

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

TRAINING PROGRAMME

Division for Cooperation on
Freedom of Expression

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

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The [Division for Cooperation on Freedom of Expression](#) has developed [a range of training programmes](#) designed to strengthen knowledge and capacities of judges, prosecutors, legal professionals, police staff, journalists and media actors, and public servants from relevant public authorities, in key areas: Countering the use of SLAPPs, Safety of Journalists, and Access to Information in the context of Freedom of Expression .

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This Council of Europe Training Programme on Access to Information in the context of Freedom of Expression was developed by Council of Europe international expert Tetyana Oleksyuk.

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General Presentation of the Training on European Standards on Access to Information in the Context of Freedom of Expression

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THE COUNCIL OF EUROPE TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

The Training on European Standards on Access to Information in the Context of Freedom of Expression is a modular, two-day programme tailored for three distinct professional groups: legal professionals, civil servants, and journalists/media professionals. For each target group, the content of the sessions is focused on the most relevant aspects of access to information and freedom of expression, keeping the overall structure consistent while addressing each group's unique responsibilities and challenges.

Based on European standards, namely Article 10 of the European Convention on Human Rights and the Council of Europe Convention on Access to Official Documents (Tromsø Convention), the training aims to empower participants to apply access to information laws effectively and to uphold transparency and accountability within their professional roles.

The training is structured to address both international standards and national regulations to offer a thorough understanding of access to information rights. It employs a dual-trainer approach, with one trainer specialising in international standards and another in national legislation. This provides a balanced perspective, helping participants understand the best global practices and how to apply these within their local frameworks.

The training methodology is designed to be interactive and adaptable to adult learners. It includes lectures, case studies, group discussions, and hands-on practicums, allowing participants to explore both the theoretical and practical aspects of access to information.

Groups' focus:

- ▶ **for Group #1** (legal professionals), the training core is the detailed analysis of case law to provide a solid foundation in relevant legal principles and precedents. This approach is intended to help legal professionals gain a deep understanding of judicial interpretations and applications of access to information standards.
- ▶ **for Group #2** (civil servants), the training focuses on skill-building, allowing participants to engage in practical scenarios and collaboratively explore solutions to real-world challenges they may encounter in their roles.
- ▶ **for Group #3** (journalists and media professionals), the training emphasis is made on workshops and facilitated group exercises to ensure their responsible approach to reporting on topics of public interest.

The course agenda is configured into two main sections:

- ▶ **Day 1:** Focuses on international standards, with sessions covering fundamental concepts, European Court of Human Rights case law, the Tromsø Convention, and limitations on access to information.
- ▶ **Day 2:** Examination of the domestic regulations and skill-building exercises, tailored to explore national frameworks, practical application, oversight, and information processing standards.

The curriculum is structured to facilitate Training-of-Trainers (ToT) sessions, empowering trainers to deliver further cascade training to additional professional groups.

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CURRICULUM FOR THE TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Course Title: Training Programme on European Standards on Access to Information in the Context of Freedom of Expression

Duration: 2 Days,

Format: In-Person Training.

Target Audience: The curriculum is developed for three distinct 2-day training programs, each organised into modular structures for three different groups:

1. Legal professionals (judges, prosecutors, lawyers, and others).
2. Civil servants and other professionals mandated to provide access to information.
3. Journalists and other media professionals, opinion leaders, civic activists, etc., who act as public watchdogs.

The training is designed with a dual-structured approach, covering both international standards and national regulations to provide a comprehensive understanding of access to information rights in the context of freedom of expression. This structure ensures that participants gain insight into global best practices while also understanding how these principles align with and are implemented within their own country's legal framework. To achieve this goal effectively, the training requires the expertise of two trainers: one with specialised knowledge of international standards and ECtHR case law, and another with expertise in the specific national legislation and practices of the country where the training is conducted. This dual-trainer system facilitates a balanced, contextual learning experience for participants.

→ Objectives and Purpose of the Training

The Training Programme on European Standards on Access to Information in the Context of Freedom of Expression is designed to accommodate three distinct professional groups: legal professionals, civil servants, and journalists/media professionals. Each group has unique responsibilities related to access to information, requiring tailored learning objectives and methodologies. By tailoring the training to their specific legal, administrative, and journalistic functions, participants will gain practical knowledge and actionable skills to strengthen access to information as a fundamental right.

Group # 1 – Legal Professionals (Judges, Prosecutors, Lawyers)

Purpose of the Training

This training aims to provide judges, prosecutors, and lawyers with a strong legal foundation in European and international access to information standards. The course will focus on the interpretation and enforcement of these rights within national legal systems, ensuring that legal professionals can apply relevant case law, principles, and judicial oversight mechanisms effectively.

Objectives

By the end of this training, legal professionals will be able to:

- ▶ Understand international legal standards on access to information, including the European Convention on Human Rights (Article 10), Tromsø Convention, and Aarhus Convention.
- ▶ Analyse key case law from the European Court of Human Rights (ECtHR) related to freedom of expression and access to official information.
- ▶ Apply national legislation and evaluate its compliance with international standards on access to information.
- ▶ Apply legal tests to balance access to information and privacy rights.
- ▶ Enhance judicial reasoning in adjudicating disputes related to information access.
- ▶ Develop a unified judicial approach in handling access to information cases.

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Group #2 – Civil Servants (Public Officials and Information Officers)

Purpose of the Training

This training is designed for civil servants responsible for handling public information requests. The programme focuses on enhancing transparency and accountability by ensuring that officials understand legal obligations, best practices, and implementation strategies for access to information.

Objectives

By the end of this training, civil servants will be able to:

- ▶ Understand the legal framework governing access to official documents under international agreements and national laws.
- ▶ Apply best practices for processing information requests, including timely responses, proactive disclosure, and handling refusals correctly.
- ▶ Balance transparency with legal limitations, such as privacy, national security, and commercial confidentiality.
- ▶ Develop structured document management systems to facilitate access to public records.
- ▶ Apply legal tests to balance access to information and other rights when deciding on information requests.
- ▶ Improve interactions with journalists and civil society organizations to promote openness.

Group #3 – Journalists, Media Professionals, Opinion Leaders, and Civic Activists

Purpose of the Training

This training is tailored for journalists, civic activists, and media professionals who act as public watchdogs. The goal is to equip them with the tools to access and use official information for investigative reporting, advocacy, and public interest journalism.

Objectives

By the end of this training, journalists and media professionals will be able to:

- ▶ Understand their rights to access information under international and national frameworks.
- ▶ Effectively use legal instruments to request public documents.
- ▶ Draft successful information requests and appeals in case of refusals.
- ▶ Balance the right to information with privacy laws, especially when reporting on public figures.
- ▶ Analyse case law where courts have ruled on the balance between press freedom and privacy.
- ▶ Use public interest arguments to challenge government refusals of official information.
- ▶ Work collaboratively with responsible officials and oversight bodies, such as Information Commissioners, to defend press freedom.

→ Outputs

This training programme is designed to provide practical skills and legal knowledge that participants can immediately apply in their professional roles. It empowers professionals to protect, apply, and promote access to information rights, leading to more transparent governance by strengthening government openness and accountability. It also provides stronger legal protection by ensuring that courts and officials uphold international and national transparency standards. Additionally, it contributes to a well-informed public by enhancing journalism, activism, and legal advocacy for democratic participation.

Each group, legal professionals, civil servants, and journalists/media professionals will gain tools to enhance transparency, accountability, and good governance in their work, namely:

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For the Group #1 – Legal Professionals (Judges, Prosecutors, Lawyers)

Consistent legal interpretations will help ensure a unified judicial approach in ruling on access to information cases, reducing contradictions in court decisions. This training is important for legal professionals and the public because it upholds the rule of law by ensuring courts protect the right to access information. It strengthens accountability by enabling legal professionals to hold public authorities responsible for transparency violations. Additionally, it promotes fairness by helping courts balance privacy rights and the right to information in judicial rulings.

- ▶ Judges and prosecutors will learn how to interpret and apply international and national laws related to access to information.
- ▶ Lawyers will gain skills to challenge government refusals of information and strengthen legal arguments in court cases.
- ▶ Legal professionals will learn how to apply legal tests to balance information access with privacy and security concerns.

For the Group #2 – Civil Servants (Civil servants and other professionals mandated to provide access to information)

This training is important for civil servants and the public because it promotes the best practices in providing citizens with timely and trustworthy information and encourages proactive transparency by teaching government officials how to reduce the need for formal requests and minimise delays. It also improves trust in government by ensuring that information requests are handled fairly and efficiently, helping to build public confidence in government transparency.

- ▶ Civil servants and other professionals mandated to provide access to information will learn how to process requests properly and avoid legal disputes.
- ▶ Civil servants will avoid mistakes when granting or refusing access to official documents and will learn how to store and organise official documents, ensuring easy access.
- ▶ Training will enhance communication between the civil servants and media, training how to respond to journalists, NGOs, and citizens professionally and lawfully.

For the Group #3 – Journalists, Media Professionals, Opinion Leaders, and Civic Activists

This training is important for journalists, media professionals, opinion leaders and civic activists, because it promotes public awareness by enabling journalists to provide accurate information, helping citizens make informed decisions in democratic processes. It also ensures accurate reporting by promoting access to reliable official information, which helps prevent misinformation and bias. Additionally, it holds governments accountable, as journalists play a key role in exposing corruption, mismanagement, and human rights violations.

- ▶ Journalists, media professionals, opinion leaders, civic activists, who act as public watchdogs will learn how to submit effective requests and challenge denials.
- ▶ They will gain legal knowledge in using official documents as evidence in journalism to ensure more powerful investigative reporting
- ▶ Journalists will learn how to defend press freedom and challenge government secrecy and how to seek legal support in freedom of information cases.

For Group #1 (legal professionals), the training methodology emphasises briefings, presentations, group discussions, and case law analysis to build a strong foundation in relevant legal principles and precedents. This approach is designed to help legal professionals develop a comprehensive understanding of judicial interpretations and applications of access to information and freedom of expression standards.

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In contrast, Groups #2 (civil servants) and #3 (journalists and media professionals) focus more on interactive exercises, such as collaborative learning, problem-based facilitated discussions, workshops, and brainstorming sessions, enabling participants to engage directly with practical scenarios and collaboratively explore solutions to real-world challenges they might encounter in their roles. This tailored approach ensures each group gains skills relevant to their specific responsibilities.

The curriculum can be used as well for Training-of-Trainers (ToT) sessions, and these trainers can then be further engaged in cascade training for the above-listed professionals.

→ Training structure for the Group #1 – Legal professionals

Day 1: International Standards and Legal Framework

► Pre-training survey (15 min)

Objective: Assess participants' baseline knowledge.

► Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)

Methodology: Ice-breaking interactive exercise, brainstorming, or group discussion on the importance of access to official information.

► Session 2: Evolution of international standards in access to official information as the component of freedom of expression (1 hour)

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

► Session 3: Access to official information – criteria in ECHR case law (1.5 hours)

Sub-session 3.1.: Access to Information as the component of freedom of expression under the European Convention on Human Rights (ECHR), Article 10 and the relevant case law.

Methodology: Briefing session, PowerPoint presentation, and group discussion.

Sub-session 3.2.: Case study – *Magyar Helsinki Bizottság v. Hungary*, the European Court of Human Rights (ECtHR) criteria for protecting access to information as the component of freedom of expression.

Methodology: Case study and facilitated discussion.

► Session 4: Principles and standards of Aarhus and Tromsø Conventions (1.5 hours)

Sub-session 4.1.: Key principles and standards of the Aarhus and Tromsø Conventions.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 4.2.: Implementation of Aarhus and Tromsø Conventions – equal access to information and support for applicants.

Methodology: Interactive exercises: problem-based facilitated discussion and collaborative learning.

► Session 5: Limitation of access to information (1.5 hours)

Sub-session 5.1.: Limitations of access to official documents under the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Documents (Article 3) – three-part test, harm test and public interest test.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 5.2.: Group activity on analysing legitimate interests for limitation of access to official information under the European Convention on Human Rights and the Council of Europe Convention on Access to Official Documents (Tromsø Convention).

Methodology: Interactive exercises: written group activity with a spokesperson (case study analysis).

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Day 2: Domestic Regulations and Implementation

► **Session 6: Compliance of national legislation with international standards (1.5 hours)**

Sub-session 6.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 6.2.: Group exercise in small groups to analyse a selection of typical domestic court cases.

Methodology: A case study in small groups and facilitated discussion.

► **Session 7: Public interest test and limitations under the national legislation (1.5 hours)**

Sub-session 7.1.: Public interest test and limitations on access to information under the national regulations.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 7.2.: Group exercise on legal grounds for restricting access based on the relevant case law.

Methodology: Interactive exercises: Exercise in small or large groups and facilitated discussion.

► **Session 8: Oversight and control mechanisms (1.5 hours)**

Sub-session 8.1.: Overview of international approaches to oversight (Information Commissioners, Ombudsman, courts).

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 8.2.: National oversight mechanisms and the relevant court practice.

Methodology: Interactive exercises: collaborative learning and problem-based facilitated discussions.

► **Session 9: Evaluation and wrap-up**

Sub-session 9.1.: Multiple-choice test /evaluation

Sub-session 9.2.: Feedback and certificate awarding.

The training programme focuses on European standards on access to official information in the context of freedom of expression, adhering to the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Information (Tromsø Convention) standards, with implications for the national legislation of the country of training. The curriculum covers international standards, principles of key conventions, case law, and domestic legislation and administrative practice. It emphasises interactive and participatory learning approaches to enhance participants' understanding and capacity to handle official information access and protection.

A unique characteristic of the programme for legal professionals is its emphasis on real court case studies. Participants will closely examine cases from both the European Court of Human Rights (ECtHR) and national courts, enabling a deep understanding of legal precedents. This focus aims to help legal professionals develop a unified approach to judicial and law enforcement practices regarding access to information and freedom of expression.

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→ Training structure for the Group #2 – Civil servants

Day 1: International Standards and Domestic Legal Framework

- ▶ **Pre-training survey (15 min)**

Objective: Assess participants' baseline knowledge.

- ▶ **Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)**

Methodology: Ice-breaking interactive exercise, brainstorming, or group discussion on the importance of access to official information.

- ▶ **Session 2: Overview of international standards on access to official information (1 hour)**

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

- ▶ **Session 3: Balancing access to official information and other legitimate interests – ECtHR criteria (1.5 hours)**

Sub-session 3.1.: Public interest tests for balancing access to official information and other legitimate interests

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 3.2.: Case study and group activity.

Methodology: Interactive exercises: case study and written group activity with a spokesperson (case study analysis).

- ▶ **Session 4: Main provisions of the Aarhus and Tromsø Conventions and their application in the duties of civil servants (1.5 hours)**

Sub-session 4.1.: Key principles and standards of the Aarhus and Tromsø Convention.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 4.2.: Implementation of Aarhus and Tromsø Conventions – equal access to information and support for applicants.

Methodology: Interactive exercises: problem-based facilitated discussion and collaborative learning.

- ▶ **Session 5: Application of international standards in national legislation (1.5 hours)**

Sub-session 5.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 5.2.: Facilitated discussion on instruments to access official information under national legislation (access via information request, proactive publication obligations, rules on re-use of official information).

Methodology: Case study in small groups and facilitated discussion.

Day 2: Practical Implementation

- ▶ **Session 6: Managing official information and structuring responsibilities within state authorities (1.5 hours)**

Sub-session 6.1.: Effective management of official information within the state authority.

Methodology: Briefing session and facilitated discussion.

Sub-session 6.2.: Obligations of the responsible official under the national legislation.

Methodology: Interactive exercises: collaborative learning and brainstorming session.

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► **Session 7: Workshop on preparing the reply to the request (1.5 hours)**

Methodology: Workshop on preparing the reply to the request for official information (small group exercise and peer review).

► **Session 8: Oversight and implementation at the national level (1.5 hours)**

Sub-session 8.1.: National oversight mechanisms and the relevant court practice.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 8.2.: Monitoring, cooperation with civil society and journalists, education and awareness-raising – best practices.

Methodology: Facilitated discussion.

► **Session 9: Evaluation and wrap-up**

Sub-session 9.1.: Multiple-choice test /evaluation

Sub-session 9.2.: Feedback and certificate awarding.

This training programme is tailored for civil servants and other professionals responsible for providing access to information. It focuses on the practical application of European standards, including the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Documents (Tromsø Convention), as well as national legislation relevant to their daily responsibilities. The programme incorporates real-life case studies and exercises to clarify the public interest test, document management tools, and oversight practices. Additionally, it provides practical training for processing information requests and encourages collaboration with civil society and journalists to enhance transparency and build public trust.

➔ **Training structure for the Group #3 – Journalists and other media professionals**

Day 1: International Standards and Domestic Legal Framework

► **Pre-training survey (15 min)**

Objective: Assess participants' baseline knowledge using.

► **Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)**

Methodology: Ice-breaking interactive exercise, brainstorming, or group discussion on the importance of access to official information.

► **Session 2: Overview of international agreements on access to official information (1 hour)**

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

► **Session 3: Main provisions of the Aarhus and Tromsø Conventions as the instrument for Journalists and other media professionals (1.5 hours)**

Sub-session 3.1.: Key principles and standards of the Aarhus and Tromsø Convention.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 3.2.: Case study and group activity.

Methodology: Interactive exercises: case study and written group activity with a spokesperson (case study analysis).

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► **Session 4: Overview of possible limitations on access to information (1.5 hours)**

Sub-session 4.1.: Public interest tests for balancing access to official information and other legitimate interests.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 4.1.: Case study and facilitated discussion based on the European Court of Human Rights (ECtHR) case law.

Methodology: Collaborative learning, case study, and facilitated discussion

► **Session 5: Respect for private life and access to information (1.5 hours)**

Sub-session 5.1.: Public figures and access to information – European Court of Human Rights criteria.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 5.2.: Examination of landmark national cases where the court balances privacy rights against public interest.

Methodology: Collaborative learning, case study and facilitated discussion

Day 2: Practical Implementation

► **Session 6: Application of international standards in national legislation (1.5 hours)**

Sub-session 6.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 6.2.: Facilitated discussion on instruments to access official information under national legislation, challenges, and needs among media professionals.

Methodology: A case study in small groups and facilitated discussion.

► **Session 7: Guidelines for Writing a Successful Information Request (1.5 hours)**

Workshop Practicum on writing the request for official information (small group exercise and peer review).

► **Session 8: National oversight mechanisms and strategies for defending the right to access official information (1.5 hours)**

Sub-session 8.1.: National oversight mechanisms and the relevant court practice.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Sub-session 8.2.: Collaborative learning exercise on drafting an appeal for media professionals after a denial of an official information request.

Methodology: Practicum and facilitated discussion.

► **Session 9: Evaluation and wrap-up**

Sub-session 9.1.: Multiple-choice test /evaluation

Sub-session 9.2.: Feedback and certificate awarding.

This programme is specifically designed for journalists and media professionals, opinion leaders, civic activists, etc., who act as public watchdogs. It focuses on the practical application of international and national standards to access official information essential for media reporting. It covers key skills such as making effective information requests, understanding privacy boundaries related to public figures, and protecting their right to access official information. The programme also highlights the relevance of public interest test assessment to equip media professionals with tools to protect and exercise their right to information.

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Guide for Trainers

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NOTE FOR TRAINERS – “ACCESS TO INFORMATION: THE CORNERSTONE OF DEMOCRACY AND FREEDOM OF EXPRESSION”

Introduction to Access to Information – A Key Instrument for Government Transparency and Freedom of Expression

Access to information is a cornerstone of democracy and a necessary component of freedom of expression. It plays a vital role in enabling informed participation, ensuring accountability, fostering transparency, and facilitating public engagement in democratic processes. Without access to accurate and timely information, the principles of democracy would be undermined, and citizens' ability to exercise their rights effectively would be diminished.

Freedom of expression and access to information are deeply intertwined. Freedom of expression encompasses the right to seek, receive, and impart information and ideas of all kinds. This connection highlights that access to information is not merely a passive right but an active component of the broader right to express oneself.

Access to Information and Its Role in Democracy

Informed citizenry and participation

At the core of any democracy is the active participation of its citizens. Participation requires access to information that helps individuals understand policies, laws, and the actions of their representatives. By providing accurate and timely data, access to information empowers citizens to make informed decisions during elections, engage in discussions about public issues, and advocate for change.

An informed citizenry can challenge misinformation and propaganda that distort public discourse. Without reliable information, citizens risk making decisions based on incomplete or misleading data. Therefore, access to information ensures that democratic processes are participatory and grounded in reality and knowledge.

Accountability and oversight

Accountability is a cornerstone of democracy, requiring those in power to answer for their decisions and actions. When decision-making processes are open and subject to public scrutiny, citizens can monitor their governments effectively. This transparency prevents unethical practices and builds trust between citizens and their representatives, strengthening the social contract that underpins democratic governance.

Laws on access to official information, as well as the Council of Europe Convention on Access to Official Documents (Tromsø Convention), empower citizens and civil society organizations to request information from government bodies. This legal framework enables public oversight of government policies, budgets, and decisions, helping reveal maladministration, corruption, or abuse of power.

Protection of rights

Access to information is essential for safeguarding and promoting human rights. Knowledge of one's rights and the mechanisms to uphold them is a prerequisite for exercising those rights effectively.

Knowledge gained through access to information enhances individuals' capacity to express themselves in various ways. Whether through art, writing, public speaking, or activism, access to information provides the foundation for creativity and advocacy. It allows individuals to contribute to cultural and intellectual life, driving progress and innovation.

Thus, access to information is a basis of democracy and a fundamental component of freedom of expression. Without access to accurate and timely information, democratic principles are weakened, and citizens' ability to exercise their rights effectively is diminished.

Access to information fuels open dialogue and debate, which are essential components of freedom of expression. Informed discussions, whether in public forums, the media, or online platforms, depend on accurate and diverse information availability.

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Freedom of expression and its link to the right to access information

Freedom to receive and impart information

Article 10 of the European Convention on Human Rights protects the right to freedom of expression, which includes the right to receive and impart information and ideas. The European Court of Human Rights has reinforced this principle through its case law, emphasizing the essential role access to information plays in ensuring informed public participation.

For example, in *Magyar Helsinki Bizottság v. Hungary*, the European Court of Human Rights recognized that Article 10 encompasses a right of access to information where access is instrumental for exercising freedom of expression, particularly for matters of public interest. This principle empowers citizens to understand policies, evaluate governance, and engage meaningfully in political and social discussions. Without such access, citizens risk being misled by misinformation and propaganda, undermining the democratic process.

In *Társaság a Szabadságjogokért v. Hungary*, the ECtHR clarified that access to public information is fundamental to the exercise of freedom of expression, particularly when it facilitates public debate on matters of general interest. By guaranteeing access to information, individuals and organizations can make informed decisions, engage in meaningful discussions, and advocate for change, extending democratic participation beyond voting to active engagement in civic life.

Countering Censorship

Ensuring access to information is a critical tool for countering censorship. Censorship poses a significant threat to access to information and freedom of expression, rights enshrined in Article 10 of the European Convention on Human Rights.

Providing citizens with reliable sources of knowledge enables them to engage in informed public discourse. The European Court of Human Rights has mentioned this in cases such as *Observer and Guardian v. United Kingdom*, highlighting the importance of unrestricted access to information for a pluralistic and democratic society. The Court ruled that restrictions must meet strict legal criteria, including being necessary in a democratic society and proportionate to the legitimate aim pursued.

Empowering journalistic freedom

Access to information is essential for journalists' work, as journalists rely on access to government records, public data, and other sources of information to report on issues of public interest. When journalists are denied access to information, their ability to report accurately and comprehensively is compromised. This, in turn, limits the public's ability to stay informed and weakens the overall quality of democratic discourse.

By making critical information available to the public, journalists empower citizens to demand accountability and change. The European Court of Human Rights case law, including *Magyar Helsinki Bizottság v. Hungary*, affirms that access to information is a right in itself and a means to exercise freedom of expression effectively. The Court highlighted that withholding information, particularly from watchdogs like the press and civil society organizations, risks eroding these groups' ability to fulfil their essential democratic role.

Thus, access to information is a fundamental right protected under the European Convention on Human Rights and reinforced by the European Court of Human Rights case law. It is essential for informed participation, ensuring accountability, protecting rights, and fostering transparency. Landmark cases such as *Magyar Helsinki Bizottság v. Hungary*, *Társaság a Szabadságjogokért v. Hungary*, *Observer and Guardian v. United Kingdom*, *Guerra and Others v. Italy*, and many others demonstrate how access to information is vital for democracy and the protection of human rights. Access to information is not just a technical requirement of democracy. Its connection to freedom of expression ensures it is a fundamental right that underpins the principles of accountability, transparency, and participation.

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GUIDE FOR TRAINERS – TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

1. Introduction

This guide is designed for trainers conducting a three-segment course on European Standards on Access to Information in the context of Freedom of Expression, based on the Council of Europe conventions and practice of their implementation, namely Article 10 of the European Convention on Human Rights (ECHR) and the Council of Europe Convention on Access to Official Documents (Tromsø Convention) as well as other related frameworks.

1.1. Purpose and objectives of the training

This training aims to empower legal professionals, civil servants, and media professionals to apply access to information laws and ensure compliance with the best European standards. It also focuses on equipping participants with essential knowledge, practical skills, and a commitment to ethical principles in managing access to information as a component of freedom of expression. By enhancing transparency and accountability, the programme supports both personal development and organisational objectives, aligning participants' competencies with their professional goals.

The training for all the target groups seeks to:

1. *Foster professional development* by ensuring that participants are up to date on the European and international frameworks for access to information and freedom of expression.
2. *Equip participants with practical tools* to manage public information, navigate restrictions, and report on topics of public interest in compliance with access to information and freedom of expression standards.
3. *Cultivate ethical attitudes* by encouraging proactive and ethical management of public information as well as ensuring freedom of expression.

1.2. Target groups

The course is intended for:

- ▶ *Legal professionals (Group #1)*: judges, prosecutors, lawyers.
- ▶ *Civil servants (Group #2)*: personnel responsible for managing and providing access to official information.
- ▶ *Media professionals (Group #3)*: journalists, opinion leaders, and civic activists advocating for transparency.

