

## **PRESS RELEASE: 15 years on, civil society shadow report reveals PAIA compliance remains low**

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On 2 February 2000, South Africa's key transparency law, the Promotion of Access to Information Act, 2000 (PAIA), was signed into law.

15 years later, the PAIA Civil Society Network has released its annual 'shadow report' on the state of access to information in South Africa. Its findings show that while patterns of compliance are not as dire as has been the case in recent years and there have been some notable breakthroughs in strengthening the right of access to information through the courts, developing a culture of openness and transparency in South Africa still requires significant work.

The shadow report is released every year to complement to the work of the South African Human Rights Commission (SAHRC). It tracks requests for information made to public and private bodies by members of the PAIA CSN, and summarises the legislation and litigation impacting on freedom of information in South Africa.

This year's report shows that while there has been a slight improvement in responses to requests made using PAIA, compliance with the Act remains low. In fact, over half of requests made to government departments for information were denied. The most common reason given for refusal was that the records requested did not exist or could not be found, a persistently worrying indication of the poor record-keeping in these departments. A further quarter of the requests for information received no response whatsoever from government. The private sector has likewise been unresponsive, with less than half of all requests receiving a reply within the statutory timeframes.

These results reflect poorly on the level of accountability of these powerful entities to the public. As Melissa Fourie, CER director notes:

"Accessing basic information such as mining licenses, social and labour plans, water use licences and environmental management programmes - documents that are readily and publicly available in other countries - is a constant battle. Government and several industry players actively seek to prevent disclosure and government often refrains from exercising its regulatory oversight adequately..... This frustrates the realisation of constitutional rights that depend on the ability of individuals, communities, civil society organisations, companies and decision-makers to access this information."

In response to these challenges, the PAIA CSN calls on senior government officials to make resources available for PAIA training, to champion proactive disclosure in line with South Africa's international obligations, and to appoint and establish an Information Regulator as a matter of urgency to effectively administer and monitor PAIA compliance. Gabriella Razzano, head of legal research at ODAC, notes:

"The sorry state of PAIA is strong support for the need for an effective and accessible Information Regulator to be established as a matter of urgency. It is indeed disappointing when we consider government's express commitments to transparency as expressed through their position as Co-Chair of the Open Government Partnership Steering Committee that the implementation of PAIA still seems to be an insignificant task for many government departments."

It is clear that adequate resources for the implementation and maintenance of effective record-keeping systems within departments, and through the national and provincial archives services, is also critical. Catherine Kennedy, SAHA director, notes:

"The high ideal, signed into law 15 years ago, of promoting transparent, accountable and effective governance through access to information is being thwarted by a failure to implement and maintain records management systems. Given the fundamentally record-centric nature of South Africa's access to information law, the flagrant disregard by certain bodies of their responsibilities in terms of creating and managing records speaks volumes about the endemic lack of commitment to paying anything more than lip service to South Africa's right to know"

This year has, again, shown the Department of Justice and Correctional Services to be a particularly poor performer under PAIA. The PAIA CSN again calls in the strongest terms for the DOJ, as the department sitting with the legislative duty to act as administrative authority of PAIA, to get its house in order as a matter of priority and start providing support to other government departments in advancing access to information, preferably in consultation with the SAHRC and civil society.

And finally, as South Africa approaches 15 years since the TRC Act came into being, the PAIA CSN calls for records relating to gross human rights violations, especially from the apartheid era, to be automatically treated, in line with international best practice, as records in the public interest.

[Access the PAIA CSN Shadow Report 2013 / 2014, along with previous years' report, from SAHA's Freedom of Information Programme website](#)

[View Corruption Watch's visual summary of the PAIA CSN Shadow Report 2013 / 2014](#)

*Issued by the PAIA CSN, a collective of non-governmental organisations working together with the common goal of advancing the realisation of access to information rights in South Africa. Its member organisations include the Centre for Environmental Rights (CER), the Centre for Applied Legal Studies, Corruption Watch, the Khulumani Support Group, the Open Democracy Advice Centre (ODAC), the Public Service Accountability Monitor and the South African History Archive.*

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