



**ARTICLE 19**

**GLOBAL CAMPAIGN FOR FREE EXPRESSION**

NOTE

on the

draft Law of Mozambique on Access to  
Official Sources of Information

London  
June 2005

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

## 1. INTRODUCTION

This Note comments on the draft Law of Mozambique on Access to Official Sources of Information (the draft Law), as received by ARTICLE 19 in June 2005.<sup>1</sup> The draft Law has been prepared by the Mozambican branch of the Media Institute of Southern Africa in the context of the on-going campaign to achieve freedom of information legislation in Mozambique.

We welcome the on-going effort to draft a freedom of information law for Mozambique. Freedom of information is a fundamental human right, crucial to democracy and to the realisation of other rights. Since the late 1940s, the right to freedom of information has been enshrined in international conventions as well as in State constitutions, and laws giving effect to the right have been introduced in countries around the world, with many having been adopted in the last 15 years. It is now widely accepted that “information is the oxygen of democracy”;<sup>2</sup> as long ago as 1946, the United Nations General Assembly described freedom of information in its widest sense as “the touchstone of all the freedoms to which the United Nations is consecrated”.<sup>3</sup> By introducing freedom of information legislation, Mozambique would be giving effect to its international legal obligations and would join other countries in the region which have already done so.

The draft Law received by ARTICLE 19 constitutes a good first step on the road to making freedom of information a reality for all Mozambicans. It elaborates on the constitutional guarantee of freedom of information, extends its scope to privately held information of general public interest and establishes an access procedure as well as an appeals mechanism. However, in its current form, the draft Law lacks a number of elements that are crucial to the success of a freedom of information law. There is no clear exceptions regime, there is no obligation proactively to publish important categories of information, whistleblower protection has been omitted and the draft Law also omits to establish an independent supervisory body. This Memorandum will comment on the draft Law and elaborate on these missing elements, analysing it against standards on freedom of information drawn from international law and best State practice. We will make recommendations for improvement throughout, which we hope will contribute to the debate around this draft Law in Mozambique.

---

<sup>1</sup> The draft Law is included as Appendix 1.

<sup>2</sup> ARTICLE 19, *The Public's Right to Know: Principles on Freedom of Information Legislation*, London: 1999, p. 1.

<sup>3</sup> Resolution 59(1), 14 December 1946.

## **2. ANALYSIS OF THE DRAFT LAW ON ACCESS TO OFFICIAL SOURCES OF INFORMATION**

### **2.1. Overview and Introduction**

The draft Law on Access to Official Sources of Information consists of a preamble and ten operative provisions. The scope of the draft Law is set out in Articles 1-5, which elaborate on the nature of information covered and detail the public and private bodies subject to freedom of information obligations. The access and appeals procedure is detailed in Articles 6-8, while Article 9 repeals legislation which is inconsistent with it and Article 10 deals with coming into force.

Compared with freedom of information laws in other countries, this constitutes a rather truncated legal framework for access to information. We are concerned that in its current form, the draft Law will be difficult to implement and may not in practice help realise freedom of information. As outlined in *The Public's Right to Know: Principles on Freedom of Information Legislation*,<sup>4</sup> in order to be effective a freedom of information law must contain the following elements:

- a strong commitment to maximum openness;
- a clearly and narrowly defined regime of exceptions;
- low-threshold but effective access and appeals mechanisms;
- an obligation on public bodies proactively to publish certain categories of information;
- measures to combat the culture of secrecy, such as an obligation to carry out training and education at public bodies;
- protection of so-called whistleblowers; and
- an independent supervisory and monitoring mechanism.

The current draft is deficient in relation to all of these elements. In the following paragraphs, we elaborate our concerns, following the structure of the law and adding further commentary in relation to those elements that are lacking from the current draft, such as an independent monitoring mechanism.

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

Article 1 of the draft Law provides that every citizen shall have a right of access to “the data and to the documents produced or in the possession of the Public Administration and of other official sources.” Article 2 adds that citizens may also have access to “private sources ... whenever they contain informative material of public interest.” Article 3 describes the scope of documents covered by the law, including electronic or in paper form, adding: “Anonymous texts are not covered by the scope of this present law”. Article 4 provides that access obligations apply to “bodies and institutions of the Public Administration, public companies, and private entities, whenever the public good is at stake”.

