



komitet pravnika  
za ljudska prava

prof. dr Stevan Lilić  
mr Dejan Milenković  
(priredili)

# slobodan pristup informacijama

Beograd  
2003

**Lawyers Committee for  
Human Rights (YUCOM)  
Reference Centre (HRRC)**

**Prof. dr Stevan Lilić  
Dejan Milenković, M. A.  
Biljana Kovačević-Vučo**

**FREE ACCES TO  
INFORMATION**

**Published by**

*Lawyers Committee for  
Human Rights (YUCOM)  
Reference Centre (HRRC)*  
Krunska 22, 11000 Belgrade  
Tel: +381-11-324-45-40  
Fax: +381-11-33-44-235  
E-mail: yulaw@eunet.yu  
www.yucom.org.yu

**For the Publisher**

Biljana Kovačević-Vučo

**Editorial board**

Biljana Kovačević-Vučo  
Dejan Milenković, M. A.  
(secretary)  
Prof. dr Stevan Lilić (editor)

**Proofs**

I. Popović

Printed by: *Dosije*, 1000 copies

ISBN 86-83209-07-5

© *Lawyers Committee  
for Human Rights (YUCOM)*

**Komitet pravnika za  
ljudska prava (YUCOM)  
Referencijalni centar (HRRC)**

**Prof. dr Stevan Lilić  
Mr Dejan Milenković  
Biljana Kovačević-Vučo**

**SLOBODAN PRISTUP  
INFORMACIJAMA**

**Izdavač**

*Komitet pravnika za  
ljudska prava (YUCOM)  
Referencijalni centar (HRRC)*  
Krunska 22, 11000 Beograd  
Tel: +381-11-324-45-40  
Fax: +381-11-33-44-235  
E-mail: yulaw@eunet.yu  
www.yucom.org.yu

**Za izdavača**

Biljana Kovačević-Vučo

**Uređivački odbor**

Biljana Kovačević-Vučo  
Mr Dejan Milenković  
(sekretar)  
Prof. dr Stevan Lilić (urednik)

**Lektor**

I. Popović

Štampa: *Dosije*, tiraž 1000

ISBN 86-83209-07-5

© *Komitet pravnika za  
ljudska prava (YUCOM)*

## SADRŽAJ

NOTA BENE .....	9
-----------------	---

### DEO PRVI

#### SLOBODA PRISTUPA INFORMACIJAMA

##### DOSTUPNOST JAVNIH INFORMACIJA

Prof. dr Stevan Lilić.....	15
----------------------------	----

##### ZA SLOBODAN PRISTUP INFORMACIJAMA

Prof. dr Miroljub Radojković .....	34
------------------------------------	----

##### PRAVO NA SLOBODAN PRISTUP

##### INFORMACIJAMA KAO

##### FUNDAMENTALNO LJUDSKO PRAVO

Mr Dejan Milenković.....	44
--------------------------	----

### DEO DRUGI

#### KOMPARATIVNA ANALIZA PRISTUPA INFORMACIJAMA U POJEDINIM ZEMLJAMA

##### PRAVO NA SLOBODAN PRISTUP

##### INFORMACIJAMA U SAD

Nevena Ružić .....	51
--------------------	----

##### PREGLED PRISTUPA INFORMACIJAMA

##### U POJEDINIM EVROPSKIM ZEMLJAMA

Mr Dejan Milenković.....	62
--------------------------	----

### DEO TREĆI

#### MODEL ZAKONA O SLOBODNOM PRISTUPU INFORMACIJAMA (YUCOM-FER-CPA-EPS)

##### KAMPANJA ZA DONOŠENJE ZAKONA O SLOBODNOM PRISTUPU INFORMACIJAMA

Hronološki pregled aktivnosti .....	119
-------------------------------------	-----

YUCOM-FER-CPA-EPS: Model zakona o slobodnom pristupu informacijama . . . . .	130
YUCOM-FER-CPA-EPS: Draft Law on Free Access to Information . . . . .	155
DODATAK: DRUGI ZAKONODAVNI PROJEKTI U SRBIJI I CRNOJ GORI . . . . .	170
Predlog zakona o slobodnom pristupu informacijama od javnog značaja, Vlada Republike Srbije . . . . .	170
Nacrt zakona o slobodnom pristupu informacijama Crne Gore, Vlada Republike Crne Gore. . . . .	192
Nacrt zakona o uvidu u službena dokumenta Kosova, Kancelarija premijera Kosova . . . . .	203

#### DEO ČETVRTI

### MEĐUNARODNI DOKUMENTI I PRAKSA EVROPSKOG SUDA ZA LJUDSKA PRAVA

Preporuka br. R (81) 19 Komiteta ministara Saveta Evrope državama članicama o pristupu informacijama u posedu javnih vlasti (1981). . . . .	217
Preporuka br. R (2002) 2 Komiteta ministara Saveta Evrope državama članicama o uvidu u službena dokumenta (2002) . . . . .	220
Praksa Evropskog suda za ljudska prava i Evropske komisije u vezi sa slobodnim pristupom informacijama . . . . .	242
Model zakona o slobodi informisanja, Article XIX (2001). . . . .	245

