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# **2021 ACCESS TO INFORMATION IMPLEMENTATION PROGRESS REPORT**

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### OFFICE OF THE CHAIRPERSON

Ref No: HRC/ATI/01

25th April, 2022

Honourable Catherine Gotani Hara, MP.  
Speaker of the National Assembly,  
Private Bag B362,  
Lilongwe 3.

**Dear Madam Speaker,**

Pursuant to section 11 of the Access to Information Act (No. 13 of 2017),w I have the pleasure and honour to present to Parliament the Access to Information implementation annual progress report for the year 2021.

The report covers activities of the Commission carried out in the reference year, and it highlights among others, some of the successes and challenges the Commission faced in its quest to achieve its mandate and functions as outlined in the Access to Information Act, 2017.

Please accept, Your Right Honourable, the assurance of our highest esteem.

.....  
CHAIRPERSON

## ACKNOWLEDGEMENT

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The contents in this report do not represent the views of the European Union or the Consortium.

## 1.0 INTRODUCTION

### 1.1 Background

The Human Rights Commission (the Commission) is established under Section 129 of the Constitution. Its operations are guided by the Human Rights Commission Act (Act # 27 of 1998). The Commission has a Constitutional and statutory mandate to promote and protect human rights and investigate human rights violations in Malawi. The Commission was given additional mandate to oversee the implementation of the Access to Information Act (ATIA).

The Access to Information Act became operational on 30th September 2020. In October 2020 the Commission organized a National Validation Conference on Access to Information Regulations. The regulations were published in the Gazette on 14th January 2021. In effect the law became fully operational on this day.

This report covers activities carried out from January to December 2021. The report was generated in line with the approved roadmap for 2021 for the Access to Information implementation. Therefore, the report includes responsibilities of the Commission under ATIA, planned as well as ad hoc activities, lessons learnt, challenges and recommendations

### 1.2 Responsibilities of MHRC on ATIA

Under Section 8 of the ATIA, the Commission has the following responsibilities: -

1. Raise awareness of the right of access to information among members of the public and information holders
2. Give advice to Government and information holders regarding coordination and management of information.
3. Review decisions of information holders and make recommendations regarding requests for information
4. Recommend declassification of information which is exempt from disclosure.
5. Recommend legal reforms to legislation relating to access to information
6. Promote and protect the right to access to information and investigate violation of the right to access to information
7. Give directions to all institutions in connection with performance of their duties and obligations
8. Recommend fees payable to process information requested
9. Review decisions of information holders regarding denials of disclosure of information or grant of access to information.
10. Enforce recommendations by the Commission

## 2.0 PROGRESS OF IMPLEMENTATION

**2.1 During the period under review, the following activities were carried out:**

### 2.1.1 Training of Trainers for MHRC Officers and Training of Commissioners

The Commission conducted a training for most members of staff across the directorates. The training focused on the Access to Information legal framework more especially the ATIA and its Regulations. Idea behind training many members of staff was to have a pool of knowledgeable personnel in ATIA who can act as a resource in the subsequent activities. The training of trainers on Access to Information took place at Blue Waters Resort in Salima from 14th to 16th April, 2021. Forty five officers (27 males and 18 females) were equipped with knowledge on the Act and Regulations.

The Commission also conducted orientations for nine Commissioners, three new members of staff and five interns on ATIA and Regulations between May and October 2021.

### 2.1.2 Printing of ATIA copies and Translation of ATIA Regulations into Chichewa

1000 copies of Access to Information Act (ATIA) were printed out for dissemination in August 2021 and dissemination commenced at the same time. Refer to Table B below for details of dissemination of the Act. In addition, the Commission translated Access to Information Regulations into Chichewa with the intention to make the law accessible and user-friendly to many people. Printing of the translated regulations is in the process.

### 2.1.3 Disseminate information on Access to Information through radio jingles, television, posters and press release

As part of massive public awareness campaign on ATIA, the Commission developed messages which were used for producing radio jingles in both English and Chichewa and for printing of posters. 92 radio jingles were aired out on MBC Radio 1 from 16th November 2021 to

<sup>1</sup>The number represents 75% of the staff. Among the participants were the senior management team, senior officers and junior officers.

13th December 2021. 500 posters were printed out in December 2021. Distribution of posters started at the Human Rights Day Commemoration in Ntcheu District on 10th December 2021. Furthermore, the Unit engaged Zodiak Broadcasting Corporation for a free panel discussion programme on ATIA. The panel discussion was recorded on "Mphepo Zinayi" programme on 16th December 2021 and was aired out on 19th December 2021. The Unit also conducted a phone-in-programme at Pentecostal Live FM Radio to raise awareness on procedures to follow in accessing information using ATIA. The Commission took advantage of the free platform to raise awareness of the ATIA. These programmes attracted feedback from a cross-section of people which showed that many people were not aware of the ATIA and the mandate of the Commission. In addition, a press statement was issued in November 2021 which outlined steps to be followed by information seekers in accessing information according to the ATIA.