---

<sup>4</sup> Note 2. These Principles were endorsed by Mr. Abid Hussain, the UN Special Rapporteur on Freedom of Opinion and Expression, in his report to the 2000 session of the United Nations Commission on Human Rights, and referred to by the Commission in its 2000 resolution on freedom of expression. They were also endorsed by Mr. Santiago Canton, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression in his 1999 Report, Volume III of the Report of the Inter-American Commission on Human Rights to the OAS.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

As a matter of principle, we welcome the fact that the draft Law will apply to certain categories of privately-held information as well as to information held by public bodies. However, in its current form, the draft Law is not sufficiently clear as to the precise range of bodies subject to disclosure obligations and the range of information covered. The term “official sources” is left undefined, potentially opening the door to confusion as to the range of documents covered. The exclusion, in Article 3(4), of “anonymous texts” is also worrying insofar as it may be interpreted as excluding from the scope of the law any document that is not clearly attributed to an author or originating department. This may be subject to abuse, with public bodies specifically refusing to attribute ownership simply to avoid disclosure obligations. Also, restricting the scope of these obligations to cases ‘where the public good is at stake’ is problematical. This effectively lets public officials determine whether or not a requester has a sufficient interest in a particular document. Instead, the obligations should apply to all information. Similarly, the draft Law fails to define “informative material of public interest”, in relation to information held by private actors. This, too, will lead to confusion over the range of material covered.

It would be better if the draft Law stated clearly that it applies to the following information:

1. any information held by or on behalf of a public body; and
2. any information held by a private body that is necessary to enforce a legal right.

The first category includes any information held by a public body, regardless of its status, subject to any exceptions.

The draft Law should define a public body as any body established by law, that forms part of the government, that is substantially funded by the State or that performs a public function. It should also include private body that are subcontracted by a public body to do public work. This would eliminate any confusion on whether particular information was produced by an ‘official source’. Extending the scope of the law to private bodies whenever disclosure of the information is necessary to enforce a legal right, empowers individuals to request information concerning a broad range of issues, including socio-economic rights such as the right to housing, clean air or water. This approach is followed in South African law, for example.<sup>5</sup>

We also note that the draft Law envisages a right to information only for ‘citizens’. This is out of step with international law, which requires that the right to information is guaranteed to all, regardless of nationality, residential or any other status. Article 19 of the International Covenant on Civil and Political Rights provides: “*Everyone* shall have the ... freedom to seek, receive and impart information” (emphasis added). In addition, Article 2 of the ICCPR requires States to implement the rights guaranteed by it to all persons within their jurisdiction, without distinction of any kind, including on the basis of national origin. This principle has been implemented in the freedom of information laws of other countries, such as the United States,<sup>6</sup> the United Kingdom<sup>7</sup> and Japan,<sup>8</sup> to name but a few.

---

<sup>5</sup> See the South African Constitution, Section 31(1)(b), and the Promotion of Access to Information Act, 2002. For an example of how this operates in practice, see the 2003 decision of *Andrew Christopher Davis v Clutcho (Pty) Limited*, 10 June 2003, Cape of Good Hope Provincial Division of the High Court of South Africa (unreported but discussed at: <http://www.deneysreitz.co.za/news/news.asp?ThisCat=5&ThisItem=352>).

<sup>6</sup> 5 USC 552 grants the right of access to “any person”. This has been interpreted as including foreign citizens, corporations and even governments: *Stone v. Import-Export Bank of the United States*, 552 F.2D 132 (5<sup>th</sup> Cir. 1977, *reh’g denied*, 555 F.2d 1391 (5<sup>th</sup> cir. 1977), *cert denied*, 434 US 1012 (1978).

<sup>7</sup> Freedom of Information Act 2000, Section 1.

<sup>8</sup> Law Concerning Access to Information Held by Administrative Organs, Law No. 42 of 1999, Article 3.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

### Recommendations:

- The draft Law should apply to any information by or on behalf of a public body, as well as to privately-held information necessary for the enforcement of a legal right.
- The law should include a definition of ‘public body’ along the lines indicated above.
- The right of access should extend to any person, rather than being limited to citizens and residents.

