

**AGENCY FOR THE PROTECTION OF THE RIGHT OF FREE ACCESS TO PUBLIC INFORMATION**

**ACCESS TO INFORMATION – PRESENT AND FUTURE**

**(CHALLENGES AND BEST PRACTICES FOR ITS SUCCESSFUL IMPLEMENTATION)**



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**INTRODUCTION**

The right of access to information is one of the fundamental human rights, which enables transparency and accountability of institutions. This right is recognised in numerous international documents, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In recent decades, access to information has become a key component of democracy and the rule of law.

The purpose of this document is to outline the global implementation of the right to access to information, to review challenges and successes, as well as to outline best practices and recommendations for future improvements.

**INTERNATIONAL STANDARDS AND LEGAL FRAMEWORKS**

International institutions, such as the UN and the Council of Europe, have set basic standards for access to information, the most significant of which are the following documents:

* **The Universal Declaration of Human Rights (1948)**: Guarantees the right to freedom of expression, which includes the right to information.
* **International Covenant on Civil and Political Rights (1966)**: Article 19 guarantees the right to freedom of expression, including access to information.
* **Convention for the Protection of Human Rights and Fundamental Freedoms (1950)** Confirms that the right to freedom of expression also includes the right to access information.

In addition to these documents, some regional legal frameworks and practices promote the right to access information, such as:

* Laws for free access to information in Europe and the member states of the European Union
* The Decree of the European Parliament, the Council and the Commission (**1049/2001**) for access to public documents
* Council of Europe Convention on Access to Official Documents (**CETS no. 205**), also known as the Tromsø Convention, was adopted on June 18, 2009 in Tromsø, Norway, and entered into force on December 1, 2020.
* Laws on free access to information in Latin American countries,such as the Law of Chile (2008), which serves as a model for regional reforms.

**EXAMPLES OF THE IMPLEMENTATION OF THE RIGHT OF ACCESS TO INFORMATION AND GLOBAL PRACTICE**

The right of access to information is a recognised and regulated right in a number of countries around the world. Still, the degree of implementation and effectiveness of laws relating to this right varies significantly from country to country. Below are some examples from different regions:

* **Sweden (Europe)**: Sweden was the first country in the world to pass the Freedom of Information Act in 1766, making it a leader in this field. In Sweden, access to information is protected by constitutional laws and is very well regulated.
* **USA**: The Freedom of Information Act (FOIA) was adopted in 1966 and is one of the strongest laws on this subject. Although the Act has been successful in providing access to government-related documents, issues of data quality and delays in responses to requests are challenging.
* **South Africa**: After the abolition of apartheid, South Africa passed one of the most advanced laws for free access to information (Promotion of Access to Information Act, 2000), which significantly improved government transparency and enabled the strengthening of civil rights.
* **India**: India has a Free Access to Information Act (RTI Act, 2005), which has significantly increased the transparency of public institutions. On the other hand, practice shows that the number of cases of abuses and corruption that come to light thanks to the law on access to information is growing.

**CHALLENGES AND BEST PRACTICES**

**Challenges**:

* **Technical barriers**: In many developing countries, access to information is limited due to a lack of adequate IT infrastructure.
* **Administrative obstacles**: In some countries, government institutions often use administrative procedures and bureaucratic barriers to limit access to information for citizens.
* **Protection of privacy**: The balance between the right of free access and the need to protect privacy and national security is a complex process and requires excellent attention to information in this area.

**Best practices**:

* **Electronic platforms**: Many countries have started to create electronic platforms for submitting requests for access to information. This is one of the most successful methods of promoting transparency.
* **Training of public servants**: The training of public sector employees on applying the law on access to information is the best practice for its efficient implementation.
* **Public awareness campaigns**: It is important for citizens to be informed about their right to access information and how to use it.

