayor’s illegal refusal to provide information, and the court upheld our complaint. Since then, both municipal and other officials always give us the requested information.” One of the television journalists said that many officials are already familiar with the FOI law. As an example, he/she cited the proper and committed attitude of the Head of the PR Department of the Ministry of Labor and Social Affairs,

and said that he/she always gets clear and complete information from that department.

Nevertheless, journalists mentioned some examples of illegal refusal to provide information. Following are some examples of illegal refusals from journalists' experience:

A journalist from an online newspaper said that the Governor of Armavir once refused to provide information in reply to the journalist' written request and told the journalist to specify the purpose of his/her request. In another case, an official from the Ministry of Healthcare refused to provide information to a newspaper journalist, saying: "How would I know how you are going to use that information?" Another example of an illegal refusal to provide information was presented by a journalist from Vanadzor. He/she had asked the Education Department of the Lori Governor's Office to provide information about the merger of two local schools. In response, one of the officials in that department gave him/her a friendly advice to write about other topics. Journalists, especially the ones representing the opposition media, note that there are cases when state or other agencies refuse to provide information because of their negative attitude towards the specific newspaper or journalist, which constitutes discrimination.

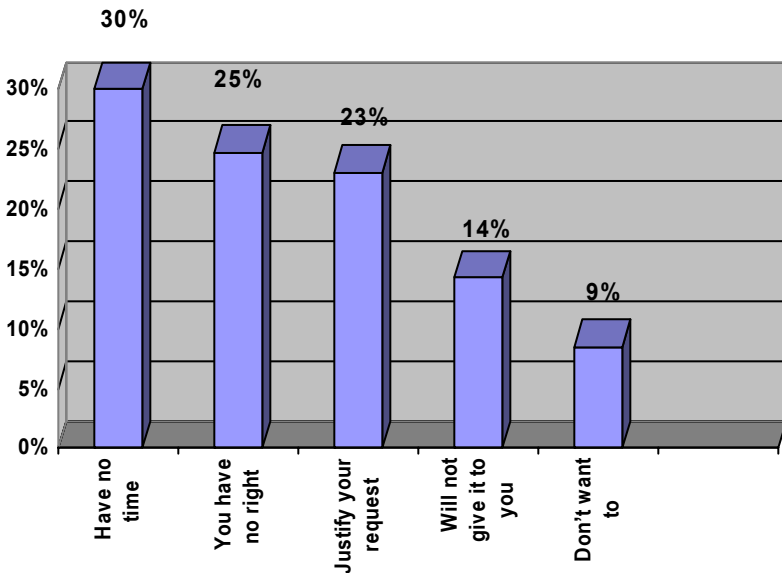
Grounds for refusal cited by officials are diverse. 57 of the interviewed journalists (or 54%) said that officials justify their refusal, while 42 persons think that grounds for refusal very often do not stem from the law. For instance, one of the journalists said that when he/she asked in writing about the legality of a specific action by a notary public, the Head of the Notary Department of the Ministry of Justice replied that the journalist' request was not for information, but for clarification of the law, which is something they have no right to do. The journalist had also requested a copy of the legal norm regulating the issue, but a copy was never provided. Other frequently encountered illegal grounds for refusals, according to journalists, are the ones when officials say they do not possess the requested information or are not authorized to release it. Sometimes they also say that the information is still being processed, so you have to wait. According to many of the journalists from marzes, officials often refuse to provide information "pending an order to do so from Yerevan." For example, a marz journalist said that the chief veterinarian of the Ararat marz refused to provide information at a meeting dedicated to the prevention of plague, saying he/she is waiting for appropriate instructions from his/her superiors. According to

one of the journalists from Goris, when officials do not wish to provide information, they say, as a rule, that they are in a hurry to get somewhere, mostly to Yerevan.