### 2.3. The Principle of Openness and Exceptions

Article 4 lays down the basic principle of transparency, stating: “The bodies and institutions of the Public Administration, public companies, and private entities, whenever the public good is at stake, are obliged to provide the information requested, as well as the pertinent explanations, whenever this is requested of them, in the terms established in this law.” The second paragraph of this provision states that this law “does not cover matters the publication of which is forbidden by other legal diplomas, such as those that are *sub judice*, and when publication may offend against the legally protected rights of third parties.” No further exceptions are stated.

A literal reading of the first paragraph of Article 4<sup>9</sup> is that the obligation to provide information on request may apply only “whenever the public good is at stake”. We have already commented on this above. An alternative reading, supported by Article 7 of the draft Law, is that Article 4 requires the bodies mentioned to publish proactively, that is even in the absence of a request, information “whenever the public good is at stake”. This reading, although it is contradicted by the mention of a request, would implement the principle that both public and private bodies should proactively publish information that would disclose an imminent threat to life or public health,<sup>10</sup> as well as other information of public interest. We recommend that the draft Law be clarified on this point and that a clear obligation be placed on public bodies to publish proactively the following categories of information:

1. a description of its structure, functions, duties and finances;
2. relevant details concerning any services it provides directly to members of the public;
3. any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body’s response;
4. a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;
5. a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
6. any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;

<sup>9</sup> We are working from a translation, which is probably less clear than the original.

<sup>10</sup> See Article 5(1)(c) of the UN Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted 25 June 1998, entry into force 30 October 2001.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

7. the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and
8. any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body.

In addition, both public and private bodies should be under an obligation to publish information that discloses an imminent threat to life, public health or the environment.

Another issue raised by Article 4 is exceptions. Article 4 appears to exclude from the scope of the draft Law all material whose publication is forbidden by law, that is *sub judice* or the disclosure of which would harm the rights of a third party. We note that Article 9 provides for the repeal of legislation that is contrary to the principles set out in the draft Law but it is unclear to us how this works in light of the Article 4 provision. On its face, Article 4 constitutes the wholesale exemption of a vast range of material. While States may legitimately withhold from public certain information, for example information whose release would seriously harm national security, the Law should clearly describe the narrow circumstances under which information may be withheld.

International law requires that a public authority must disclose any information which it holds and is asked for, unless:

1. The information concerns a legitimate protected interest listed in the law;
2. Disclosure threatens substantial harm to that interest; and
3. The harm to the protected interest is greater than the public interest in having the information.<sup>11</sup>

The first part of this test requires that freedom of information laws provide an exhaustive list of all legitimate interests for the protection of which access to information may be refused. This list should include only interests that constitute valid grounds for refusing to disclose documents and should be limited to such matters as law enforcement, the protection of personal information, national security, commercial and other confidentiality, public or individual safety, and protecting the effectiveness and integrity of government decision-making processes.<sup>12</sup> Exceptions should be narrowly drawn to avoid capturing information the disclosure of which would not harm the legitimate interest. Furthermore, they should be based on the content, rather than the type of document sought. To meet this standard, exceptions should, where relevant, be time-limited. For example, the justification for classifying information on the basis of national security may well disappear after a specific national security threat subsides.

The second part of the test confirms that simply because the information falls within the scope of a listed legitimate interest does not mean non-disclosure is justified. This would create a class exception that would seriously undermine the free flow of information to the public and would be unjustified since public authorities can have no legitimate reason to withhold information the disclosure of which does not pose a risk of actual harm to a legitimate interest. Instead, the public body must demonstrate that the disclosure of the information would cause substantial harm to the protected interest.

---

<sup>11</sup> See ARTICLE 19's *The Public's Right to Know*, note 2, at Principle 4.

<sup>12</sup> *Ibid.*

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

The third part of the test requires public bodies to consider whether, even if disclosure of information causes serious harm to a protected interest, there is nevertheless a wider public interest in disclosure. For instance, in relation to national security, disclosure of information exposing instances of bribery may concurrently undermine defence interests and expose corrupt buying practices. The latter, however, may lead to eradicating corruption and therefore strengthen national security in the long-term. In such cases, information should be disclosed notwithstanding that it may cause harm in the short-term.

Cumulatively, the three-part test is designed to guarantee that information is only withheld when this is in the overall public interest. If applied properly, this test would rule out all blanket exclusions and class exceptions, as well as any provisions whose real aim was to protect public bodies from embarrassment, to prevent the exposure of wrongdoing, to conceal information from the public or to entrench a particular ideology.