**DIFFERENCES IN THE APPLICATION OF THE RIGHT OF ACCESS TO INFORMATION IN DIFFERENT REGIONS**

* **Europe:** Many European countries have highly developed mechanisms for access to information. However, practice shows that some countries face challenges regarding freedom of information due to political pressures and restrictions on media freedom.
* **Asia**: In Asia, countries such as India, Japan and South Korea have enacted legislation regulating freedom of access to information, but this right is less prevalent in countries such as China, where internet censorship and control significantly restricts access to information.
* **Latin America**: In Latin America, countries such as Chile, Argentina, Mexico, and Brazil have developed systems for access to information, but in many cases, there is a need to improve transparency and support independent institutions that control the implementation of this right.
* **Africa**: In Africa, the IT infrastructure is still not satisfactory, making it difficult to implement the right of access to information. However, in South Africa, Kenya, and Ghana, open access laws have been successfully implemented, and African countries are beginning to recognise the importance of transparency in public administration.

**IMPORTANCE OF FREE ACCESS LAWS IN THE FIGHT AGAINST CORRUPTION**

Many countries worldwide use access to information laws as essential tools in the fight against corruption. The transparency of public procurement, financial statements of government institutions and other documents significantly helps prevent corruption-related abuses.

* **Indicative examples**:
  + **Mexico**: Due to reforms in access to information legislation, some corruption cases have come to light, leading to criminal proceedings and restructuring of government institutions.
  + **South Africa**: Although the right of access is well regulated, in practice, some cases show that there are still shortcomings in its implementation.

This trend is especially important in countries where anti-corruption institutions do not function effectively, so access to information becomes the main channel for detecting illegal actions.

**ELECTRONIC SYSTEMS FOR ACCESS TO INFORMATION AND DIGITALIZATION**

Electronic platforms have greatly facilitated the implementation of the right of access in many countries. Online platforms where citizens can submit requests for public information and follow the processing processes increase transparency and reduce administrative obstacles.

* **An example from the USA**: The FOIA online system (online system for free access to information in the USA) allows citizens to submit requests and receive answers quickly without going through complicated bureaucratic procedures.
* **General trends in digitisation**: Countries like Estonia are leaders in digitising public services, including access to information. In Estonia, citizens can access critical public documents through e-government portals, and many Estonian government agencies are committed to open data.

**INDEPENDENT OVERSIGHT BODIES AND THE ROLE OF CIVIL SOCIETY**

Although many countries have laws on access to information, their implementation is not always effective without independent bodies that control government institutions and ensure accountability in their operations. Therefore, many states have established **information commissioners** or **independent agencies** which are in charge of supervising the implementation of the application of laws on access to information.

**Example:**

* **Canadian Information Commissioner**: The Canadian Information Commissioner has the authority to investigate and impose sanctions on public institutions that do not comply with the Access to Information Act. This body also aims to educate citizens and government institutions about the rights and obligations regarding access to information.
* **The role of the civil sector**: NGOs and the media are important in promoting transparency. In many cases, they are the initiators of campaigns that focus on providing access to information and pressure government institutions to fulfil their obligations. An example of that is the organisation **Access Info Europe**, which plays a key role in creating legislative changes in European countries.

**MONITORING THE IMPLEMENTATION OF THE RIGHT OF ACCESS**

International institutions and independent organisations often monitor and evaluate the implementation of the right of access to information at the global level. These indices can offer useful data on progress or backsliding concerning this right.

* **Freedom of Information Index**: This tool rates countries based on their transparency and implementation of the right to access information. High-scoring countries are Sweden and Finland, and low-scoring countries are Indonesia and China.
* **Global Media Freedom Index**: Although this index focuses on the media, it also provides context to freedom of access to information, as the media play a central role in the publication of public documents.

Countries that are leaders in access to information have highly developed legal frameworks, transparent government practices and effective mechanisms for implementing the right to free access to information. These countries ensure the right of access for their citizens and create open channels for public oversight, leading to improved accountability and reduced corruption. Below are some of the countries with their best practices:

**Sweden**

* + **Full transparency**: Sweden ensures that all documents related to the public sector are available to the public unless there are specific legal restrictions (such as national security or personal data).
  + **Electronic access system**: Sweden has a highly developed system for electronic access to public documents, integrated with other public services through the state's e-services portal.
  + **Control and supervision**: At the national level, **The Swedish Ombudsman** and other independent bodies monitor the application of the law on free access, ensuring equal access to information for all citizens.