32 of the journalists (30%) say that more often officials are inclined to simply refuse to provide information without giving any reasons or legal grounds for refusing information or citing an appropriate legal norm. There are cases when the refusal to provide information is explained by the most ridiculous reasons. For example, the Minister of Justice once refused to provide information to a journalist from *Aravot* daily, saying that he/she has been in office for less than 100 days. In another case, the Mayor of Armavir told a television reporter he would answer the journalist' question if the latter changed its subtext. In other cases, the provision of information is delayed so much until the information is no longer needed by the journalist. Lastly, another reason for refusing to provide information is that the requested information is classified as secret by law. Officials claim that journalists have no right to obtain that kind of information. One of the journalists said that for a long time he/she could not get information about the reasons for increasing the tariffs from an organization of public importance, who claimed that the requested information constituted a commercial secret.

To these reasons, journalists also added that officials often decide themselves whether a particular topic is of interest to the public. They refuse to provide information, saying "who would be interested in this?" or "why do you need to write about this?" One of the radio journalists said that an official once refused to give an interview when the journalist did not agree to his/her condition to submit the final material to him/her for editing before broadcasting it.

### Grounds For Refusals



- Have no time 32 persons or 30%
- You have no right to obtain that information 26 persons or 25%
- Justify your request 24 persons or 23%
- Will not give it to you 15 persons or 14%
- Don't want to 9 persons or 9%

When asked whether they have ever been given false or untrue information, 58 of the interviewed journalists (or 55%) gave a positive answer. In such cases, a reporter from a news agency prefers to publish the information, quoting the official source. A noteworthy answer was provided by one of the television journalists from a marz. He/she said that he/she makes the providers of false and true information confront each other. A journalist from Kotayk marz said that once he/she tried to ask different community leaders about information on the list of financial programs implemented in the marz by the Government. Some of the information provided by community leaders was inaccurate, which was later checked by the journalist and compared to the information received directly from the Government.

If the information is delayed or provided partially, most of the journalists prefer to find another source (75 persons). 25 persons regularly remind the officials about their pending requests or wait until the requested information is provided. According to journalists, waiting was an option only when the information was not urgent. Very few of the journalists (4 persons) give up their stories simply because the official information is late or incomplete. "A lot depends on the journalist's professionalism. It is well said that if they kick you out of the door, you must get in through the window. If you are persistent, you can always find the necessary information whenever you need it," an investigative journalist said.

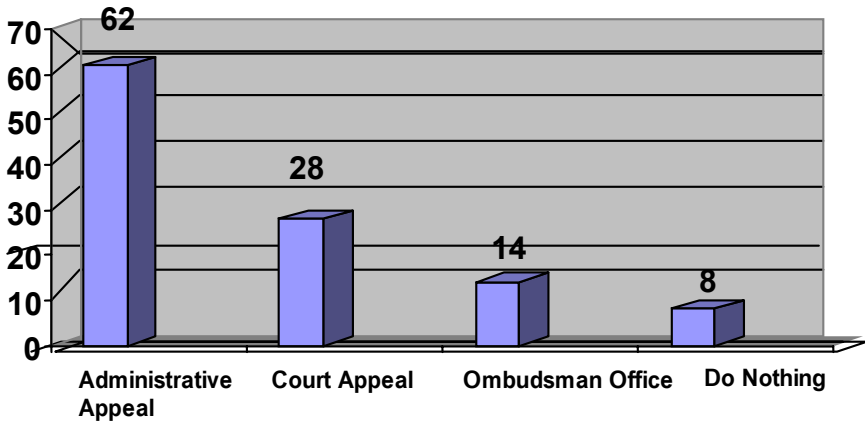
Most of the interviewed journalists (94 persons) strongly believe that their professional duty is to provide complete information to the public. For that reason, if an official provides only a part of the requested information, they try to find other sources. 23 persons said that they only report the part of the information that was provided to them and add in their story that the official promised to provide the rest of the information in, say, a day or two. "In such a case, the official is forced to call back and provide the rest of the information," one of the marz television journalists said.

Lastly, what do journalists do if their information requests are refused illegally?

