PRESS RELEASE:

Civil society organisations gravely concerned with the chilling effect of persistent PAIA non-compliance, call for the urgent operationalisation of the Information Regulator.


The report worryingly shows a 53% decline in the number of new applications submitted by network member organisations. In the 2017-2018 reporting period, 191 applications were submitted to public and private institutions, compared with the 408 applications in the preceding 2016-2017 period.

The ATI Network attributes the decline in new applications to the on-going trend of low levels of compliance with South Africa’s primary access to information law, PAIA, by both public and private entities, as observed in nine shadow reports produced since 2009.

The result of non-compliance, as noted in the report, is that "organisations (and communities) are discouraged from utilising PAIA due to the risk of wasting limited time and resources."

Demichelle Petherbridge, Network Chair and researcher at Equal Education Law Centre, explaining the report said: “By documenting ATI Network members’ own experiences, the report provides interesting and useful insight into the challenges that civil society organisations are faced with in their use of PAIA, and the trends we see emerging that often hinder access to information. This joint effort is also significant for the important recommendations it makes that may contribute to a more effective implementation of PAIA, and further advance the right to access information.”

The ATI network recognises the right to access information fulfils a vital public interest role in our democracy, and is fundamental to the protection of other constitutional rights. Examples include the right to basic education, the right to a clean and safe environment, the right to media freedom and freedom of expression, and the proper transparent functioning of democratic institutions.

"In the quest for transparency and accountability via our various digital tools, accessing information through PAIA has played a fundamental role in achieving the organisation’s goal to improve the quality and impact of environmental journalism", explains Andiswa Matikinca, Network member and investigative journalist at the Oxpeckers Investigative Environmental Journalism Centre.

These rights are eroded when members of the public and media are unable to access information that would enable more effective monitoring of state organs and private institutions, and hold those in power to account.

Noting the difficulties with using PAIA, Sithuthukile Mkhize, Network member and senior attorney at the Centre for Applied Legal Studies explains that, “the PAIA process is already a cumbersome and tedious process, especially for communities requiring access to information. As difficult as it may be further challenges are posed by the fact that the procedures are not always easily accessible to communities"
Of the total 191 new applications recorded for the 2018 report, 169 or 88% were submitted to government departments (public bodies).

- The majority of such requests went to national and provincial departments, with 11% of requests going to state-owned enterprises and 5% being submitted to municipalities.
- Only 45% of all public bodies responded. Of these responses, only 40.8% resulted in the record being released in full or in part.
- In 35% of all applications submitted, the requestors were simply ignored.

The picture does not bode much better for PAIA applications to corporates (private bodies). 22 or 12% of the 191 requests were submitted to private bodies.

- 45% of all such requests were granted either in part or full.
- 32% were expressly refused by private bodies.
- For the requests which were expressly refused - the majority of these being to telecommunication service providers - the most frequent grounds for refusal was the secrecy provision in the Regulation of Communication and Communication-Related Information Act (RICA).

The report does reflect encouraging results on the PAIA internal appeal mechanism, which allows a requester to appeal an original decision of an information officer for public body requests.

Despite the ongoing challenges, the Network members remain committed to advancing the right to information through PAIA and other access to information laws.

In a set of recommendations in response to the experiences and findings documented in the report, the Network calls for:

1. The urgent operationalisation of the Information Regulator (IR), which empowers the IR to investigate PAIA non-compliance and issues fines and penalties to compel compliance.
2. Simplification of the process for making PAIA requests.
3. Building the capability of public bodies to process PAIA requests.
4. Private bodies must familiarise themselves with their obligations under PAIA.
5. PAIA manuals and contact details of PAIA information officers must be up to date and made easily accessible.

#PAIAShadowReport
#PAIAnoncompliance
#ATINetwork
#IDUAI2019
#InformationRegulatorNOW

Note to Editors: The ATI Network is a coalition of civil society and media organisations, who have since 2008 worked collaboratively to advance the constitutional right to information as provided for in the Promotion of Access to Information Act of 2000. A copy of the 2018 shadow report is available [here](#) and infographic is available at this [link](#).

ATI Network member organisations include: Africa Check, amaBhungane Centre for Investigative Journalism (amaBhungane), Centre for Applied Legal Studies (CALS), Centre for Environmental Rights (CER), Corruption Watch (CW), Equal Education Law Centre (EELC), Open Democracy Advice Centre (ODAC), Oxpeckers Center for Investigative Environmental Journalism (Oxpeckers), Public Service
Accountability Monitor (PSAM), Right2Know Campaign (R2K), South African History Archive (SAHA) and Wits Justice Project.

For more information and interviews on the report:

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