Sweden continues to be a model for successfully implementing the right of access, with a strong emphasis on transparency and accountability.

**USA**

* **Broad application of FOIA**: US State Department Freedom of Information Act (FOIA). FOIA is intended to provide access to documents created by federal agencies. A system has been established for electronic access request submission, making the process faster and more efficient.
* **System of classifications and exceptions**: Although exceptions exist to access to information (such as protecting national security or privacy), the US has developed a system for challenging decisions on denied requests through court processes, reinforcing transparency.
* **Civic activism and media**: The media and non-governmental organisations actively use FOIA to reveal information that is not readily available, especially in cases of irregularities in the work of institutions. In many instances in which investigations have been undertaken, they result from FOIA requests.

**India**

* + **Dynamic application process**: The Law on Access to Information allows citizens to request and receive documents from government institutions. The law obliges institutions to respond to requests quickly, which significantly improves their transparency.
  + **Independent monitoring mechanisms**: I**ndependent** **commissions** control the implementation of the Law on Access to Information and decide upon citizens' complaints in case of irregularities in its implementation.
  + **Application at the local level**: Unlike many other countries, India has successfully integrated the Access to Information Act at the regional level, enabling increased transparency and accountability.
  + **Involvement of citizens**: Activists and civil society organisations play a key role in using the PII to uncover irregularities and abuses by the authorities.

**South Africa**

* + **Training and support**: In South Africa, public officials and citizens are actively trained to actively use the right of access to information, thereby increasing awareness of the use of the law.
  + **Gradual modernisation**: Many government institutions are digitising their data and introducing online platforms to access information.
  + **Independent supervision**: The Information Commissioner plays a key role in monitoring the implementation of the Access to Information Act (PAIA), ensuring accountability and transparency.

**Chile**

* + **Transparency and accountability**: In Chile, information requests are monitored through an electronic platform with clearly defined response deadlines.
  + **Reports and open data**: The government provides reports and open data on all critical government activities, which increases public oversight.
  + **An independent authority**: **Freedom of Information Council** is an independent body that provides independent oversight over the application of the law and cares about the public interest and protection of the right of access.

Countries that are leaders in access to information, such as Sweden, the United States, India, South Africa and Chile, emphasise the importance of transparency oand versight of the implementation of laws and electronic platforms for the effective implementation of the right of access. Best practices include:

1. **Legal frameworks** which clearly define rights and obligations.
2. **Electronic systems** for submitting and monitoring requests for access to information.
3. **Independent supervisory bodies** which ensure accountability.
4. **Civic involvement and training** to the public about their rights.

The experiences of these countries show that for successful implementation of the right of access, strong political will, transparent administration and close cooperation with civil society are needed.

**The future of information access** will be shaped and implemented by global trends in technology, democracy and the rights of citizens. Although the right of to access information in many countries has developed over the last decades, the future will be shaped by new tools and mechanisms for implementing this right.

Key aspects that will shape it **the future of access to information:**

**DIGITALISATION AND AUTOMATION**

**The digitalisation process** will continue to play a key role in public data and information availability. In the following years, **governments and public institutions** will increasingly focus on digital platforms for managing data and processing requests for access to information. These platforms will provide easy and fast access to documents and enable citizens to submit requests, monitor their requests' status and receive answers quickly.

* **Automated request processing**: New technologies, like **artificial intelligence (AI)** And **machine learning (ML)**, will enable automatic categorisation and processing of information access requests. With the help of these tools, institutions will be able to filter requests and deliver relevant data to citizens quickly.
* **Analysis of big data (Big Data)**: With increased data collection and processing, governments can analyse and share data more efficiently. Open Data will continue to develop and will be key to maintaining the transparency of government institutions.