The majority of the 105 interviewed journalists (67 persons or 64%) prefer to write about it in their story. But that is the last resort. Many of them first try to "keep asking." 15 persons said that if their original request was oral, they follow up with a written request to the same official or to his/her supervisor. One of the journalists from an opposition newspaper said that "I virtually destroy that official in my material so much that he/she ends up calling me and asking for a meeting." 24% (or 25 persons) try to obtain the information in other ways. According to journalists from the marzes, writing about the refusal produces a positive result in most cases, especially if the story is published in the national (not regional) media. They explain this by saying that marz officials are scared of their bosses in Yerevan, and any negative mention of them in newspapers can cost them their post.

"Therefore, they call back right after the publication and provide the requested information; often, they even volunteer more information than was originally requested," concludes a television journalist from Sisian on the basis of his/her experience.

## How the Journalists Appeal Refusals



When officials refuse to provide information that is not considered secret, most of the journalists first try to obtain that information from the supervisors of these officials: 65 of the interviewed journalists (or 62%) simply go to the supervisors and complain. Journalists from the marzes think this is an effective way to obtain information, whereas many of the journalists from Yerevan note that supervisors correct the mistakes of their subordinates only in exceptional cases. Some journalists (15 persons) have also opted for complaining to the RA Human Rights Defender (Ombudsman). Eight journalists (or 8%) said they don't complain to anyone, because they don't trust anyone, including the courts.

For most journalists, appealing an illegal refusal of information in courts is the last step after complaining to supervisors or to the Human Rights Defender. Only 29 of the 105 interviewed journalists (or 28%) chose that option. The reasoning is that they simply do not trust the courts and do not believe that a court could not serve as a fair and unbiased body restoring their rights. Also, information becomes outdated during the long court proceedings and is no longer needed. Nevertheless, it is worth noting that court decisions against illegal refusals of information already exist not only in Yerevan, but in the marzes as well. The seven-year experience of the Freedom of Information Center shows that the

contesting of illegal refusals of information in courts makes officials more alert, so that next time the case doesn't reach the court.

*Thus, journalists try to restore their right to obtain and disseminate information mainly by publishing about the refusal to provide information. This is, perhaps, the most accessible but the least effective way. On the other hand, there are at least two reasons explaining why journalists do not contest the illegal refusals of information in courts. First, it is possible that the journalist or his/her media outlet do not have sufficient funds to start court proceedings and go all the way to the end; second, information may become outdated and lose its interest to the public by the end of court proceedings.*

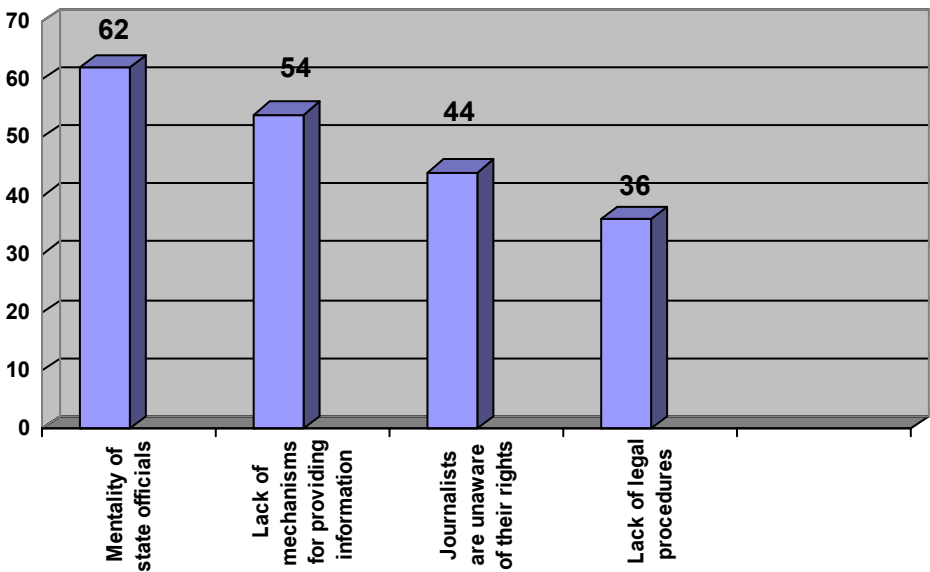


# Section 8

## Obstacles to Access to Information

Journalists face multiple and very different obstacles while trying to obtain information. What do journalists think are the reasons and obstacles for the low level of access to information?

