

# JUSTIFICATION

## ON ADOPTING RA DRAFT LAWS ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE RA LAW ON FREEDOM OF INFORMATION, ON MAKING AMENDMENTS TO THE RA LAW ON STATE DUTIES, ON MAKING AMENDMENTS TO THE RA LAW ON LOCAL DUTIES AND CHARGES

The Law on Freedom of Information was adopted on 23 September 2003. During the last 6 years the viability and public importance of the Law was demonstrated, but also several shortcomings were revealed,<sup>1</sup> elimination of which will improve applicability of the Law.

**The RA Draft Law on Making Amendments and Supplements to the RA Law on Freedom of Information (hereinafter referred to as Draft) suggests:**

1. Clarify definition of the concept “publication”, to include official newsletters among the means of publication as well as replace the words “set forth by legislation” with the words “not prohibited by legislation”, which will expand forms of the means for publicizing information (Article 2 of the Draft);
2. Clarify the main principles of ensuring freedom of information by adding the principles of legality, preciseness, non-discrimination and removing the principle for defining a unified procedure for information registration, classification and storage from the principles set out by the Law, since its implementation is practically impossible (Article 3 of the Draft);
3. Remove inconsistencies between the RA Constitution and Articles 6.1 and 6.2<sup>2</sup> (Article 5 of the Draft);
4. Remove provisions on registration, classification and storage of information processed by or sent to information possessor, as well as provisions on the procedure of providing information or its copy (duplicate) by state and local self-governance entities, state institutions and organizations, defined by the Government of Armenia, conditioning implementation of the Law with the adoption of other legal acts to the least possible extent (Articles 4, 9, etc. of the Draft);
5. Clarify the list of information subject to mandatory publication (Article 6 of the Draft);

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<sup>1</sup> Specifically, stemming from objective reasons, Procedures envisaged by Articles 5 and Article 10.1 of the Law were not adopted by the Government of Armenia hampering effective implementation of the Law.

<sup>2</sup> In compliance with Article 27.2 of the Constitution any person is entitled to freedom of expression, including freedom of getting information, meanwhile according to Article 6.1 of the Law every person is entitled to this right and according to Article 6.2 freedom of foreigners for getting information is restricted.

6. Among the grounds for refusing the provision of information add a new ground: provision of information shall be also refused when information is rare and particularly valuable document of another collection or the original of another cultural value protected in a procedure envisaged by the RA archive or legislation or is a document having inadequate preservation (Article 7 of the Draft);
7. Among the grounds for not refusing the provision of information add a new ground: provision of information may not be refused when it is related to the applicant or another person and the applicant has consent of that person for collecting, storing, using or disseminating that information, which is requirement of Article 23 of Constitution (Article 7 of the Draft);
8. Clarify the procedure of getting information regulating electronic receipt of information as well as defining the procedure of paying duties and other charges, thereby completing the process of getting information and contributing to its application in practice without other legal acts particularly those procedures approved by the RA Government Decrees and information possessor (Article 8 of the Draft);
9. Define mandatory requirement or levying duties and charges by state and local self-governance entities, state institutions, budgetary organizations for the provision of information (Article 9 of the Draft);
10. Define 2 new cases for getting information free-of-charge from state and local self-governance entities, state institutions, budgetary organizations:
  - a) When information is related to the applicant as well as to personal, family rights, freedoms, responsibilities, right limitations or liability of the applicant natural person or that of his/her dependant, person being under his/her guardianship;
  - b) When information is related to the names, surnames, education, profession, business telephones, business e-mail and other business addresses of officials of information possessor (Article 9 of the Draft).
11. Clarify the procedure of refusing the provision of information bringing ambiguous interpretations of provisions defined by the Law to minimum (Article 10 of the Draft).

In the **RA Draft Law on Making Amendments to the RA Law on State Duties and RA Draft Law on Making Amendments to the RA Law on Local Duties and Charges** it is offered to stipulate the amount of state (local) duties to be charged for any

copied or printed page of information exceeding 10 pages,<sup>3</sup> as well as for information provided on electronic medium, cassette or videocassette.

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<sup>3</sup> According to Article 10.2 (2) of the RA Law on Freedom of Information there are no charges for the provision of information not exceeding 10 printed or copied pages.