

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.

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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:

- ▶ 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.

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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 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)

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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 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.

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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

ACCESS TO INFORMATION IN THE CONTEXT OF FREEDOM OF EXPRESSION

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OVERVIEW OF INTERNATIONAL AGREEMENTS ON ACCESS TO OFFICIAL INFORMATION

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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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