**Which are the Obstacles**



The table indicates that the biggest obstacle, according to journalists, is the mentality of state officials. Many journalists note that officials consider the information they possess to be their private property and treat it in any way they want. For instance, five journalists said this is how the Head of the Press Department of the Ministry of Healthcare behaves. One of the online media journalists noted that this official does not provide information “to journalists who are not accredited by **him/her**” (in his/her own words). Several journalists from the marzes said that state agencies do not have a coordinated process of providing information; moreover, many agencies do not have PR or press departments, while officials do not have clear mechanisms for working with journalists. They provide information as they please, whenever it is convenient for them. Seven journalists claimed that another obstacle is that information officers take on more responsibilities than they carry out.

*Thus, 75 of the 105 interviewed journalists (or 71%) have rarely been refused information, while 16 persons (or 15%) have never been refused information in their practice. Only 14 persons (or 13%) said that officials often refuse information. No journalists said they have always been refused information.*

*Since the vast majority of journalists prefer to ask for information orally, most refusals to provide information are also oral, since that way officials can protect themselves against legal liability.*

*57 journalists (or 54%) said that officials justify their refusals; however, 42 journalists think that these justifications very often do not stem from the law. Reasons given for refusals are: I don't have time (30%), you have no right to obtain that information (25%), justify your request (23%), or I won't provide the information to you (14%), and I don't want to provide the information (9%). 58 journalists (or 55%) said “yes” when asked if they had ever received false or untrue information. Many journalists (75 persons or 71%) prefer to find other sources if information is delayed or provided partially. 25 journalists keep reminding about their requests or wait until the requested information is provided. Waiting was mentioned only in the cases when the material was not urgent. Very few of the journalists (4 persons or 4%) give up on their stories simply because official information is delayed or incomplete.*

*The majority of journalists (67 persons or 64%) prefer to publish information about illegal refusals to provide information. 15 persons said that if the original request was oral, they follow it up with a written request either to the same official or to his/her supervisor. 24% (or 25 persons) try to obtain the information in other ways. Journalists complain about illegal refusals to provide information to the supervisors of the officials in question (65 persons or 62%), to courts (29 persons or 27%), to the Human Rights Defender (15 persons or 14%), or they do not complain at all (8 persons or 8%). The biggest obstacle for access to information is, according to journalists, the mentality of officials (65 persons or 62%). According to 57 journalists (54%), serious difficulties with access to information arise because of the lack of mechanisms for providing information in state agencies. 46 of the 105 interviewed journalists (44%) noted that journalists are unaware of their rights. 38 journalists (or 36%) said that the lack of legal procedures is an obstacle for the provision of information.*

# Section 9

## Practice of Receiving Information during Electoral Processes

The majority of the 105 interviewed journalists (89 persons or 85%) are familiar with the right to obtain information provided for in the RA Electoral Code. 16 persons said they were not familiar with it, adding that they have never prepared election-related materials. An interesting fact: of the 89 journalists who have covered elections, very few have encountered illegal refusals to provide information. 65 persons said they have been able to get the required information very quickly. This information was very varied and included voter lists, decisions of election commissions, minutes of commission sessions, information about voting results.