Each group receives targeted curriculum and content tailored to their specific roles and responsibilities in promoting and upholding access to information rights, ensuring relevance and engagement.

2. Training methodology for the course

The training is structured with a **dual approach, addressing both international standards and national regulations** to offer a thorough understanding of access to information rights. This design allows participants to gain insights into global best practices while understanding how these principles align with and are applied within their country's legal framework.

To effectively achieve this integration, the training employs two trainers: one – with expertise in international standards and case law, and another – specialised in the national legislation and practices of the host country. This dual-trainer setup ensures that participants receive a balanced, contextual learning experience.

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For Group #1 (legal professionals), the training focuses on briefings and presentations, providing a detailed analysis of case law to provide a solid foundation in relevant legal principles and precedents. This approach is intended to help legal professionals gain a deep understanding of judicial interpretations and applications of access to information standards.

In contrast, the curriculum for Groups #2 (civil servants) and #3 (journalists and media professionals) focuses on practicums and interactive discussions, allowing participants to engage in practical scenarios and collaboratively explore solutions to real-world challenges they may encounter in their roles. This tailored methodology equips each group with skills that are directly relevant to their responsibilities.

The course content and methodology are tailored to participants' specific roles and responsibilities, with adjustments made for different groups. This ensures the training is relevant and the learning objectives are effectively met. A training programme on European standards on access to information in the context of freedom of expression should strike a balance between depth and reflection. It should be stimulating and challenging without overloading participants while also allowing sufficient time for them to absorb and reflect on the material.

In addition to knowledge transfer, the programme emphasises two core areas:

- ▶ *Skill-building:* Through practical exercises, participants will develop the skills necessary to manage information requests effectively, ensure compliance with access to information laws, and report on topics of public interest.
- ▶ *Attitude-shifting:* the training fosters a mindset that values transparency and ethical responsibility, encouraging participants to approach openness and accountability with respect to protecting other legitimate interests.

By utilising this balanced methodology, the course ensures that participants are actively involved, well-equipped to handle tasks related to access to information as the component of freedom of expression and motivated to adopt a culture of transparency in their professional roles.

3. Teaching techniques

The course employs a blended interactive methodology to foster active learning and engagement, including:

- ▶ **Briefings and presentations** to deliver foundational knowledge on legal frameworks for access to information and European Court of Human Rights (ECtHR) case law.
- ▶ **Case studies** illustrating real-world applications of access to information and freedom of expression principles.
- ▶ **Interactive exercises**, such as collaborative learning, problem-based facilitated discussions, and brainstorming sessions, allow participants to apply learning in practical scenarios, enhance their competency in managing information requests, and help them adhere to legal limitations.
- ▶ **Workshops**, designed to provide hands-on practice in essential skills like drafting responses to information requests, conducting case analyses, and navigating legal challenges. These activities build practical skills such as effective communication, negotiation, and advocacy in realistic and controlled environments.
- ▶ **Group discussions (in small and large groups) and facilitated debates** to encourage dialogue, enabling participants to explore diverse perspectives and practical solutions.

The curriculum's handouts and supporting materials, such as references to ECtHR case law and elements of soft law, are designed to equip trainers with the tools to respond to participant questions and foster engagement effectively. Trainers should frequently pause during sessions to solicit feedback, clarify points, and ensure participants remain actively involved. Ample time must be allocated for questions and contributions, both during and after presentations. Techniques such as small group discussions can ensure that all participants can share their perspectives and engage meaningfully in the learning process.

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While the template PowerPoint presentations provided with this curriculum do not include pre-set pauses, trainers are encouraged to “read the room” and create natural breaks for questions or feedback as needed. If participants are hesitant to speak, breaking them into small groups to discuss their reactions and feedback can be an effective way to stimulate dialogue and ensure that all voices are heard.

To ensure the training achieves its maximum impact, trainers must adhere closely to the interactive, experiential, and peer-learning methodology outlined in this curriculum. While briefings and presentations are essential for delivering foundational knowledge, trainers should place equal emphasis on guiding interactive elements such as group discussions, exercises, and case studies. Merely delivering lectures without active involvement in the participatory aspects of the training can limit its effectiveness. Common mistakes include trainers disengaging during group activities, failing to participate in discussions, or avoiding challenging conversations that may arise. The trainers should encourage them to deepen participants’ understanding because these exercises often present the greatest opportunities for learning.

This curriculum integrates various interactive learning techniques and emphasises peer learning, recognising that participants are highly qualified professionals with extensive expertise across various fields. The interactive methodology enhances comprehension, retention, and practical application of knowledge for all the target groups. Interactive methods promote active engagement, critical thinking, and collaboration, all of which are vital for mastering legal principles and practices.

3.1. Briefings and presentations play a crucial role in establishing the foundational knowledge necessary for understanding the legal and procedural frameworks of access to information and freedom of expression. These sessions are designed to provide participants with clear, concise, and structured overviews of key concepts, including relevant legal frameworks such as the European Convention on Human Rights (ECHR), the Tromsø Convention, and significant European Court of Human Rights (ECtHR) case law. By presenting complex legal principles in an accessible format, briefings help participants quickly grasp essential information and build a solid knowledge base. Presentations also allow trainers to highlight practical applications of these principles, connecting theory to real-world scenarios. Interactive elements, such as Q&A sessions and live polling, can be incorporated into briefings and presentations to enhance engagement and ensure that participants can clarify doubts and apply the concepts to their professional contexts.

3.2. Case studies involve analysing real or hypothetical legal cases, requiring participants to apply legal reasoning and principles to resolve the issues at hand. This approach reflects legal professionals’ real-life challenges, making the learning process both relevant and practical. It encourages critical thinking, fact analysis, and the exploration of multiple perspectives, culminating in well-reasoned conclusions. The method also fosters discussion and debate, enriching participants’ understanding through peer interaction.

3.3. Interactive exercises, such as collaborative learning, problem-based facilitated discussions, and brainstorming sessions, emphasise teamwork and peer-to-peer engagement. It enables participants to share knowledge, challenge ideas, and collaboratively develop solutions, fostering a dynamic learning environment.

3.3.1. Collaborative learning as interactive exercises emphasises teamwork and peer-to-peer engagement, allowing participants to share knowledge, challenge ideas, and collaboratively develop solutions. For legal professionals, this mirrors the cooperative nature of legal practice, where working alongside colleagues and experts is often necessary. This method improves learning outcomes and fosters a sense of community and mutual support among participants.

3.3.2. Problem-based facilitated discussions are an important interactive learning tool, designed to engage participants in addressing complex, real-world challenges. In these sessions, participants are presented with a specific legal or procedural problem related to access to information, often reflecting the kinds of issues they encounter in their professional roles. The facilitator’s role is to guide participants through the problem-solving process, encouraging them to analyse the issue critically, explore multiple perspectives, and collaboratively develop practical solutions. By framing the problem in a way that fosters open dialogue and debate, facilitators create an environment where participants refine their critical thinking and problem-solving skills and enhance their ability to work collaboratively in real-world contexts. This method ensures that learning is both practical and directly applicable, bridging the gap between theory and practice.

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3.3.3. Brainstorming sessions are integrated to enrich problem-based discussions further, encouraging participants to think creatively and propose innovative solutions. During brainstorming, participants can generate ideas without fear of immediate critique, creating an open and supportive atmosphere. This technique fosters a sense of shared purpose and drives the group toward collective problem-solving. By combining brainstorming with structured problem-solving, participants enhance both their analytical and creative abilities, gaining practical skills that are directly applicable to their professional contexts. This holistic approach ensures that learning is collaborative, dynamic, and deeply impactful.

3.4. Workshops enable participants to practice their skills in dynamic and applied settings. These sessions often simulate tasks such as processing complex information requests, drafting legal opinions, or participating in mock court proceedings. They develop crucial practical skills like attention to detail, logical reasoning, and strategic thinking. Additionally, workshops provide immediate feedback, helping participants refine their approaches and build confidence in their abilities.

3.5. Group discussions and facilitated debates are essential tools in this training methodology, designed to encourage active engagement and the exchange of diverse perspectives. These methods allow participants to apply and validate newly acquired knowledge, ensuring that concepts are more likely to be retained and effectively implemented in their professional contexts. The training frequently employs small group discussions and larger group debates, each serving a distinct purpose and requiring specific facilitation techniques.

Small group discussions are particularly effective for fostering engagement, as they allow every participant to be actively involved. Unlike large group settings, small groups create an inclusive environment that encourages equal participation. To ensure the success of small group discussions, trainers must carefully prepare and manage the process. Clear instructions should be provided, including the discussion topic, time limits, and the role of the group speaker, who will present the group's findings to the larger group. Trainers should circulate among the groups to clarify questions, offer guidance, and keep the discussions focused, avoiding the temptation to dominate or direct the conversation. During the reporting-back phase, the group speaker shares the discussion outcomes with the larger audience. Trainers should encourage speakers to build on what previous groups have said to avoid repetition and ensure a dynamic and evolving discussion. Trainers should also vary the composition of small groups across different activities to expose participants to a wider range of perspectives.

Large group discussions, guided by the trainer, provide a platform for participants to share their insights and opinions on a broader scale. These discussions can be challenging to manage but are highly effective when facilitated with care. Trainers should ensure that all participants who wish to contribute are allowed to speak, while gently preventing any individual from dominating the conversation. To keep discussions focused and productive, trainers should redirect conversations that stray off-topic and subtly address any participants who may be disengaged or disruptive.

Throughout both small and large group discussions, the trainer plays a crucial role in maintaining an open and inclusive environment. By carefully listening, rephrasing statements for clarity, and summarising key points without overshadowing participants' contributions, trainers can foster a sense of respect and engagement.

The **curriculum is primarily designed for face-to-face delivery**, which offers distinct advantages over online teaching. In-person instruction fosters deeper engagement, personal connection, and a more dynamic learning experience. Immediate interaction between instructors and participants encourages spontaneous discussion, real-time feedback, and rich exchanges of ideas. Trainers can better gauge participants' comprehension through non-verbal cues like body language and facial expressions, adapting their teaching accordingly.

While the **curriculum can be delivered online**, trainers must address its limitations by employing strategies to maintain engagement. Encouraging active participation, soliciting feedback, and fostering discussion are crucial. Tools such as **virtual breakout rooms, polls, online quizzes, and chat functions**, available in most video conferencing platforms, should be utilised to create an interactive and engaging online learning environment. These measures ensure that the core objectives of the curriculum are met, regardless of the delivery format.

Furthermore, **the curriculum is designed to support Training-of-Trainers (ToT) sessions**, enabling trainers to conduct further cascade training for these professional groups.

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4. Role and Responsibilities of Trainers

The trainer's role is critical in facilitating an impactful learning experience that balances knowledge gaining, skill development, and the fostering of positive attitudes. Trainers should recognise the value of access to information as a human right and a component of freedom of expression, tailor content to participants' backgrounds and knowledge levels while considering adult learners' experiences, and create an inclusive environment where participants feel comfortable sharing and discussing challenges. To fulfil this role successfully, the trainer should consider the following key factors:

1. *Recognising the importance of the right to access information as a universal right and as a component of freedom of expression.* Beyond imparting knowledge and skills, the trainer should also influence participants' attitudes, encouraging them to embrace transparency and accountability as core values in their professional roles.
2. *Facilitating knowledge and skills,* having the trainer's primary responsibility to ensure that participants fully understand access to information concepts, including the legal framework, practical implications, and ethical responsibilities.
3. *Tailoring the approach* to understand the participants' background and existing knowledge. This enables the trainer to adjust the depth of content, tailor the approach to the group, and ensure that the information is relevant to their specific needs.
4. *Understanding adult learners,* keeping in mind that adult learners are generally self-directed and more motivated when the content is relevant and meaningful to their roles. To engage participants, it's crucial to present access to information concepts that align with their specific responsibilities, ensuring that the information is practical and directly applicable to their work.
5. *Adjusting training environment and methods* to the participants' life experience to enrich learning. Incorporating case studies is an effective way to bring the subject to life. For instance, discussing real-world scenarios, such as how legal professionals or civil servants manage information requests and handle restrictions, makes the training more memorable and impactful.

4.1. Collaborative Approach

The two trainers collaborate to ensure the training is comprehensive, relevant, and tailored to participants' diverse needs. By combining their international and domestic expertise, they deliver a well-rounded learning experience that is both globally informed and locally applicable.

During sessions on international and national standards, the international trainer provides a global perspective, while the national trainer facilitates discussion on local implications, ensuring participants understand both the overarching principles and their local relevance. The trainers are expected to facilitate a meaningful learning experience by adapting the content and approach to the specific needs of each group, whether they are legal professionals, civil servants, or media representatives. This dual-trainer approach ensures that participants understand international best practices and how to implement these standards effectively within the domestic legal and institutional context.

4.2. Key Responsibilities for Both Trainers

Working together, the two trainers:

- ▶ *address performance gaps* and help participants develop the necessary skills to effectively align international and national standards while promoting a culture of transparency and accountability, fostering positive attitudes toward proactive information sharing;
- ▶ *support professional growth* by keeping participants informed on access to information frameworks globally and locally, ensuring they are equipped to navigate both contexts;
- ▶ *provide practical tools* by equipping participants with strategies, discussing examples, and brainstorming ideas for handling ATI requests, managing legal restrictions, and reporting on topics of public interest within both international and domestic frameworks.

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4.3. Requirements for Trainers

To effectively deliver the training, two trainers with complementary expertise are required: one with an international background in ATI laws and standards and another with a domestic focus, well-versed in local legislation and practical applications. Together, they provide a balanced and comprehensive training experience, ensuring that participants gain both global insights and relevant local knowledge.

Trainer 1: International Expertise

This trainer should possess:

1. In-depth knowledge of international standards, expertise in European and international legal frameworks of access to information and freedom of expression, including conventions such as the European Convention on Human Rights (ECHR), the Tromsø Convention, and other global standards.
2. Experience in multinational contexts and proven experience working with access to information policies in different countries, focusing on how international standards are applied and enforced across various legal systems.
3. Ability to provide international case studies that highlight best practices, challenges, and successes in implementing access to information laws in the European context and globally.
4. Facilitating knowledge transfer and skill building, ensuring that participants understand how international standards align with domestic practices.

Trainer 2: Domestic Expertise

This trainer should have:

1. Understanding of national access to information and freedom of expression legislation, expertise in the regulations, and how they are applied in practice, ensuring participants are equipped to comply with national legal requirements.
2. Expertise in domestic institutions competence and experience working with or within local public institutions and civil society organisations, offering real-world insights into how access to information requests are processed, managed, and fulfilled at the domestic level.
3. Ability to provide local context to present local case studies that illustrate the practical application of domestic law on access to information within the national legal, political, and cultural landscape. The trainer should concentrate on practical applications, guiding participants in exercises that align with local legislation.

4.4. Planning the training:

Before conducting the training for a particular target group, trainers should:

- ▶ Review international and national laws related to access to information and update their knowledge in case law of the European Court of Human Rights (ECtHR) concerning access to information and freedom of expression.
- ▶ Prepare slides, handouts, and group exercise materials.
- ▶ Ensure all logistical requirements (e.g., flipcharts, projectors, internet access) are met.

Logistic Requirements

- ▶ Training room with adequate seating for group exercises (several rooms for the small group exercise if needed).
- ▶ Laptop and projector for presentations.
- ▶ Flipchart paper and markers for group activities.
- ▶ Printed handouts for participants.
- ▶ Internet connection for accessing online tools and resources.

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5. Course Structure

This course is structured as a two-day, modular training programme tailored for three distinct groups: legal professionals, civil servants, and journalists/media professionals. Each track combines international standards, such as the ICCPR, ECHR, Tromsø, and Aarhus Conventions, with national regulations, providing participants with knowledge on access to information rights in terms of freedom of expression.

The programme opens with a pre-training survey to gauge baseline knowledge, followed by sessions on the foundational role of access to information in government transparency. For legal professionals, the focus is on briefings, presentations, and case law analysis to enhance their understanding of judicial practices, while civil servants and media professionals engage more in practical exercises and group discussions, addressing real-world scenarios relevant to their roles. On the second day, the curriculum shifts toward national legislation and practical application, covering compliance, oversight mechanisms, and information processing standards. Interactive case studies, facilitated discussions, and workshops help participants apply theoretical knowledge practically. Each track concludes with an assessment, feedback collection, and certificate distribution, ensuring that participants leave with actionable skills tailored to their specific duties.

Each training's first day is organised into five sessions:

- ▶ Session 1 – introduction and discussion,
- ▶ Session 2 – evolution of European standards,
- ▶ Session 3 – ECtHR case law,
- ▶ Session 4 – standards of the Tromsø Convention,
- ▶ Session 5 – on limitations of access to information.

The second day consists of four sessions focused primarily on exploring national regulations and building practical skills, with session content tailored to the specific needs of each target group:

- ▶ Session 6 – overview of the domestic regulations,
- ▶ Session 7 – applying limitations, writing and processing requests under the domestic law,
- ▶ Session 8 – oversight and control,
- ▶ Session 9 – skill building.

This structure provides a general framework, with each session's content customised to meet the unique needs of each target group. While maintaining a consistent format, the training emphasises the topics most relevant to each audience.

The detailed structure of each training and list of sources and reference documents for each type of training as well as evaluation forms are added.

6. Flexibility for Training a Mixed Audience

Conducting training for a mixed audience of legal professionals, civil servants, and media representatives requires a balanced approach that serves their needs while fostering a shared understanding of core principles. Flexibility is essential to ensure that the training remains relevant, engaging, and effective for participants with diverse professional backgrounds and responsibilities.

In this case, the training should emphasise shared foundational knowledge about access to information as a human right under the European Convention on Human Rights and the Tromsø Convention, as well as its connection to freedom of expression. At the same time, it should delve into role-specific applications, addressing the legal, administrative, and journalistic dimensions of access to information.

Interactive methodologies, such as case studies, group discussions, and role-playing exercises, should be integrated to promote collaboration and mutual understanding among participants. This approach enhances individual learning and fosters an appreciation of how different roles intersect in the broader context of transparency, accountability, and freedom of expression.

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This flexible and inclusive approach provides a well-rounded training experience that equips participants with the knowledge, skills, and perspective needed to uphold access to information rights effectively within their roles and in collaboration with others. This method strengthens individual capacities and reinforces the collective commitment to promoting transparency, accountability, and ethical information management.

7. Suggested Questions for Participants and Answer Guidance for Trainers

To ensure engagement and critical thinking, trainers should encourage participants to reflect on key topics related to access to information, transparency, and freedom of expression. Below are sample questions along with guidance on how trainers can approach responses effectively for each participant group.

By integrating these questions and guidance into the training, participants will gain not only legal knowledge but also practical skills to apply access to information rights effectively in their professions. The examination on the following questions will:

- ▶ Encourage open discussions and use real-life case studies to make abstract legal concepts practical.
- ▶ Balance knowledge sharing with skill-building by using interactive activities, role-playing, and group exercises.
- ▶ Address challenges realistically, acknowledging that implementing access to information laws can be complex but is essential for accountability and good governance.
- ▶ Promote engagement between different professional groups, helping them understand each other's roles and foster collaboration in the broader transparency framework.

7.1. Questions for Legal Professionals (Judges, Prosecutors, Lawyers)

Questions:

- ▶ How does the European Court of Human Rights interpret access to information under Article 10 of the ECHR?
- ▶ What are the key legal instruments (tests) used to determine when access to information can be restricted?
- ▶ How should national courts balance access to official documents with the right to privacy under Article 8 of the ECHR?
- ▶ In what ways does the Tromsø Convention strengthen the legal right to access official documents?

Trainer's Answer Guidance:

- ▶ Explain that European Court of Human Rights case law (e.g., Magyar Helsinki Bizottság v. Hungary) has expanded Article 10 protections to cover access to official information when it serves public debate.
- ▶ Highlight that restrictions must be prescribed by law, necessary, and proportionate (Three-Part Test).
- ▶ Discuss balancing privacy rights (Article 8 ECHR) with transparency using real case examples.
- ▶ Emphasise that the Tromsø Convention provides a strong legal foundation for guaranteeing access to information across Europe.

7.2. Questions for Civil Servants (other professionals mandated to provide access to information)

Questions:

- ▶ What are the main legal obligations of public authorities under the Tromsø Convention regarding access to official documents?
- ▶ How can civil servants ensure that access to information requests are handled fairly and efficiently?
- ▶ What steps should public authorities take when denying access to a document to ensure compliance with the law?
- ▶ How can proactive transparency (publishing information in advance) improve governance and reduce the need for formal requests?

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Trainer's Answer Guidance:

- ▶ Explain that public authorities must respond to requests promptly and justify any refusals in clear, written explanations.
- ▶ Discuss best practices in document management, ensuring accessibility while respecting data protection laws.
- ▶ Guide participants on the importance of proactive disclosure, reducing administrative burdens and improving public trust.
- ▶ Highlight the role of Information Commissioners and Ombudsman institutions in resolving disputes and awareness raising.

7.3. Questions for Journalists, Media Professionals, and Civic Activists

Questions:

- ▶ How can journalists use access to information laws to enhance investigative reporting?
- ▶ What are the legal rights of journalists under the international agreements when requesting official documents?
- ▶ What are the legitimate grounds for denying access to information, and how can journalists challenge refusals?
- ▶ What role does public interest play in balancing freedom of expression with privacy concerns?

Trainer's Answer Guidance:

- ▶ Emphasise that journalists are public watchdogs, and their role in democracy is recognised by the European Court of Human Rights (*Magyar Helsinki Bizottság v. Hungary*).
- ▶ Explain that requests should be framed clearly and based on public interest to increase the likelihood of approval.
- ▶ Discuss when privacy outweighs public interest (e.g., personal medical records vs. corruption in public office).
- ▶ Encourage participants to use appeal mechanisms if information is unjustly withheld and refer to case law where journalists successfully challenged refusals.

7.4. General Questions for All Groups (Cross-Sectoral Discussions)

Questions:

- ▶ How do access to information rights contribute to democracy and accountability?
- ▶ What are the biggest barriers to ensuring full access to information in your country, and how can they be addressed?
- ▶ How can different professional sectors (legal, civil service, and media) work together to strengthen transparency?
- ▶ How does the balance between national security and transparency impact freedom of information laws?

Trainer's Answer Guidance:

- ▶ Encourage discussion on the role of access to information in fighting corruption, ensuring fair governance, and empowering citizens.
- ▶ Discuss practical solutions to common barriers such as slow response times, excessive bureaucracy, and legal loopholes.
- ▶ Promote cross-sector collaboration, explaining how judges, civil servants, and journalists each play a role in upholding transparency.
- ▶ Guide the discussion on national security concerns, showing how excessive secrecy can lead to human rights violations while justifiable limitations may sometimes be necessary.

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8. Fostering Open Discussion and Addressing Concerns About Misuse of Access to Information

When responding to participants' questions during the training, it is essential to create an open and inclusive environment where all queries are addressed respectfully and thoughtfully. Begin by actively listening to the question, ensuring you fully understand the concern before providing an answer. Tailor your response to the participant's professional context—whether they are legal professionals, civil servants, or media representatives—while linking it to the core principles of the training, such as those prescribed in the European Convention on Human Rights and the Tromsø Convention.

If the question relates to general concepts or specific cases, use examples from the European Court of Human Rights (ECtHR) case law to provide concrete and relatable explanations. For instance, cases like *Magyar Helsinki Bizottság v. Hungary* offer rich insights into the balance between access to information and other rights or interests. Clarify how these legal principles apply in various contexts, helping participants connect theoretical knowledge with practical application.

When addressing participants' questions on sensitive topics such as potential abuse of the right to access official information, it is vital to provide clear, contextual, and legally grounded responses. Begin by ensuring you fully understand the question, clarifying if needed, and tailoring your answer to the participant's professional context.

The trainers can begin by recognising that misuse of access to information is a valid concern for public authorities. However, underscore that access to information is a fundamental right under Article 10 of the ECHR and an essential tool for promoting transparency and accountability.

They could also highlight the relevance of Article 5 of the Tromsø Convention, which establishes procedures for handling requests for access to official documents. Paragraph 5 of Article 5 allows public authorities to refuse requests under specific circumstances, such as when the request remains too vague to identify the document despite assistance from the authority or when the request is manifestly unreasonable. Paragraph 6 of Article 5 further ensures accountability by requiring public authorities to provide reasons for any refusal. Verify whether the domestic legislation includes relevant provisions or if there are applicable cases in the domestic case law.

It is important to discuss procedural safeguards against abuse, such as:

- ▶ setting clear criteria for valid requests, such as specificity and relevance to public interest,
- ▶ proportionality and necessity as guiding principles, ensuring that any limitations on access are strictly justified and narrowly applied,
- ▶ administrative tools to manage repeated or vague requests, training for staff to address complex or challenging cases professionally and equitably

The trainers should encourage participants to share their experiences and challenges regarding the potential misuse of access rights. Frame the conversation positively by emphasising that while misuse may occur, it does not undermine the overarching importance of access to information as a tool for democratic accountability. Equip participants with practical strategies and legal tools to handle abuse while fostering an environment of transparency and public trust.

9. Extension of the Training to Three Days

This extended format allows for a more comprehensive and impactful learning experience, making it particularly effective for Training-of-Trainers (ToT) programs. By deepening understanding and providing practical tools, it equips trainers to confidently adapt and deliver content to diverse audiences while ensuring consistency with the training's objectives.

Additional content and activities can be incorporated to extend the current two-day training programme to a three-day format to provide deeper engagement, reinforce learning, and offer more practical applications. A three-day structure allows for more reflection, comprehensive coverage of advanced topics, and enhanced participant collaboration.

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Key additions for extending the training to three days include a deeper exploration of core concepts, allowing for an expanded discussion on European standards and the historical evolution of access to information laws under the ECHR and the Tromsø Convention. This could also involve a more detailed analysis of landmark ECtHR decisions and their implications across various professional contexts.

The training could incorporate advanced topics, such as balancing competing rights like freedom of expression versus privacy, national security, or other legitimate restrictions. It could address emerging challenges in the digital age, including access to digital records and strategies to combat disinformation. Comparative examples from other international frameworks, such as the Aarhus Convention, could also be introduced to provide a broader global perspective.