## CONTENTS

NOTA BENE .....	11
-----------------	----

### PART I

#### FREE ACCESS TO INFORMATION

##### ACCESS TO PUBLIC INFORMATION

Prof. Dr Stevan Lilić .....	15
-----------------------------	----

##### FREE ACCESS TO INFORMATION

Prof. Dr. Miroljub Radojković.....	34
------------------------------------	----

##### ACCESS TO INFORMATION AS A FUNDAMENTAL HUMAN RIGHT

Dejan Milenković, M.A .....	44
-----------------------------	----

### PART II

#### COMPARATIVE ANALYSIS OF FREE ACCESS TO INFORMATION

##### RIGHT OF ACCESS TO INFORMATION IN THE U.S.A.

Nevena Ruzić .....	51
--------------------	----

##### ACCESS TO INFORMATION – COMPARATIVE ANALYSES IN SOME EUROPEAN COUNTRIES

Dejan Milenković, M.A.....	62
----------------------------	----

### PART III

#### MODEL LAW ON FREE ACCESS TO INFORMATION (YUCOM-FER-CPA-EMS)

##### CAMPAIGN FOR THE ADOPTION ON THE LAW ON FREE ACCESS TO INFORMATION

– Chronological Overview of Activities.....	119
---	-----

YUCOM-FER-CPA-EMS: Model Law on Free Access to Information (Serbian Version) . . . . .	130
YUCOM-FER-CPA-EMS: Model Law on Free Access to Information (English Version) . . . . .	155
APPENDIX: Other Project on Free Access to Information in Serbia and Montenegro . . . . .	170
Draft Law on Free Access to Information of Public Significance, Government of Serbia . . . . .	170
Draft Law on Free Access to Information in Montenegro, Government of Montenegro . . . . .	192
Draft Law of Free Access to Official Documents in Kosovo, Office of the Prime Minister of Kosovo . . . . .	203

**PART IV**

**INTERNATIONAL DOCUMENTS AND  
DECISIONS OF EUROPEAN COURT OF  
HUMAN RIGHTS**

Recommendation No. R (81) 19 of the Committee of Ministers to Member States on the Access to information held by Public Authorities (1981) . . . . .	217
Recommendation No. R (2002) 2 of the Committee of Ministers to Member States on Access to Official Documents (2002) . . . . .	220
Decisions of the European Court of Human Rights and the European Commission . . . . .	242
Model Freedom of Information Act, Article XIX (2001) . . . . .	245

## NOTA BENE

Afirmacijom prava na slobodan pristup informacijama značajno jača uloga građana kao „kontrolora“ vlasti.

Građani i javnost danas predstavljaju značajan faktor kontrole državnih organa i drugih javnih institucija i aktivne učesnike u realizaciji složenih javnih poslova neophodnih za razvoj i napredak društva.

Poverenje građana dobijeno na opštim, slobodnim, jednakim, tajnim i neposrednim izborima, predstavlja nužan, ali ne i dovoljan, uslov za legitimnost vlasti koja u toku svog mandatnog perioda mora uvek iznova da se potvrđuje u svakodnevnom delovanju. Stoga je u političkoj i pravnoj teoriji gotovo jedinstveno prihvaćeno načelno stanovište da je „narodno poverenje dobro, ali da je kontrola nužna“. Vekovno iskustvo nedvosmisleno pokazuje i dokazuje da svaka vlast „kvari“ svoje nosioce, pogotovu ako odgovarajućim pravnim instrumentima nije ograničena.

Ustavom je utvrđeno da suverenost pripada građanima. Građani vrše vlast bilo neposredno (referendumom, narodnom inicijativom), bilo preko izabranih predstavnika (poslanika i odbornika). Shodno tome, svi državni organi i nosioci javnih ovlašćenja, a pre svega izvršni organi i organi uprave, dužni su da svoju ukupnu aktivnost stave u službu javnog interesa i građana.

Javnost rada državnih organa i drugih nosilaca vlasti i sloboda pristupa informacijama, čine suštinska obeležja savremene pravne države. Bez neposrednog uvida u rad i postupanje subjekata koji vrše vlast i upravljaju javnim poslovima, posebno bez blagovremenih, istinitih, i potpu-

nih informacija o obavljanju tih poslova nije moguće na efikasan način ostvarivati neophodnu javnu kontrolu u odgovarajućim oblastima društvenog života.