#### **2.1.4 Establishment of ATI Unit and Recruitment/Appointment of Officers**

The Commission established the ATI Unit and an office was allocated for the Unit in May 2021. The Head of the Unit, a Desk Officer and two Interns were designated to manage it.

#### **2.1.5 Procure computers and furniture for the Access to Information Unit**

Three laptop computers, a heavy duty-printer and furniture were procured for the Unit in August 2021.

#### **2.1.6 Conduct Legal Analysis of the ATIA**

The mandate which the Commission is given under ATIA was considered to be slightly different from its constitutional mandate, as such, there was need to analyze the law and devise a mechanism on how the Commission performs its functions well without being found in conflict with other laws. It was against this background that the Commission undertook a legal analysis of the ATIA in December 2021. The analysis established that the functions of the Commission were already quasi-judicial by its nature as conferred by the Constitution and the Human Rights Commission Act. Therefore, the additional functions of the Commission under the ATIA were not in conflict with the mandate of the Commission.



## 2.1.7 Develop a Template for Data Collection and Reporting

A tool/form for collecting data or reporting on compliance by Information Holders was developed in August 2021. The tool is used for assessing level of compliance on ATIA and Regulations. The Commission has used this tool in some public institutions and feedback was collected and compiled.

## 2.1.8 International Conferences and Meetings

The Commission participated in a webinar session on the commemoration of the International Day for Universal Access to Information by NANHRI in September 2021. During the session a revised Declaration of Principles on Freedom of Expression and Access to Information in Africa was disseminated. Some of the critical issues that were discussed included the proactive disclosure of information and how internet can be used to access information. The meeting urged governments and stakeholders to make use of the internet to make information accessible to the public.

## 2.1.9 Conduct Random Monitoring of Information Holders

The Commission visited 11 institutions to monitor their level of compliance to ATIA as summarized in the table A below.

**Table A. Summary of Level of Compliance by Institutions**

#	Name of Institution	Location	Status of Compliance
1	National Council for Higher Education	Lilongwe	<ul style="list-style-type: none"> <li>• Designated Information officers</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Website is active and has information about the institution but does not have all necessary information as mandated by the Act<sup>2</sup></li> </ul>
			<ul style="list-style-type: none"> <li>• Information Officers &amp; staff were not trained</li> </ul>
2	Higher Education Student Loans & Grant Board	Lilongwe	<ul style="list-style-type: none"> <li>• No designated Information Officer</li> <li>• Has copies of ATIA &amp; regulations</li> <li>• Members of staff not trained</li> <li>• Has an active website</li> </ul>

2	Higher Education Student Loans & Grant Board	Lilongwe	<ul style="list-style-type: none"> <li>• No designated Information Officer</li> <li>• Has copies of ATIA &amp; regulations</li> <li>• Members of staff not trained</li> <li>• Has an active website</li> </ul>
3	Ministry of Agriculture	Lilongwe	<ul style="list-style-type: none"> <li>• Designated 2 Information Officers</li> <li>• Did not have copies of the ATIA &amp; Regulations</li> <li>• Information officers &amp; staff not trained</li> <li>• Has a regular radio program and a toll free line through which information is shared</li> <li>• Members of staff not trained</li> </ul>
4	Ministry of Education	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment or designation of an Information Officer</li> <li>• Members of staff not trained</li> </ul>
5	Ministry of Local Government	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment or designation of an Information Officer</li> <li>• Members of staff not trained</li> </ul>
6	Ministry of Health	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment or designation of an Information Officer</li> <li>• Members of staff not trained</li> </ul>

2 An active website must have a minimum of (a) functions of Information holder, (b) institution set with information of key officers, (c) physical, postal and email address and (d) name and contact details of its information officer (Sub-Regulations 3)

7	Central Region Water Board	Lilongwe	<ul style="list-style-type: none"> <li>• Has an information officer</li> <li>• Has copies of the Act and Regulations</li> <li>• Information Officer &amp; staff are not trained</li> </ul>
8	Lilongwe Water Board	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment of an Information Officer</li> <li>• Members of staff not trained</li> </ul>
9	Malawi Energy Regulatory Authority	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment of an Information Officer</li> <li>• Members of staff not trained</li> </ul>
10	Office of the Ombudsman	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Not certain about the appointment of an Information Officer</li> <li>• Members of staff not trained</li> </ul>
11	Central Medical Stores	Lilongwe	<ul style="list-style-type: none"> <li>• Has not provided a report to the Commission as requested</li> </ul>
			<ul style="list-style-type: none"> <li>• Has copies of ATIA &amp; Regulations</li> <li>• Designated an Information Officer</li> <li>• Trained the senior management in ATIA</li> </ul>