**CONNECTIVITY AND INTERACTIVE PLATFORMS**

The increase of **interactive platforms** and **cloud services** will enable global access to information in real-time. As internet infrastructure improves, many countries will create digital portals where **open** **data**, reports, and documents will be available, and at the same time, they will provide easy access for submitting requests and receiving answers for information of a public nature.

* **Integrated platforms**: Platforms that combine different communication channels (web pages, mobile applications, social media) will enable all services related to access to information to be in one place, which will reduce the bureaucratic burden.
* **Interaction with public institutions**: Citizens will be able to engage and actively participate in decision-making processes through direct online channels for consultations and public debates. This will increase the legitimacy of governance and trust in institutions.

**PROTECTION OF PRIVACY AND ETHICS**

As technology advances and the amount of data collected increases, new challenges will arise in **protecting privacy** And **ethics**. As the amount of data available to the public grows, new laws and practices must be developed to balance the right to access and privacy.

* **Protection of personal data**: The amount of personal and sensitive data is increasing daily, so governments will have to worry about protecting that data, especially in the context of **The Personal Data Protection Directive (GDPR)** of the European Union.
* **Ethical challenges:** Extended control and monitoring risk endangering personal freedoms and rights, such as excessive monitoring of personal data through social networks or by state authorities. These issues create the need to establish new legal and ethical frameworks.

**INCLUSIVENESS AND ACCESSIBILITY**

As many countries worldwide have different levels of digital and technological infrastructure, it will be important that the right to access information be **affordable** for all, including vulnerable groups and persons with disabilities.

* **Access to information for all**: Countries will need to develop policies and tools to ensure equal access to information in rural and remote regions. This may include mobile applications, local info-centers or other channels to compensate for infrastructure constraints.
* **Accessibility for people with disabilities**: Information access platforms will have to be compatible with standards for **accessibility** for people with disabilities, including text descriptions, screen reader software, and other assistive tools.

**INCREASED ROLE OF CIVIL SOCIETY AND THE MEDIA**

Civil society and the media will continue to play a key role in supporting transparency and monitoring the work of institutions. The future of access to information will depend significantly on how the media and non-governmental organisations will use technologies to monitor and obtain public information.

* **Civil activism**: Human rights organisations and other civil initiatives will have new tools to check public data and information that is important to the public, such as public procurement, political campaign financing and abuse of power.
* **Freedom of media and journalism:** Journalists and the media are key to uncovering and analysing information that is of public interest. The use of open data, big data analysis and specialised programs to develop journalistic and analytical skills will strengthen their capacity to transparently and responsibly inform the public about the effects of government policies and practices.

**GLOBAL STANDARDS AND COOPERATION**

**Global cooperation** between states and international organisations will be key to ensuring standards and procedures for access to information.

* **International agreements and standards:** Countries can cooperate on the development and harmonisation of global frameworks and agreements that will provide unified standards for access to information. An example of this is the Aarhus Convention, which promotes access to information, public participation in decision-making processes and access to justice in environmental matters.
* **Increased transparency of global institutions**: Global organisations such as the UN, the World Bank, and the IMF will continue to pressure countries to improve their transparency and access to information and data within **development** **goals,** **climate** **change, and sustainable development agendas**.

**CONCLUSION**

Transparency and accountability of institutions remain key to building trust between governments and citizens and ensuring the effective functioning of democracy in the world.

The right of access to information is of global importance for the functioning of democracy and the prevention of corruption. Still, not all countries have the same level of development in this area. Given the importance of this right, there is a need for further modernisation of legislation and administrative procedures and the creation of mechanisms for better supervision and protection of citizens' rights.

Recommendations for improving access to information include more investments in digitisation, strengthening the independence of the bodies for monitoring this right, and encouraging cooperation between the authorities and civil society.

The future of access to information is closely related to new technologies, the development of citizens' rights and global standards. This right will continue to be one of the key pillars of **democracy**, as one of the fundamental human rights, but at the same time it will face new challenges in terms of privacy, ethics and security. In the future, the balance between **transparency** And **the protection of fundamental rights** will be the focal point for successfully implementing access to information.

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