

Legal Support (April 2005 – March 2006)

During the period of April 2005 – March 2006 the Freedom of Information Center has received applications from 913 people, 784 citizens, 85 non-governmental organizations, 22 journalists, 19 juridical persons and 3 state governance bodies and local authorities (Table 1).

Table 1. Overall picture of FOICA applicants:

Citizens	784
Journalists	22
Juridical persons	19
Non-governmental organizations	85
Local authorities	3
Total	913

FOICA regional lawyers have consulted 913 people. In 390 cases the lawyers helped citizens to write and send requests. The Freedom of Information Center has sent 62 requests by its own initiative which resulted in the difference of the number of citizens who had turned to FOICA and those who received support (see tables 1 and 2). State officials have responded to 361 out of 390 requests. 20 requests were denied and 9 requests remained unanswered by public bodies. Unanswered or illegally denied requests have been judicially disputed in 8 cases. The heads of remaining bodies have been included in the Black List.

Table 2. Support provided by FOICA

Judicially disputed cases	8
Appeals to higher organs or proper structures	390
Phone consultations	1
Face-to face consultations	514
Requests	62
Total	975

Denied requests, deserving special attention were the following:

In September 2005 Ararat regional lawyer, guided by the RA law “On Freedom of Information”, applied to the governor of Ararat region, requesting to provide copies of the governor’s decisions made within the period of 1st and 2nd quarters of 2005. In reply to the request, the governor refused to provide the requested information mentioning that it contained an element of control and monitoring and that the information would be provided if there was a reference to a concrete legal act. It is worth mentioning that the Law on Freedom of Information regulates the procedures of filing information requests and replying to them, as well as determines the list of information subject to publication. The case did not end with governor’s illegal refusal to Ararat regional lawyer Mrs. Anahit Avagyan’s request, sent in September 2005. The second request was denied for the same reasoning. This time Ararat regional lawyer had to petition to the first instance court of Ararat region in order to appeal against the official’s inactivity and to oblige him to provide the requested information. Before the end of investigation, the governor of Ararat provided all the information requested. The first instance court of Ararat region obliged Ararat Regional Government compensate the Freedom of Information Center court expenses.

There are also some ridiculous cases. For example, the reply of the Mayor of Gyumry to the information request of FOICA lawyer who asked to provide copies of all the decisions made by Gyumri Elders Council during the second quarter of 2005, as well as the copy of Gyumri budget 2005 and its implementation report for the second quarter. In reply to the request the Mayor of Gyumri Mr. V. Ghukasyan informed that. “The information needed is available in Gyumri Municipality web site, which is under construction”.

Another typical example of lack of knowledge of laws and carelessness was the case with the Head of Kirants Village Council H. Nazaryan. On November 29, 2005, after receiving an information request from our regional lawyer on January 11, 2006, he personally came to him with a stamp, wrote the reply letter on the spot, stamped it and went away, not even thinking about registering the outgoing letter.

The next “hero” was the Head of Aygavan Village Council Mr. D. Avetisyan. On December 2, 2005 the Freedom of Information Center sent an information request to Mr. Avetisyan, requesting to provide copies of land allocation decisions made during 2005. Mr. Avetisyan did not reply to the request and the Freedom of Information Center had to include him in its “Black List”. After the intervention of Advisor to RA President Mr. Bagrat Yesayan, Mr. Avetisyan finally gave all the information requested. Mr. D. Avetisyan’s reply letter was dated January 21, 2006, which means that he had sent the reply 4 months ago in January but the postal stamp on the envelope was put on April 21, 2006. Thus, Mr. Avetisyan did not manage to cheat Freedom of Information Center.

During the period of April 2005 – March 2006 the Freedom of Information Center registered 65 cases when officials violated freedom of information right, turning down written or oral information requests or not replying to them at all.

Observations of the Center have shown that during the first stage of project implementation violations were registered in the Ministries of Health, Foreign Affairs, Education and Science, Finances and Economy, and Urban Development, State Cadastre, Water Supply and Social Security Services.