Practical exercises could be expanded to include additional simulations and role-playing scenarios that reflect complex real-world challenges. Multi-day case studies could allow participants to develop solutions independently or in small groups, with the presentation of their findings on the final day. Sector-specific workshops could also be introduced to address the unique challenges faced by legal professionals, civil servants, and media representatives.

Collaborative sessions could be added to encourage cross-sector discussions where participants share their experiences, best practices, and challenges. Facilitated brainstorming sessions could be organised to help participants develop actionable strategies for implementing access to information principles in their professional environments.

Finally, additional time for reflection and feedback could be built into the program, providing participants with opportunities to process and discuss what they have learned after key sessions. Peer evaluations of practical exercises and a final group discussion could be included to consolidate key takeaways and reinforce the training's objectives.

10. Evaluation and Feedback

After the training, participants will engage in several evaluative activities designed to assess their learning and offer feedback on the course experience. A multiple-choice test will evaluate participants' understanding of core concepts and their ability to apply the knowledge gained to practical scenarios. Additionally, participants will complete a feedback form to share insights on the training's relevance, delivery, and areas for improvement. Upon successful completion, participants will receive certificates recognising their participation and achievement.

This training programme is structured to equip legal professionals, civil servants, and media representatives with the skills and knowledge necessary to navigate access to information frameworks within their respective roles. By integrating both international and national perspectives, the course empowers participants to uphold transparency, respect privacy, and ensure compliance with relevant laws. The dual-trainer approach ensures that participants receive a balanced education while practical exercises and real-world case studies allow them to apply concepts meaningfully.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Division for Cooperation on Freedom of Expression

GROUP #1

Legal professionals
(judges, prosecutors, lawyers)

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

GUIDE FOR PARTICIPANTS: TRAINING ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION AND FREEDOM OF EXPRESSION

→ Purpose of the Training

This training is designed for judges, prosecutors, and lawyers who play a pivotal role in interpreting, applying, and enforcing access to official information within the framework of freedom of expression and human rights law. The programme aims to enhance participants' understanding of European and international legal standards, provide practical insights into key case law, and develop a unified judicial approach to balancing transparency, privacy, and national security concerns. By participating in this training, legal professionals will gain the knowledge, skills, and legal reasoning needed to strengthen judicial oversight, enforce access to public information rights, and uphold democratic accountability. This guide provides an overview of the training structure, your responsibilities, and how to maximize your learning experience.

→ Key Learning Objectives

By the end of this course, you will be able to:

- ▶ enhance knowledge of international and European legal standards on access to information and freedom of expression,
- ▶ apply the Tromsø Convention and Aarhus Convention in the context of legal and judicial frameworks,
- ▶ examine key case law from the European Court of Human Rights on access to information under Article 10 of the European Convention on Human Rights,
- ▶ understand the limitations on access to official information, including the public interest test, harm test, and balancing privacy concerns,
- ▶ compare national legislation with international legal frameworks to ensure compliance and best practices,
- ▶ develop a unified approach to judicial interpretation and law enforcement in cases involving access to official information.

→ Course Structure

The training spans two days, with sessions structured to balance theoretical knowledge and practical applications:

Day 1:

- ▶ Exploration of international standards and case law, including the European Convention on Human Rights and Tromsø Convention.
- ▶ Comparative analysis and parallel implementation of international standards and national laws,
- ▶ Understanding limitations and public interest tests.

Day 2:

- ▶ Application of national legislation and practical exercises.

→ Training Methodology

The training employs a blended learning approach, including:

- ▶ briefings and presentations: structured knowledge of legal principles and frameworks,
- ▶ case studies: real-world examples illustrating access to information challenges and solutions,
- ▶ interactive exercises: brainstorming, problem-based facilitated discussions, collaborative learning, and discussions in small groups.

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→ Participant Responsibilities

To ensure a successful and impactful training experience, participants are expected to take an active role in the sessions. This training is designed to be highly interactive, and your engagement is critical for maximizing learning outcomes. Below are the key responsibilities for participants:

1. Active participation:

- ▶ engage in brainstorming exercises and group discussions,
- ▶ ask questions and share your experience,
- ▶ take notes and contribute to problem-solving activities.

2. Pre-training preparation:

- ▶ review domestic laws on access to official information and compare them with European and international standards, focusing on the legal obligations of public authorities to provide access to official documents,
- ▶ familiarize yourself with international conventions such as the European Convention on Human Rights (Article 10), the Council of Europe Tromsø Convention, and the Aarhus Convention.
- ▶ identify relevant court cases that illustrate how national courts interpret access to information laws.

3. During the training:

- ▶ consider case examples where access to official information was a key factor in judicial rulings,
- ▶ participate in case study discussions to apply theoretical knowledge to real-world scenarios.

4. Share your professional experiences:

- ▶ contribute to the sessions by sharing real-life legal examples from your professional experience, suggest landmark cases and apply their principles to hypothetical legal scenarios,
- ▶ share important judicial rulings from your experience where access to information was crucial in promoting transparency and accountability in cases of high public interest.

5. Apply critical thinking:

- ▶ approach the training materials with a critical mindset, questioning and reflecting on how legal principles and best practices can be applied,
- ▶ evaluate the practical tools and methodologies introduced during the sessions, considering how they align with your daily responsibilities.

6. Collaborate with other participants:

- ▶ exchange viewpoints on judicial rulings and best practices related to access to information,
- ▶ discuss challenges in implementing transparency laws in different legal systems,
- ▶ exchange contact details and establish a professional network for continued collaboration.

7. Engage with Trainers:

- ▶ ask questions and seek clarification during presentations and discussions,
- ▶ provide constructive feedback to trainers, helping them tailor the sessions to your specific needs and challenges.

→ Evaluation and Certification

The programme concludes with:

- ▶ A post-training test to assess your understanding and application of the material.
- ▶ Feedback collection to improve future training.
- ▶ Certificate awarding to recognise your participation and achievements.

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The post-training test will include multiple-choice questions and scenario-based assessments to measure your understanding of key concepts. Certificates will be awarded based on active participation and successful completion of the evaluation.

This training provides a valuable opportunity to deepen your legal expertise, enhance judicial interpretation of access to information laws, and foster collaboration among legal professionals. Your active engagement and commitment will contribute to strengthening transparency, upholding fundamental rights, and ensuring accountability in governance.

STRUCTURE OF THE COURSE: TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Group #1: Legal professionals (judges, prosecutors, lawyers)

The training programme focuses on European standards on access to official information in the context of freedom of expression, adhering to the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Information (Tromsø Convention) standards, with implications for the national legislation of the country of training. The curriculum covers international standards, principles of key conventions, case law, and domestic legislation and administrative practice. It emphasises interactive and participatory learning approaches to enhance participants' understanding and capacity to handle official information access and protection.

A unique characteristic of the programme for legal professionals is its emphasis on real court case studies. Participants will closely examine cases from both the European Court of Human Rights (ECtHR) and national courts, enabling a deep understanding of legal precedents. This focus aims to help legal professionals develop a unified approach to judicial and law enforcement practices regarding access to information and freedom of expression.

Duration

- 2 days

Course type

- In-person training course

Logistic requirements

- training room, laptop, projector, internet connection, flipchart, paper, and markers.

→ Day 1: International Standards and Legal Frameworks

Pre-Training Test/Survey (15 minutes)

Comments:

The Pre-Training Test/Survey serves as a crucial step in understanding participants' baseline knowledge, skills, and familiarity with the subject matter. This activity allows trainers to gauge the existing level of expertise within the group, identify knowledge gaps, and tailor the training content accordingly. Additionally, comparing pre-training results with post-training assessments can provide valuable insights into the learning outcomes and overall impact of the course.

Format: Online tool (Google Forms)

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Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)

Methodology: Ice-breaking interactive exercise, brainstorming, or group discussion on the importance of access to official information.

Comments:

The trainer begins the session by inviting participants to introduce themselves, including their names and professional roles, to foster a sense of familiarity and engagement. Participants are then asked to reflect on and answer the question: “Is the right to access official information important, and if so, why?”

As participants share their thoughts, the trainer records the most common ideas, conflicting viewpoints, and significant questions on a flip chart. These recorded points serve as a foundation for further discussion, helping to highlight key themes and areas of interest or contention. This exercise not only stimulates critical thinking but also provides a platform for diverse perspectives to emerge, setting the tone for an interactive and thought-provoking session.

Session 2: Evolution of international standards in access to official information as the component of freedom of expression (1 hour)

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

The trainer provides an in-depth overview of international standards related to access to official information, emphasising their pivotal role in fostering transparency within governments and public institutions. This sets the stage for understanding the broader framework within which access to information operates as a component of freedom of expression.

The session highlights the evolution of international standards, tracing key milestones and progress in recognising access to official information as a fundamental human right. The trainer underscores how this recognition has been enshrined in various legal instruments and international agreements.

The International Covenant on Civil and Political Rights (ICCPR), particularly Article 19, is presented as a foundational document. It recognises the right to freedom of expression, which includes the right to seek, receive, and impart information. This is contextualised as a critical aspect of transparency and accountability.

The trainer explains that while the European Convention on Human Rights (ECHR) does not explicitly guarantee access to official information, the European Court of Human Rights (ECtHR) has interpreted Article 10—protecting the right to freedom of expression—as encompassing the right to receive and impart information. This interpretation has significant implications for access to information in Europe.

The session also introduces key international agreements such as the Council of Europe Convention on Access to Official Documents (Tromsø Convention), which establishes legal standards for access to information. Additionally, the Aarhus Convention is discussed, focusing on access to information on environmental matters. This highlights the importance of individuals being able to obtain information necessary for exercising their rights and freedoms, particularly in the context of environmental protection.

Participants are encouraged to discuss the implications of these standards and share how they relate to their professional experiences. This group discussion enriches the session by incorporating diverse perspectives and exploring practical applications of international legal principles.

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Session 3: Access to official information – criteria in ECHR case law (1.5 hours)

Sub-session 3.1: Access to Information as the component of freedom of expression under the European Convention on Human Rights, Article 10 and the relevant case law.

Methodology: Briefing session, PowerPoint presentation, and group discussion.

Comments:

The trainer begins the session by providing a detailed briefing on the concept of access to official information as a component of the right to freedom of expression under Article 10 of the European Convention on Human Rights using the PowerPoint Presentation.

The trainer emphasises how the European Court of Human Rights has interpreted and expanded the scope of Article 10 to include the right to seek and receive information, particularly in cases where access to information is essential for public interest and democratic accountability.

A presentation of key European Court of Human Rights judgments focuses on landmark cases such as *Magyar Helsinki Bizottság v. Hungary*, *Sdruženi Jihočeské Matky v. the Czech Republic*, *Youth Initiative for Human Rights v. Serbia*, and *Társaság a Szabadságjogokért v. Hungary*. Each case is analysed to illustrate how the Court has established criteria for determining whether the denial of access to information violates Article 10.

The session concludes with a summary of the critical criteria from the European Court of Human Rights case law and a reflection on how participants can incorporate these principles into their work to enhance transparency and accountability. Participants are encouraged to raise any lingering questions, fostering a collaborative and enriching learning environment.

Sub-session 3.2: Case study – Magyar Helsinki Bizottság v. Hungary, the European Court of Human Rights criteria for protecting access to information as the component of freedom of expression.

Methodology: Case study and facilitated discussion.

Comments:

The trainer presents in detail the case of *Magyar Helsinki Bizottság v. Hungary*, providing participants with a brief overview of the facts, legal issues, and the European Court of Human Rights decision. There should be an emphasis that this landmark case illustrates the criteria established by the European Court of Human Rights for recognising access to information as a component of the right to freedom of expression under Article 10 of the European Convention on Human Rights.

The trainer highlights specific criteria derived from the decision, including:

- ▶ The nature of the information requested and whether it serves the public interest.
- ▶ The purpose for which the information is sought and its relevance to democratic oversight.
- ▶ The role of the individual or organisation requesting the information (e.g., journalists, NGOs, or public watchdogs).
- ▶ Whether the information was ready and available

During the facilitated discussion, the trainer guides participants through the reasoning of the European Court of Human Rights decision, emphasising how the Court balanced the right to access information against the state's justification for refusing the request.

The trainer encourages participants to share their interpretations and reflections, asking questions such as:

- ▶ “How does this case influence your understanding of the right to access information as part of freedom of expression?”
- ▶ “What parallels can you draw between the criteria established in this case and the challenges you face in your professional contexts?”

Key points and differing perspectives are recorded on a flip chart to capture the depth of the discussion and highlight areas for further exploration.

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The trainer synthesises the outcomes, connecting the case study to broader principles of international human rights law and encouraging participants to consider how the *Magyar Helsinki Bizottság* criteria can be applied in their work to advocate for or implement better access to information practices. This interactive exercise reinforces the practical relevance of the case and fosters a deeper understanding of its implications.

Session 4: Principles and Standards of Aarhus and Tromsø Conventions (1.5 hours)

Sub-session 4.1.: Key principles and standards of the Aarhus and Tromsø Conventions.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

The trainer begins with a briefing session to introduce the core principles of the Aarhus Convention and the Tromsø Convention, focusing on their shared objective of promoting transparency and accountability. The Aarhus Convention is presented as a pioneering international framework for environmental governance, emphasising the public's right to access environmental information. The presentation highlights the three pillars of the convention: the right to access environmental information, the right to participate in environmental decision-making processes, and the right to access justice in environmental matters. Specific articles of the convention are discussed, illustrating how states are obligated to provide timely, accurate, and accessible environmental information to the public.

The trainer shifts to the Tromsø Convention, which establishes equal access to official documents. The trainer emphasises the convention's innovative aspects, such as recognising access to information as a fundamental right. Key provisions of the Tromsø Convention are presented, such as the obligation of public authorities to respond promptly to requests, provide reasons for refusals, and support applicants through clear procedures. Participants learn how the Tromsø Convention complements the Aarhus Convention by providing broader access to information, regardless of the subject matter.

A PowerPoint presentation provides visual support for the session, summarising the principles and standards of both conventions. The session concludes with a brief Q&A segment, allowing participants to clarify key concepts and share initial reflections.

Sub-session 4.2.: Implementation of Aarhus and Tromsø Conventions – equal access to information and support for applicants.

Methodology: Interactive exercises: problem-based facilitated discussion and collaborative learning.

Comments:

This sub-session focuses on the practical implementation of the Aarhus and Tromsø Conventions through interactive activities. The session begins with a facilitated discussion, where participants explore the key challenges and opportunities related to access to information in their respective jurisdictions. The trainer guides the discussion, encouraging participants to share experiences and analyse common issues such as:

- ▶ ensuring equal treatment of applicants regardless of background or purpose,
- ▶ processing requests,
- ▶ ensure that public authority helps the applicant identify the requested official document as much as reasonably possible.

The trainer uses targeted questions to deepen the discussion, such as:

- ▶ "What administrative practices could be improved to support applicants better?"
- ▶ "How can public authorities ensure compliance with the conventions' principles while managing practical constraints?"

Key insights and proposed solutions from the discussion are recorded on a flip chart to provide a foundation for the next exercise.

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Evaluation reports from the monitoring bodies of the Aarhus Convention and Tromsø Convention, as well as reports from NGOs on the conventions' implementation, are invaluable resources for assessing the implementation and effectiveness of access to information standards in a given jurisdiction. Trainers should incorporate the findings from these reports to provide participants with a clear understanding of the practical challenges, achievements, and areas for improvement in their national context. Trainers can use this data to frame discussions, enabling participants to critically examine their government's approach and compare it with international standards. By addressing these findings, trainers ensure that the session is grounded in real-world challenges and provides participants with actionable insights to enhance the implementation of the conventions in their professional and policy-making contexts.

Building on the facilitated discussion, participants engage in collaborative learning to analyse specific scenarios reflecting real-world applications of the conventions. Group discussion addresses challenges such as handling requests for environmental information under the Aarhus Convention or navigating administrative obligations under the Tromsø Convention.

The session concludes with the trainer synthesising the outcomes of both the facilitated discussion and collaborative learning activities. The trainer links these outcomes back to the Aarhus and Tromsø Conventions principles, emphasising their role in promoting transparency, accountability, and equal access to information. Participants reflect on how these principles can be integrated into their work to enhance governance and support for applicants. This structured approach ensures a productive and meaningful exploration of the conventions' implementation.

Session 5: Limitation of access to information (1.5 hours)

Sub-session 5.1.: Limitations of access to official documents under the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Documents (Article 3) – three-part test, harm test and public interest test.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides an in-depth exploration of the legal framework governing the limitations on access to official documents. The trainer introduces the session with a briefing that integrates the provisions of Article 10 of the European Convention on Human Rights (ECHR) and Article 3 of the Council of Europe Convention on Access to Official Documents (Tromsø Convention).

The presentation focuses on the following key tests used to determine the validity of limitations.

The session on limitations of access to official documents focuses on three key legal tests to evaluate when restrictions are justified under international standards. These include the Three-Part Test, the Harm Test, and the Public Interest Test, derived from the European Convention on Human Rights (ECHR, Article 10) and the Tromsø Convention (Article 3).

The Three-Part Test from Article 10 of the ECHR requires that:

- ▶ **Legality:** Any restriction must be prescribed by law with a clear and accessible legal basis.
- ▶ **Legitimate Aim:** The limitation must serve a recognised legitimate aim, such as protecting national security, public safety, or individual privacy.
- ▶ **Necessity and Proportionality:** The restriction must be necessary in a democratic society and proportional to the aim pursued. During the session, the trainer provides practical examples demonstrating how this balance is maintained in various contexts.

The Harm Test outlined in Article 3 of the Tromsø Convention emphasises that public authorities must assess whether disclosing the requested information would cause harm to a legitimate interest, such as national security, public safety, or personal privacy. The trainer clarifies that this test requires a clear and evidence-based demonstration of harm before restricting access.

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The Public Interest Test, also in Article 3 of the Tromsø Convention, requires weighing the harm of disclosure against the public interest in making the information available. The trainer explains that if the public interest outweighs the potential harm, access to information should generally be granted. Real-world examples are used to illustrate cases where the public interest test has influenced decisions to disclose information.

By examining these tests, participants gain a comprehensive understanding of how limitations on access to information are justified, ensuring they align with democratic principles and international human rights standards.

A PowerPoint presentation supports the session, illustrating how these tests are applied through examples from European Court of Human Rights case law and practical administrative decisions under the Tromsø Convention. Key cases such as *Magyar Helsinki Bizottság v. Hungary* and *Youth Initiative for Human Rights v. Serbia* are discussed to provide participants with practical insights into the judicial reasoning behind limitations on access to information.

The session transitions into a Q&A segment, where participants are encouraged to engage with the material by posing questions or discussing challenges from their professional contexts.

Sub-session 5.2.: Group activity on analysing legitimate interests for limitation of access to official information under the European Convention on Human Rights and the Council of Europe Convention on Access to Official Documents (Tromsø Convention).

Methodology: Interactive exercises: written group activity with a spokesperson (case study analysis).

Comments:

This sub-session focuses on the legitimate grounds for limiting access to official information as defined under the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Documents (Tromsø Convention, Article 3). The session employs interactive exercises to encourage participants to analyse and apply these principles in real-world scenarios.

The trainer introduces the session with a brief overview of the legitimate interests recognised by both conventions, including:

- ▶ National security, public safety, or the economic well-being of the country.
- ▶ The prevention of crime or disorder.
- ▶ The protection of privacy and other rights of individuals.
- ▶ Confidentiality of commercial and other sensitive information.
- ▶ Maintaining judicial independence and impartiality.

Participants then engage in problem-based facilitated discussions, where they are presented with practical scenarios involving requests for access to official documents that potentially conflict with these legitimate interests. For example, they might evaluate whether disclosing certain information would jeopardise national security or whether withholding information could undermine public trust. In this regard, the *Global Principles on National Security and the Right to Information (The Tshwane Principles)* and the *Johannesburg Principles on National Security, Freedom Of Expression, and Access To Information* should be mentioned as soft-law documents.

In the collaborative learning segment, participants made a written group activity with a spokesperson (case study analysis) in small groups to review real or hypothetical cases, analyse the justification for limitations, and propose solutions that align with the principles of both conventions. The trainer facilitates group work by offering clarifications, encouraging diverse perspectives, and ensuring that discussions remain focused. Key points and suggestions from the groups are recorded on a flip chart by each group, enabling participants to explore best practices and innovative approaches collectively. The trainer manages the written group activity in a following way:

- ▶ Divide participants into small groups, each assigned a case study related to access to information.
- ▶ Each group analyses the case, focusing on legal justifications, public interest, and potential rulings.
- ▶ One person from each group presents their conclusions to the full audience.

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The trainer facilitates discussion by comparing group responses to existing case law. The legal professionals analyse judgments of the European Court of Human Rights and compare them with national rulings. The trainer synthesises these outcomes, linking them to the conventions' overarching goal of balancing transparency with protecting legitimate interests. This interactive format ensures that participants leave with both a theoretical understanding and practical tools for addressing limitations on access to official information.

→ Day 2. Domestic Regulations and Implementation

Session 6: Compliance of national legislation with international standards (1.5 hours)

Sub-session 6.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides participants with an understanding of their national legislation on access to information, analysing its compliance with international standards in freedom of expression established under frameworks of the European Convention on Human Rights and the Tromsø Convention.

The trainer begins with a briefing session, offering an overview of key provisions in the national legal framework related to access to information. The presentation highlights the core principles, procedural requirements, and legal guarantees enshrined in the national laws. Special attention is given to how these laws address fundamental aspects such as:

- ▶ ensuring the right to access public information without discrimination,
- ▶ definitions for “document” and “information” in the domestic regulations,
- ▶ definition of “public authorities” in the domestic regulations,
- ▶ the timeframes for responding to requests,
- ▶ the legitimate grounds for refusing access and the corresponding appeals mechanisms.

A PowerPoint presentation is used to compare the national legislation with international standards, identifying areas of alignment and divergence. The trainer highlights best practices from other jurisdictions to illustrate how compliance with international standards can enhance transparency and accountability.

During the Q&A session, participants are encouraged to share their experiences with the national framework, including successes, challenges, and gaps in its implementation. This sub-session concludes with reflections on the importance of continuous legal and procedural reforms to meet evolving international standards. The trainer records key points and participant insights on a flip chart, which can later serve as a basis for further discussions on improving alignment between national laws and international standards.

Sub-session 6.2.: Group exercise in small groups to analyse a selection of typical domestic court cases.

Methodology: A case study in small groups and facilitated discussion.

Comments:

This sub-session engages participants in an interactive exercise designed to deepen their understanding of how national legislation on access to information is applied in practice. The session uses case studies to examine typical court cases, enabling participants to analyse the challenges, legal reasoning, and outcomes within the framework of their national laws.

The trainer introduces the session by providing an overview of selected cases, highlighting the key legal issues and the decisions made by the courts. Each case is chosen to illustrate common scenarios or contentious points in the implementation of access to information laws, such as:

- ▶ refusals to provide information based on confidentiality or national security,
- ▶ delays in responding to requests,

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- ▶ balancing the public interest with legitimate limitations.

Participants are divided into small groups, with each group assigned a specific case to analyse. The groups are tasked with:

- ▶ identifying the legal basis for the court's decision,
- ▶ discussing whether the decision aligns with national legislation and international standards, such as the European Convention on Human Rights or Tromsø Convention.

The trainer facilitates the exercise by circulating among the groups, answering questions, and providing guidance where needed. Participants are encouraged to critically evaluate the court's reasoning and to consider the broader implications of the freedom of expression standards and the right to access information.

After the group analysis, a facilitated discussion brings all participants together to share their findings. Each group presents its case, highlighting the legal principles involved. The trainer moderates the discussion, encouraging participants to engage with one another's analyses and draw connections between the cases.

Key points from the discussion are recorded on a flip chart, providing a visual summary of the session. The trainer concludes by synthesising the outcomes, linking them back to the principles of international standards and encouraging participants to reflect on how these cases inform their understanding of national and international access to information laws.

Session 7: Public interest test and limitations under the national legislation (1.5 hours)

Sub-session 7.1.: Public interest test and limitations on access to information under the national regulations.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides participants with a comprehensive understanding of how the public interest test and limitations on access to information are applied within their national regulatory framework. The trainer begins with a briefing session, outlining the public interest test's role in determining whether the disclosure of information serves a greater societal benefit, even when it may conflict with legitimate interests such as national security, privacy, or commercial confidentiality. The trainer also discusses the scope and justification of limitations under national laws, ensuring participants understand the legal and procedural framework.

Using a PowerPoint presentation, the trainer illustrates key concepts and includes examples from national case law to show how the public interest test has been applied in practice. The presentation highlights:

- ▶ The criteria for determining public interest, such as promoting accountability, enhancing democratic oversight, or addressing issues of public concern.
- ▶ Common challenges in applying the public interest test, such as defining "public interest" and balancing competing interests.
- ▶ Examples of legitimate limitations permitted by national regulations, including those aimed at protecting personal data, national security, or trade secrets.

During the Q&A session, participants are encouraged to reflect on the practical application of the public interest test in their work and raise questions or concerns related to the challenges they face. The trainer facilitates the discussion by posing reflective questions, such as:

- ▶ "How is the public interest test defined and applied in your jurisdiction?"
- ▶ "Can you share an example where public interest outweighed a limitation, or vice versa?"
- ▶ "What mechanisms ensure that decisions to restrict access are necessary and proportionate?"

The trainer records key points raised by participants on a flip chart, helping to structure the discussion and highlight areas for further exploration.

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The session concludes with a reflection on how the public interest test strengthens democratic governance and fosters public trust. Participants are encouraged to consider how they can effectively apply these principles to improve transparency and accountability in their professional contexts while adhering to the national legal framework. This segment bridges theoretical understanding and practical implementation, equipping participants with actionable insights for navigating the complexities of access to information laws.

Sub-session 7.2.: Group exercise on legal grounds for restricting access based on the relevant case law.

Methodology: Interactive exercises: Exercise in small or large groups and facilitated discussion.

Comments:

This sub-session engages participants in a practical exercise to deepen their understanding of the legal grounds for restricting access to information, using relevant national and international case law as a basis for analysis. The session is designed to foster critical thinking and collaborative problem-solving by examining how legal principles are applied in real-world scenarios.