### What kind of information have you asked for:

- Information about voting results 52 persons or 58%
- Decisions of election commissions 49 persons or 55%
- Candidate registration documents 36 persons or 40%
- Voter lists 33 persons or 37%
- Minutes of commission sessions 31 persons or 35%
- Financial reports of political parties 25 persons or 28%

Of the 89 journalists who have covered elections, 19 persons (or 21%) have requested information about sample ballots, declarations of candidates and political parties running for the National Assembly, party by-laws and platforms.

24 journalists have encountered cases of refusal to provide information, including by precinct election commissions (11 persons), Central Election Commission (6 persons), Territorial Election Commissions (3 persons) and the courts (4 persons). According to the journalists, most of the refusals were arbitrary. A journalist from Sisian said that, during local elections, an election commission chairman refused to provide information about voter turnout, with a groundless reason for refusal. A newspaper journalist said that during a dispute the commission chairman decided that the journalist has nothing else to do and must leave “*his/her*” precinct immediately. The main reasons given to

journalists from candidates' campaign headquarters and precinct election commissions include "the voter turnout is not clear yet," "I just reported it an hour ago," "we have no right to provide that information," "I don't feel well," or "I don't feel like it."

Most of the journalists have worked without obstacles on voting days. 74 of the 89 journalists said they have received the requested information. 15 journalists said they encountered numerous obstacles. Television journalists mainly had problems when filming the voting process. A reporter from A1+ TV station said: "In precincts, we were approached by people in military uniforms, who did not introduce themselves and demanded that turn off our cameras. I tried to remind them of the journalists' rights provided for by law, but it was all futile." One of the marz journalists said that, even though all the required documents were sent before the deadlines, their television station was not accredited, which created obstacles in covering the election process. Journalists are unable to get the required information on time because they are told the commission chairman is too busy or is unavailable. When faced with illegal refusals to provide information, journalists say they insist on their rights and achieve the desirable result. If it doesn't help, they publish the information about the refusal. It is noteworthy that no journalist has contested any refusal to provide election-related information in a court. One of the reasons is that there is not point, since they don't trust the courts.

*Summing up, it is possible to note that journalists covering election processes are familiar with their legal right to obtain information. Moreover, most of them are able to prevent refusals to provide information by citing the appropriate legal provisions. In other words, journalists are not only familiar with the law, but also apply the relevant Electoral Code provisions in practice to protect their legal rights.*

*It is possible to state that election-related information is mainly accessible to journalists; they are able to get the information they need without hindrance and unnecessary obstacles. However, illegal obstacles still exist, especially during local elections. It is mostly television journalists who face obstacles in covering elections, when they are prevented from filming the work of election commissions.*

## Summary of Findings

105 journalists have been interviewed for this survey: 60 persons from Yerevan, 40 persons from the marzes and five correspondents of foreign media. All types of media were represented: print media (32 persons or 30.4%), television (35 persons or 33%), radio (16 persons or 15%), news agencies (10 persons or 9.5%), online media (12 persons or 11.4%).

103 of the 105 interviewed journalists (or 98%) have university-level (higher) education. Only two of the respondents have secondary education. 64% of the respondents have higher education in journalism, while 34% have higher education in various fields, even though the humanities prevail among other fields. In terms of professional experience, the largest group was made up of journalists with 6 to 10 years of professional experience (40%). 24% of the respondents have 10 and more years of professional experience. 16% have three to five years of experience, while 12% have one to two years of experience. 10 persons (or 8%) have been working in journalism for less than a year.

### • **Right to access to Information**

98 of the 105 interviewed journalists (93.3%) are familiar with legal grounds for obtaining information, particularly the freedom of information provisions in the RA Constitution and the FOI law. However, not everyone exercises their legal rights in their practice: journalists prefer to ask for information orally, even though written information requests could protect them from illegal refusal of information in the future, especially in courts. Journalists are also not persistent in the cases of illegal refusals to provide information.

Most of them simply write about the refusal in their stories, others complain about the refusal to the supervisor of the official in question. Very few journalists want to take their cases to courts. They explain it by saying that they do not trust the courts or the information becomes outdated and loses its importance during long court proceedings.