Sloboda pristupa informacijama danas je i značajno sredstvo u opštoj borbi protiv korupcije – posebno u javnoj upravi. Sama činjenica da se rad uprave može učiniti transparentnim, odnosno da se mogu tražiti informacije u posedu državnih organa i javnih institucija (npr. koliki su troškovi putovanja neke državne delegacije; kako je došlo do neke izdavanja građevinske dozvole; kako su trošena sredstva samodoprinosa za izgradnju mesnog vodovoda i sl), bitno doprinose povećanju motivacije građana da ima i svrhe i smisla ulagati pojedinačne napore radi iskorenjivanja korupcije i nezakonitog ponašanja.

Bez slobodnog pristupa „javnim“ i drugim relevantnim informacijama kojima raspolažu nadležni državni organi i javne službe, građani su lišeni direktne kontrole nad radom i ponašanjem onih kojima su na demokratskim izborima poklonili poverenje, kao i mogućnost pokretanja delotvornih inicijativa i davanja nosiocima vlasti konstruktivnih i kvalitetnih predloga za rešavanje pitanja od opšteg interesa za izgradnju institucija otvorenog civilnog društva

Pravo na slobodan pristup informacijama danas je efikasno sredstvo koje stoji na raspolaganju javnosti i građanima ne samo u borbi za slobodu i demokratiju, već i u stalnoj borbi protiv uzurpacije vlasti i korupcije.

*Beograd, avgust 2003.*

*Priređivači*



## NOTA BENE

The affirmation of the right of citizens to free access to information significantly reinforces the role of citizens as „controllers“ of the government.

The citizens and the public represent an important factor of control of state bodies and other public institutions and active participants in the realization of complex public affairs, necessary for the development and advancement of a democratic society.

The confidence of citizens, won in general, free, equal, secret and direct elections, represent a necessary, although not a sufficient prerequisite for the legitimacy of the government, which, during its term of office, has to, over and over, reaffirm itself in the everyday course of action. Political and legal theory almost unanimously accepts the principle that the „trust of the people is good, but that control is necessary“. Centuries of experience undoubtedly show and prove that every power „corrupts“ its bearers, especially if it is not checked with appropriate legal instruments.

The Constitution determines that the sovereignty belongs to citizens. Citizens exercise power directly (referendum, peoples' initiative, etc.), or through elected representatives (parliamentary deputies, local council members, etc.). According to this, all state bodies and bearers of public authority, especially executive bodies and administrative agencies have a duty to perform their activity in the service of public interest and citizens.

The public effort of government bodies and other bearers of power and free access to information are the

essence of modern rule of law. Without direct insight into the work and activity of the officials who manage public affairs, especially without up-to-date, correct and complete information, it is not possible to efficiently achieve necessary public control of government bodies, agencies and institutions.

Free access to information today is a significant means in the general struggle against corruption, particularly in public services. The mere fact that the work of the administration can be made transparent, i.e. that one can ask for information a government body or a public institution possesses (e.g. what are the travel expenses of a government delegation; how was a construction license issued; how were local funds for municipal sewage spent, etc.), significantly contribute to the increase of motivation of citizens that there is purpose and reason in investing individual efforts for the general good and elimination of corruption.

Without free access to „public“ and other relevant information of government bodies, administrative agencies and other public institutions, citizens are deprived of direct control of the activity and behavior of those who received their trust through democratic elections, as well as the possibility of initiating effective initiatives for resolving issues of general interest to society.

The right to free access to information today is an efficient means, which stands at the disposal of the public and citizens, not only in the struggle for freedom and democracy, but in the permanent struggle against the abuse of power and corruption.

*Belgrade, August 2003.*

*The Editors*

IZDANJA KOMITETA  
PRAVNICA ZA LJUDSKA PRAVA  
PUBLICATIONS OF THE LAWYERS  
COMMITTEE FOR HUMAN RIGHTS

CIP – Каталогизacija у публикацији  
Народна библиотека Србије, Београд

342.727(082)

340.134:342.727(497.11+497.16) (082)

342.727(497.11+497.16) (094.5.041)

341.018:342.727

SLOBODAN pristup informacijama = [Free Acces to Information] / priredili Stevan Lilić, Dejan Milenković. – Beograd : Komitet pravnika za ljudska prava (YUCOM), Referencijalni centar (HRRC) = Belgrade : Lawyers Committee for Human Rights (YUCOM), Reference Centre (HRRC), 2003 (Beograd : Dosije). – 284 str. ; 24 cm  
Tekst delimično na engl. jeziku. – Tiraž 1000. – Str. 9–10: Nota bene / priređivači. – Napomene i bibliografske reference uz tekst.

ISBN 86-83209-07-5

1. Лилић, Стеван 2. Миленковић, Дејан

а) Право на информисање – Зборници б) Право на информисање – законодавство – Србија и Црна Гора – Зборници – с) Право на информисање – Међународноправни аспект – Документи

COBISS.SR-ID 108826124