The trainer begins by providing a brief overview of selected cases that illustrate common legal grounds for restricting access to information, such as protecting national security, safeguarding personal privacy, or ensuring the confidentiality of sensitive business information. Each case reflects typical challenges faced under the national legal framework and highlights how the public interest test, harm test, and other relevant principles are applied.

Depending on the session size, participants are then divided into small or large groups and tasked with analysing specific cases. Each group reviews the legal reasoning behind the decision, focusing on:

- ▶ The justification provided for restricting access.
- ▶ Whether the decision aligns with national regulations and international standards, such as those under the ECHR or Tromsø Convention.
- ▶ The balance between transparency and legitimate limitations, including whether the public interest in disclosure outweighed the reasons for restriction.

During the exercise, the trainer circulates among the groups to provide guidance, clarify questions, and encourage deeper discussion. Participants are prompted to consider key aspects, such as:

- ▶ “Were the legal grounds for restriction clearly justified and proportional?”
- ▶ “How does this case reflect or diverge from the principles of the public interest and harm tests?”
- ▶ “What lessons can be learned from this case to inform future decisions on access to information?”

Following the group exercise, a facilitated discussion brings all participants together to share their findings. Each group presents their case analysis, including their interpretation of the legal principles applied and any recommendations for improving the handling of similar situations. The trainer moderates the discussion, encouraging participants to engage with each other’s perspectives and draw connections between the cases analysed.

Key points and insights are recorded on a flip chart to capture the collective learning outcomes of the session.

The session concludes with a summary by the trainer, creating the main takeaways and linking them back to the broader principles of transparency, accountability, and adherence to legal standards. Participants are encouraged to reflect on how the exercise informs their understanding of the legal framework for restricting access and how they can apply these insights to their professional practices.

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Session 8: Oversight and control mechanisms (1.5 hours)

Sub-session 8.1.: Overview of international approaches to oversight (Information Commissioners, Ombudsman, courts).

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session introduces participants to the key international approaches for overseeing access to information, emphasising the roles and functions of Information Commissioners and Commissions, government agencies, Ombudsman institutions, and courts. The session explores how these mechanisms collectively ensure compliance with access to information laws, resolve disputes, and uphold the principles of transparency and accountability.

The trainer begins with a briefing session, supported by a PowerPoint presentation, to outline the structures, responsibilities, and processes of each oversight mechanism:

- ▶ Information Commissioners and Commissions: Independent authorities responsible for monitoring compliance with access to information laws, adjudicating complaints, and providing guidance to public authorities. Examples are shared from jurisdictions where these bodies have effectively enforced compliance and resolved disputes.
- ▶ Government Agencies: Their role in supporting the implementation of access laws, conducting training for public officials, and managing internal processes to respond to information requests.
- ▶ Ombudsman Institutions: Their role as impartial mediators between citizens and public authorities, offering accessible mechanisms for individuals to challenge denials of access and ensuring fairness in administrative decisions.
- ▶ Courts: The critical role of judicial oversight in providing a final avenue for challenging denials of access to information. Courts assess whether public authorities have acted in accordance with legal standards and ensure that limitations on access are justified, necessary, and proportionate. Examples of court rulings from various jurisdictions are discussed, highlighting their impact on shaping access to information practices.

The trainer explains how these mechanisms complement one another, with courts providing a higher level of scrutiny and setting legal precedents that strengthen the enforcement of access laws.

The trainer emphasises the differences between these mechanisms, discussing their strengths and limitations and how they complement one another to create a robust oversight system. During the Q&A session, participants are encouraged to share insights from their own experiences with oversight mechanisms to consider how these approaches can be strengthened and applied in their own professional and national contexts to ensure that access to information laws are effectively implemented and respected.

Sub-session 8.2.: National oversight mechanisms and the relevant court practice.

Methodology: Interactive exercises: collaborative learning and problem-based facilitated discussions.

Comments:

This sub-session provides participants with an opportunity to explore their national oversight mechanisms and the role of courts in enforcing access to information laws. Through collaborative learning and problem-based facilitated discussions, participants analyse how these mechanisms operate in practice and address challenges related to compliance and enforcement.

The trainer begins with a short overview of the national authorities responsible for overseeing access to information. This includes a summary of their mandates, such as monitoring compliance, handling complaints, providing guidance to public authorities, and promoting awareness of access to information rights. The trainer highlights the processes followed by these authorities, such as mediating disputes, issuing decisions, and supporting applicants in navigating the system.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

The session transitions to collaborative learning, where participants are divided into small groups to analyse the structure and effectiveness of their country's oversight mechanisms. Each group is tasked with:

- ▶ Identifying the strengths and weaknesses of the existing framework.
- ▶ Discussing how oversight mechanisms interact with the judiciary to ensure compliance with access laws.
- ▶ Exploring the role of courts in resolving disputes and setting legal precedents that shape future practices.

Following this, the problem-based facilitated discussions focus on real or hypothetical scenarios where access to information is denied or contested. Participants examine how national oversight bodies and courts respond to these cases, applying legal principles to determine whether the decisions align with the standards set by international conventions such as the ECHR and Tromsø Convention. The trainer encourages participants to consider:

- ▶ The accessibility and impartiality of oversight mechanisms.
- ▶ The role of courts in ensuring accountability and providing final resolution in contentious cases.
- ▶ Practical strategies for improving coordination between oversight authorities and the judiciary.

The trainer circulates among the groups, providing guidance and addressing questions while ensuring that discussions remain focused on practical outcomes. Key points and recommendations from the groups are recorded on a flip chart to facilitate collective learning.

The session concludes with a plenary discussion, where each group presents their findings and shares examples of best practices or challenges from their jurisdictions. The trainer synthesises the outcomes, linking them back to the principles of effective oversight and judicial enforcement. Participants are encouraged to reflect on how these insights can inform their professional practices and contribute to strengthening national oversight and judicial mechanisms for access to information.

This sub-session equips participants with a deeper understanding of how national oversight mechanisms and courts function together to uphold transparency and accountability, fostering critical thinking and practical problem-solving skills.

Session 9: Evaluation and wrap-up

Multiple-choice test/evaluation.

Comments:

The **multiple-choice test** is designed to assess knowledge retention, comprehension of key concepts, and the ability to apply principles discussed during the course.

The trainer introduces the evaluation by explaining its purpose as a diagnostic tool to measure individual and group learning outcomes.

Feedback and certificate awarding.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

POST-TRAINING TEST

Group #1: Legal professionals (judges, prosecutors, lawyers)

1. Which of the following tests is used under Article 10 of the ECHR to justify limitations on access to information?

- a) Proportionality Test
- b) Three-Part Test
- c) Transparency Test
- d) Fairness Test

2. What is the legitimate ground for refusing access to official information under the Tromsø Convention?

- a) To avoid public criticism of authorities.
- b) To protect sensitive personal interests.
- c) To simplify administrative tasks.

3. Under the Aarhus Convention, the public has the right to access environmental information without stating a reason.

- a) True
- b) False

4. What legal principle is essential in balancing public interest and the right to privacy under the ECHR?

- a) Transparency Principle
- b) Proportionality Principle
- c) Confidentiality Principle
- d) Accountability Principle

5. Does the Tromsø Convention require public authorities to assist applicants in identifying the documents they seek?

Yes/No

6. Is denying access to official information automatically considered a violation of Article 10 of the ECHR?

Yes/No

The test should be expanded with additional questions specifically addressing the sessions on domestic regulations to assess participants' understanding of their national framework for access to information. For example, questions could focus on the timeframes within which public authorities are required to respond to requests for information under domestic law or the specific grounds allowed for refusing access, such as national security or privacy concerns. Another question could explore the role of national oversight bodies, asking participants to identify the responsibilities of entities such as the Information Commissioner or Ombudsman in their country.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

PRE-TRAINING TEST/SURVEY

Group #1: Legal professionals (judges, prosecutors, lawyers)

1. Which of the following is protected under Article 10 of the European Convention on Human Rights?

- a) The right to personal privacy.
- b) The right to freedom of expression.
- c) The right to participate in elections.
- d) The right to commercial confidentiality.

2. Does the European Convention on Human Rights explicitly guarantee the right to access official information?

Yes/No.

3. What is the purpose of the Tromsø Convention?

- a) To regulate data protection laws across Europe.
- b) To establish access to environmental information.
- c) To guarantee everyone's right to access official documents.
- d) To enforce media censorship policies.

4. The Aarhus Convention focuses solely on environmental issues.

- a) True.
- b) False.

5. Are NGOs considered public watchdogs under the European Court of Human Rights case law when requesting information of public interest?

Yes/No.

6. Which body has the final say in determining whether access to information has been unlawfully restricted under the European Convention on Human Rights?

- a) The Information Commissioner.
- b) The European Court of Human Rights.
- c) The Council of Europe.
- d) The national Ombudsman.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

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EVOLUTION OF INTERNATIONAL STANDARDS IN ACCESS TO OFFICIAL INFORMATION AS THE COMPONENT OF FREEDOM OF EXPRESSION

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INTERNATIONAL DOCUMENTS DEFINING THE RIGHT TO ACCESS OFFICIAL INFORMATION:

- ▶ European Convention on Human Rights
- ▶ International Covenant Civil and Political Rights
- ▶ Aarhus Convention
- ▶ Tromsø Convention

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THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(EUROPEAN CONVENTION ON HUMAN RIGHTS)

- ▶ Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- ▶ The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

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AARHUS CONVENTION

- ▶ The Aarhus Convention is formally known as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. It was adopted on June 25, 1998, in the Danish city of Aarhus.
- ▶ The Convention aims to promote environmental democracy by granting the public rights regarding access to information, public participation, and access to justice in environmental matters.

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TROMSØ CONVENTION

- ▶ Entered into force on 1 December 2020.
- ▶ It has 17 Parties: Albania, Armenia, Bosnia and Herzegovina, Estonia, Finland, Hungary, Iceland, Latvia, Lithuania, Montenegro, North Macedonia, Norway, the Republic of Moldova, Slovenia, Spain, Sweden, and Ukraine.

The Tromsø Convention was the first binding international legal instrument to recognize everyone's right to access official documents (information) held by public authorities without discrimination, regardless of the requester's status or motives in seeking access.

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INTERNATIONAL BODIES THAT PROTECT HUMAN RIGHTS ON THE BASIS OF THESE INTERNATIONAL ACTS:

- ▶ European Court of Human Rights
- ▶ UN Human Rights Committee
- ▶ Aarhus Convention Compliance Committee

Council of Europe Convention on Access to Official Documents (Tromsø Convention)
– two monitoring bodies:

- ▶ Group of Specialists on Access to Official Documents
- ▶ Consultation of the Parties

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TROMSØ CONVENTION – CONSULTATIONS OF THE PARTIES

- ▶ The Consultation of the Parties is the second monitoring body established by the Tromsø Convention under its Article 12.
- ▶ Being more of a political body the Consultation of the Parties is composed of one representative per Party. It meets at least once every four years to consider the reports, opinions and proposals submitted by the Group of Specialists. An activity report shall be submitted by the Consultation of the Parties to the Committee of Ministers after each meeting. The Consultation of the Parties elects the members of the Group of Specialists.
- ▶ The Consultation of the Parties can make proposals and recommendations to the Parties, make proposals or formulate opinions on any proposal for the amendment of the Tromsø Convention under Article 19.

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ACCESS TO OFFICIAL INFORMATION – CRITERIA IN ECHR CASE LAW

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CRITERIA ACCORDING TO ARTICLE 10 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Procedural Requirements

1. **Lawfulness of the Interference:** Any restriction must have a clear legal basis. This means the limitation should be established through legislation that is accessible and foreseeable, ensuring that individuals understand the potential for certain information to be restricted and the reasons behind it.
2. **Legitimacy of the Aim:** The limitation must pursue a legitimate aim. The Convention outlines specific legitimate interests, as mentioned above, which justify the restriction of access to information.
3. **Necessity and Proportionality:** The restriction must be necessary in a democratic society and proportionate to the intended goal. This involves a careful assessment to ensure that the interference with the right to access information is balanced against the need to protect the public interest or the rights of others.

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NECESSITY OF THE INTERFERENCE IN A DEMOCRATIC SOCIETY

- ▶ The general principles for assessing the necessity of an interference with freedom of expression, reiterated many times by the Court since its judgment in *Handyside v. the United Kingdom*
- ▶ The Court has developed in its case law the autonomous concept of whether an interference is “proportionate to the legitimate aim pursued”, which is determined with regard **to all the circumstances of the case using criteria established in the Court’s case law** and with the assistance of various principles and interpretation tools.

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ECTHR CASE-LAW (BEFORE THE JUDGMENT OF THE GRAND CHAMBER IN THE CASE OF MAGYAR HELSINKI BIZOTTSÁG V. HUNGARY)

- ▶ Társaság a Szabadságjogokért v. Hungary (Application No. [37374/05](#)).
- ▶ Sdružení Jihočeské Matky v. Czech Republic (Decision on admissibility, Application No. [19101/03](#)).
- ▶ Youth Initiative for Human Rights v. Serbia (Application No. [48135/06](#)).
- ▶ Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung v. Austria (Application No. [39534/07](#)).

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THRESHOLD CRITERIA FOR THE RIGHT OF ACCESS TO STATE-HELD INFORMATION

- ▶ **The purpose of the requestor or why the information is needed.** This criterion includes an assessment of whether obtaining the information is really necessary for the person to fulfill his or her function of facilitating public debate on socially important issues, and whether failure to provide the information would create a significant obstacle to freedom of expression.
- ▶ **The nature of the information.** The information, data or documents to which access is requested must meet the requirements of the three-part test, i.e., be collected for the purpose of satisfying the public interest, and not simply out of curiosity.

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- ▶ **The role of the requestor.** Those who facilitate public discussion have special protection: journalists, civil society organizations/activists, researchers, authors of books on socially important topics, bloggers and popular social media users.
- ▶ **“Ready and available information”.** The provision of information should not impose an excessive burden on public authorities to collect and process data.

(Judgment of the Grand Chamber in the case of Magyar Helsinki Bizottság v. Hungary).

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THE PURPOSE OF THE INFORMATION REQUEST

- ▶ 158. First, it must be a prerequisite that the purpose of the person in requesting access to the information held by a public authority is to enable his or her exercise of the freedom to “receive and impart information and ideas” to others. Thus, the Court has placed emphasis on whether the gathering of the information was a relevant preparatory step in journalistic activities or in other activities creating a forum for, or constituting an essential element of, public debate (see, *mutatis mutandis*, *Társaság*, cited above, §§ 27-28; and *Österreichische Vereinigung*, cited above, § 36).
- ▶ 159. In this context, it may be reiterated that in the area of press freedom the Court has held that, “by reason of the ‘duties and responsibilities’ inherent in the exercise of the freedom of expression, the safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism” (see *Goodwin v. the United Kingdom*, 27 March 1996, § 39, Reports 1996-II).

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THE NATURE OF THE INFORMATION SOUGHT

- ▶ 161. Court considers that the information, data or documents to which access is sought must generally meet a public-interest test in order to prompt a need for disclosure under the Convention. Such a need may exist where, inter alia, disclosure provides transparency on the manner of conduct of public affairs and on matters of interest for society as a whole and thereby allows participation in public governance by the public at large.

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- ▶ 162. The Court has emphasised that the definition of what might constitute a subject of public interest will depend on the circumstances of each case. The public interest relates to matters which affect the public to such an extent that it may legitimately take an interest in them, which attract its attention or which concern it to a significant degree, especially in that they affect the well-being of citizens or the life of the community. This is also the case with regard to matters which are capable of giving rise to considerable controversy, which concern an important social issue, or which involve a problem that the public would have an interest in being informed about. The public interest cannot be reduced to the public's thirst for information about the private life of others, or to an audience's wish for sensationalism or even voyeurism.
- ▶ 163. In this connection, the privileged position accorded by the Court in its case-law to political speech and debate on questions of public interest is relevant.

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THE ROLE OF THE APPLICANT

- ▶ 164. A logical consequence of the two criteria set out above – one regarding the purpose of the information request and the other concerning the nature of the information requested – is that the particular role of the seeker of the information in “receiving and imparting” it to the public assumes special importance. Thus, in assessing whether the respondent State had interfered with the applicants’ Article 10 rights by denying access to certain documents, the Court has previously attached particular weight to the applicant’s role as a journalist (see Roșianu, cited above, § 61) or as a social watchdog or non-governmental organisation whose activities related to matters of public interest (see Társaság, § 36; Österreichische Vereinigung, § 35; Youth Initiative for Human Rights, § 20; and Guseva, § 41, all cited above).

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- ▶ 165. While Article 10 guarantees freedom of expression to “everyone”, it has been the Court’s practice to recognise the essential role played by the press in a democratic society (see *De Haes and Gijssels v. Belgium*, 24 February 1997, § 37, Reports 1997-I) and the special position of journalists in this context. It has held that the safeguards to be afforded to the press are of particular importance

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READY AND AVAILABLE INFORMATION

169. In reaching its conclusion that the refusal of access was in breach of Article 10, the Court has previously had regard to the fact that the information sought was “ready and available” and did not necessitate the collection of any data by the Government (see *Társaság*, cited above, § 36, and, a contrario, *Weber v. Germany* (dec.), no. 70287/11, § 26, 6 January 2015). On the other hand, the Court dismissed a domestic authority’s reliance on the anticipated difficulty of gathering information as a ground for its refusal to provide the applicant with documents, where such difficulty was generated by the authority’s own practice (see *Österreichische Vereinigung*, cited above, § 46).

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ECTHR CASE-LAW

- ▶ Centre for Democracy and Rule of Law v. Ukraine #10090/16
- ▶ Affaire Cangi v. Turkey #24973/15
- ▶ Volodymyr Torbich v. Ukraine #14957/13
- ▶ Torbich v Ukraine #41713/13 and #29980/15

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KEY PRINCIPLES AND STANDARDS OF AARHUS AND TROMSØ CONVENTIONS

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THREE PILLARS OF AARHUS CONVENTION

The Convention is based on three main pillars:

- ▶ **Pillar One – Access to Information:** Guarantees the right of everyone to receive environmental information that is held by public authorities.
- ▶ **Pillar Two – Public Participation:** Involves the public in environmental decision-making, ensuring that public opinions and concerns are considered.
- ▶ **Pillar Three – Access to Justice:** Provides the public with the means to challenge public decisions that have been made in breach of the two previous pillars or environmental law.

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SCOPE OF AARHUS CONVENTION

- ▶ *Article 1* – In order to contribute to the **protection of the right of every person** of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.
- ▶ *Article 3 (9)* – Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters **without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.**

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AARHUS CONVENTION – GENERAL PROVISION

- *Article 3 (5)* – The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for **broader access to information**, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention

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DEFINITION OF INFORMATION OF AARHUS CONVENTION

- ▶ *Article 2*, “Environmental information” means **any information in written, visual, aural, electronic or any other material form**
- ▶ *Article 4*, “Each Party shall ensure that... public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested ... copies of the actual documentation containing or comprising such information:

b) In the form requested unless:

(i) It is reasonable for the public authority to make it available in another form, in **which case reasons shall be given for making it available in that form**;

(ii) Or the information is already publicly available in another form.

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AARHUS CONVENTION STANDARD ON THE PERSONALITY OF A REQUESTOR

- ▶ *Article 4* – Each Party shall ensure that... public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested ... copies of the actual documentation containing or comprising such information:
- ▶ (a) **Without an interest having to be stated**

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AARHUS CONVENTION – PROVIDING GUIDANCE

- ▶ **Article 3 (2)** – Each Party shall endeavor to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters

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TROMSØ CONVENTION – GENERAL PROVISIONS

- *Article 1* – The principles set out hereafter should be understood without prejudice to those domestic laws and regulations and to international treaties which recognize **a wider right of access to official documents**.

According to the Explanatory Report to the Convention, “no provision of the Convention may be interpreted as restricting access to documents which must be made available under other international obligations.”

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SCOPE OF TROMSØ CONVENTION

- ▶ *Article 2* – Each Party shall guarantee the right of everyone, **without discrimination on any ground**, to have access, on request, to official documents held by public authorities.

According to the Explanatory Report to the Convention, “the Convention gives “everyone” the right to have access to official documents, irrespective of their motives and intentions.

The Convention does not make any distinction between them and other individuals”.

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DEFINITION OF INFORMATION IN THE TROMSØ CONVENTION

- *Article 1*, “the Council of Europe Convention on Access to Official Documents prescribes that “official documents” means **all information recorded in any form**, drawn up or received and held by public authorities.”

According to the Explanatory Report to the Convention, “it is a very wide definition: “official documents” are considered to be any information drafted or received and held by public authorities that are recorded on any sort of physical medium whatever be its form or format (written texts, information recorded on a sound or audiovisual tape, photographs, emails, **information stored in electronic format such as electronic databases**, etc.)”

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TROMSØ CONVENTION STANDARD ON THE PERSONALITY OF THE REQUESTOR

- ▶ *Article 4* – An applicant for an official document shall not be obliged to give reasons for having access to the official document. Formalities for requests shall not exceed what is essential in order to process the request.
- ▶ Parties may give applicants the right to remain anonymous except when disclosure of identity is essential in order to process the request.

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ARCHIVE INFORMATION

According to the Explanatory Report to the Tromsø Convention:

15. Official documents transferred to archives remain under the scope of this Convention.

61. In principle, on-site consultation should be free of charge. However, the public archival authorities and museums may charge the applicant for the cost of the services they supply.

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TROMSØ CONVENTION STANDARD – PROVIDING HELP

- *Article 5* – The public authority shall help the applicant, as far as reasonably possible, to identify the requested official document.

According to the Explanatory Report to the Convention:

45. The authority **does have a certain margin of appreciation to determine to what extent it is reasonable to provide help**. Such assistance is particularly important if the applicant is disabled, illiterate or a foreigner with little or no knowledge of the language.

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OBLIGATION TO MANAGE OFFICIAL DOCUMENTS EFFICIENTLY UNDER THE TROMSØ CONVENTION

Article 9 of the Tromsø Convention provides that the Parties “shall take appropriate measures to: ... c) **manage their documents efficiently so that they are easily accessible** and

d) apply clear and established rules for the preservation and destruction of their documents”.

This provision is reflected in many legislations worldwide, primarily via introducing the obligation of the government to establish a well-structured and easily accessible document management system: “it is necessary that Parties to the Convention provide for measures to set up effective systems for the management and storage of the public authorities’ documents.” (Explanatory Report the Council of Europe Convention on Access to Official Documents, para. 71).

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LIMITATION OF ACCESS TO INFORMATION

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LIMITATIONS ARE PRESCRIBED BY:

- ▶ Part 2 of Article 10 of the European Convention on Human Rights
- ▶ Part 3 of Article 19 of the International Covenant on Civil and Political Rights
- ▶ Article 3 of the Council of Europe Convention on Access to Official Documents
- ▶ Article 4 of the Aarhus Convention

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LAWFULNESS

A norm cannot be regarded as a “law” unless it is formulated with sufficient precision to enable the citizen to regulate his or her conduct and that he or she must be able – if need be with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. However, it went on to state that these consequences do not need to be foreseeable with absolute certainty, as experience showed that to be unattainable (*Perinçek v. Switzerland* [GC], § 131).

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LEGITIMACY OF THE AIM PURSUED BY THE INTERFERENCE

- ▶ The Court may find that interference does not serve to advance the legitimate aim relied on or choose to retain only one of the legitimate aims relied on by the State, while dismissing others.
- ▶ The Court may consider that the lack of a legitimate aim for the interference amounted in itself to a violation of the Convention and therefore decide not to examine whether the interference in question had been necessary in a democratic society.

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NECESSITY OF THE INTERFERENCE IN A DEMOCRATIC SOCIETY

- ▶ Existence of a “pressing social need”
- ▶ Assessment of the nature and severity of the sanctions (the least restrictive measure)
- ▶ Requirement of relevant and sufficient reasons

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TROMSØ CONVENTION (ART.3)

Each Party may limit the right of access to official documents.

Limitations shall be:

- ▶ set down precisely in law,
- ▶ be necessary in a democratic society and
- ▶ be proportionate to the aim of protecting

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HARM TEST UNDER THE TROMSØ CONVENTION

Access to information contained in an official document may be refused if its disclosure would or would be likely

- ▶ to harm any of the interests mentioned in paragraph 1,
- ▶ unless there is an overriding public interest in disclosure.

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INFORMATION OF PUBLIC INTEREST

- ▶ Contribution to Public Debate
- ▶ Role of the Requester
- ▶ Transparency and Accountability
- ▶ Balancing Public and Private Interests

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TIME AND REASONS

- ▶ Restricted information must be provided if it has been lawfully released previously.
- ▶ Restricted information must be provided unless there are pre-existing legal grounds for restricting access to such information.
- ▶ Information with restricted access must be provided if there are no legal grounds for restricting access to such information that existed previously.

