



Conference:

ODNOS ORGANA JAVNE VLASTI I NEVLADINIH ORGANIZACIJA PREMA OSTVARIVANJU PRAVA NA SLOBODAN PRISTUP INFORMACIJAMA

MUTUAL RELATION OF PUBLIC ADMINISTRATION AND NGOs TOWARD ASSESSING THE RIGHT TO FREE ACCESS TO INFORMATION

Conference titled: Mutual relation of public administration and NGOs toward assessing the right to free access to information was organized by YUCOM at January 31, 2006, in Media Center in Belgrade, as a part of the program financed by Democracy Commission of the Public Affairs Section of the US Embassy in Belgrade. The date for the conference coincided with the official deadline for production and submission of the reports on implementation of the Law on Free Access to Information of Public Interest (FOIA Law) of state organs to republican Information Officer, Mr. Rodoljub Šabić. Overview of the current situation in implementation of FOIA Law, which was adopted at the end of 2004, should be a key indicator for planning of future activities of the NGO sector in the area.



Conference's opening session started with the address of Mr. Dejan Milenković, co-ordinator of YUCOM's Legislative Initiatives Program, who briefly presented past activities of YUCOM and NGO Coalition for Free Access to Information. Mr. Milenković presented recently published 'Guide for Free Access to Information, for public administrators' (YUCOM publication), results of regional research project 'Free Access to Information' (Center for Free Access to Information,

Sarajevo, Croatian Helsinki Committee, Zagreb, and YUCOM, Belgrade), and YUCOM's monthly bulletins on FOIA, produced during last year as a part of a project partly supported by the Democracy Commission.

Republican Information Officer, Mr. Rodoljub Šabić, in his opening word, stated some current institutional problems that hinder complete implementation of the FOIA Law. Thus, there still not exist active mechanisms, developed by the Ministry of Culture and Information, of control of implementation of the law. Information Officer, having an authority of the second instance, still needs developed mechanisms for implementation of the law in the state body of first instance. In addition, the prescribed

financial measure for avoiding the obligation of the Law, given in the Law on Administrative Procedures, is negligibly law, making this measure virtually ineffective.

Mr. Šabić ended his statement with the claim that we are still faced with an absurd in the area – the government and state bodies, being responsible for the implementation of the law, are major obstacles in the process.

In another opening statement, Mr. Saša Gajin, representative of Center for Comparative Law Studies (CUPS), pointed to unexpected official support to the FOIA Law, gained through adoption of prescriptions into the Law on State Administration and Law on Public Administrators, which regulated the area of implementation and obligations toward FOIA Law. The government has, however, not remained in consistence with those prescriptions, for there exist other system laws (as is the Law on Police Force) that do not complement the FOIA Law.

On the other hand, journalists and citizens have not experienced many successes in the use of FOIA Law, while this law, by Mr. Gajic's opinion, should use as a tool for obtaining precise and accurate information and facilitating investigative journalism in Serbia.



Prof. Stevan Lilić, president of NGO Lawyers for Democracy, focused on the importance of FOIA Law in his opening statement, in transformation of the state into the public service. He also pointed that this law, which resulted from joint action of NGOs as the first place, is a key for a process of influencing decisions made by the state. The work of Information Officer and current state of implementation of FOIA Law thus show that the society in Serbia is more capable of protecting itself, than it is the

state.

Mr. Lilić added that the FOIA Law should be viewed in another very important context – related to the Law on Public Procurement. He believes that the sector of public procurements should be the “target” of attacks of FOIA use, for “there lies the essence of corruption in the country”.

Ms. Biljana Kovčević Vučo, chairperson of YUCOM, spoke on the value of education of public administrators for assisting in implementation of FOIA Law. She pointed that the NGOs are introducing new value element into society, by insisting on institutionalization of obligations proscribed in the FOIA Law, which would hopefully result in general respect toward Information Officer's valuation of state reports submitted to his office. Using an example of current trials in front of the Special Court for War crimes in Belgrade, she pointed that complete transparency of work of state organs is still a vision. Ms. Kovačević Vučo pointed to another important aspect of the use of public information – role of insiders in Serbian society, and concluded that the education of public administrators, as was the one realized by YUCOM in Cacak and Nis (partly supported by Democracy Commission), could contribute to the successful assessment of right to free access the information of public interest.



Finally, Mr. Aleksandar Lazarević, representative of the Serbian Parliament, and member of the parliamentary Board for information and culture, singled out the role of NGOs in adoption of this, by nature, important anti-corruption law. He claimed as a positive development that this law is implemented in most of its aspects, so that now, a year after its adoption, we speak about minor problems in its implementation.

During discussion following an opening session, NGOs present have criticized this attitude, having in mind that sensitive information, by rule, are not available to the public in general, and they have asked from the parliamentary Board for information and culture to propose amendments to the FOIA Law that would eliminate some of its prescriptions that do not exist in comparative experience. This especially concerns prescriptions of the Article 22 (2), which states that appeals to Information Officer can not be made in the case of refusals of high state organs.

In the opening word of the second session of the conference, Ms. Jadranka Jeličić from the Open Society Fund Serbia, pointed that NGO activities, both within coalitions and individually, should be focused on adoption, and subsequent implementation, of the Law on Classification of Classified Information and Law on Protection of Personal Information, as an epilogue of joint engagement in the area of free access to information.



Ms. Jelincic added that the work done so far has shown another problem with the implementation of FOIA Law – that citizens still do not know when and how to use this law. She believes that in this phase of implementation of FOIA Law, focus should be on advocating that the state should develop programs for education of citizens and relocate funds for its realization.

Ms. Tamara Lukšić Orlandić (Open Society Fund Serbia) spoke on the role of NGO Coalition for Free Access to Information. She informed the participants present that Coalition's Guide for Free Access to Information has become part of obligatory literature for high schools education in the subject on Civic Education.

Present members of Coalition - UG Sretenje from Požega, Forum Iuris from Novi Sad, Citizens Forum of Kraljevo, Resource Center Negotin, and Toplica Center for Democracy and Human Rights from Prokuplje, spoke of problems they meet when trying to access the information, and of positive effects of publication of statistical data in studies concerning the process of free access to information.

Mr. Nemanja Nenadić, representative of NGO Transparency Serbia, focused his discussion on difference in how donors, international community and local NGOs

are ready to assist the implementation of FOIA Law, in relation to the efforts made by state organs. He thinks that the republican budget for next year should already plan funds for assisting implementation of FOIA Law in the future - even if it means allocating significant funds now, this investment will prove to return more in the future.

Finally, it was concluded that the role of civil sector in future implementation of FOIA Law should be in assisting the state in education and implementation processes and improving legal aspects of this Law.