### **Recommendations:**

- Public bodies should be required to publish proactively certain categories of information, even in the absence of a request, along the lines set out above.
- The draft Law should include a comprehensive and clear set of exceptions to the right of access, based on the following principles:
  1. The information concerns a legitimate protected interest listed in the law;
  2. Disclosure threatens substantial harm to that interest; and
  3. The harm to the protected interest is greater than the public interest in having the information.
- In case of conflict between the access law and a secrecy law, the former, not the latter, should prevail.

## **2.4. The Access Regime**

Articles 5-8 establish the access regime. Under Article 6, a petitioner must identify him- or herself when lodging the request. Article 8 requires that a reply be given within 10 days, and under Article 7, access may be gained on the premises of the public body concerned, by providing the requester with a photocopy or through “other forms that confirm the existence of the document or data concerned.” Article 5 provides that the duty to respond to requests lies with the person to whom the request was addressed, to the competent person within the body or to others to whom the authority to respond to requests has been delegated, “habitual or in a case-by-case way”.

As drafted, this is a very rudimentary access regime, lacking several components found in access laws in other countries. There is no indication whether the request should be in writing, and if so, whether there will be assistance for those who are illiterate or who cannot submit a written request because of a disability; there is no requirement that the requester should indicate the information requested with some precision, and that the public body should aid the requester in formulating its request if this has not been done; in case of a refusal, there is no requirement to provide reasons; and there is no indication of who will set the fee regime. These are crucial elements of any freedom of information law that should be included in a subsequent draft.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

We also have concerns about some of the elements of the regime as currently drafted. For example, the apparently wide authority to delegated responsibility for dealing with requests under Article 5 is likely both to confuse members of the public and to be abused. The ten-day deadline for responding to requests may be unrealistically short; periods of 15 days are more common. If the periods set are too short, this will result in the law regularly being breached, which undermines its overall authority.

### **Recommendations:**

- The draft Law should be redrafted to include the following:
  1. reasons should be given for the refusal of access requests;
  2. assistance should be rendered to requesters who cannot submit their request in writing;
  3. the parameters of the fee regime should be set out;
  4. the authority to receive information requests should not be arbitrarily delegated;
  5. public bodies should be required to respond to requests as soon as possible, and at the latest within fifteen working days.
- The provisions relating to delegation of authority to respond to requests should be removed from the draft Law.
- Consideration should be given to providing for longer time periods to respond to requests.

## **2.5. Appealing Refusals**

Under Article 8 of the draft Law, a refusal to grant access or a failure to provide access within the ten-day deadline may be appealed to “the Ombudsman”. If the Ombudsman finds a complaint justified, he or she may order the body concerned to grant access. A failure by a public body to comply with such a direction from the Ombudsman constitutes the criminal offence of “qualified disobedience” and may lead to criminal proceedings being instituted. If the Ombudsman finds that an access refusal was justified, he or she should notify the complainant within ten days and give full reasons for the decision. Appeals against Ombudsman decisions may be lodged with the Administrative Tribunal.

In principle, we welcome the mechanism of an independent appeal with further recourse, if necessary, to the courts. This is a low-threshold procedure that is likely to be accessible to the majority of complainants. However, we do have several concerns. First, there is no indication in the draft Law as to the nature of the Ombudsman’s office, and whether this refers to an existing office or to a special body to be established under the draft Law. If the reference is to the former, we would stress that sufficient funding and resources will need to be made available to allow the existing Ombudsman to cope with the likely number of complaints to be referred to him or her under the draft Law. If it is furthermore necessary to consider the Ombudsman’s independence from the public bodies he or she will be investigating: only an Ombudsman who is truly independent will be able to defend the right to freedom of information. However, if the Ombudsman’s office is to be established specifically for the purposes of implementation and supervision of the draft Law, further detail will need to be provided to questions such as appointment, independence, functions and powers. These matters will be discussed in further detail below, under ‘supervision and implementation of the draft Law’.

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

Our second concern relates to the lack of any detail regarding proceedings before the Ombudsman. While we appreciate the relatively informal nature of Ombudsman proceedings, some minimum rules should be provided, setting out the burden of proof and guaranteeing both applicants and respondent public institutions an opportunity to argue their case, if necessary in a hearing. The Ombudsman should also have the power summarily to reject frivolous or vexatious complaints, although this power should not be used lightly.