CASE OF ÉDITIONS PLON v. FRANCE Application no. [58148/00](#)

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OVERVIEW OF NATIONAL LEGISLATION ON ACCESS TO INFORMATION

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LEGAL GUARANTEES OF THE RIGHT TO ACCESS OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – relevant provisions of the national Constitution)

Component 2 (for example – relevant provisions of the domestic law)

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DEFINITION OF OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – ready and available)

Component 2 (for example – information in different formats)

Component 3 (for example – created and collected by the public authority)

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DEFINITION OF PUBLIC AUTHORITIES

Component 1 (for example – government and administration at national, regional and local level)

Component 2 (for example – legislative bodies and judicial authorities insofar as they perform administrative functions according to national law)

Component 3 (for example – natural or legal persons insofar as they exercise administrative authority)

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REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – obligation to give reasons for having access to the official information/document)

Component 2 (for example – formalities for requests)

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PROCESSING OF REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – the timeline for processing request)

Component 2 (for example – an obligation of the public authority to help the applicant)

Component 3 (for example – an obligation to deal with the requests on an equal basis)

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CHARGES FOR ACCESS TO OFFICIAL DOCUMENTS

Component 1 (for example – inspection of official documents on the premises of a public authority)

Component 2 (for example – tariffs of charges domestic regulation)

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REVIEW PROCEDURE

Component 1 (for example – the general review procedure)

Component 2 (for example – review procedure before a court)

Component 3 (for example – review procedure by an impartial body established by law)

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PUBLIC INTEREST TEST AND LIMITATIONS ON ACCESS TO INFORMATION UNDER THE NATIONAL REGULATIONS

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PUBLIC INTEREST TEST OR HARM TEST UNDER THE NATIONAL REGULATIONS

Component 1 (for example – relevant provisions of the national Constitution)

Component 2 (for example – relevant provisions of the domestic law)

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PUBLIC INTEREST TEST OR HARM TEST UNDER THE NATIONAL REGULATIONS

Component 1 (for example – relevant provisions of the national Constitution)

Component 2 (for example – relevant provisions of the domestic law)

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INFORMATION OF PUBLIC INTEREST UNDER THE DOMESTIC LEGISLATION

Component 1 (for example – definition)

Component 2 (for example – criteria)

Component 3 (for example – relevant case law)

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POSSIBLE LIMITATIONS TO ACCESS TO OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – background)

Component 2 (for example – list of legitimate limitations)

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RELEVANT CASE LAW:

Component 1 (for example – illustrate limitations to the aim of protecting national security)

Component 2 (for example – illustrate limitations to the aim of protecting privacy and other legitimate private interests)

Component 3 (for example – illustrate limitations to the aim of protecting the deliberations within or between public authorities concerning the examination of a matter)

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OVERSIGHT AND CONTROL MECHANISMS

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TROMSØ CONVENTION STANDARDS

Article 8

An applicant whose request for an official document has been denied, expressly or impliedly, whether in part or in full, shall have access to a review procedure before a court or another independent and impartial body established by law.

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AARHUS CONVENTION STANDARDS

Article 8

Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law. In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to **an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.**

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

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CONTROLLING AUTHORITY IN ACCESS TO INFORMATION – REQUIREMENTS

- ▶ Independence
- ▶ Balance of PDP and RTI
- ▶ Effectiveness
- ▶ Involvement in education and promotion of the RTI
- ▶ Involvement in drafting legislation and policy-making

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CONTROLLING AUTHORITY IN ACCESS TO INFORMATION – CHALLENGES

- ▶ Combination of personal data protection and access to information authorities
- ▶ Lack of resources, experts, and power
- ▶ Independent status and influence at the national executive authorities

<https://unesdoc.unesco.org/ark:/48223/pf0000389214/PDF/389214eng.pdf.multi>

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FROM GOOD LEGISLATION TO GOOD ADMINISTRATIVE PRACTICES:

At the EU level

- ▶ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents
- ▶ European Ombudsman

At the national level

- ▶ Improvement of national RTI laws
- ▶ Trainings for the state servants
- ▶ Monitoring and raising awareness

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TROMSØ CONVENTION REPORTING OBLIGATIONS

- ▶ **Regular Submission:** Parties to the Tromsø Convention are required to submit periodic national reports detailing the implementation of the Convention's provisions within their jurisdictions.
- ▶ **Content Requirements:** These reports must provide comprehensive information on how the Parties are fulfilling their obligations to ensure access to official documents. This includes details on legislative, regulatory, and practical measures taken to implement the right of access to information.

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AARHUS CONVENTION REPORTING OBLIGATIONS

- ▶ **National Reports:** Parties to the Convention are required to submit regular national implementation reports. These reports detail how each Party is implementing the Convention's provisions.
- ▶ **Content:** The reports typically cover access to information, public participation in decision-making, and access to justice in environmental matters.
- ▶ **Review:** The Secretariat compiles and reviews the national reports, providing an overview of the Convention's implementation across different Parties.

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Division for Cooperation on Freedom of Expression

GROUP #2 Civil servants

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

GUIDE FOR PARTICIPANTS: TRAINING ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION AND FREEDOM OF EXPRESSION

→ Purpose of the Training

This training is designed for civil servants and public officials responsible for managing and providing access to official information. It aims to strengthen their understanding of European and international legal frameworks, enhance their practical skills in handling information requests, and promote transparency, accountability, and public trust. Through an interactive and knowledge-based approach, this training will equip participants with the necessary tools to ensure compliance with national and international access to information laws, apply legal principles in practice, and foster cooperation with civil society, media, and oversight institutions. This guide provides an overview of the training structure, your responsibilities, and how to maximize your learning experience.

→ Key Learning Objectives

By the end of this course, you will be able to:

- ▶ understand European and international standards on access to information and freedom of expression,
- ▶ understand when and how access to information can be lawfully restricted,
- ▶ apply public interest tests in balancing information access with privacy, security, and other legitimate concerns,
- ▶ work with national legislation to ensure compliance with legal frameworks,
- ▶ improve management of information requests and official documents,
- ▶ strengthen collaboration with civil society and journalists,
- ▶ learn best practices for oversight and enforcement mechanisms.

→ Course Structure

The training spans two days, with sessions structured to balance theoretical knowledge and practical applications:

Day 1:

- ▶ Introduction to the role of access to information in governance and freedom of expression.
- ▶ Exploration of international standards and case law, including the ECHR and Tromsø Convention.
- ▶ Understanding limitations and public interest tests.

Day 2:

- ▶ Application of national legislation and practical exercises.

→ Training Methodology

The training employs a blended learning approach, including:

- ▶ briefings and presentations: structured knowledge of legal principles and frameworks,
- ▶ case studies: real-world examples illustrating access to information challenges and solutions,
- ▶ interactive exercises: brainstorming, problem-based facilitated discussion and collaborative learning, discussion in small groups and workshops.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

→ Participant Responsibilities

To ensure a successful and impactful training experience, participants are expected to take an active role in the sessions. This training is designed to be highly interactive, and your engagement is critical for maximizing learning outcomes. Below are the key responsibilities for participants:

Active participation:

- ▶ engage in group discussions and exercises,
- ▶ ask questions and share experiences related to your daily responsibilities,
- ▶ take notes and contribute to problem-solving activities.

Pre-training preparation:

- ▶ review national legislation on access to information.
- ▶ familiarize yourself with international conventions such as: the European Convention on Human Rights (Article 10), the Council of Europe Tromsø Convention, the Aarhus Convention.

During the training:

- ▶ be open to interactive learning,
- ▶ participate in case study discussions to apply theoretical knowledge to real-world scenarios.

Share your professional experiences:

- ▶ draw from your own professional background to enrich the sessions, share challenges, success stories, and lessons learned related to access to information and freedom of expression in your field of responsibility,
- ▶ provide examples from your experience, such as handling information requests, navigating refusals, or engaging with oversight bodies.

Apply critical thinking:

- ▶ approach the training materials with a critical mindset, questioning and reflecting on how legal principles and best practices can be applied,
- ▶ evaluate the practical tools and methodologies introduced during the sessions, considering how they align with your daily responsibilities.

Collaborate with other participants:

- ▶ work effectively in small groups during collaborative exercises and workshops,
- ▶ take part in all practical exercises, such as drafting responses to information requests and applying public interest tests, ensuring timely and thoughtful contributions to group tasks and presentations.

Engage with Trainers:

- ▶ ask questions and seek clarification during presentations and discussions,
- ▶ provide constructive feedback to trainers, helping them tailor the sessions to your specific needs and challenges.

→ Evaluation and Certification

The programme concludes with:

- ▶ A post-training test to assess your understanding and application of the material.
- ▶ Feedback collection to improve future training.
- ▶ Certificate awarding to recognise your participation and achievements.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

The post-training test will include multiple-choice questions and scenario-based assessments to measure your understanding of key concepts. Certificates will be awarded based on active participation and successful completion of the evaluation.

This training is an opportunity to enhance your professional expertise, improve governance transparency, and promote freedom of expression through access to information. Your active participation and commitment will contribute to a more open and accountable public sector.

STRUCTURE OF THE COURSE: TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Group #2 – Civil servants

This training programme is tailored for civil servants and other professionals responsible for providing access to information. It focuses on the practical application of European standards, including the European Convention on Human Rights (Article 10) and the Council of Europe Convention on Access to Official Documents (Tromsø Convention), as well as national legislation relevant to their daily responsibilities. The programme incorporates real-life case studies and exercises to clarify the public interest test, document management tools, and oversight practices. Additionally, it provides practical training for processing information requests and encourages collaboration with civil society and journalists to enhance transparency and build public trust.

Duration

- 2 days

Course type

- In-person training course

Logistic requirements

- training room, laptop, projector, internet connection, flipchart, paper, and markers.

→ Day 1: International Standards and Domestic Legal Framework

Pre-Training Test/Survey (15 minutes)

Comments:

The Pre-Training Test/Survey serves as a crucial step in understanding participants' baseline knowledge, skills, and familiarity with the subject matter. This activity allows trainers to estimate the existing level of expertise within the group, identify knowledge gaps, and tailor the training content accordingly. Additionally, comparing pre-training results with post-training assessments can provide valuable insights into the learning outcomes and overall impact of the course.

Format: Online tool (Google Forms)

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)

Methodology: Ice-breaking interactive exercise, brainstorming or group discussion on the importance of access to official information.

Comments:

The trainer begins the session by inviting participants to introduce themselves, including their names and professional roles, to foster a sense of familiarity and engagement. Participants are then asked to reflect on and answer the question: “Is the right to access official information important, and if so, why?”

As participants share their thoughts, the trainer records the most common ideas, conflicting viewpoints, and significant questions on a flip chart. These recorded points serve as a foundation for further discussion, helping to highlight key themes and areas of interest or contention. This exercise stimulates critical thinking and provides a platform for diverse perspectives to emerge, setting the tone for an interactive and thought-provoking session.

Session 2: Overview of international agreements on access to official information (1 hour)

Methodology: Briefing session, PowerPoint presentation, and Q&A session on international standards, International Covenant on Civil and Political Rights (ICCPR) Article 19, European Convention on Human Rights (ECHR) Article 10, overview of the Council of Europe Convention on Access to Official Documents (Tromsø Convention) and Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

Comments:

The trainer provides an in-depth overview of international standards related to access to official information, emphasising their pivotal role in fostering transparency within governments and public institutions. This sets the stage for understanding the broader framework within which access to information operates as a component of freedom of expression.

The session highlights the evolution of international standards, tracing key milestones and progress in recognising access to official information as a fundamental human right. The trainer underscores how this recognition has been enshrined in various legal instruments and international agreements.

The International Covenant on Civil and Political Rights (ICCPR), particularly Article 19, is presented as a foundational document. It recognises the right to freedom of expression, which includes the right to seek, receive, and impart information. This is contextualised as a critical aspect of transparency and accountability.

The trainer explains that while the European Convention on Human Rights (ECHR) does not explicitly guarantee access to official information, the European Court of Human Rights (ECtHR) has interpreted Article 10—protecting the right to freedom of expression—as encompassing the right to receive and impart information. This interpretation has significant implications for access to information in Europe.

The session also introduces key international agreements such as the Council of Europe Convention on Access to Official Documents (Tromsø Convention), which establishes legal standards for access to information. Additionally, the Aarhus Convention is discussed, focusing on access to information on environmental matters. This highlights the importance of individuals being able to obtain information necessary for exercising their rights and freedoms, particularly in the context of environmental protection.

Participants are encouraged to ask questions on the implications of these standards and share how they relate to their professional experiences.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 3: Balancing access to official information and other legitimate interests – ECtHR criteria (1.5 hours)

Sub-session 3.1: Public interest tests for balancing access to official information and other legitimate interests

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides an in-depth exploration of the legal framework governing the limitations on access to official documents. The trainer introduces the session with a briefing that integrates the provisions of Article 10 of the European Convention on Human Rights (ECHR) and Article 3 of the Council of Europe Convention on Access to Official Documents (Tromsø Convention).

The presentation focuses on the following key tests used to determine the validity of limitations.

The session on limitations of access to official documents focuses on three key legal tests to evaluate when restrictions are justified under international standards. These include the Three-Part Test, the Harm Test, and the Public Interest Test, derived from the European Convention on Human Rights (ECHR, Article 10) and the Tromsø Convention (Article 3).

The Three-Part Test from Article 10 of the ECHR requires that:

- ▶ **Legality:** Any restriction must be prescribed by law, with a clear and accessible legal basis.
- ▶ **Legitimate Aim:** The limitation must serve a recognised legitimate aim, such as protecting national security, public safety, or individual privacy.
- ▶ **Necessity and Proportionality:** The restriction must be necessary in a democratic society and proportional to the aim pursued. During the session, the trainer provides practical examples demonstrating how this balance is maintained in various contexts.

The Harm Test outlined in Article 3 of the Tromsø Convention emphasises that public authorities must assess whether disclosing the requested information would cause harm to a legitimate interest, such as national security, public safety, or personal privacy. The trainer clarifies that this test requires a clear and evidence-based demonstration of harm before restricting access.

The Public Interest Test, also in Article 3 of the Tromsø Convention, requires weighing the harm of disclosure against the public interest in making the information available. The trainer explains that if the public interest outweighs the potential harm, access to information should generally be granted. Real-world examples are used to illustrate cases where the public interest test has influenced decisions to disclose information.

By examining these tests, participants gain a comprehensive understanding of how limitations on access to information are justified, ensuring they align with democratic principles and international human rights standards.

A PowerPoint presentation supports the session, illustrating how these tests are applied through examples from European Court of Human Rights case law and practical administrative decisions under the Tromsø Convention. Key cases such as *Magyar Helsinki Bizottság v. Hungary* and *Youth Initiative for Human Rights v. Serbia* are discussed to provide participants with practical insights into the judicial reasoning behind limitations on access to information. The session transitions into a Q&A segment, where participants are encouraged to engage with the material by posing questions or discussing challenges from their professional contexts.

Optionally, this session may 1) emphasise privacy protection by examining in detail the relevant provisions of Article 8 of the European Convention on Human Rights or 2) focus on national security issues, drawing on the *Tshwane Principles on National Security and the Right to Information*.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Sub-session 3.2: Case study and group activity.

Methodology: Interactive exercises: case study and written group activity with a spokesperson (case study analysis).

Comments:

The trainer presents in detail the case of *Magyar Helsinki Bizottság v. Hungary*, providing participants with a brief overview of the facts, legal issues, and the European Court of Human Rights decision. There should be an emphasis that this landmark case illustrates the criteria established by the European Court of Human Rights for recognising access to information as a component of the right to freedom of expression under Article 10 of the European Convention on Human Rights.

The trainer highlights specific criteria derived from the decision, including:

- ▶ The nature of the information requested and whether it serves the public interest.
- ▶ The purpose for which the information is sought and its relevance to democratic oversight.
- ▶ The role of the individual or organisation requesting the information (e.g., journalists, NGOs, or public watchdogs).
- ▶ Whether the information was ready and available

In the collaborative learning segment, civil servants engage in a written group activity with a spokesperson (case study analysis) to examine real or hypothetical cases related to access to official information. The cases for civil servants focus on practical applications of access to information laws within government institutions within making decisions on restricting access to information. The objective is to analyse the justification for limitations and propose practical solutions that align with transparency principles while respecting legitimate restrictions.

The trainer manages the written group activity in the following way:

- ▶ Divide participants into small groups, assigning each a case study related to access to information.
- ▶ Each group analyses the case, focusing on: legal justifications for granting or restricting access, public interest considerations and best practices in handling requests efficiently and fairly.

A spokesperson from each group presents their findings to the full audience, sharing key insights and proposed solutions. The trainer facilitates discussion, linking group responses to existing legal standards, domestic regulations, and case law applications, ensuring that discussions remain solution oriented. Each group's key findings and recommendations are recorded on a flip chart, allowing participants to collectively explore best practices and strategies for handling access to information requests in their professional roles.

Session 4: Main provisions of the Aarhus and Tromsø Conventions and their application in the duties of civil servants (1.5 hours)

Sub-session 4.1.: Key principles and standards of the Aarhus and Tromsø Convention.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

The trainer begins with a briefing session to introduce the core principles of the Aarhus Convention and the Tromsø Convention, focusing on their shared objective of promoting transparency and accountability. The Aarhus Convention is presented as a pioneering international framework for environmental governance, emphasising the public's right to access environmental information. The presentation highlights the three pillars of the convention: the right to access environmental information, the right to participate in environmental decision-making processes, and the right to access justice in environmental matters. Specific articles of the convention are discussed, illustrating how states are obligated to provide timely, accurate, and accessible environmental information to the public.

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The trainer shifts to the Tromsø Convention, which establishes equal access to official documents. The trainer emphasises the convention's innovative aspects, such as recognising access to information as a fundamental right. Key provisions of the Tromsø Convention are presented, such as the obligation of public authorities to respond promptly to requests, provide reasons for refusals, and support applicants through clear procedures. Participants learn how the Tromsø Convention complements the Aarhus Convention by providing broader access to information, regardless of the subject matter.

A PowerPoint presentation provides visual support for the session, summarising the principles and standards of both conventions. The session concludes with a brief Q&A segment, allowing participants to clarify key concepts and share initial reflections.

Sub-session 4.2.: Implementation of Aarhus and Tromsø Conventions – equal access to information and support for applicants.

Methodology: Interactive exercises: problem-based facilitated discussion and collaborative learning.

Comments:

This sub-session focuses on the practical implementation of the Aarhus and Tromsø Conventions through interactive activities. The session begins with a facilitated discussion, where participants explore the key challenges and opportunities related to access to information in their respective jurisdictions. The trainer guides the discussion, encouraging participants to share experiences and analyse common issues such as:

- ▶ ensuring equal treatment of applicants regardless of background or purpose,
- ▶ processing requests,
- ▶ ensure that public authority helps the applicant identify the requested official document as much as reasonably possible.

The trainer uses targeted questions to deepen the discussion, such as:

- ▶ “What administrative practices could be improved to support applicants better?”
- ▶ “How can public authorities ensure compliance with the conventions’ principles while managing practical constraints?”

Key insights and proposed solutions from the discussion are recorded on a flip chart to provide a foundation for the next exercise.

Evaluation reports from the monitoring bodies of the Aarhus Convention and Tromsø Convention and NGOs’ reports on the conventions’ implementation are invaluable resources for assessing the implementation and effectiveness of access to information standards in a given jurisdiction. Trainers should incorporate the findings from these reports to provide participants with a clear understanding of the practical challenges, achievements, and areas for improvement in their national context. Trainers can use this data to frame discussions, enabling participants to critically examine their government’s approach and compare it with international standards. By addressing these findings, trainers ensure that the session is grounded in real-world challenges and provides participants with actionable insights to enhance the implementation of the conventions in their professional and policy-making contexts.

Building on the facilitated discussion, participants engage in collaborative learning to analyse specific scenarios reflecting real-world applications of the conventions. Group discussion addresses challenges such as handling requests for environmental information under the Aarhus Convention or navigating administrative obligations under the Tromsø Convention.

The session concludes with the trainer synthesising the outcomes of both the facilitated discussion and collaborative learning activities. The trainer links these outcomes back to the Aarhus and Tromsø Conventions principles, emphasising their role in promoting transparency, accountability, and equal access to information. Participants reflect on how these principles can be integrated into their work to enhance governance and support for applicants. This structured approach ensures a productive and meaningful exploration of the conventions’ implementation.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 5: Application of international standards in national legislation (1.5 hours)

Sub-session 5.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides participants with an understanding of their national legislation on access to information, analysing its compliance with international standards in freedom of expression established under frameworks of the European Convention on Human Rights and the Tromsø Convention.

The trainer begins with a briefing session, offering an overview of key provisions in the national legal framework related to access to information. The presentation highlights the core principles, procedural requirements, and legal guarantees enshrined in the national laws. Special attention is given to how these laws address fundamental aspects such as:

- ▶ ensuring the right to access public information without discrimination,
- ▶ definitions for “document” and “information” in the domestic regulations,
- ▶ definition of “public authorities” in the domestic regulations,
- ▶ the timeframes for responding to requests,
- ▶ the legitimate grounds for refusing access and the corresponding appeals mechanisms.

A PowerPoint presentation is used to compare the national legislation with international standards, identifying areas of alignment and divergence. The trainer highlights best practices from other jurisdictions to illustrate how compliance with international standards can enhance transparency and accountability.

During the Q&A session, participants are encouraged to share their experiences with the national framework, including successes, challenges, and gaps in its implementation. This sub-session concludes with reflections on the importance of continuous legal and procedural reforms to meet evolving international standards. The trainer records key points and participant insights on a flip chart, which can later serve as a basis for further discussions on improving alignment between national laws and international standards.

Sub-session 5.2.: Facilitated discussion on instruments to access official information under national legislation (access via information request, proactive publication obligations, rules on re-use of official information).

Methodology: Case study in small groups and facilitated discussion.

Comments:

This sub-session aims to deepen participants’ understanding of the various mechanisms for accessing official information as defined by national legislation. It focuses on:

- ▶ access via information requests for understanding procedural requirements, timelines, and obligations for providing access.
- ▶ proactive publication obligations by exploring the legal mandate for government entities to publish certain types of information proactively.
- ▶ domestic rules on the re-use of official information to discuss the conditions under which public information can be reused and shared, including licensing and copyright considerations.

Participants will work in small groups to analyse a real-life or hypothetical case where an individual or organisation seeks access to official information. Groups will identify challenges, evaluate the use of various instruments under national law, and propose solutions.

After completing the case study, participants will engage in a guided discussion to share findings and insights. The facilitator will encourage dialogue on best practices, challenges, and the practical application of these instruments within their roles.

This session combines practical analysis with collaborative learning, ensuring participants leave with actionable insights relevant to their professional responsibilities.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

→ Day 2: Practical Implementation

Session 6: Managing official information and structuring responsibilities within state authorities (1.5 hours)

Sub-session 6.1.: Effective management of official information within the state authority.

Methodology: Briefing session and facilitated discussion.

Comments:

This sub-session is designed to equip participants with strategies for effectively managing official information within state authorities. It covers the following issues:

- ▶ database and public register management, focusing on the best practices for maintaining accurate, secure, and accessible databases and public records at the national level.
- ▶ processing complex requests and ensuring accuracy and completeness in replies, discussing the approaches to handling information requests that require data compilation from multiple documents.
- ▶ ensuring inclusivity in information request processing, accommodating diverse needs, such as accessibility for persons with disabilities, and providing documents in various formats.

Participants will work on a case study involving a scenario where a state authority receives a complex information request. Groups will identify steps to compile data from multiple sources, address potential challenges, and propose solutions for ensuring inclusivity and compliance. Following the case study, participants will engage in a guided discussion to share their approaches. Trainers will highlight best practices for ensuring transparent, inclusive, and efficient management of official information and processing of requests.

By the end of this session, participants will gain a comprehensive understanding of the key techniques for organising and managing official information effectively within state authorities. Participants will also develop a clear understanding of how to process complex information requests that require collecting data from multiple documents. The session will emphasise the importance of applying inclusive practices and ensuring equitable access to information for all requesters.

The trainer will use the recommendations from controlling authorities, such as Information Commissioners or Ombudsman institutions, to highlight the best practices in the management of official information and processing requests. The trainer will review domestic court practices that illustrate how the courts at the national level shape the interpretation and application of access to information laws. Trainers will highlight landmark cases and guidance provided by oversight bodies to ensure compliance with legal requirements and promote accountability.

Sub-session 6.2.: Obligations of the responsible officials under the national legislation.

Methodology: Interactive exercises: collaborative learning and brainstorming session.

Comments:

Officials responsible for managing and responding to requests for official information play a critical role in ensuring government transparency and accountability. Their job typically includes receiving, reviewing, and processing requests for information, ensuring compliance with established legal frameworks and timelines. They must communicate with requesters clearly, providing either the requested information or a lawful justification for refusal. Additionally, they are responsible for maintaining accurate records of requests and responses, coordinating with other departments to retrieve necessary data, and ensuring that any associated costs are calculated and communicated transparently.

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This sub-session is designed to help participants understand the obligations of officials responsible for managing and responding to requests for official information under national legislation. The focus is on equipping participants with practical skills to ensure compliance with legal standards while maintaining transparency and accountability in their roles:

- ▶ specific responsibilities of officials under national access to information laws,
- ▶ understanding the legal deadlines for processing requests.
- ▶ reviewing legal provisions for cost recovery, including the permissible charges for document reproduction and how to communicate this to requesters.

Participants will work together in small groups to analyse case scenarios involving complex or challenging requests for information. Trainers will guide participants through discussions to develop step-by-step procedures for ensuring compliance with legal standards in their daily responsibilities. Topics will include strategies for meeting deadlines, preparing clear and lawful justifications for refusals, and handling payment-related issues.

Session 7: Workshop on preparing the reply to the request (1.5 hours)

Methodology: Workshop on preparing the reply to the request for official information (small group exercise and peer review).

Comments:

This session provides participants with a comprehensive understanding on how to appropriately justify the denial of information requests in alignment with national legislation and international best practices and how the limitations on access to information are applied within their national regulatory framework.

The trainer begins with a briefing session, outlining the scope and justification of limitations under national laws, ensuring participants understand the legal and procedural framework.

The trainer also provides a brief overview of selected cases that illustrate common legal grounds for restricting access to information, such as protecting national security, safeguarding personal privacy, or ensuring the confidentiality of sensitive business information. Each case reflects typical challenges faced under the national legal framework and highlights how the public interest test, harm test, and other relevant principles are applied.

Participants are then divided into groups and tasked with analysing specific cases. Each group reviews the legal reasoning behind the decision, focusing on:

- ▶ the justification provided for restricting access.
- ▶ whether the decision aligns with national regulations and international standards, such as those under the ECHR or Tromsø Convention.
- ▶ the balance between transparency and legitimate limitations, including whether the public interest in disclosure outweighed the reasons for restriction.

During the exercise, the trainer circulates among the groups to provide guidance, clarify questions, and encourage deeper discussion. Participants are prompted to consider key aspects, such as:

Following the group exercise, a facilitated discussion brings all participants together to share their findings. Each group presents their case analysis, including their interpretation of the legal principles applied and any recommendations for improving the handling of similar situations. The trainer moderates the discussion, encouraging participants to engage with each other's perspectives and draw connections between the cases analysed.

Key points and insights are recorded on a flip chart to capture the collective learning outcomes of the session.