In regions, the right for information is more often violated by village councils. Municipalities and local authorities are working comparatively better in the second stage of project implementation. Nevertheless, there are also some violators among them, namely the municipalities of Armavir, Ararat, Abovyan and Vanadzor. Violations have been registered also in the RA “Haykoop” Union of Consuming Cooperatives. However, after 5 months of struggle on March 27, 2006 “Haykoop” finally replied to the information request. The number of violations would be much bigger if we took into account violations of 5-day and 30-day time periods, determined by the RA Law On Freedom of Information. Since the law fixes that these time periods are calculated from the date when the information request is received, overdue replies are not a result of post offices’ malfunction. The biggest problem is the ignorance and wrong interpretation of laws, which is mostly spread among heads of village councils, who usually spend more time on understanding the request than providing the information requested. Anyway, there have been cases when information requests were replied within 5-days period, as fixed by the law.

Yerevan municipality has displayed the best and the most surprising results. During November-December, 2005 students of Yerevan State University journalism Department sent 5 information requests to Yerevan Municipality. All the requests were replied (of which four - within 5 days). During the same period the Freedom of Information Center sent 3 information requests to Yerevan Municipality. These requests were also replied within period, fixed by the law. It is noteworthy that during the Annual Freedom of Information Award Ceremony organized by Freedom of Information Center on December 9, 2005 Yerevan Municipality was awarded with the “lock” prize, as the most secret official structure in the sphere of information. It looks like the working style of Yerevan Municipality has changed and if they keep on this way, they may pretend to the “Golden Key” award.

Syunik region holds the record in adhering to the 5-day period. Information holders in Syunik region, including the Kapan Municipality, Syunik regional Government with its different departments, Kapan regional branch of RA State Cadastre, Dovrus Village Council, Lernadzor Village Council, Kapan notary’s office and other structures have shown the best results. During November 2005 - February 2006, 39 information requests have been sent by FOICA regional lawyer. All the requests have been replied within the 5 days period, fixed by the law.

Mr. Hovhannes Poghosyan from the town of Kapan had applied to Kapan Municipality, requesting information on construction permission for the extension of apartment on 13/35 Shahumyan Street. Mr. Poghosyan's request was completely fulfilled within 5 days.

Mr. Sereja Poghosyan, from the town of Kapan had applied to Kapan Municipality, requesting all the construction documents of his garage. The information request written with help of FOICA lawyer was replied within 5 days.

Shirak region has also displayed good results. On January 10, 2006 Shirak regional lawyer Mr. A. Grigoryan sent an information request to the Governor of Shirak region Mr. Romik Manoukyan, requesting the following information:

1. The structural scheme of Shirak Regional Government,
2. Names, family names and phone numbers of officials working in Shirak Regional Government.

One day later, on January 11, 2006 the Head of General Department of Shirak Regional Government Mr. Norik Grigoryan replied to the information request providing all the requested information.

In Gegharkunik region, good results have been displayed by the former Governor Mr. S. Barseghyan and Head of Gavar Regional Tax Inspectorate Mr. S. Khosteghyan who have replied to information requests within 3 days.

Among ministers, it is worth praising the RA Minister of Agriculture Mr. David Lokyan. On November 23, 2005 Yerevan State University student Anoush Shahumyan sent him an information request on the planned agricultural development programs and grain crops cultivation plans for 2006. On January 12, 2005 Mr. David Lokyan sent a complete answer consisting of 8 pages.

However, not all the ministries are working well. On January 13, 2006 the Freedom of Information Center sent an information request to the RA Minister of Transport and Communication Mr. Andranik Manukyan requesting the minutes of negotiations between Armentel CJSC and the Ministry. In the letter dated January 25, 2006 the Deputy Minister Mr. V. Arakelyan wrote: "According to the 66th article of the RA Law on Electronic Communication the RA Ministry of Transport and Communication has passed all the necessary documents concerning electronic communication to the RA Public Services Committee. Thus, the request should be directed to the RA Public Services Committee". Following the ministry's "advice" on January 31, 2006 the Freedom of Information Center applied to the chairman of the Public Services Committee Mr. Robert Nazaryan. In his letter dating February 6, 2006 Mr. Nazaryan wrote: "Please be informed that the RA Ministry of Transport and Communication has not