**Table B. Distribution of awareness materials**

<b>INSTITUTIONS</b>	<b>ATIA Copies</b>	<b>Posters</b>	<b>Total</b>
Parliamentary Committee on Media, Information and Communication	20	0	20
MISA Malawi	20	0	20
Ministry of Information	20	0	20
NICE Trust	40	0	40
MHRC Officers and interns	62	0	62
YAS Meetings (Chitipa, Rumphi, Kasungu and Dowa)	200	0	200
Monitored institutions	11	4	15
Human Rights Day	50	54	104
NDI conference on Access to Information	40	0	40
<b>TOTAL</b>			<b>521</b>

## **2.2.0 Additional Activities carried out during the Period**

### **2.2.1 Networking and Collaboration**

The Commission held a meeting with the Mzuzu University (MZUNI) IT Department on 9th June 2021 in Lilongwe to explore the possibility of networking and collaboration in the implementation of ATIA activities especially through trainings, short courses and dissemination of information. The meeting resolved to formalize the working relationship through the signing of the Memorandum of Understanding.

### **2.2.2 Reporting on the Reforms Agenda**

The Commission prepared an update on the Reforms Agenda to the Office of the Vice President which is coordinating all reforms in the Public Sector. The Commission presented the reforms objective which was an initiative to establish the Unit by capacitating it with skilled personnel, office space and resources to effectively perform the Commission's responsibilities provided by the Act. The Commission also presented its planned activities to recruit staff and allocate office space for the ATIA Unit.

### **2.2.3 A Multi-Stakeholder Conference in Commemoration of the International Day for Universal Access to Information**

The Commission was invited to make a presentation on the status of the ATIA implementation since its operationalisation in September 2020 at

the meeting that was organised by OXFAM and others in Salima. The Commission made a presentation highlighting the critical milestones achieved dating back to the time the Act was assented to. Participants observed the need for more collaboration in raising awareness about the law.

#### **2.2.4 Present a Report to the Parliamentary Committee on Media, Information and Communication**

The Commission appeared before the Parliamentary Committee and presented the progress on ATIA implementation on 10th October 2021. The Committee appreciated the work the Commission was doing but observed that there was slow progress in ATIA implementation and inadequate collaboration with other organizations in the implementation process. The Committee urged the Commission to make use of the Committee's roles to advance its agenda.

#### **2.2.5 Training for Journalists on the ATIA at Crossroads Hotel**

Tackling Serious and Organized Corruption (TSOC) has project called Continuing Journalism Education (CJE). CJE's mission is to support journalists with the training and resources needed for thorough, ethical, and accurate investigative reporting – a vital element in the overall battle against corruption. CJE partnered with MISA to conduct a training for journalists on the ATIA which happened from 6th to 7th December 2021 at Crossroads Hotel in Lilongwe. MHRC made a presentation on its role in the ATIA implementation and provided progress of the implementation.

#### **2.2.6 Training of Councilors and Civil Society Organisations on ATIA and Regulations**

The Youth and Society (YAS) organized a training for councilors and CSOs on ATIA and Regulations. The Commission facilitated the training in Chitipa, Rumphi and Kasungu between November and December 2021. The meetings were attended by 105 participants. Participants were trained on how to access public information from duty bearers using Access to Information Act and Regulations.

### **2.2.7 Conduct ATIA Thematic Committee Meetings**

The Unit conducted three thematic committee meetings and two extra-ordinary meetings during the year. The meetings deliberated upon the reports and plans and emerging issues for the Unit.

### **2.2.8 Review of Decisions by Information Holders**

During the period under review, the Commission received one petition asking the Commission to review the alleged denial of access to information by the Office of the President and Cabinet (OPC). The ATI Committee reviewed the decision and noted some gaps in the request made by the Information Seeker. Therefore, the Commission advised the Information Seeker to make a proper presentation of the request as stipulated in the law. The Commission also received copies of requests for information by some information seekers for its noting.

### 3.0 CHALLENGES

The following are some of the challenges faced during the implementation of plans and activities:

#### (a) Funding Challenges

Inadequate and delayed funding affected the timely implementation of activities. For this reason, several activities that were planned did not take place. For example, training of Information Officers which was planned for the first quarter of the year was not funded.

#### (b) Failure by the Ministry of Information to provide a List of Information Officers

The Ministry of Information was supposed to publish names and contacts of the designated Information Officers in the newspapers three months after the end of the financial year. However, the year came to an end without the Ministry publishing names of Information Officers. Lack of such information is affecting the Commission's collaboration with the Information Officers.

## **4.0 RECOMMENDATIONS**

- 4.1** The Treasury should improve on timely disbursement of funds and increase funding allocation for the ATI activities.
- 4.2** The Commission should engage Development Partners to help funding access to information activities.
- 4.3** Ministry of Information should publish names of the Information Officers as stipulated in the ATIA.



## 5.0 CONCLUSION

The Commission is grateful to the Government for the support and for providing a conducive environment for the right to access information. Furthermore, the Commission appreciates the technical and financial support from development partners like the EU Chilungamo Program.

The Commission is also grateful to the Parliament for their support through the Parliamentary Committee on Information, Media and Communication. The Committee pledged its commitment to support the Commission in actualizing access to information law.