



**Organisation for Security and Co-operation in Europe  
Office of the Representative on Freedom of the Media**

# Comments on the Draft Law “On Information, Informatization and Protection of Information” of the Republic of Belarus

Vienna  
June 2007

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## **Introduction**

The draft law of the Republic of Belarus “On Information, Informatization and Protection of Information” was introduced by the Council of Ministers of Belarus on 1 March 2007.<sup>1</sup> If adopted, it will replace the law “On Informatization” of 6 September 1995.

The draft law divides all information into “fully accessible”, “restricted” (such as professional and state secrets) and information, the dissemination of which is “forbidden”; groups persons who handle information (such as “owners”, “users” and “operators”); and regulates relations in the sphere of information exchanges.

Since the draft law fails to make substantive improvements in the regulation of information exchanges to the law “On Informatization” which it would replace, its passage would be futile. Moreover, because of the breadth of its scope, the ambiguity of a number of its provisions and its effects on citizens’ information rights, the draft law introduces several elements of potential concern to the RFOM. These are outlined below.

## **Potential Areas of Concern**

1. Comprehensive nature of the law: While Article 1 makes a disclaimer regarding the limited extent of this legislation (citing laws on the media, intellectual property and state secrets), the comprehensive, all-encompassing nature of the law may lead to *a spill-over of the effect of its implementation into the realm of media freedom*. The law claims to regulate:
  - Realization of the right to seek, receive, store, modify, use, disseminate, provide information and information resources (i.e. documents);
  - Creation and use of information technologies, systems and networks;
  - Provision of information services;
  - Organization and realization of protection of information.

### **Recommendation:**

- **The scope of the draft law should be limited in order to avoid interference with relations regulated by legislation on mass media and state secrets**

2. Limited right to access information: The right of citizens and legal persons to request and obtain information is limited to:
  - Information about themselves or information directly concerning their rights, legal interests and duties;
  - Information about the activities of state bodies *within the limits provided by the current law and other legislative acts of the Republic of Belarus*.

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<sup>1</sup> A copy of the draft law was received by the Office of the Representative on Freedom of the Media from the Permanent Delegation of the Republic of Belarus to the OSCE on 24 April 2007.

**Recommendation:**

- **Information rights of citizens should be expanded to allow for obtaining a wider array of information**

3. Wide classification of information as “restricted”: Information defined as “restricted” includes:

- State, commercial and professional secrets;
- *Official information of limited dissemination*;
- Information held by courts and prosecuting authorities in criminal cases before the completion of the jurisprudence;
- *Information related to the organizational-technical work of government bodies and legal persons, including information on preliminary decisions and internal correspondence*;
- *Other information in accordance with the legislative acts of the Republic of Belarus.*

The category of information which may not be restricted is limited to:

- Information concerning the rights, freedoms, legal interests and duties of citizens and legal persons;
- Information ensuring public safety;
- Information concerning the legal status of state bodies;
- Information concerning the fight against crime;
- Information comprising public databases of libraries, archives and state information systems intended for provision of information services to citizens.

**Recommendations:**

- **The category of information classified as “restricted” should be narrowly and clearly defined**
- **The formulation “official information of limited dissemination” should be either clearly defined or removed entirely**
- **The category of information which may not be restricted should be expanded**

4. Wide classification of information as “forbidden”: Information which is forbidden to disseminate includes information which is:

- *Directed at the violent revision of the constitutional order, propaganda of war, incitement to racial, national, religious hatred, insult of national honour and dignity*;
- *Information harming morals, honour, dignity and professional reputation of citizens and legal persons.*

**Recommendation:**

- **The category of information classified as “forbidden” should be narrowly and clearly defined**

5. Denial of information requests: An information request can be denied

- *If the information sought is “restricted” or “forbidden”;*
- *If the information sought can “harm national security, state or public interests”.*

*The appeals mechanism under the current draft law is generally formulated as an appeal to a higher state entity/official or a court of law in case of action or inaction of state bodies and officials leading to a violation of the right to information.*

**Recommendation:**

- **Reasons for denials of information requests should be narrowed and denials should be subject to a precisely defined appeals mechanism**

6. State registration of information systems: State and *publicly accessible* information systems must be registered with the state; registration of non-governmental information systems is voluntary (“information systems” are defined as the “the combination of information held in databases and information technologies/programmable-technical processing means”).

**Recommendation:**

- **The requirement for mandatory state registration of publicly accessible information systems in conjunction with the provision that non-governmental information systems are registered on a voluntary basis is self-contradictory and should be removed**

7. Mandatory identification of information systems users: The state may require the mandatory identification of users of information systems – the receiver of an “electronic message” in Belarus *may be required by law to identify the sender of the message* (“electronic message” is defined as “text, graphic, audiovisual or other information intended for sending and receiving via information systems in electronic form”).

**Recommendation:**

- **The mandatory identification of information systems users should be abolished**

**Recommendations**

- *The scope of the draft law should be limited in order to avoid interference with relations regulated by legislation on mass media and state secrets;*
- *Information rights of citizens should be expanded to allow for obtaining a wider array of information;*
- *The category of information classified as “restricted” should be narrowly and clearly defined;*
- *The formulation “official information of limited dissemination” should be either clearly defined or removed entirely;*
- *The category of information which may not be restricted should be expanded;*

- *The category of information classified as “forbidden” should be narrowly and clearly defined;*
- *Reasons for denials of information requests should be narrowed and denials should be subject to a precisely defined appeals mechanism;*
- *The requirement for mandatory state registration of publicly accessible information systems in conjunction with the provision that non-governmental information systems are registered on a voluntary basis is self-contradictory and should be removed;*
- *The mandatory identification of information systems users should be abolished.*