The session concludes with a summary by the trainer, synthesising the main takeaways and linking them back to the broader principles of transparency, accountability, and adherence to legal standards. Participants are encouraged to reflect on how the exercise informs their understanding of the legal framework for restricting access and how they can apply these insights to their professional practices.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 8: Oversight and implementation at the national level (1.5 hours)

Sub-session 8.1.: National oversight mechanisms and the relevant court practice.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session starts with introducing the key international approaches for overseeing access to information, emphasising the roles and functions of Information Commissioners and Commissions, government agencies, Ombudsman institutions, and courts. The session explores how these mechanisms collectively ensure compliance with access to information laws, resolve disputes, and uphold the principles of transparency and accountability.

The trainer begins with a briefing session, supported by a PowerPoint presentation, to outline each oversight mechanism's structures, responsibilities, and processes, focusing on national oversight mechanisms and their role in enforcing access to information laws. The trainer explains how these mechanisms complement one another, with courts providing a higher level of scrutiny and setting legal precedents that strengthen the enforcement of access laws.

Examples are shared from jurisdictions where these bodies have effectively enforced compliance and resolved disputes.

Participants examine how national oversight bodies and courts respond to these cases, applying legal principles to determine whether the decisions align with the standards set by international conventions such as the ECHR and Tromsø Convention. The trainer encourages participants to consider the following:

- ▶ The accessibility and impartiality of oversight mechanisms.
- ▶ The role of courts in ensuring accountability and providing final resolution in contentious cases.
- ▶ Practical strategies for improving coordination between oversight authorities and the judiciary.

During the Q&A session, participants are encouraged to share insights from their own experiences with oversight mechanisms to consider how these approaches can be strengthened and applied in their professional and national contexts to ensure that access to information laws are effectively implemented and respected.

Sub-session 8.2.: Monitoring, cooperation with civil society and journalists, education and awareness-raising – best practices.

Methodology: Facilitated discussion.

Comments:

This sub-session emphasises the critical role of monitoring and reporting in ensuring compliance with international standards. Facilitated discussions should focus on best practices for establishing effective monitoring systems within state authorities. Participants should explore strategies for collecting and analysing data on compliance, identifying challenges, and producing regular reports that demonstrate adherence to transparency and access to information obligations under the Tromsø Convention. The trainer highlights the importance of engaging civil society organisations (CSOs) and journalists in monitoring efforts. Discussions should address how their input can strengthen reporting processes, improve oversight, and identify gaps in implementation.

Awareness-raising efforts are essential to ensure that citizens, civil society, and journalists understand their rights and the processes for accessing official information. The discussion should include strategies for designing effective public outreach campaigns. Participants could brainstorm ideas for educational workshops, digital campaigns, and the development of accessible materials (e.g., guides or toolkits) to inform citizens about their rights under the Tromsø Convention and national legislation.

Participants should consider the role of education in equipping public officials with the knowledge and skills to fulfil their responsibilities. The facilitated discussion should guide participants to draft actionable recommendations for their roles.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 9: Evaluation and wrap-up

Multiple-choice test/evaluation.

Comments:

The **multiple-choice test** is designed to assess knowledge retention, comprehension of key concepts, and the ability to apply principles discussed during the course.

The trainer introduces the evaluation by explaining its purpose as a diagnostic tool to measure individual and group learning outcomes.

Feedback and certificate awarding.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

POST-TRAINING TEST

Group #2: Civil servants

1. What is the legitimate ground for refusing access to official information under the Tromsø Convention?

- a) To avoid public criticism of authorities.
- b) To protect sensitive personal interests.
- c) To simplify administrative tasks.

2. Which of the following tests is used under Article 10 of the ECHR to justify limitations on access to information?

- a) Proportionality Test
- b) Three-Part Test
- c) Transparency Test
- d) Fairness Test

3. Under the Aarhus Convention, the public has the right to access environmental information without stating a reason.

- a) True
- b) False

4. What must public authorities demonstrate under the harm test?

- that disclosing the information is in the public interest
- that withholding information would harm public safety
- that disclosure would cause significant harm to a legitimate interest

5. Does the Tromsø Convention require public authorities to assist applicants in identifying the documents they seek?

Yes/No

6. In the context of managing official information, what does inclusivity mean?

- a) allowing unrestricted access to classified documents
- b) providing equal access to all applicants, regardless of their background or purpose
- c) limiting access to individuals with professional credentials

The test should be expanded with additional questions specifically addressing the sessions on domestic regulations to assess participants' understanding of their national framework for access to information. For example, questions could focus on the timeframes within which public authorities are required to respond to requests for information under domestic law or the specific grounds allowed for refusing access, such as national security or privacy concerns. Another question could explore the role of national oversight bodies, asking participants to identify the responsibilities of entities such as the Information Commissioner or Ombudsman in their country.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

PRE-TRAINING TEST/SURVEY

Group #2: Civil servants

1. Which of the following is protected under Article 10 of the European Convention on Human Rights?

- a) The right to personal privacy.
- b) The right to freedom of expression.
- c) The right to participate in elections.
- d) The right to commercial confidentiality.

2. Does the European Convention on Human Rights explicitly guarantee the right to access official information?

Yes/No.

3. What is the purpose of the Tromsø Convention?

- a) To regulate data protection laws across Europe.
- b) To establish access to environmental information.
- c) To guarantee everyone's right to access official documents.
- d) To enforce media censorship policies.

4. The Aarhus Convention focuses solely on environmental issues.

- a) True.
- b) False.

5. Is it mandatory for public authorities under national law to respond to an information request within a specific time frame?

Yes/No.

6. Are public authorities required to assist applicants in identifying and accessing requested documents under international access to information standards?

Yes / No

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

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OVERVIEW OF INTERNATIONAL AGREEMENTS ON ACCESS TO OFFICIAL INFORMATION

(Trainer's name and affiliation)

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INTERNATIONAL DOCUMENTS DEFINING THE RIGHT TO ACCESS OFFICIAL INFORMATION:

- ▶ European Convention on Human Rights
- ▶ International Covenant Civil and Political Rights
- ▶ Aarhus Convention
- ▶ Tromsø Convention

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Article 10 of the European Convention on Human Rights, **guarantees freedom of expression**. This right includes:

- ▶ Freedom to hold opinions,
- ▶ Freedom to receive and impart information and ideas without interference from public authorities and regardless of frontiers.

However, Article 10(2) allows for certain restrictions on freedom of expression when they are:

- ▶ **Prescribed by law** and
- ▶ **Necessary in a democratic society** to serve legitimate aims

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While Article 10 protects the right to receive and share information, it does not explicitly guarantee a general right to access official documents. However, the European Court of Human Rights has interpreted access to information as part of freedom of expression, especially when:

- ▶ The requested information is of **public interest**.
- ▶ The requester plays a **watchdog role** (e.g., journalists, NGOs).
- ▶ The information is necessary for **democratic oversight and transparency**.

This interpretation has been reinforced in cases such as **Magyar Helsinki Bizottság v. Hungary**

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AARHUS CONVENTION

- ▶ The Aarhus Convention is formally known as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. It was adopted on June 25, 1998, in the Danish city of Aarhus.
- ▶ The Convention aims to promote environmental democracy by granting the public rights regarding access to information, public participation, and access to justice in environmental matters.
- ▶ **The Aarhus Convention aligns with European and international human rights frameworks.**

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TROMSØ CONVENTION

- ▶ Entered into force on 1 December 2020.
- ▶ It has 17 Parties: Albania, Armenia, Bosnia and Herzegovina, Estonia, Finland, Hungary, Iceland, Latvia, Lithuania, Montenegro, North Macedonia, Norway, the Republic of Moldova, Slovenia, Spain, Sweden, and Ukraine.

The Tromsø Convention was the first binding international legal instrument to recognize everyone's right to access official documents (information) held by public authorities without discrimination, regardless of the requester's status or motives in seeking access.

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INTERNATIONAL BODIES THAT PROTECT HUMAN RIGHTS ON THE BASIS OF THESE INTERNATIONAL ACTS:

- ▶ European Court of Human Rights
- ▶ UN Human Rights Committee
- ▶ Aarhus Convention Compliance Committee

Council of Europe Convention on Access to Official Documents (Tromsø Convention)
– two monitoring bodies:

- ▶ Group of Specialists on Access to Official Documents
- ▶ Consultation of the Parties

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TROMSØ CONVENTION – ACCESS INFO GROUP

- ▶ The Council of Europe Access Info Group is one of the two monitoring bodies established by the Tromsø Convention under its Article 11 which is responsible for monitoring the implementation of the Convention by the Parties.
- ▶ It is composed of experts of the highest integrity who are independent and impartial in the area of access to official documents. The Access Info Group will evaluate and report on the legislative and other measures adopted by the Parties to give effect to the provisions set out in the Tromsø Convention.

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TROMSØ CONVENTION – CONSULTATIONS OF THE PARTIES

- ▶ The Consultation of the Parties is the second monitoring body established by the Tromsø Convention under its Article 12.
- ▶ Consultation of the Parties is composed of one representative per Party. It meets at least once every four years to consider the reports, opinions and proposals submitted by the Group of Specialists. An activity report shall be submitted by the Consultation of the Parties to the Committee of Ministers after each meeting. The Consultation of the Parties elects the members of the Group of Specialists.
- ▶ The Consultation of the Parties can make proposals and recommendations to the Parties, make proposals or formulate opinions on any proposal for the amendment of the Tromsø Convention under Article 19.

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PUBLIC INTEREST TESTS FOR BALANCING ACCESS TO OFFICIAL INFORMATION AND OTHER LEGITIMATE INTERESTS

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LIMITATIONS ARE PRESCRIBED BY:

- ▶ Part 2 of Article 10 of the European Convention on Human Rights
- ▶ Part 3 of Article 19 of the International Covenant on Civil and Political Rights
- ▶ Article 3 of the Council of Europe Convention on Access to Official Documents
- ▶ Article 4 of the Aarhus Convention

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CRITERIA ACCORDING TO ARTICLE 10 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Procedural Requirements

1. Lawfulness of the Interference: Any restriction must have a clear legal basis. This means the limitation should be established through legislation that is accessible and foreseeable, ensuring that individuals understand the potential for certain information to be restricted and the reasons behind it.

2. Legitimacy of the Aim: The limitation must pursue a legitimate aim. The Convention outlines specific legitimate interests, as mentioned above, which justify the restriction of access to information.

3. Necessity and Proportionality: The restriction must be necessary in a democratic society and proportionate to the intended goal. This involves a careful assessment to ensure that the interference with the right to access information is balanced against the need to protect the public interest or the rights of others.

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LAWFULNESS

This principle ensures that **laws are fair, understandable, and provide guidance without being overly rigid or vague.**

- ▶ For a rule to be considered a **law**, it must be **clear and precise** so that people can **understand it** and **know how to follow it**.
- ▶ **People should be able to adjust their behavior** based on the law.
- ▶ **With legal advice if needed, a person should be able to predict** what might happen if they take a certain action.

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LEGITIMACY OF THE AIM PURSUED BY THE INTERFERENCE

When a government restricts a right, it must justify it by pointing to a legitimate reason (e.g., national security, public safety, protecting others' rights).

The European Court of Human Rights checks whether the government's reason is valid:

- ▶ If the reason doesn't actually justify the restriction, the Court may say the interference was not lawful.
- ▶ The Court can accept some reasons and reject others, for example, if a government gives multiple justifications but only one is valid.

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NECESSITY OF THE INTERFERENCE IN A DEMOCRATIC SOCIETY

- ▶ Existence of a “pressing social need”
- ▶ Assessment of the nature and severity of the sanctions (the least restrictive measure)
- ▶ Requirement of relevant and sufficient reasons

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TROMSØ CONVENTION (ARTICLE 3)

Each Party may limit the right of access to official documents.

Limitations shall be:

- ▶ set down precisely in law,
- ▶ be necessary in a democratic society and
- ▶ be proportionate to the aim of protecting

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HARM TEST UNDER THE TROMSØ CONVENTION

Access to information contained in an official document may be refused if its disclosure would or would be likely

- ▶ to harm any of the interests mentioned in paragraph 1 of Article 3,
- ▶ unless there is an overriding public interest in disclosure.

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THRESHOLD CRITERIA FOR THE RIGHT OF ACCESS TO STATE-HELD INFORMATION

- ▶ **The purpose of the requestor or why the information is needed.** This criterion includes an assessment of whether obtaining the information is really necessary for the person to fulfill his or her function of facilitating public debate on socially important issues, and whether failure to provide the information would create a significant obstacle to freedom of expression.
- ▶ **The nature of the information.** The information, data or documents to which access is requested must meet the requirements of the three-part test, i.e., be collected for the purpose of satisfying the public interest, and not simply out of curiosity.

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- ▶ **The role of the requestor.** Those who facilitate public discussion have special protection: journalists, civil society organizations/activists, researchers, authors of books on socially important topics, bloggers and popular social media users.
- ▶ “Ready and available information”. The provision of information should not impose an excessive burden on public authorities to collect and process data.

(Judgment of the Grand Chamber in the case of *Magyar Helsinki Bizottság v. Hungary*).

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THE PURPOSE OF THE INFORMATION REQUEST

To be protected under Article 10 (freedom of expression), a person requesting official information must be gathering it to share with the public. This means the information must be needed for journalistic work or other activities that contribute to public debate (for example, NGO research or investigative reporting).

The Court emphasized that journalists and public watchdogs have a duty to act responsibly when sharing information.

- ▶ To receive legal protection under Article 10, journalists must:
- ▶ Act in good faith (meaning they are not misleading or spreading false information).
- ▶ Provide accurate and reliable information that follows ethical journalism standards.

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THE NATURE OF THE INFORMATION SOUGHT

Judgment of the Grand Chamber in the case of Magyar Helsinki Bizottság v. Hungary confirms that access to information is a key part of freedom of expression, but not all information must be disclosed – only information that serves the public interest and helps people understand and engage in democratic decision-making. Public-interest information includes anything that:

- ▶ Shows how government decisions are made and how public institutions function.
- ▶ Affects society as a whole and helps people participate in democracy.

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Public interest depends on the situation – not all information is equally important. Information is considered in the public interest if:

- ▶ It affects many people or communities.
- ▶ It raises significant debate or controversy.
- ▶ It involves major social issues that the public should know about.

However, public interest is NOT the same as gossip or curiosity – people's private lives do not automatically qualify as public-interest information.

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THE ROLE OF THE APPLICANT

The Court considers two key factors when deciding if denying access to information violates freedom of expression (Article 10):

- ▶ Why the person is requesting the information (Is it for public debate or general curiosity?)
- ▶ What kind of information is being requested (Is it about government activities or private matters?).

The Court has ruled in past cases that journalists, social watchdogs, and NGOs should receive strong protections when seeking information about public affairs.

Judgment of the Grand Chamber in the case of Magyar Helsinki Bizottság v. Hungary confirms that access to information is especially important for journalists and NGOs because they serve the public interest. When governments deny them access, it can harm democracy and transparency.

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- ▶ Under the ECHR, access to information is protected when it contributes to public debate and democracy.
- ▶ Under the Tromsø Convention, access to documents is a general right—no justification needed.

Aspect	ECtHR (Article 10 – Freedom of Expression)	Tromsø Convention (Article 4 – Access to Documents)
Does the requester need a reason?	Yes, in some cases (especially if claiming a violation of Article 10).	No, never (requests should be granted without asking for a reason).
Who benefits most?	Journalists, researchers, and public watchdogs.	Any citizen, journalist, or organization.
When is access protected?	When the request serves public debate or journalism.	All official documents should be accessible unless legally restricted.

READY AND AVAILABLE INFORMATION

Governments must provide public information when they already have it readily available.

- ▶ The requested information was “ready and available”, meaning the government already had the documents and did not need to gather new data.
- ▶ This ensures that authorities remain transparent and accountable, preventing them from hiding information behind bureaucratic inefficiency.
- ▶ Since the government didn’t need extra effort to provide the documents, refusing access was not justified.

In some cases, governments argue that finding and gathering the information is too difficult. However, the Court said that if the difficulty is caused by poor organization or bad record-keeping by the government itself, that cannot be used as a valid reason to deny access.

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ECTHR CASE-LAW

- ▶ *Centre for Democracy and Rule of Law v. Ukraine* #10090/16
- ▶ *Affaire Cangi v. Turkey* #24973/15
- ▶ *Volodymyr Torbich v. Ukraine* # 14957/13
- ▶ *Torbich v Ukraine* #41713/13 and #29980/15

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KEY PRINCIPLES AND STANDARDS OF AARHUS AND TROMSØ CONVENTIONS

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THREE PILLARS OF AARHUS CONVENTION

The Convention is based on three main pillars:

- ▶ **Pillar One – Access to Information:** Guarantees the right of everyone to receive environmental information that is held by public authorities.
- ▶ **Pillar Two – Public Participation:** Involves the public in environmental decision-making, ensuring that public opinions and concerns are considered.
- ▶ **Pillar Three – Access to Justice:** Provides the public with the means to challenge public decisions that have been made in breach of the two previous pillars or environmental law.

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SCOPE OF AARHUS CONVENTION

- ▶ The **Aarhus Convention reinforces the principle of environmental democracy**, ensuring that **all individuals and organizations** – regardless of nationality – can **hold governments accountable** for environmental decisions.
- ▶ The public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters **without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective center of its activities.**

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AARHUS CONVENTION – GENERAL PROVISION

The Aarhus Convention **sets minimum legal standards** for access to environmental information, public participation, and access to justice.

Article 3(5) states that Parties to the Convention are free to introduce broader measures that:

- ▶ Provide greater public access to environmental information.
- ▶ Allow for more extensive public participation in environmental decision-making.
- ▶ Grant wider access to justice in environmental matters than what is strictly required by the Convention.

Parties to the Convention can go beyond the Convention's requirements, strengthening environmental democracy.

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DEFINITION OF INFORMATION OF AARHUS CONVENTION

The Aarhus Convention defines environmental information as any kind of information related to the environment, which can be in different formats – **written, visual, audio, electronic, or any other material form** (Article 2).

Everyone has the right to ask for environmental information from public authorities.

Governments must provide this information within the rules of their national laws (Article 4). If someone asks for information, authorities must:

- ▶ Provide copies of the actual documents when requested.
- ▶ Give the information in the requested format, unless it is more reasonable to provide it in a different format (they must explain why).
- ▶ Inform the requester if the information is already publicly available in another form.

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AARHUS CONVENTION STANDARD ON THE PERSONALITY OF A REQUESTOR

- ▶ Anyone can request environmental information from public authorities.
- ▶ Journalists don't need to explain why you want the information—governments must provide it without asking for a reason.
- ▶ This ensures that environmental information is open to everyone, including journalists, researchers, and the public, making it easier to investigate and report on environmental issues without unnecessary restrictions.

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AARHUS CONVENTION – PROVIDING GUIDANCE

Government officials must help people who want to access environmental information.

This ensures that public authorities are not just gatekeepers of information but also helpers, making it easier for people to stay informed, speak up, and take action on environmental matters.

Any guidance should be provided according to the non-discrimination principle.

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TROMSØ CONVENTION – GENERAL PROVISIONS

- ▶ The rules in this convention set the **minimum standard** for access to official documents.
- ▶ If a country already has stronger laws that give people more access to documents, those laws still apply.
- ▶ This **convention does not limit or replace existing rights** – parties of the Convention can continue to offer broader access if they choose.

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SCOPE OF TROMSØ CONVENTION

It ensures that official information is open to everyone, including citizens, journalists, researchers, and activists, helping to promote transparency and accountability in government.

- ▶ Everyone has the right to request and access official documents from public authorities.
- ▶ No discrimination is allowed, access must be granted to all people equally, regardless of nationality, background, or status.
- ▶ You don't have to give a reason for requesting the documents; the government cannot ask why you want them.

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DEFINITION OF INFORMATION IN THE TROMSØ CONVENTION

- ▶ *Article 1, “the Council of Europe Convention on Access to Official Documents prescribes that “official documents” means **all information recorded in any form, drawn up or received and held by public authorities.**”*

According to the Explanatory Report to the Convention, “it is a very wide definition: “official documents” are considered to be any information drafted or received and held by public authorities that are recorded on any sort of physical medium whatever be its form or format (written texts, information recorded on a sound or audiovisual tape, photographs, emails, **information stored in electronic format such as electronic databases, etc.)”**

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TROMSØ CONVENTION STANDARD ON THE PERSONALITY OF THE REQUESTOR

- ▶ Requestors don't need to give a reason for requesting official documents.
- ▶ The request process should be easy, governments cannot create complicated procedures or require excessive papers.
- ▶ Authorities should only ask for the necessary details to process the request, such as the specific document needed and where to send it.
- ▶ Delays, high fees, or excessive forms should not be used to make access more difficult.
- ▶ Requestors can stay anonymous unless their identity is absolutely needed to process the request (e.g., for security reasons).

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ARCHIVE INFORMATION

According to the Explanatory Report to the Tromsø Convention:

15. Official documents transferred to archives remain under the scope of this Convention.

61. In principle, on-site consultation should be free of charge. However, the public archival authorities and museums may charge the applicant for the cost of the services they supply.

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TROMSØ CONVENTION STANDARD – PROVIDING HELP

Article 5 ensures that everyone, no matter their situation, has a fair chance to access official documents, making the process more inclusive and accessible for all.

- ▶ Government offices must help people find the documents they are looking for.
- ▶ If someone is not sure exactly what document they need, officials should assist them as much as possible.

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OBLIGATION TO MANAGE OFFICIAL DOCUMENTS EFFICIENTLY UNDER THE TROMSØ CONVENTION

Article 9 of the Tromsø Convention provides that the Parties “shall take appropriate measures to: ... c) **manage their documents efficiently so that they are easily accessible** and d) apply clear and established rules for the preservation and destruction of their documents”.

- ▶ Governments should make sure that government documents are well-organized and easy to find.
- ▶ Governments must create clear systems to store and manage official documents properly.
- ▶ This helps public authorities quickly locate and provide information when people request it.

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OVERVIEW OF NATIONAL LEGISLATION ON ACCESS TO INFORMATION

(Trainer's name and affiliation)

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LEGAL GUARANTEES OF THE RIGHT TO ACCESS OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – relevant provisions of the national Constitution)

Component 2 (for example – relevant provisions of the domestic law)

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DEFINITION OF OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – ready and available)

Component 2 (for example – information in different formats)

Component 3 (for example – created and collected by the public authority)

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DEFINITION OF PUBLIC AUTHORITIES

Component 1 (for example – government and administration at national, regional and local level)

Component 2 (for example – legislative bodies and judicial authorities insofar as they perform administrative functions according to national law)

Component 3 (for example – natural or legal persons insofar as they exercise administrative authority)

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REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – obligation to give reasons for having access to the official information/document)

Component 2 (for example – formalities for requests)

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PROCESSING OF REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – the timeline for processing request)

Component 2 (for example – an obligation of the public authority to help the applicant)

Component 3 (for example – an obligation to deal with the requests on an equal basis)

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CHARGES FOR ACCESS TO OFFICIAL DOCUMENTS

Component 1 (for example – inspection of official documents on the premises of a public authority)

Component 2 (for example – tariffs of charges domestic regulation)

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REVIEW PROCEDURE

Component 1 (for example – the general review procedure)

Component 2 (for example – review procedure before a court)

Component 3 (for example – review procedure by an impartial body established by law)

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MANAGING OFFICIAL INFORMATION AND STRUCTURING RESPONSIBILITIES WITHIN STATE AUTHORITIES

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DOMESTIC REGULATION ON THE RESPONSIBILITIES OF STATE AUTHORITIES

Component 1 (for example – relevant provisions of the domestic law)

Component 2 (for example – relevant provisions of the relevant sub-laws)

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OBLIGATION TO MANAGE OFFICIAL INFORMATION/DOCUMENTS EFFICIENTLY:

Component 1 (for example – relevant open-access databases)

Component 2 (for example – regulations and best practices of data management systems within domestic public authorities)

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PROCESSING COMPLEX REQUESTS

Component 1 (for example – rules on data compilation from multiple documents)

Component 2 (for example – regulations and best practices on potential abuse of the right to access official information)

Component 3 (for example – request remains too vague to allow the official document to be identified)

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INCLUSIVITY IN INFORMATION REQUEST PROCESSING

Component 1 (for example – obligation to accommodate diverse needs)

Component 2 (for example – accessibility for persons with disabilities)

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COMPLEMENTARY MEASURES TO ENSURE ACCESS TO OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – proactive publication)

Component 2 (for example – an obligation of the public authority to educate responsible officials on their duties with respect to the implementation of the right to access information)

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NATIONAL OVERSIGHT MECHANISMS AND THE RELEVANT COURT PRACTICE

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AARHUS CONVENTION STANDARDS

If a person requests official information and:

- ▶ Receives no response
- ▶ Is denied access (partially or fully)
- ▶ Gets an incomplete or unclear answer
- ▶ Feels their request was not handled properly

They have the right to challenge the decision through a review process. This review process must be independent and fair, conducted by:

- ▶ A court of law, or
- ▶ Another impartial legal body.

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TROMSØ CONVENTION STANDARDS

If a government refuses to provide an official document (either by directly denying it or by ignoring the request), the person who requested the document has the right to challenge the decision.

This review process must be independent and fair and can be conducted by:

- ▶ A court of law, or
- ▶ Another impartial and legally recognized review body (e.g., an Information Commissioner or Ombudsman).