passed to us the minutes of negotiations between “Armentel” CJSC and the Ministry to the RA Public Services Committee”. On March 21, 2006 the Freedom of Information Center sent another request to the Ministry and received the following reply: “Taking into account the fact that certain minutes of the negotiations between “Armentel” CJSC and the Ministry of Transport and Communication contain commercial secrets, the Freedom of Information Center needs to specify concrete minutes needed”. However, Article 8 of the RA law on Freedom of Information says: “If some part of the requested information is subject to denial, information concerning the remaining parts should be provided”. Referring to the Law, On April 17 the Freedom of Information Center sent another information request to the Ministry of Transport and Communication of the RA. This time the Deputy Minister simply refused to provide the information, saying that the procedure of information provision is not fixed by the government. The right for information is fixed by the Constitution. This means that even if the RA law on Freedom of Information did not exist, the information still would have to be provided.

Judicial structures also strive to show good results in the field of information. On January 20, 2006 regional lawyer of FOICA Mr. J. Yenokyan sent an information request to the Chairman of the First Instance Court of Vayots Dzor region Mr. L. Poghosyan, requesting the list of people, sentenced to life imprisonment, their names, date of birth, addresses, articles of the criminal code by which they were condemned, dates of verdict announcements. Six days later the lawyer received a complete reply to his request.

Freedom of Information Center has sent information requests to the first instance courts of all the regions of Armenia, including Yerevan, requesting copies of judicial acts of cases connected with slander, bribery and mass media. Replies were received from nine first instance courts. The Chairman of Tavush First Instance Court preferred to bring the reply letter personally but, not finding the Freedom of Information Center, returned to Tavush. He promised to send the reply letter by post. Despite the fact that Yerevan First Instance Courts are closer, they work worse than regional first instance courts.

Only 3 of the 7 Yerevan courts replied to information requests. Those were the first instance courts of Shengavit, Ajapnyak, Davidashen and Avan-Nor Nork communities. The other courts (Kentron, Nork-Marash, Erebouni, Noubarashen, Malatia-Sebastia, Arabkir and Kanaker-Zeytun) which did not reply to information requests were included in the Freedom of Information Center’s “Black Llist”.

During the initial stages cadastre offices of nearly all the regions of Armenia violated the freedom of information right, not replying to written or oral information requests or replying later than the period determined by the FOI law. As an example, we can mention the request of Vanadzor resident Mrs. Armenouhi Madoyan sent to the Head of State Cadastre Vanadzor Branch Mr. G. Andriasyan. In the request Mrs. A. Madoyan requested information on the owner of the 4-room apartment on Soukhoumi st. 1-77. She also requested a copy of the

ownership certificate. Mr. G. Andreasyan did not send the copy of the ownership certificate and did not provide any information about the apartment owner reasoning it by the impermissibility of presenting two demands in one request. It is worth mentioning that Mrs. A. Madoyan had made the state payment for obtaining information.

After municipalities and village councils the largest number of information requests has been sent to different regional branches of State Cadastre. During November 2005 – March, 2006 State Cadastre proved that it can turn from one of the closest and law-violating structures to one of the most open and transparent one. If we compare June-October activities of State Cadastre with November-February we can see certain improvement. During the abovementioned period State Cadastre received 24 requests, 12 of which were replied within 5 days. The other 12 requests were replied within 30 days. Vanadzor Branch of State Cadastre denied one information request demanding to make the state payment. Another two information requests were replied orally.

Observations show that people living in regions avoid protecting their rights through courts, preferring to use their personal contacts. This was the case with Mrs. Laura Martirosyan from Gavar village of Lori region. Mrs. Laura Martirosyan refused our regional lawyer's support avoiding judicial procedures.

Based on the citizens' requests FOICA regional lawyers have filed 8 suits in first instance courts against municipalities of Gyumri, Ararat, Aparan, Armavir, Abovyan, village councils of Loukashin (region of Armavir) and Nournous (region of Kotayk), "Berlin" polyclinic and RA Ministry of Health" during November, 2005 – March, 2006. The cases of Ararat and Aparan were suspended because respondents provided the information requested. In the cases of Armavir municipality and the village councils of Lukashin and Nournous the court made a decision in favour of the Freedom of Information Center. The judicial case against Abovyan municipality is still in progress.

In order to familiarize citizens with the provisions of RA Law on Freedom of Information and their rights the Freedom of Information Center organizes "How to Utilize the RA law on Freedom of Information" trainings in all regions of Armenia.