### **Recommendations:**

- The nature of the Ombudsman's office should be clarified and guarantees provided regarding the office's independence, appointment, funding, resources and powers.
- The draft Law should provide some minimum procedural provisions regarding Ombudsman proceedings.

## 2.6. Implementation and Supervision

The draft Law does not address the crucial issue of supervision of its implementation. Experience in countries around the world has taught that implementation of a freedom of information law is greatly facilitated if there is an independent body specifically set up to monitor the law. Such a body, often called a freedom of information commissioner or ombudsman, should have the power to take action independently of complaints, to investigate apparent patterns of breaches of the law by a particular department or departments, to instigate training, education and awareness programmes both for public institutions and for members of the public generally, and to undertake other promotional activities. This may or may not be the same body that deals with complaints. As with complaints, this body will need to be given sufficient powers, resources and funding to be able to discharge his or her responsibilities.

### **Recommendation:**

- The draft Law should establish or appoint an independent and sufficiently resourced freedom of information ombudsman or commissioner with powers to promote implementation of the law, including the power to investigate public bodies, as well as to undertake training, education and awareness raising programmes.

## 2.7. Measures to Promote Open Government

The draft Law does not contain any provisions aimed at combating the culture of secrecy that often pervades public bodies. Informing the public of their rights and promoting a culture of openness within government are essential if the goals of freedom of information legislation are to be realised. In our experience, a recalcitrant civil service can undermine even the most progressive legislation. Promotional activities are, therefore, an essential component of a freedom of information regime.

At a minimum, the draft Law should make provision for public education and the dissemination of information regarding the right to access information, the scope of information which is available and the manner in which such rights may be exercised. The office of the ombudsman or commissioner can play a lead role in the provision of such education. Furthermore, the draft Law should require that public bodies provide freedom of information training for their employees. Such training should address the importance and

## ARTICLE 19

### GLOBAL CAMPAIGN FOR FREE EXPRESSION

scope of freedom of information, procedural mechanisms for accessing information, how to maintain and access records efficiently, and what sort of information a body is required to publish. Again, such training can be coordinated by the freedom of information commissioner or ombudsman, who should play a broad role in promoting openness within government. Initiatives might include incentives for public bodies that perform well, campaigns to address secrecy problems and communications campaigns encouraging bodies that are improving and criticising those which remain excessively secret.

There should also be a number of other direct obligations on public bodies to promote openness. Every public body should be required to appoint a freedom of information officer, or department, and every public body should have an internal code on access to information, based on the law. Finally, public bodies should produce annual reports providing information and statistics on the number of requests received, granted and refused, as well as information on measures taken to improve public access to information, any remaining constraints to the free flow of information which have been identified and measures to be taken in the year ahead.

#### **Recommendations:**

- Public bodies should be required to:
  - provide freedom of information training and education programmes for their employees;
  - appoint freedom of information officers or departments;
  - develop and publish internal access to information code of practice; and
  - publish annual reports on freedom of information practices.
- Campaigns to promote openness should be organised along the lines suggested above.

## 2.8. Protection of whistleblowers

Freedom of information laws should provide protection for persons who disclose information, even in contravention of a professional or legal obligation of confidentiality, in order to reveal wrongdoing. 'Wrongdoing' in this context includes such matters as the commission of a criminal offence, corruption, dishonesty or other serious maladministration or a miscarriage of justice. 'Whistleblowers', as such individuals are colloquially known,<sup>13</sup> should be protected from legal liability whenever they act in good faith and in the reasonable belief that the information disclosed is substantially true. In addition, protection will also be needed to ensure that the whistleblower does not suffer administrative or employment related sanctions, such as a demotion.<sup>14</sup> Such laws have been adopted in many countries, such as Japan, the United States and the United Kingdom. The draft Law fails to provide this protection.

#### **Recommendation:**

- The draft Law should provide protection for whistleblowers.

<sup>13</sup> The origin of the term may lie in a 1903 New Jersey Statute (NJ Laws of 1903, Chap. 257, section 35), which created a penalty for every failure by a railroad to ring a bell or blow a whistle at a railroad crossing. The statute provided that 50% of the penalty was to be paid to the informer who commenced the action for recovery of the penalty. Subsequently, in various New York decisions, the term "whistleblowing" and "whistleblower statute" came into use. See, generally: <http://www.lawmall.com/files/pamphle2.html>.