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CONTROLLING AUTHORITY IN ACCESS TO INFORMATION – REQUIREMENTS

- ▶ Independence
- ▶ Balance of PDP and RTI
- ▶ Effectiveness
- ▶ Involvement in education and promotion of the RTI
- ▶ Involvement in drafting legislation and policy-making

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DOMESTIC CONTROLLING AUTHORITY IN ACCESS TO INFORMATION

Component 1 (for example – regulation on domestic controlling authority in access to information)

Component 2 (for example – power of domestic controlling authority in access to information)

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CHALLENGES IN ENFORCING COMPLIANCE AND RESOLVING DISPUTES

Component 1 (for example – independency issues)

Component 2 (for example – effectiveness issues)

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OBLIGATIONS OF THE OFFICIALS AND RESPONSIBILITY

Component 1 (for example – domestic regulations on the obligations of state officials regarding the request processing and proactive publications)

Component 2 (for example – domestic regulations on administrative procedures)

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BEST ADMINISTRATIVE PRACTICES ON THE DOMESTIC LEVEL:

Component 1 (for example – training for the state servants)

Component 2 (for example – monitoring and raising awareness)

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ROLE OF COURTS AND RELEVANT COURT PRACTICE

Component 1 (for example – effectiveness of courts as controlling authority in access to information)

Component 2 (for example – relevant court practice)

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Division for Cooperation on Freedom of Expression

GROUP #3

Journalists, other media professionals,
opinion leaders, and civic activists

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

GUIDE FOR PARTICIPANTS: TRAINING ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION AND FREEDOM OF EXPRESSION

→ Purpose of the Training

This training is specifically designed for journalists, media professionals, opinion leaders, and civic activists, those who act as public watchdogs and play a crucial role in ensuring transparency, accountability, and democratic governance. The programme aims to equip participants with the legal knowledge, practical skills, and strategic tools needed to access official information effectively, defend the right to information, and balance freedom of expression with privacy concerns. By engaging in workshops, case studies, practical exercises, and discussions, participants will learn how to use legal instruments, prepare a successful request for official information, and challenge refusals to contribute to freedom of expression via free access to official information. This guide provides an overview of the training structure, your responsibilities, and how to maximize your learning experience.

→ Key Learning Objectives

By the end of this course, you will be able to:

- ▶ understand European and international standards on access to information and freedom of expression,
- ▶ understand public interest tests to assess the limits of the right to access to official data,
- ▶ balance privacy rights and public interest, particularly regarding public figures,
- ▶ use oversight mechanisms and legal remedies to defend access to information
- ▶ make effective requests for information and challenge refusals,
- ▶ operate in a national legislation framework,
- ▶ strengthen collaboration within strategic litigation and advocacy for information transparency.

→ Course Structure

The training spans two days, with sessions structured to balance theoretical knowledge and practical applications:

Day 1:

- ▶ Exploration of international standards and case law, including the ECHR and Tromsø Convention.
- ▶ Understanding limitations and public interest tests.

Day 2:

- ▶ Application of national legislation and practical exercises.
- ▶ Development of practical skills via workshop.

→ Training Methodology

The training employs a blended learning approach, including:

- ▶ briefings and presentations: structured knowledge of legal principles and frameworks,
- ▶ case studies: real-world examples illustrating access to information challenges and solutions,
- ▶ interactive exercises: workshops, brainstorming, problem-based facilitated discussions, collaborative learning, and discussions in small groups.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

→ Participant Responsibilities

To ensure a successful and impactful training experience, participants are expected to take an active role in the sessions. This training is designed to be highly interactive, and your engagement is critical for maximizing learning outcomes. Below are the key responsibilities for participants:

1. Active participation:

- ▶ engage in brainstorming exercises and group discussions,
- ▶ ask questions and share your experience,
- ▶ take notes and contribute to problem-solving activities.

2. Pre-training preparation:

- ▶ familiarize yourself with international conventions such as the European Convention on Human Rights (Article 10), focusing on how access to official information is interpreted under freedom of expression,
- ▶ think about your experiences when trying to access public information for investigative journalism or reporting,

3. During the training:

- ▶ be open to interactive learning,
- ▶ participate in case study discussions to apply theoretical knowledge to real-world scenarios.

4. Share your professional experiences:

- ▶ prepare examples from your work where access to information played a critical role in exposing corruption or holding authorities accountable, note specific barriers such as bureaucratic delays, refusals citing national security, or data classification issues,
- ▶ draw from your own professional background to enrich the sessions, share challenges, success stories, and lessons learned related to access to information and freedom of expression in your field of responsibility,

5. Apply critical thinking:

- ▶ approach the training materials with a critical mindset, questioning and reflecting on how legal principles and best practices can be applied,
- ▶ evaluate the practical tools and methodologies introduced during the sessions, considering how they align with your daily responsibilities.

6. Collaborate with other participants:

- ▶ discuss real-life cases where access to information played a crucial role in media reporting or activism,
- ▶ take part in all practical exercises, such as drafting information requests and appeals, ensuring timely and thoughtful contributions to group tasks and presentations,
- ▶ exchange contact details and establish a professional network for continued collaboration.

7. Engage with Trainers:

- ▶ ask questions and seek clarification during presentations and discussions,
- ▶ provide constructive feedback to trainers, helping them tailor the sessions to your specific needs and challenges.

→ Evaluation and Certification

The programme concludes with:

- ▶ A post-training test to assess your understanding and application of the material.
- ▶ Feedback collection to improve future training.
- ▶ Certificate awarding to recognise your participation and achievements.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

The post-training test will include multiple-choice questions and scenario-based assessments to measure your understanding of key concepts. Certificates will be awarded based on active participation and successful completion of the evaluation.

This training is an opportunity to strengthen your professional skills, enhance transparency, and safeguard the public's right to information. By actively participating, you contribute to a more informed society, promote accountability, and uphold freedom of expression as a fundamental pillar of democracy.

STRUCTURE OF THE COURSE: TRAINING PROGRAMME ON EUROPEAN STANDARDS ON ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Group #3 – Journalists, other media professionals, opinion leaders, and civic activists

This programme is specifically designed for journalists and media professionals, opinion leaders, civic activists, etc., who act as public watchdogs. It focuses on the practical application of international and national standards to access official information essential for media reporting. It covers key skills such as making effective information requests, understanding privacy boundaries related to public figures, and protecting their right to access official information. The programme also highlights the relevance of public interest test assessment to equip media professionals with tools to protect and exercise their right to information.

Duration

- 2 days

Course type

- In-person training course

Logistic requirements

- training room, laptop, projector, internet connection, flipchart, paper, and markers.

→ Day 1: International Standards and Domestic Legal Framework

Pre-Training Test/Survey (15 minutes)

Comments:

The Pre-Training Test/Survey serves as a crucial step in understanding participants' baseline knowledge, skills, and familiarity with the subject matter. This activity allows trainers to estimate the existing level of expertise within the group, identify knowledge gaps, and tailor the training content accordingly. Additionally, comparing pre-training results with post-training assessments can provide valuable insights into the learning outcomes and overall impact of the course.

Format: Online tool (Google Forms)

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 1: Access to official information – key instrument for transparency of government and freedom of expression (30 min)

Methodology: Ice-breaking interactive exercise, brainstorming, or group discussion on the importance of access to official information.

Comments:

The trainer begins the session by inviting participants to introduce themselves, including their names and professional roles, to foster a sense of familiarity and engagement. Participants are then asked to reflect on and answer the question: “Is the right to access official information important, and if so, why?”

As participants share their thoughts, the trainer records the most common ideas, conflicting viewpoints, and significant questions on a flip chart. These recorded points serve as a foundation for further discussion, helping to highlight key themes and areas of interest or contention. This exercise stimulates critical thinking and provides a platform for diverse perspectives to emerge, setting the tone for an interactive and thought-provoking session.

Session 2: Overview of international agreements on access to official information (1 hour)

Methodology: Briefing session, PowerPoint presentation, and Q&A session on international standards, International Covenant on Civil and Political Rights (ICCPR) Article 19, European Convention on Human Rights (ECHR) Article 10, overview of the Council of Europe Convention on Access to Official Documents (Tromsø Convention) and Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

Comments:

The trainer provides an in-depth overview of international standards related to access to official information, emphasising their pivotal role in fostering transparency within governments and public institutions. This sets the stage for understanding the broader framework within which access to information operates as a component of freedom of expression.

The session highlights the evolution of international standards, tracing key milestones and progress in recognising access to official information as a fundamental human right. The trainer underscores how this recognition has been enshrined in various legal instruments and international agreements.

The International Covenant on Civil and Political Rights (ICCPR), particularly Article 19, is presented as a foundational document. It recognises the right to freedom of expression, which includes the right to seek, receive, and impart information. This is contextualised as a critical aspect of transparency and accountability.

The trainer explains that while the European Convention on Human Rights (ECHR) does not explicitly guarantee access to official information, the European Court of Human Rights (ECtHR) has interpreted Article 10—protecting the right to freedom of expression—as encompassing the right to receive and impart information. This interpretation has significant implications for access to information in Europe.

The session also introduces key international agreements such as the Council of Europe Convention on Access to Official Documents (Tromsø Convention), which establishes legal standards for access to information. Additionally, the Aarhus Convention is discussed, focusing on access to information on environmental matters. This highlights the importance of individuals being able to obtain information necessary for exercising their rights and freedoms, particularly in the context of environmental protection.

Participants are encouraged to ask questions on the implications of these standards and share how they relate to their professional experiences.

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

Session 3: Main provisions of the Aarhus and Tromsø Conventions as the instrument for journalists and other media professionals (1.5 hours)

Sub-session 3.1.: Key principles and standards of the Aarhus and Tromsø Convention.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

The trainer begins with a briefing session to introduce the core principles of the Aarhus Convention and the Tromsø Convention, focusing on their shared objective of promoting transparency and accountability. The Aarhus Convention is presented as a pioneering international framework for environmental governance, emphasising the public's right to access environmental information. The presentation highlights the three pillars of the convention: the right to access environmental information, the right to participate in environmental decision-making processes, and the right to access justice in environmental matters. Specific articles of the convention are discussed, illustrating how states are obligated to provide timely, accurate, and accessible environmental information to the public.

The trainer shifts to the Tromsø Convention, which establishes equal access to official documents. The trainer emphasises the convention's innovative aspects, such as recognising access to information as a fundamental right. Key provisions of the Tromsø Convention are presented, such as the obligation of public authorities to respond promptly to requests, provide reasons for refusals, and support applicants through clear procedures. Participants learn how the Tromsø Convention complements the Aarhus Convention by providing broader access to information, regardless of the subject matter.

A PowerPoint presentation provides visual support for the session, summarising the principles and standards of both conventions. The session concludes with a brief Q&A segment, allowing participants to clarify key concepts and share initial reflections.

Sub-session 3.2: Case study and group activity.

Methodology: Interactive exercises: case study and written group activity with a spokesperson (case study analysis).

Comments:

In the collaborative learning segment, civil servants engage in a written group activity with a spokesperson (case study analysis) to examine real or hypothetical cases related to access to official information. This sub-session focuses on the practical application of the Aarhus and Tromsø Conventions in the work of journalists, media professionals, and civic activists. Through interactive activities, participants explore how these legal frameworks can support investigative journalism and public interest reporting. To provide context, the trainer incorporates evaluation reports from Aarhus and Tromsø Convention monitoring bodies and NGO reports on transparency implementation.

The trainer manages the written group activity by dividing participants into small groups, assigning each a case study related to access to information. Each group analyses the case on issues, such as:

- ▶ Ensuring equal treatment of all applicants, including journalists and media organizations, regardless of their background or purpose.
- ▶ Overcoming barriers to identifying official documents, including bureaucratic delays or vague refusals from public authorities.

A spokesperson from each group presents their findings to the full audience, sharing key insights and proposed solutions. The trainer facilitates discussion, linking group responses to existing legal standards, domestic regulations, and case law applications, ensuring that discussions remain solution oriented. Each group's key findings and recommendations are recorded on a flip chart, allowing participants to collectively explore best practices and strategies for handling access to information requests in their professional roles.

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A spokesperson from each group presents their conclusions, outlining key challenges and possible solutions. The trainer facilitates discussion by comparing group findings to existing case law, legal frameworks, and journalistic best practices.

Journalists focus on the practical aspects of using access to information laws in their reporting. The trainer synthesizes the outcomes of the discussion and group activity, linking them back to the core principles of the Aarhus and Tromsø Conventions—transparency, accountability, and equal access to information. The session concludes with a reflection on how these principles can be integrated into investigative journalism to enhance public awareness, uncover hidden information, and promote government accountability.

Session 4: Overview of possible limitations on access to information (1.5 hours)

Sub-session 4.1: Public interest tests for balancing access to official information and other legitimate interests

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This session aims to provide journalists with a clear understanding of the legal framework governing limitations on access to official information, focusing on international standards and national regulatory frameworks. It highlights the key principles and tests used to determine when access to information can be legitimately restricted, equipping journalists with the knowledge to evaluate such limitations critically in their work.

The session begins by introducing the Three-Part Test from Article 10 of the European Convention on Human Rights (ECHR). This test requires that any restriction on access to information must meet three criteria: it must be prescribed by law, serve a legitimate aim (such as protecting national security or individual privacy), and be necessary and proportionate in a democratic society. Journalists will learn how these principles are applied in practice and how they impact the right to access information.

Next, the Harm Test from Article 3 of the Tromsø Convention is discussed. This test focuses on whether disclosing the requested information would cause harm to a legitimate interest, such as national security, public safety, or privacy. The session emphasises the importance of evidence-based justifications for denying access under this test.

The Public Interest Test, also from the Tromsø Convention, is a key focus. Participants will explore how the test evaluates whether the public interest in disclosing the information outweighs the potential harm to protected interests. Real-world examples, including key cases like *Magyar Helsinki Bizottság v. Hungary* and *Youth Initiative for Human Rights v. Serbia*, illustrate how these principles are applied in practice.

The session also integrates national regulations to provide context-specific insights. Journalists will review how public interest tests are applied within their own legal framework, examining challenges like balancing competing interests and defining “public interest.” Examples from national case law will help participants understand the practical application of these tests and the justifications for legitimate limitations such as protecting personal data, trade secrets, or national security.

Sub-session 4.2: Case study and facilitated discussion based on the European Court of Human Rights (ECtHR) case law.

Methodology: Collaborative learning, case study and facilitated discussion

Comments:

This session adopts a combination of collaborative learning and facilitated discussions to help journalists explore how the principles established by the European Court of Human Rights recognise access to information as a critical component of the right to freedom of expression. Participants are encouraged to reflect on how these principles apply in their professional work, sharing their experiences and challenges related to information access and reporting.

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The trainer draws on landmark ECtHR cases under Article 10 of the European Convention on Human Rights to illustrate the judicial reasoning behind the recognition of access to information as a fundamental right. Cases such as *Magyar Helsinki Bizottság v. Hungary* are central to the session. The trainer uses this case to highlight four key criteria for determining when access to information is protected under the right to freedom of expression:

- ▶ The nature of the information requested and whether it serves the public interest.
- ▶ The purpose for which the information is sought and its relevance to democratic oversight or public debate.
- ▶ The role of the requester (e.g., journalists, NGOs, or other public watchdogs) in facilitating public discourse and accountability.
- ▶ The availability of the information, focusing on whether it was readily accessible without imposing an undue burden on public authorities.

To deepen understanding, participants are divided into small groups, with each group provided with a brief description of a case based on ECtHR decisions on access to information. Using the criteria derived from *Magyar Helsinki Bizottság v. Hungary*, the groups analyse the implications of these principles in their assigned case. They discuss the applicability of the criteria in their context and how similar situations might arise in their professional work.

The trainer guides the discussion, encouraging participants to connect the case studies with real-world challenges they have faced or anticipate in their reporting. Questions such as, “How does the nature of the information you seek influence public interest?” and “What challenges do journalists encounter when seeking information ready and available?” help to prompt reflection and discussion.

This approach ensures that participants understand the legal principles underpinning access to information and learn practical insights into their application. By engaging with real-world examples and sharing professional experiences, journalists develop strategies to navigate access challenges effectively, advocate for transparency, and strengthen their role as public watchdogs. Key points and differing perspectives are recorded on a flip chart to capture the depth of the discussion and highlight areas for further exploration.

Session 5: Respect for private life and access to information (1.5 hours)

Sub-session 5.1: Public figures and access to information – European Court of Human Rights criteria.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session is essential for journalists and media professionals, as it addresses the delicate balance between the public’s right to information and the individual’s right to privacy, particularly concerning public figures. It provides participants with a clear understanding of the criteria established by the European Court of Human Rights for determining when access to information about public figures is justified under Article 10 of the European Convention on Human Rights and how to balance the rights envisaged by the Article 8 and Article 10 of the European Convention on Human Rights.

The trainer begins with a briefing session, providing a foundational overview of the legal principles and judicial reasoning related to privacy and access to information. Key points include:

- ▶ The role of public figures in society and their reduced expectation of privacy when their actions have implications for public interest.
- ▶ The need to balance the individual’s right to privacy under Article 8 of the ECHR with the public’s right to information under Article 10.

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The PowerPoint presentation delves into ECtHR case law, highlighting landmark decisions such as *Von Hannover v. Germany* and *Axel Springer AG v. Germany*. These cases provide critical insights into the factors considered by the Court when balancing privacy and public interest, including:

- ▶ The nature of the information and whether it contributes to a public debate on matters of general interest.
- ▶ The status of the individual concerned (e.g., public figure vs. private individual).
- ▶ The context in which the information is obtained, including whether it respects ethical journalism standards.
- ▶ The potential harm to the individual's privacy compared to the value of the information for public oversight.

Participants are encouraged to actively engage during the Q&A session, reflecting on the application of these principles in their work. The trainer poses questions to stimulate discussion, such as:

- ▶ "How do you determine whether reporting on a public figure serves the public interest?"
- ▶ "What safeguards can journalists adopt to ensure they respect privacy rights while pursuing stories about public figures?"

Additionally, the trainer highlights the importance of ethical reporting, stressing that journalists must ensure it is obtained and disseminated responsibly even when information is deemed to serve the public interest.

By the end of this sub-session, participants will have a practical understanding of evaluating and balancing competing interests between public transparency and individual privacy in their reporting. This knowledge equips them to navigate complex scenarios involving public figures while upholding both ethical standards and legal obligations. The sub-session fosters a nuanced appreciation of the boundaries of public interest, helping participants enhance their professional integrity and credibility.

Sub-session 5.2: Examination of landmark national cases where the court balances privacy rights against the public interest.

Methodology: Collaborative learning, case study and facilitated discussion

Comments:

This sub-session is crucial for providing participants with a practical understanding of how national courts navigate the balance between privacy rights and the public interest. It focuses on real-world applications of legal principles, allowing participants to explore how judicial reasoning aligns with or diverges from international standards like the European Convention on Human Rights.

The methodology—collaborative learning through case studies and facilitated discussions—is particularly effective for engaging participants in an interactive exploration of complex legal scenarios. The case study format helps participants connect theoretical principles to practical situations, fostering critical thinking and group problem-solving.

The national trainer selects landmark domestic cases where courts have addressed the tension between privacy rights and the public interest. These cases might highlight:

- ▶ The judicial criteria used to evaluate whether the disclosure of information serves a legitimate public interest.
- ▶ The proportionality analysis, weighing the potential harm to the individual's privacy against the societal benefit of disclosure.
- ▶ Specific contexts, such as reporting on public officials, whistleblowing, or investigations into matters of corruption or public safety.

During the facilitated discussion, participants analyse assigned cases in small groups. They identify the reasoning applied by the court, the legal principles invoked, and the broader implications for journalism and public discourse. Trainers should encourage participants to consider the following reflective questions:

- ▶ "How did the court define public interest in this case?"
- ▶ "What factors influenced the court's decision to prioritise privacy or public interest?"
- ▶ "How might similar reasoning apply to cases you encounter in your work?"

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The trainer ensures the discussion remains focused and constructive by summarising key points from each group and highlighting common themes or divergent views. This approach helps participants see patterns in judicial reasoning and understand the practical challenges of applying these principles in varying contexts.

To conclude, the trainer connects the insights from national cases to broader international frameworks, emphasising the importance of aligning national practices with ECHR standards and ethical journalism principles. Participants leave the session equipped with a deeper understanding of how courts balance privacy and public interest, as well as practical tools for evaluating these issues in their own professional contexts.

→ Day 2: Practical Implementation

Session 6: Application of international standards in national legislation (1.5 hours)

Sub-session 6.1.: Overview of national legislation on access to information.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session provides participants with an understanding of their national legislation on access to information, analysing its compliance with international standards in freedom of expression established under frameworks of the European Convention on Human Rights and the Tromsø Convention.

The trainer begins with a briefing session, offering an overview of key provisions in the national legal framework related to access to information. The presentation highlights the core principles, procedural requirements, and legal guarantees enshrined in the national laws. Special attention is given to how these laws address fundamental aspects such as:

- ▶ ensuring the right to access public information without discrimination,
- ▶ definitions for “document” and “information” in the domestic regulations,
- ▶ definition of “public authorities” in the domestic regulations,
- ▶ the timeframes for responding to requests,
- ▶ the legitimate grounds for refusing access and the corresponding appeals mechanisms.

A PowerPoint presentation compares national legislation with international standards, identifying areas of alignment and divergence. The trainer highlights best practices from other jurisdictions to illustrate how compliance with international standards can enhance transparency and accountability.

During the Q&A session, participants are encouraged to share their experiences with the national framework, including successes, challenges, and gaps in its implementation. This sub-session concludes with reflections on the importance of continuous legal and procedural reforms to meet evolving international standards. The trainer records key points and participant insights on a flip chart, which can later serve as a basis for further discussions on improving alignment between national laws and international standards.

Sub-session 6.2.: Facilitated discussion on instruments to access official information under national legislation and needs among media professionals.

Methodology: A case study in small groups and facilitated discussion.

Comments:

This sub-session is designed to deepen participants’ understanding of the mechanisms available for accessing official information under national legislation. It places particular emphasis on fostering an exchange of experiences among media professionals, enabling them to learn from each other’s challenges and successes. The session focuses on three critical aspects:

- ▶ Access via formal information requests.
- ▶ Proactive publication obligations by public authorities.
- ▶ Domestic rules governing the re-use of official information.

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Participants will work in small groups on hypothetical cases based on real-life situations when journalists used the instruments of access to official information in their daily activities or for the purposes of investigative journalism. Groups will identify common obstacles, such as delays in responses or inconsistent application of laws, and evaluate the effectiveness of various instruments under national legislation. They will also brainstorm practical solutions and strategies for overcoming these challenges, drawing on each other's experiences and insights.

Following the case study, participants will engage in a facilitated discussion to share their findings and recommendations with the joint training group. The facilitator plays a key role in guiding this exchange, encouraging dialogue on best practices and highlighting innovative approaches that have proven effective in accessing information.

Session 7: Guidelines for Writing a Successful Information Request (1.5 hours)

Methodology: Workshop on writing the request for official information (small group exercise and peer review).

Comments:

This session is specifically tailored for journalists, focusing on the practical skills needed to write information requests that align with national legislation and international best practices. By working in small groups, participants will engage in hands-on activities to simulate real-life scenarios where journalists have used access to information mechanisms in their daily reporting or investigative journalism efforts.

The workshop format encourages active participation and collaboration. Groups will work on hypothetical cases inspired by real-world situations, such as seeking government records for an investigative report, requesting data related to public expenditures, or accessing environmental impact assessments. These scenarios are designed to reflect common challenges faced by journalists, such as vague responses, delays, or partial disclosures.

Participants will draft detailed information requests for their assigned cases, ensuring the requests are specific, relevant, and comply with legal standards. The trainer will emphasise the key elements of a successful request, including:

- ▶ Clearly identifying the information sought.
- ▶ Referencing the applicable legal framework for access.
- ▶ Explaining the purpose and public interest the request serves (where appropriate).
- ▶ Structuring the request concisely and professionally to minimise misinterpretation or delay.

The peer review component adds a valuable layer of learning, allowing participants to critique and provide constructive feedback on each other's drafts. This collaborative review helps identify common drawbacks, such as overly broad requests and encourages participants to refine their skills through mutual learning.

The trainer's role is to guide the discussion and provide targeted feedback, highlighting best practices and strategies that journalists can apply in their work. The trainer may also introduce examples of successful and unsuccessful requests to illustrate how small differences in wording or approach can significantly impact the outcome.

This session combines practical application, peer learning, and professional guidance to empower journalists to use access to information instruments effectively in promoting transparency and accountability.

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Session 8: National oversight mechanisms and strategies for defending the right to access official information (1.5 hours)

Sub-session 8.1.: National oversight mechanisms and the relevant court practice.

Methodology: Briefing session, PowerPoint presentation, and Q&A session.

Comments:

This sub-session starts with introducing the key international approaches for overseeing access to information, emphasising the roles and functions of Information Commissioners and Commissions, government agencies, Ombudsman institutions, and courts. The session explores how these mechanisms collectively ensure compliance with access to information laws, resolve disputes, and uphold the principles of transparency and accountability.

The trainer begins with a briefing session, supported by a PowerPoint presentation, to outline each oversight mechanism's structures, responsibilities, and processes, focusing on national oversight mechanisms and their role in enforcing access to information laws. The trainer explains how these mechanisms can be used in the national context.

Participants discuss how national oversight bodies and courts respond to these cases, applying legal principles to determine whether the decisions align with the standards set by international conventions such as the ECHR and Tromsø Convention. The trainer encourages participants to consider the following:

During the Q&A session, participants are encouraged to share insights from their own experiences with oversight mechanisms to consider how these approaches can be strengthened and applied in their own professional and national contexts to ensure that access to information laws are effectively implemented and respected.

Sub-session 8.2.: Collaborative learning exercise on drafting an appeal for media professionals after a denial of an official information request.

Methodology: Practicum and facilitated discussion.

Comments:

This sub-session is a practical and essential component of the training, focusing on equipping journalists with the skills to draft simple appeals after being denied access to official information. The collaborative learning approach allows participants to work in small groups, simulating real-life scenarios where journalists faced refusals to provide information crucial for reporting or investigative journalism.

The practicum begins with participants' groups being assigned hypothetical cases inspired by actual situations where access to information was denied. Examples may include refusals based on vague confidentiality claims or incomplete responses. Each group analyses their assigned scenario, identifying the reasons cited for the denial and the legal or procedural grounds to challenge it.

As a result, the journalists will:

- ▶ understand the legal framework governing appeals, including timelines, procedural steps, and required documentation.
- ▶ be able to identify weaknesses in the refusal, such as insufficient justification, failure to meet legal obligations, or lack of proportionality in applying limitations.
- ▶ be taught to write a clear, structured, and persuasive appeal letter to the higher authority or oversight authority referencing relevant national legislation and international standards.

The facilitated discussion following the group exercise is designed to encourage journalists to share their insights, strategies, and challenges encountered during the drafting process. The trainer also provides targeted feedback, highlighting best practices for crafting appeals. This sub-session combines collaborative learning, professional guidance, and actionable insights, ensuring journalists are well-equipped to navigate challenges in accessing official information and uphold their role as watchdogs of public interest.