Journalists also state that, even though everyone has the right to obtain information, officials differentiate between citizens and journalists. There is also discrimination in the treatment of journalists from different media outlets. Journalists explain this by saying that officials are either unaware of the legal grounds for providing information or are careful

with journalists, as they don't want to have any problems with them, *whereas citizens are particularly unprotected in this regard.*

- **Official and Other Sources of Information**

The vast majority of the 105 interviewed journalists obtain information from state agencies (92%) and experts (72%). It is noteworthy that very few of the journalists ever use the various information obtained from friends or family in their reporting. This indicates that journalists take their profession very seriously and prefer to report official information. However, answers to the next few questions indicate that many of the journalists (75%) get the official information in unofficial ways. They note that they can only obtain the required information quickly and effectively if they have good personal relation with the appropriate officials or information/press officers.

Journalists almost never use archive materials. Perhaps this has to do with the fact that most of the interviewed journalists prepare news stories/reports and have to get the information out quickly. However, the low usage of archive materials also indicates that the practice of working with documents has not been developed in our journalism yet. Even many of the journalists, who write analytical or investigative materials, have never used archive documents.

Internet is already widely used by both journalists and officials. 15 of the 16 ministries have official websites (the Ministry of Construction doesn't have one, and the website of the Ministry of Territorial Administration does not open and does not function properly). In the first place, journalists use official websites, even though not every official site can provide useful or valid information. At the same time, official websites of state agencies are not updated regularly and, therefore, do not serve their main purpose.

- **Journalists' Experience with Obtaining Official Information**

82 of the 105 interviewed journalists (78%) said that officials usually do not require IDs from journalists when providing information. Many of the television journalists explained it by saying that "the presence of a camera and the logo on the microphone is sufficient as a form of ID." 17 journalists (16%) said they are required to show their IDs in every state agency. 7 journalists said that some agencies require IDs, some don't.

Only one journalist from a news agency replied that he/she produces an ID without waiting to be asked for one, and he/she thinks it is one of the most important requirements of journalistic ethics.

When naming open or closed sectors/agencies, many of the journalists chose agencies they have never covered before. This indicates that even journalists have certain stereotypes, according to which, when asked to name a closed agency, for example, the first thing that comes to mind is the police or defense/power institutions. When asked about open agencies, most of them name the culture or education sectors; however, oftentimes it turns out that they have never requested any information from these agencies, but have simply heard about them from their friends.

In any case, 46% of the 105 interviewed journalists think that the Ministry of Foreign Affairs is the most open and transparent agency that has clear procedures for providing information and an effective style of working with journalists. This opinion is shared by all the five journalists representing foreign media in our survey. The National Security Service (38%), Police (36%) and Ministry of Defense (36%) are the first three among the most closed agencies where access to information is difficult and which have adopted arbitrary procedures for working with journalists.

Local government bodies, which should have been the most accessible and open to the public, are some of the most closed bodies, according to journalists. Only 23% of the interviewed journalists think that it is easy to get information from city district administrations, and 17% think it is easy to obtain information from condominiums. Many state and local government bodies do not have unified procedures to process information requests. Different departments of the same agency have their own administrative procedures.

### • **Information Requests**

50 of the 105 interviewed journalists (or 47.6%) always prefer to ask for information orally. 31.4% of the journalists often ask officials for information orally. This corroborates the statement presented in the previous section that, for many journalists, personal contacts with officials are the quickest and the most effective way to obtain information.



Journalists' answers lead to a conclusion that:

1. Journalists prefer to get information orally, because the five-day period mandated by law for replies to information requests is quite long, especially for news reporters.
2. Even though journalists know about their legal right to request information in writing and receive a reply, they practically do not apply the law, because they do not realize its importance for making their work more effective.
3. Written requests can protect the journalists from illegal refusals to provide information. First of all, experience shows that officials can avoid answering a question or simply refuse to answer when asked orally, whereas they are more careful when it comes to written requests and are forced to answer. If they refuse to answer, they have to cite the relevant legal grounds for refusal, which they do not have to do in the case of oral refusals. Secondly, written refusals can serve as evidence when appealing against them.