<sup>14</sup> ARTICLE 19 Principles, note 2, Principle 9.

## DRAFT LAW ON ACCESS TO OFFICIAL SOURCES OF INFORMATION

### **PREAMBLE**

The Constitution of the Republic currently in force, in Article 48, paragraph 1, enshrines the right to freedom of expression and to freedom of the press, as well as the right to information.

Under paragraph 2 of the same article, the exercise of the right to information may not be limited by censorship.

Furthermore, under the terms of paragraph 3, of the same article of the Constitution, freedom of the press includes right of access to sources of information.

Paragraph 6 of Article 48 of the Constitution states that the exercise of the right to information and the freedom of the press shall be regulated by law.

In these terms, under Article 179, paragraph 1, of the Constitution, the Assembly of the Republic hereby determines:

### **CHAPTER 1**

#### General provisions

##### Article 1

###### (General principle)

1. The constitutionally enshrined right to information presupposes free access to the sources of information.
2. In the exercise of this right, free access to the data and to the documents produced or in the possession of the Public Administration and of other official sources, in accordance with the principle of transparency, is the right of all citizens in the terms envisaged in this present law.

##### Article 2

###### (Object)

1. This present law regulates the right of access by citizens to official sources of information.
2. Private sources shall be equivalent to official ones whenever they contain informative material of public interest.

##### Article 3

###### (Scope)

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

1. For the purposes of the present diploma, sources may be documental, oral, visual, in sound, computerized, or of any other nature that are capable of responding satisfactorily to the request made.
2. Written sources may consist of any authentic document.
3. For the purposes of the present law all information supports of any nature, that express activity undertaken by the bodies mentioned in the following article, are regarded as documents.
4. Anonymous texts are not covered by this present law.

### Article 4 (Obligation)

The bodies and institutions of the Public Administration, public companies, and private entities, whenever the public good is at stake, are obliged to provide the information requested, as well as the pertinent explanations, whenever this is requested of them, in the terms established in this law.

The present law does not cover matters the publication of which is forbidden by other legal diplomas, such as those that are sub judice, and when publication may offend against the legally protected rights of third parties.

### Article 5 (Duty to inform)

1. The duty to inform shall lie directly with person to whom the request is addressed or to the competent person in terms of the organizational chart of the body to whom the request is addressed, but he/ she may delegate this responsibility in a habitual or case-by-case way.
2. Those who fail to comply with the duty mentioned in the previous paragraph may be held responsible, in disciplinary or criminal terms, in the terms envisaged in law.

## CHAPTER II Exercise of the right

### Article 6 (Request for information)

1. The petitioner who wishes to gain access to any information shall specify his/her request, properly identifying him/herself.
2. The information shall be given to the petitioner or to whoever he/she indicates.

### Article 7 (Access)

Without prejudice to the regular publication of information of public interest on the activity undertaken by the bodies mentioned in article 4 of this present law, access to the documents or data held by these bodies includes:

## ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

---

- a) Consultation free of charge, on the respective premises;
- b) Obtaining a copy, or reproduction by any technical means, of the document desired, through payment of a fee, strictly intended to cover the costs of reproduction;
- c) Other forms that confirm the existence of the document or data desired.

### Article 8

(Reply)

1. The reply to the request shall be given within 10 days.
2. At the end of this period, if there is no satisfactory reply, or a refusal, the petitioner may present a complaint to the Ombudsman.
3. In the event that the Ombudsman deems the refusal or imprecise reply unjustified, he shall require the entity petitioned to satisfy adequately the request, giving it a maximum period of 10 days to do so, while informing the petitioner.
4. Failure to satisfy the request within the deadline set in the previous paragraph shall constitute the crime of qualified disobedience, and the Ombudsman shall institute the relevant criminal proceedings.
5. In the event that it considers the refusal or response given as justified, the Ombudsman shall inform the petitioner within ten days, giving the reasons for its decision.
6. Appeals against the decisions of the Ombudsman may be directed to the Administrative Tribunal.

## CHAPTER III

Final provisions

### Article 9

(Repeal)

All legislation contrary to the principles contained in this present law is hereby automatically repealed.

### Article 10

(Entry into effect)

The present law shall take immediate effect.