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Session 9: Evaluation and wrap-up

Multiple-choice test/evaluation.

Comments:

The **multiple-choice test** is designed to assess knowledge retention, comprehension of key concepts, and the ability to apply principles discussed during the course.

The trainer introduces the evaluation by explaining its purpose as a diagnostic tool to measure individual and group learning outcomes.

Feedback and certificate awarding.

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POST-TRAINING TEST

Group #3: Journalists, other media professionals, opinion leaders, and civic activists

1. Which of the following tests is used under Article 10 of the ECHR to justify limitations on access to information?

- a) Proportionality Test
- b) Three-Part Test
- c) Transparency Test
- d) Fairness Test

2. What is the legitimate ground for refusing access to official information under the Tromsø Convention?

- a) To avoid public criticism of authorities.
- b) To protect sensitive personal interests.
- c) To simplify administrative tasks.

3. Under the Aarhus Convention, the public has the right to access environmental information without stating a reason.

- a) True
- b) False

4. What legal principle is essential in balancing public interest and the right to privacy under the ECHR?

- a) Transparency Principle
- b) Proportionality Principle
- c) Confidentiality Principle
- d) Accountability Principle

5. Does the Tromsø Convention require public authorities to assist applicants in identifying the documents they seek?

Yes/No

6. Is denying access to official information automatically considered a violation of Article 10 of the ECHR?

Yes/No

The test should be expanded with additional questions specifically addressing the sessions on domestic regulations to assess participants' understanding of their national framework for access to information. For example, questions could focus on the timeframes within which public authorities are required to respond to requests for information under domestic law or the specific grounds allowed for refusing access, such as national security or privacy concerns. Another question could explore the role of national oversight bodies, asking participants to identify the responsibilities of entities such as the Information Commissioner or Ombudsman in their country.

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PRE-TRAINING TEST/SURVEY

Group #3: Journalists, other media professionals, opinion leaders, and civic activists

1. Which of the following is protected under Article 10 of the European Convention on Human Rights?

- a) The right to personal privacy.
- b) The right to freedom of expression.
- c) The right to participate in elections.
- d) The right to commercial confidentiality.

2. Does the European Convention on Human Rights explicitly guarantee the right to access official information?

Yes/No.

3. What is the purpose of the Tromsø Convention?

- a) To regulate data protection laws across Europe.
- b) To establish access to environmental information.
- c) To guarantee everyone's right to access official documents.
- d) To enforce media censorship policies.

4. The Aarhus Convention focuses solely on environmental issues.

- a) True.
- b) False.

5. Are public authorities required to assist applicants in identifying and accessing requested documents under international access to information standards?

Yes / No

6. Which article of the ECHR guarantees the right to privacy?

- a) Article 8
- b) Article 10
- c) Article 3

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OVERVIEW OF INTERNATIONAL AGREEMENTS ON ACCESS TO OFFICIAL INFORMATION

(Trainer's name and affiliation)

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INTERNATIONAL DOCUMENTS DEFINING THE RIGHT TO ACCESS OFFICIAL INFORMATION:

- ▶ European Convention on Human Rights
- ▶ International Covenant Civil and Political Rights
- ▶ Aarhus Convention
- ▶ Tromsø Convention

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Article 10 of the European Convention on Human Rights, **guarantees freedom of expression**. This right includes:

- ▶ Freedom to hold opinions,
- ▶ Freedom to receive and impart information and ideas without interference from public authorities and regardless of frontiers.

However, Article 10(2) allows for certain restrictions on freedom of expression when they are:

- ▶ **Prescribed by law** and
- ▶ **Necessary in a democratic society** to serve legitimate aims

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While Article 10 protects the right to receive and share information, it does not explicitly guarantee a general right to access official documents. However, the European Court of Human Rights has interpreted access to information as part of freedom of expression, especially when:

- ▶ The requested information is of **public interest**.
- ▶ The requester plays a **watchdog role** (e.g., journalists, NGOs).
- ▶ The information is necessary for **democratic oversight and transparency**.

This interpretation has been reinforced in cases such as **Magyar Helsinki Bizottság v. Hungary**

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AARHUS CONVENTION

- ▶ The Aarhus Convention is formally known as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. It was adopted on June 25, 1998, in the Danish city of Aarhus.
- ▶ The Convention aims to promote environmental democracy by granting the public rights regarding access to information, public participation, and access to justice in environmental matters.
- ▶ **The Aarhus Convention aligns with European and international human rights frameworks.**

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TROMSØ CONVENTION

- ▶ Entered into force on 1 December 2020.
- ▶ It has 17 Parties: Albania, Armenia, Bosnia and Herzegovina, Estonia, Finland, Hungary, Iceland, Latvia, Lithuania, Montenegro, North Macedonia, Norway, the Republic of Moldova, Slovenia, Spain, Sweden, and Ukraine.

The Tromsø Convention was the first binding international legal instrument to recognize everyone's right to access official documents (information) held by public authorities without discrimination, regardless of the requester's status or motives in seeking access.

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INTERNATIONAL BODIES THAT PROTECT HUMAN RIGHTS ON THE BASIS OF THESE INTERNATIONAL ACTS:

- ▶ European Court of Human Rights
- ▶ UN Human Rights Committee
- ▶ Aarhus Convention Compliance Committee

Council of Europe Convention on Access to Official Documents (Tromsø Convention)
– two monitoring bodies:

- ▶ Group of Specialists on Access to Official Documents
- ▶ Consultation of the Parties

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TROMSØ CONVENTION – ACCESS INFO GROUP

- ▶ The Council of Europe Access Info Group is one of the two monitoring bodies established by the Tromsø Convention under its Article 11 which is responsible for monitoring the implementation of the Convention by the Parties.
- ▶ It is composed of experts of the highest integrity who are independent and impartial in the area of access to official documents. The Access Info Group will evaluate and report on the legislative and other measures adopted by the Parties to give effect to the provisions set out in the Tromsø Convention.

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TROMSØ CONVENTION – CONSULTATIONS OF THE PARTIES

- ▶ The Consultation of the Parties is the second monitoring body established by the Tromsø Convention under its Article 12.
- ▶ Consultation of the Parties is composed of one representative per Party. It meets at least once every four years to consider the reports, opinions and proposals submitted by the Group of Specialists. An activity report shall be submitted by the Consultation of the Parties to the Committee of Ministers after each meeting. The Consultation of the Parties elects the members of the Group of Specialists.
- ▶ The Consultation of the Parties can make proposals and recommendations to the Parties, make proposals or formulate opinions on any proposal for the amendment of the Tromsø Convention under Article 19.

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KEY PRINCIPLES AND STANDARDS OF AARHUS AND TROMSØ CONVENTIONS

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THREE PILLARS OF AARHUS CONVENTION

The Convention is based on three main pillars:

- ▶ **Pillar One – Access to Information:** Guarantees the right of everyone to receive environmental information that is held by public authorities.
- ▶ **Pillar Two – Public Participation:** Involves the public in environmental decision-making, ensuring that public opinions and concerns are considered.
- ▶ **Pillar Three – Access to Justice:** Provides the public with the means to challenge public decisions that have been made in breach of the two previous pillars or environmental law.

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SCOPE OF AARHUS CONVENTION

- ▶ The **Aarhus Convention reinforces the principle of environmental democracy**, ensuring that **all individuals and organizations** – regardless of nationality – can **hold governments accountable** for environmental decisions.
- ▶ The public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters **without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective center of its activities.**

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AARHUS CONVENTION – GENERAL PROVISION

The Aarhus Convention **sets minimum legal standards** for access to environmental information, public participation, and access to justice.

Article 3(5) states that Parties to the Convention are free to introduce broader measures that:

- ▶ Provide greater public access to environmental information.
- ▶ Allow for more extensive public participation in environmental decision-making.
- ▶ Grant wider access to justice in environmental matters than what is strictly required by the Convention.

Parties to the Convention can go beyond the Convention's requirements, strengthening environmental democracy.

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DEFINITION OF INFORMATION OF AARHUS CONVENTION

The Aarhus Convention defines environmental information as any kind of information related to the environment, which can be in different formats – **written, visual, audio, electronic, or any other material form** (Article 2).

Everyone has the right to ask for environmental information from public authorities.

Governments must provide this information within the rules of their national laws (Article 4). If someone asks for information, authorities must:

- ▶ Provide copies of the actual documents when requested.
- ▶ Give the information in the requested format, unless it is more reasonable to provide it in a different format (they must explain why).
- ▶ Inform the requester if the information is already publicly available in another form.

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AARHUS CONVENTION STANDARD ON THE PERSONALITY OF A REQUESTOR

- ▶ Anyone can request environmental information from public authorities.
- ▶ Journalists don't need to explain why you want the information—governments must provide it without asking for a reason.
- ▶ This ensures that environmental information is open to everyone, including journalists, researchers, and the public, making it easier to investigate and report on environmental issues without unnecessary restrictions.

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AARHUS CONVENTION – PROVIDING GUIDANCE

Government officials must help people who want to access environmental information.

This ensures that public authorities are not just gatekeepers of information but also helpers, making it easier for people to stay informed, speak up, and take action on environmental matters.

Any guidance should be provided according to the non-discrimination principle.

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TROMSØ CONVENTION – GENERAL PROVISIONS

- ▶ The rules in this convention set the **minimum standard** for access to official documents.
- ▶ If a country already has stronger laws that give people more access to documents, those laws still apply.
- ▶ This **convention does not limit or replace existing rights** – parties of the Convention can continue to offer broader access if they choose.

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SCOPE OF TROMSØ CONVENTION

It ensures that official information is open to everyone, including citizens, journalists, researchers, and activists, helping to promote transparency and accountability in government.

- ▶ Everyone has the right to request and access official documents from public authorities.
- ▶ No discrimination is allowed, access must be granted to all people equally, regardless of nationality, background, or status.
- ▶ You don't have to give a reason for requesting the documents; the government cannot ask why you want them.

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DEFINITION OF INFORMATION IN THE TROMSØ CONVENTION

- ▶ *Article 1, “the Council of Europe Convention on Access to Official Documents prescribes that “official documents” means **all information recorded in any form, drawn up or received and held by public authorities.**”*

According to the Explanatory Report to the Convention, “it is a very wide definition: “official documents” are considered to be any information drafted or received and held by public authorities that are recorded on any sort of physical medium whatever be its form or format (written texts, information recorded on a sound or audiovisual tape, photographs, emails, **information stored in electronic format such as electronic databases, etc.)”**

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TROMSØ CONVENTION STANDARD ON THE PERSONALITY OF THE REQUESTOR

- ▶ Requestors don't need to give a reason for requesting official documents.
- ▶ The request process should be easy, governments cannot create complicated procedures or require excessive papers.
- ▶ Authorities should only ask for the necessary details to process the request, such as the specific document needed and where to send it.
- ▶ Delays, high fees, or excessive forms should not be used to make access more difficult.
- ▶ Requestors can stay anonymous unless their identity is absolutely needed to process the request (e.g., for security reasons).

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ARCHIVE INFORMATION

According to the Explanatory Report to the Tromsø Convention:

15. Official documents transferred to archives remain under the scope of this Convention.

61. In principle, on-site consultation should be free of charge. However, the public archival authorities and museums may charge the applicant for the cost of the services they supply.

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TROMSØ CONVENTION STANDARD – PROVIDING HELP

Article 5 ensures that everyone, no matter their situation, has a fair chance to access official documents, making the process more inclusive and accessible for all.

- ▶ Government offices must help people find the documents they are looking for.
- ▶ If someone is not sure exactly what document they need, officials should assist them as much as possible.

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OBLIGATION TO MANAGE OFFICIAL DOCUMENTS EFFICIENTLY UNDER THE TROMSØ CONVENTION

Article 9 of the Tromsø Convention provides that the Parties “shall take appropriate measures to: ... c) **manage their documents efficiently so that they are easily accessible** and d) apply clear and established rules for the preservation and destruction of their documents”.

- ▶ Governments should make sure that government documents are well-organized and easy to find.
- ▶ Governments must create clear systems to store and manage official documents properly.
- ▶ This helps public authorities quickly locate and provide information when people request it.

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PUBLIC INTEREST TESTS FOR BALANCING ACCESS TO OFFICIAL INFORMATION AND OTHER LEGITIMATE INTERESTS

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LIMITATIONS ARE PRESCRIBED BY:

- ▶ Part 2 of Article 10 of the European Convention on Human Rights
- ▶ Part 3 of Article 19 of the International Covenant on Civil and Political Rights
- ▶ Article 3 of the Council of Europe Convention on Access to Official Documents
- ▶ Article 4 of the Aarhus Convention

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CRITERIA ACCORDING TO ARTICLE 10 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Procedural Requirements

1. Lawfulness of the Interference: Any restriction must have a clear legal basis. This means the limitation should be established through legislation that is accessible and foreseeable, ensuring that individuals understand the potential for certain information to be restricted and the reasons behind it.

2. Legitimacy of the Aim: The limitation must pursue a legitimate aim. The Convention outlines specific legitimate interests, as mentioned above, which justify the restriction of access to information.

3. Necessity and Proportionality: The restriction must be necessary in a democratic society and proportionate to the intended goal. This involves a careful assessment to ensure that the interference with the right to access information is balanced against the need to protect the public interest or the rights of others.

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LAWFULNESS

This principle ensures that **laws are fair, understandable, and provide guidance without being overly rigid or vague.**

- ▶ For a rule to be considered a **law**, it must be **clear and precise** so that people can **understand it** and **know how to follow it**.
- ▶ **People should be able to adjust their behavior** based on the law.
- ▶ **With legal advice if needed, a person should be able to predict** what might happen if they take a certain action.

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LEGITIMACY OF THE AIM PURSUED BY THE INTERFERENCE

When a government restricts a right, it must justify it by pointing to a legitimate reason (e.g., national security, public safety, protecting others' rights).

The European Court of Human Rights checks whether the government's reason is valid:

- ▶ If the reason doesn't actually justify the restriction, the Court may say the interference was not lawful.
- ▶ The Court can accept some reasons and reject others, for example, if a government gives multiple justifications but only one is valid.

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NECESSITY OF THE INTERFERENCE IN A DEMOCRATIC SOCIETY

- ▶ Existence of a “pressing social need”
- ▶ Assessment of the nature and severity of the sanctions (the least restrictive measure)
- ▶ Requirement of relevant and sufficient reasons

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TROMSØ CONVENTION (ARTICLE 3)

Each Party may limit the right of access to official documents.

Limitations shall be:

- ▶ set down precisely in law,
- ▶ be necessary in a democratic society and
- ▶ be proportionate to the aim of protecting

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HARM TEST UNDER THE TROMSØ CONVENTION

Access to information contained in an official document may be refused if its disclosure would or would be likely

- ▶ to harm any of the interests mentioned in paragraph 1 of Article 3,
- ▶ unless there is an overriding public interest in disclosure.

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THRESHOLD CRITERIA FOR THE RIGHT OF ACCESS TO STATE-HELD INFORMATION

- ▶ **The purpose of the requestor or why the information is needed.** This criterion includes an assessment of whether obtaining the information is really necessary for the person to fulfill his or her function of facilitating public debate on socially important issues, and whether failure to provide the information would create a significant obstacle to freedom of expression.
- ▶ **The nature of the information.** The information, data or documents to which access is requested must meet the requirements of the three-part test, i.e., be collected for the purpose of satisfying the public interest, and not simply out of curiosity.

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- ▶ **The role of the requestor.** Those who facilitate public discussion have special protection: journalists, civil society organizations/activists, researchers, authors of books on socially important topics, bloggers and popular social media users.
- ▶ “Ready and available information”. The provision of information should not impose an excessive burden on public authorities to collect and process data.

(Judgment of the Grand Chamber in the case of *Magyar Helsinki Bizottság v. Hungary*).

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THE PURPOSE OF THE INFORMATION REQUEST

To be protected under Article 10 (freedom of expression), a person requesting official information must be gathering it to share with the public. This means the information must be needed for journalistic work or other activities that contribute to public debate (for example, NGO research or investigative reporting).

The Court emphasized that journalists and public watchdogs have a duty to act responsibly when sharing information.

- ▶ To receive legal protection under Article 10, journalists must:
- ▶ Act in good faith (meaning they are not misleading or spreading false information).
- ▶ Provide accurate and reliable information that follows ethical journalism standards.

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THE NATURE OF THE INFORMATION SOUGHT

Judgment of the Grand Chamber in the case of Magyar Helsinki Bizottság v. Hungary confirms that access to information is a key part of freedom of expression, but not all information must be disclosed – only information that serves the public interest and helps people understand and engage in democratic decision-making. Public-interest information includes anything that:

- ▶ Shows how government decisions are made and how public institutions function.
- ▶ Affects society as a whole and helps people participate in democracy.

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Public interest depends on the situation – not all information is equally important. Information is considered in the public interest if:

- ▶ It affects many people or communities.
- ▶ It raises significant debate or controversy.
- ▶ It involves major social issues that the public should know about.

However, public interest is NOT the same as gossip or curiosity – people's private lives do not automatically qualify as public-interest information.

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THE ROLE OF THE APPLICANT

The Court considers two key factors when deciding if denying access to information violates freedom of expression (Article 10):

- ▶ Why the person is requesting the information (Is it for public debate or general curiosity?)
- ▶ What kind of information is being requested (Is it about government activities or private matters?).

The Court has ruled in past cases that journalists, social watchdogs, and NGOs should receive strong protections when seeking information about public affairs.

Judgment of the Grand Chamber in the case of Magyar Helsinki Bizottság v. Hungary confirms that access to information is especially important for journalists and NGOs because they serve the public interest. When governments deny them access, it can harm democracy and transparency.

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READY AND AVAILABLE INFORMATION

Governments must provide public information when they already have it readily available.

- ▶ The requested information was “ready and available”, meaning the government already had the documents and did not need to gather new data.
- ▶ This ensures that authorities remain transparent and accountable, preventing them from hiding information behind bureaucratic inefficiency.
- ▶ Since the government didn’t need extra effort to provide the documents, refusing access was not justified.

In some cases, governments argue that finding and gathering the information is too difficult. However, the Court said that if the difficulty is caused by poor organization or bad record-keeping by the government itself, that cannot be used as a valid reason to deny access.

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ECTHR CASE-LAW

- ▶ *Centre for Democracy and Rule of Law v. Ukraine* #10090/16
- ▶ *Affaire Cangi v. Turkey* #24973/15
- ▶ *Volodymyr Torbich v. Ukraine* # 14957/13
- ▶ *Torbich v Ukraine* #41713/13 and #29980/15

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PUBLIC FIGURES AND ACCESS TO INFORMATION – EUROPEAN COURT OF HUMAN RIGHTS CRITERIA

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BALANCING PRIVACY AND FREEDOM OF EXPRESSION FOR JOURNALISTS AND PUBLIC FIGURES

European Convention on Human Rights Article 8 – Right to Privacy

“Everyone has the right to respect for his private and family life, his home, and his correspondence.”

- ▶ Public figures (such as politicians, celebrities, and officials) also have a right to privacy, but their privacy is more limited than that of private individuals.
- ▶ Journalists must not unjustifiably invade someone’s personal life, especially when reporting on sensitive matters like health, family, or private communications.
- ▶ Courts consider whether publishing private details is of the public interest or just for entertainment or gossip.
- ▶ Unauthorised surveillance leaked personal data, or intrusive photography may violate Article 8 unless it is justified by strong public interest.

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BALANCING PRIVACY AND FREEDOM OF EXPRESSION FOR JOURNALISTS AND PUBLIC FIGURES

European Convention on Human Rights Article 10 – Freedom of Expression

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”

- ▶ Journalists have the right to report on matters of public interest, including news about public figures and politicians.
- ▶ Press freedom is crucial in a democracy, allowing journalists to investigate and publish stories that hold powerful people accountable.
- ▶ However, freedom of expression is not absolute, restrictions apply when it harms others' reputations, spreads false information, or invades privacy without justification.

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WHEN BALANCING ARTICLE 8 (PRIVACY) AND ARTICLE 10 (PRESS FREEDOM), COURTS LOOK AT:

- ▶ *Is the person a public figure?* → Public officials and celebrities must accept more public scrutiny than private individuals.
- ▶ *Is the information in public interest?* → Reporting on corruption, political decisions, or misconduct is protected, while exposing personal relationships or medical details may not be justified.
- ▶ *How was the information obtained?* → Leaked documents or hidden cameras may be unlawful unless they reveal serious wrongdoing.
- ▶ *Impact on the person's life* → Defamatory or misleading reporting can violate Article 8 if it damages someone's reputation unfairly.

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PUBLIC FIGURES

- ▶ **Nature of the information:** Is it relevant to the public figure's official duties, actions impacting the public, or role in public life?
- ▶ **Extent of intrusion:** Does the disclosure disproportionately affect the individual's private life compared to the public benefit it provides?
- ▶ **Context of the disclosure:** Was the information obtained ethically and legally? Was it reported responsibly?

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GUIDANCE FROM THE EUROPEAN COURT FOR HUMAN RIGHTS

Axel Springer AG v. Germany – the Court highlighted that information contributing to a debate of public interest can justify certain intrusions into privacy.

Von Hannover v. Germany – the Court differentiated between activities performed in a public capacity versus private life, emphasizing that private activities warrant stronger protection unless they have direct public relevance.

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EUROPEAN COURT FOR HUMAN RIGHTS CASE LAW ON BALANCING RIGHT TO PRIVACY AND ACCESS TO INFORMATION:

- ▶ *Centre for Democracy and Rule of Law v. Ukraine* #10090/16
- ▶ *Affaire Cangi v. Turkey* #24973/15
- ▶ *Volodymyr Torbich v. Ukraine* # 14957/13
- ▶ *Torbich v Ukraine* #41713/13 and #29980/15

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TROMSØ CONVENTION ON BALANCING RIGHT TO PRIVACY AND ACCESS TO INFORMATION:

Restrictions on access to documents must follow clear legal rules, they cannot be vague or arbitrary.

These restrictions must be:

- ▶ Written in law so they are clear and predictable.
- ▶ Necessary in a democratic society (not just for convenience or secrecy).
- ▶ Proportionate, meaning the restriction should not be excessive and must balance public interest with privacy rights.
- ▶ Authorities must balance whether disclosing the information serves the public interest or unnecessarily invades someone's privacy.

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POTENTIAL HARM TO THE INDIVIDUAL'S PRIVACY COMPARED TO THE VALUE OF THE INFORMATION FOR PUBLIC OVERSIGHT.

- ▶ Demonstrating a clear public interest when reporting on private matters involving public figures.
- ▶ Avoiding sensationalism and respecting the dignity of the individual.
- ▶ Ensuring the accuracy of information and verifying sources to uphold journalistic integrity.

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OVERVIEW OF NATIONAL LEGISLATION ON ACCESS TO INFORMATION

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LEGAL GUARANTEES OF THE RIGHT TO ACCESS OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – relevant provisions of the national Constitution)

Component 2 (for example – relevant provisions of the domestic law)

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DEFINITION OF OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – ready and available)

Component 2 (for example – information in different formats)

Component 3 (for example – created and collected by the public authority)

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DEFINITION OF PUBLIC AUTHORITIES

Component 1 (for example – government and administration at national, regional and local level)

Component 2 (for example – legislative bodies and judicial authorities insofar as they perform administrative functions according to national law)

Component 3 (for example – natural or legal persons insofar as they exercise administrative authority)

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REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS

Component 1 (for example – obligation to give reasons for having access to the official information/document)

Component 2 (for example – formalities for requests)

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PROCESSING OF REQUESTS FOR ACCESS TO OFFICIAL INFORMATION/DOCUMENTS:

Component 1 (for example – the timeline for processing request)

Component 2 (for example – an obligation of the public authority to help the applicant)

Component 3 (for example – an obligation to deal with the requests on an equal basis)

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CHARGES FOR ACCESS TO OFFICIAL DOCUMENTS

Component 1 (for example – inspection of official documents on the premises of a public authority)

Component 2 (for example – tariffs of charges domestic regulation)

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REVIEW PROCEDURE

Component 1 (for example – the general review procedure)

Component 2 (for example – review procedure before a court)

Component 3 (for example – review procedure by an impartial body established by law)

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NATIONAL OVERSIGHT MECHANISMS AND THE RELEVANT COURT PRACTICE

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AARHUS CONVENTION STANDARDS

If a person requests official information and:

- ▶ Receives no response
- ▶ Is denied access (partially or fully)
- ▶ Gets an incomplete or unclear answer
- ▶ Feels their request was not handled properly

They have the right to challenge the decision through a review process. This review process must be independent and fair, conducted by:

- ▶ A court of law, or
- ▶ Another impartial legal body.

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TROMSØ CONVENTION STANDARDS

If a government refuses to provide an official document (either by directly denying it or by ignoring the request), the person who requested the document has the right to challenge the decision.

This review process must be independent and fair and can be conducted by:

- ▶ A court of law, or
- ▶ Another impartial and legally recognized review body (e.g., an Information Commissioner or Ombudsman).

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CONTROLLING AUTHORITY IN ACCESS TO INFORMATION – REQUIREMENTS

- ▶ Independence
- ▶ Balance of PDP and RTI
- ▶ Effectiveness
- ▶ Involvement in education and promotion of the RTI
- ▶ Involvement in drafting legislation and policy-making

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DOMESTIC CONTROLLING AUTHORITY IN ACCESS TO INFORMATION

Component 1 (for example – regulation on domestic controlling authority in access to information)

Component 2 (for example – power of domestic controlling authority in access to information)

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CHALLENGES IN ENFORCING COMPLIANCE AND RESOLVING DISPUTES

Component 1 (for example – independency issues)

Component 2 (for example – effectiveness issues)

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BEST ADMINISTRATIVE PRACTICES ON THE DOMESTIC LEVEL:

Component 1 (for example – training for the state servants)

Component 2 (for example – monitoring and raising awareness)

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ROLE OF COURTS AND RELEVANT COURT PRACTICE

Component 1 (for example – effectiveness of courts as controlling authority in access to information)

Component 2 (for example – relevant court practice)

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ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

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