The vast majority of the interviewed journalists (98 persons or 93.3%) have never paid for information. This has to do with the fact that the written information they receive mostly does not exceed ten pages, whereas the FOI law allows information providers to charge for it only if it exceeds that limit. Journalists rarely send written information requests to officials. Not only do journalists prefer to ask for information orally, but most officials provide information orally. 46 journalists often get the requested information orally, while 45 journalists always get it orally.

## • Refusal to Provide Information

75 of the 105 interviewed journalists (or 71.4%) have rarely encountered refusals to provide information in their practice, while 16 persons (or 15.2%) have never been refused information. Only 14 persons (or 13.3%) said that officials often refuse to provide information. No one said they are always refused information. Grounds for refusals are extremely diverse. Even though journalists say that officials mainly justify their refusals, very often these justifications do not stem from the law. Such reasons for refusal include "I don't have time," "you have no right to obtain this information," "justify your request," or "I will not give that information to you."

If the information is delayed or provided partially, most of the journalists prefer to find another source (75 persons). 25 persons regularly remind the officials about their pending requests or wait until the requested

information is provided. According to journalists, waiting was an option only when the information was not urgent. Very few of the journalists (4 persons) give up their stories simply because the official information is late or incomplete. Very few journalists (4 persons) give up their story simply because official information is delayed or incomplete.

Most of the interviewed journalists (63.8%) prefer to write in their story about the refusal to provide information. However, this is a last resort. Many of them first try to “keep reminding” about their request. If the original request was oral, they follow it up with a written request to the same official or his/her supervisor. Most often, journalists complain about illegal refusals to provide information to the supervisors of the officials in question (62%). 29 journalists (or 27.6%) trust the courts with restoring their violated rights, while 15 persons (or 14.2%) go to the RA Human Rights Defender.

The vast majority of the interviewed journalists (98 persons or 93%) have never paid for the requested information. This has to do with the fact that the information received in writing almost never exceeds 10 pages, whereas the law allows charges for information only if it exceeds 10 pages.

## • **Obstacles for Access to Information**

Accessibility of official information in Armenia remains the biggest problem. Even though officials admit that their responsibilities include the provision of information, experience shows that accessibility official information can still be considered insufficient. Many journalists noted that the main obstacle is the mentality of officials (65 persons or 62%). According to 57 journalists (or 54.2%), the lack of clear mechanism for the provision of information creates serious problems while trying to obtain information. 46 of the 105 interviewed journalists (44%) stated that journalists are unaware of their rights. 38 journalists (or 36%) claimed that the reason for obstacles for access to information is the lack of legal procedures for the provision of information.

Many journalists note that state bodies do not have a unified system for providing information. In some agencies, this function is performed by the PR department, in others – by the press service, yet in some others – by the secretariat or chief of staff.

- **Journalists' Experience with Obtaining Information in Election Processes**

The majority of the 105 interviewed journalists (89 persons or 84.7%) covering election processes are familiar with their legal right to obtain information. 16 persons said they are not familiar with this right, but added that they don't prepare any election-related materials. Journalists have been successful in preventing illegal refusals of information by citing the relevant legal provisions. In other words, journalists are not only familiar with their right to obtain information provided for in Electoral Code, but also apply the Code in practice. 65 of the 89 journalists covering elections noted that they have been able to receive the required information very quickly. 24 journalists have encountered cases of refusal to provide information, including by precinct election commissions (11 persons), Central Election Commission (6 persons), Territorial Election Commissions (3 persons) and the courts (4 persons). Most of the journalists have worked without obstacles on voting days. 74 of the 89 journalists said they have received the requested information. 15 journalists (including 10 television journalists) said they had problems mainly with filming the voting process.

