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Uganda Publishes Right to Information Bill

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UGANDA HAS published a Bill proposing freedom of access to public information by its citizens, nearly a decade after President Yoweri Museveni's government promulgated a constitution that specifically provides for it.

The Bill, to be tabled soon in parliament, aims at promoting transparency and accountability in all organs of the state by providing the public with timely, accessible and accurate information.

"Freedom of access to information represents a positive move away the culture of secrecy to that of openness. This is the bedrock of democracy," Minister of State for Information and Broadcasting in Office of the President Dr Nsaba Buturo says in a memorandum to the Bill.

Entitled the Access to Information Bill, 2004, its objective is to prescribe, in accordance with clause (2) of article 41 of the constitution, the classes of information the public may have access and the procedure for obtaining access to such information.

Clause (1) of article 41 of the constitution confers on every citizen the right of access to information in the possession of the state or any organ or agency of the state except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of another person.

The 35-page Bill also seeks to prescribe exceptions to the requirement to release information and the circumstances under which release of information may be denied under article 41. The Bill applies to all information and records of government ministries, departments, statutory corporations and bodies, commissions and other government organs and agencies, unless specifically exempted by this Act. It does not apply to Cabinet records and those of its committees, records of court proceedings before the conclusion of the case, or personal information relating to a judicial officer hearing a particular case or involved in a special tribunal or commission of inquiry.

Besides giving effect to article 41 of the constitution, other purposes of the proposed law include protection persons disclosing evidence of contravention of the law, mis-administration or corruption in government bodies and empowering the public to effectively scrutinise and participate in government decisions that affect them.

The Bill proposes the establishment of the office of information officers and deputies in every public institutions to make such organisations' records as accessible as "reasonably possible." Within six months after the commencement of the law, the information officer shall compile a manual containing detailed information about the concerned public body. The manual will be updated and published at least once every two years.

A member of the public wishing to obtain information from a public body will be required to pay a fee. The decision whether to provide the information or not will be made within 30 days and where the request has been refused, the information officer will be required to give reasons for the refusal in writing.

An information officer shall refuse access to personal, physical or mental health medical files, the disclosure of which would constitute an invasion of personal privacy.

This will also apply to the dead. Other information that will not be open to access is proprietary information, scientific or technical information, the disclosure of which is likely to cause harm to the interests or proper functioning of the public body; "or information supplied in confidence by a third party, the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or commercial negotiations, or to prejudice that third party in commercial competition."

The Bill proposes that when a person is denied freedom of access to any information, he can lodge a complaint with the Inspector General of Government (IGG) within 30 days after the decision is made. The IGG will be required to investigate the complaint within 30 days and give a ruling, or inform the parties of their right of appeal to the High Court.

The Rules Committee of the High Court shall, within 12 months after the enactment of the law, make rules of the court to regulate the procedure of the court in respect of applications. The court will either confirm or amend or set aside the decision by the IGG, or direct the information officer to grant or deny access to a record of a public body.

It is also proposed that no person shall be subject to any legal, administrative or employment related sanction for releasing information on wrongdoing, or information which would disclose a serious threat to health, safety or the environment, as long as that person acted in good faith.

The person must have reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or serious threat to health, safety, or mis-administration regarding a public body. According to the Bill, a public officer acting on the directions of a whistle blower is not subject to any civil or criminal

liability for any act done or admitted to be done in good faith in the exercise or performance of any power or duty under the Act.

"A person who, with intent to deny a right of access to information, destroys, damages, alters, conceals or falsifies a record or makes a false record commits an offence and is liable on conviction to a fine not exceeding Ush. 480,000 [\$247] or imprisonment not exceeding one year or both," says the Bill.