



REPUBLIC OF ANGOLA

Africa Freedom of Information Centre Submission to the UN Universal Periodic Review

Introduction

1. Africa Freedom of Information Centre (AFIC) is a pan African membership civil society organisation and resource centre promoting the right of access to information in Africa. It has 28 civil society members from 18 African countries. AFIC has observer status with the African Commission on Human and Peoples' Rights and is a member of the African civil society Steering Committee in Africa's partnership with Europe.
2. With this report, AFIC seeks to make a constructive contribution to the preparation process of the UPR for the Republic of Angola. In light of AFIC's expertise, this submission focuses Angola's compliance with its international human rights obligations in respect of the right of access to information. In particular:
 - a) Absence of constitutional guarantees to citizens right of access to information
 - b) Inadequacies of the Freedom of Information Act
 - c) Lack of implementation of the Freedom of Information Act

Legal and Policy Framework

3. Angola has ratified three key international and regional treaties that recognise the right of access to information for the citizens of Angola. These include the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights and the African Union Youth Charter. The Government is yet to ratify other key instruments including the African Charter on Democracy, Elections

and Governance, the African Union Convention on Preventing and Combating Corruption and the African Statistics Charter. Angola is party to the African Union's Constitutive Act makes it clear that the AU shall strive to "promote and protect human and people's rights in accordance with the African Charter on Human and People's Rights and other relevant human rights instruments".

4. The Angolan constitution invokes the rights under the UDHR as well as other international instruments to which Angola is a signatory but is silent on the right to freedom of information. This exclusion is remarkable considering that the Angolan constitution – underlined by the principles of the UDHR, widely embraces fundamental rights and also provides for a limitations clause. The constitution remains silent on access to information in state hands.

Restrictive and Ambiguity of Freedom of Information Law

5. The Angola law does not reach the regional standards with respect to several important access to information principles such as: Applies to Public Bodies and Private Bodies, clear and unambiguous process, language and accessibility, limited exemptions, whistle-blower protection, obligation to publish information and right to appeal.
6. The Law does not meet the requirements of the regional standards for access to information from private bodies. The Angola Law restricts access to information held by State bodies that are not formally public institutions. The Law identify subjects entities ambiguously and may yield restrictive interpretations. The Law's scope includes information from "institutions of the State", "bodies of public institutions" "statutory societies" and "entities that exercise public authority". However, the Law does not define these concepts.
7. The Law effectively does not address private bodies and defines "administrative documents" as information held by "public bodies". This expression, which the does not appear more likely to include private bodies and excludes from its scope documents "whose production does not arise from the activities of public bodies".
8. Regional instruments on Access to Information include private bodies owned or controlled by the government that utilize public funds, perform functions or provide services on behalf of public institutions, or have exclusive contracts to exploit

natural resources¹. These entities may also include those responsible for protecting human rights, the environment, public safety, or “the exposure of corruption or legal actions”. The Draft Model Law for AU Member States on Access to Information (Model Law) expressly includes private bodies. Furthermore, under the Model Law information means “any information regardless of form or medium in the possession or under the control of the public body, relevant private body or private body to whom a request has been made.” And it states “information holder means a public body to whom a request is made” The Declaration requires access to information “held by private bodies”².

Request process:

9. Angola Law does not offer assistance to a requestor and requires “all references necessary for identifying the document, as well as the name, the address and the signature of the requestor”, provisions that are contrary to the recommendation established by the Platform of a “simple and fast process”. Under the Model law a requestor is required to provide the details “reasonably necessary” for government to identify the document.
10. The Angola Law does not clearly define information subject to disclosure. Different concepts appear through the Law, used inconsistently and arbitrarily. There is no limit on possible discretionary deferral of requests and whatever the government responses it needs to be put on writing limiting and obstructing the right of access to information for people with disabilities.
11. Under the Angola Law, the government has 10 days to answer a request. The answer must provide only the “date, place and manner” in which the requestor can access requested documents. The government also need not to provide a written response. The Law provides no legal standard for refusals and no standard for a diligent search, provides little impetus to government to justify a refusal.

Active Disclosure

12. Limited information targeted to be actively disclosed (documents, regular internal decisions, circulars and guidelines) by public bodies and disclosure every 6 month.

¹African Platform on Access to Information (APAI)

<http://www.fesmedia->

[africa.org/fileadmin/user_upload/pdf/Access_to_Information/Access_to_Inf_e_Empowerment_Art.19.pdf](http://www.fesmedia-africa.org/fileadmin/user_upload/pdf/Access_to_Information/Access_to_Inf_e_Empowerment_Art.19.pdf)

² <http://www.achpr.org/files/instruments/access->

[information/achpr_instr_draft_model_law_access_to_information_2011_eng.pdf](http://www.achpr.org/files/instruments/access-information/achpr_instr_draft_model_law_access_to_information_2011_eng.pdf)

13. The Platform requires publication of documents related to an entity's "functions, powers, structures, officials, decisions, expenditures, budgets, and other information relating to their activities that is of public interest".

Lack of Implementation of Freedom of Information Act

The general practice is lack of implementation of freedom of information law and government has consistently not implemented the access to information law. This has limited the ability of citizens to participate in key processes and to hold government agencies to account.

Recommendation for Access to Information:

1. The Freedom of Information Act should be amended to:
 - a. *cover relevant private bodies understanding private body as bodies owned, controlled or substantially financed directly or indirectly by funds provided by government. Or any body that carry a statutory or public function.*
 - b. *permit written and oral submissions. It should require to the submitter the information "reasonably necessary" to identify the requested information.*
 - c. *require the government to take reasonable steps to assist requestors, free of charge.*
 - d. *use one general term to describe the types of information subject to disclosure. The Law currently uses various terms.*
 - e. *require that, if an entity refuses a request, it must provide a reasonable basis meeting defined legal standards. It must also establish a diligent search consistent with defined standard.*
 - f. *responses to requests should be provided as soon as possible. If the government approves a request, it should make information available immediately upon payment of a reproduction fee.*
 - g. *Every covered entity should be required to publish all documents related to its functions, powers, structures, officials, decisions, expenditures, budgets, and other information relating to activities that are of public interest or its decisions-making.*
 - h. *Strengthen provisions for oversight by the Monitoring Commission*

2. Establish the Monitoring Commission to provide effective oversight for the effective implementation of Freedom of Information law
3. Implementation of the amended Freedom of Information law should be given priority by assigning information officers, training and equipping them with relevant skills and equipment to perform. Public and private agencies should subject themselves to audit on their implementation of right to information schemes including public awareness and response to information requests.
4. Educate citizens on their right to information and actively promote statutory and proactive disclosure.
5. Prioritise ratification and effective implementation of African Union treaties that recognise the right of access to information including the African Charter on Democracy, Elections and Governance, the African Union Convention on Preventing and Combating Corruption and the African Statistics Charter