## Recommendations

### Recommendations to Government:

- **Commitment to Transparency:** Heads of departments at all levels of the state administration should demonstrate a strong political will for implementation of the FOI legislation in the RA and protection of the journalists' right of access to information.
- **Internal Systems:** The Government should develop standardized information management procedures for all state institutions. It is also important that FOI requests of journalists are registered and processed separately within different time frames stated by the FOI Law. It is recommended to develop and adopt a unified policy for all PR departments of the central Government.
- **Adoption of Implementing Regulations:** By-laws should be drafted and adopted by the Government to facilitate procedures of documentation, filing, and holding of the information. In particular the following by-laws should be drafted and adopted:
  - Order of payments for information release,
  - Order of documentation and filing,
  - Classification and holding of the information. On the bases of the latest the information holders prescribed by law have to elaborate their own procedures for releasing, classification and documentation of the information.
- **FOI Officers:** The process of assignment of FOI officers goes extremely slowly particularly in local Government level. We call state and local government bodies to fasten the assignments of FOI officers to foster the FOI process.
- **Development and Use of Web sites:** All institutions are encouraged to post information they possess on their web sites to ease the procedure for access to government-held documents. Those who have not constructed web sites yet, should be encouraged to create them and make the information available on-line. Resources should be made available to do this. At the same time, having information on the Internet should not preclude requestors from asking for by written or oral requests and receiving it in oral or form as appropriate.

- **Ensuring responses:** The state administration should ensure that all requests for information are answered within the time frames established by the law. If refusals are to be issued, within 5 days period they should state the grounds provided for in the law.
- **Justification of Refusals:** The state administration should always justify refusals in written form providing a legal ground for a refusal.
- **Equal treatment of requestors:** Discrimination toward various requestors should be totally eliminated. Representatives of various media outlets should be granted with equal conditions for access to information.
- **Ongoing Training:** It is recommended to include training on the FOI law in the curricula of the universities, particularly in those having journalism and law departments.
- **Independent Appeal System:** The Ombudsman should be more active in examining violation cases and taking proper measures to protect journalists' infringed right of access. It is highly recommended that in the nearest future the Ombudsmen has a special assistant or staff for handling information access appeals.

### To the Media, Civil Society and the Public:

#### **Mass media:**

- Journalists from all the mass media are encouraged actively to use the FOI law and to cover freedom of information issues so as to increase awareness of the right to access information. Journalists are encouraged to more frequently submit written FOI requests to the government. They should follow that the officials always provide written legal justifications for refusals.
- Journalists should be more active in appealing their violated access to information rights through the courts and the Ombudsman office.
- We call on journalists to raise public demand on FOI implementation, as well as explain the law to the public. They are encouraged to cover illegal denial cases and publicize violation cases through all media including Internet to prevent further violations.

- **Training of journalists:** Journalists need to get familiarized with the provisions of the FOI law and how to use it in their practice. It is recommended that manuals and guidelines be produced for journalists on how to use the FOI legislation. The FOI training should be included in the curricula of the universities. It may compose a part of the general Media Law course.

### **Civil Society.**

- **Use of Law:** NGOs are encouraged to use the FOI law and assist others to use the law through advisory and litigation, as well as to monitor the practice of law implementation in the state institutions.
- **Trainings:** It is recommended to organize special series of FOI trainings for journalists to explain how effectively they may use the law.
- **Development of manuals and handbooks:** It is recommended to produce manuals and guidelines for journalists on how to use the FOI law. With this regard, manuals and guidebooks already produced by the Freedom of Information Center to be reprinted and disseminated to the media outlets.
- **Public Awareness Raising:** It is recommended to all civil society groups take steps to inform the general public about their rights to access information and the mechanisms for doing so. The idea of FOI should be widely advertised and its use should be demonstrated.
- **Public Use of the FOI Law:** Members of the general public are encouraged to exercise their right to information by making use of the FOI law and asking for information from local and central government. No open Governance will ever be established if there is no such a public demand.





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