



Council of the
European Union

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INFORMATION NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Questionnaire on Member States' legislation on transparency and access
to documents
- Compilation of the Member States' replies

Delegations will find attached delegations' replies to the Questionnaire on Member States' legislation on access to documents.

QUESTIONNAIRE

MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Austria
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

In accordance with Article 20 (4) of the Austrian Constitutional Law, all organs entrusted with Federation, provinces and municipal administrative duties as well as the organs of other public law corporate bodies shall impart information about matters pertaining to their sphere of competence in so far as this does not conflict with a legal obligation to maintain confidentiality. As regards organs of the Federation as well as the organs of the self- administration to be regulated by the Federal Legislation, details are regulated in the Duty to Grant Information Act (Auskunftspflichtgesetz, Federal Law Gazette No 287/1987 as amended). The information can be provided by sharing documents, but also in other ways, e.g. via phone. The Act does not grant a right to access of certain documents.

The parties to legal proceedings have the right to inspection of records in accordance with applicable laws .

2. Please provide a link to your national legislation on access to documents (if available):

Duty to Grant Information Act (incl. unofficial English translation):

https://www.ris.bka.gv.at/Dokumente/Erv/ERV_1987_287/ERV_1987_287.html

3. When did your national legislation on access to documents enter into force?

1987

3.1 Is it currently being reviewed?

Yes

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify: A « Freedom of Information Act » is being discussed.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |

- (c) Any citizen and any natural or legal person
- (d) Other

Please specify: « Anyone », e.g. any natural or legal person, regardless of citizenship

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities

Please specify which:

- (ii) areas of activity

Please specify which: The duty to provide information is restricted to the sphere of competence of the respective state organ.

- (iii) policies

Please specify which: In accordance with Article 20 (3) of the Federal Constitutional Law, organs entrusted with federal, provinces and municipal administrative duties as well as the executive officers of other public law corporate bodies are, save as otherwise provided by law, pledged to confidentiality about all facts of which they have obtained knowledge exclusively from their official activity and which have to be kept confidential in the interest of the maintenance of public peace, order and security, of comprehensive national defence, of external relations, in the interest of a public law corporate body, for the preparation of a ruling or in the preponderant interest of the parties involved. The applicability of data protection laws must also be considered before providing information.

- (iv) categories

Please specify which:

- (v) Other

Please specify which: As explained above, the Act is not granting access to

documents, but to information.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

n/a

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

The right to information applies to any facts known, regardless of the existence of a written document. There is duty to provide information about known facts, but no duty to provide views or legal opinions.

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No, not as such; third parties' interests must be taken into consideration though and international and EU law obligations must be complied with. |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

n/a

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The deadline for answering request for information is 8 weeks.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|--------------------------|---------|
| X | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

2 months

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|--------------------------|-------------------------------|
| X | (a) Same as for initial reply |
| <input type="checkbox"/> | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|--------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

There is no right of access, but a right to information. For limits see questions 5 (iii) above.

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input type="checkbox"/> | (f) Protection of commercial interests |
| <input type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

There is an assessment to be made of the interests involved. The assessment of “preponderant interests of the parties involved” may lead to the result that no information will be given. This may include interests listed in question 11.1 (d) – (h) above.

Data protection laws have to be applied.

12. Does your national legislation identify reasons for not processing requests for access?

X	(a) Yes
	(b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

X	(a) Unreasonable or abusive request
X	(b) Excessive administrative burden
X	(c) Failure to clarify the request
	(d) Other

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

	(a) Yes
X	(b) No

13.1 If yes, how regular?

n/a

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

n/a

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

-

QUESTIONNAIRE

MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Belgium - Flemish Community/Flemish Region
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

- Decree of 26 March 2004 on open government
- Decree of the Flemish Government of 19 July 2007 establishing the appeal body in respect of open government and re-use of public sector information
- Circular 2006/26 of 1 December 2006 on open government
- Archives decree of 9 July 2010
- Decree of the Flemish Government of 21 March 2014 regulating archive management

2. Please provide a link to your national legislation on access to documents (if available):

<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1013166¶m=inhoud>
<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1016301¶m=inhoud&ref=search&AVIDS>
<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1015644¶m=inhoud&ref=search&AVIDS>
<https://codex.vlaanderen.be/Zoeken/Document.aspx?DID=1019270¶m=informatie>
<https://overheid.vlaanderen.be/informatiemanagement/regelgeving>

3. When did your national legislation on access to documents enter into force?

The open government decree of 26 March 2004 entered into force on 1 July 2004.

The archives decree entered into force on 5 August 2010.

3.1 Is it currently being reviewed?

Yes. Work is currently underway on a decree on Flemish administration, which will combine a number of decrees (including the decrees on open government, re-use of information and archives) into a single overarching decree.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: integration of the open government decree into an overarching decree on administration.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities
Please specify which:
- (ii) areas of activity
Please specify which:
- (iii) policies
Please specify which:
- (iv) categories
Please specify which:
- (v) Other
Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

<https://www.milieuinfo.be/prtr/website/start/start-flow?execution=e2s1>
<http://www.vlaanderen.be/nl/vlaamse-regering/beslissingenvlaamseregering>
<http://www.geopunt.be/catalogus>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

Requests for access must be answered within a period of 15 days (which may be extended to 30 days provided that justification is given).

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The appeal must be dealt with by the independent appeal body within a period of 30 days.

- 10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| | (a) Same as for initial reply |
| X | (b) Other |

Please specify: Independent appeal body (provided for by decree)

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

- 11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |

<input checked="" type="checkbox"/>	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input checked="" type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input checked="" type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input checked="" type="checkbox"/>	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- | |
|--|
| <ul style="list-style-type: none"> • An application which is manifestly unreasonable • A secrecy obligation laid down by law or decree • Documents for the purposes of applying an administrative penalty or a disciplinary measure • Information explicitly marked as confidential, voluntarily communicated by third parties |
|--|

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input checked="" type="checkbox"/> | (c) Failure to clarify the request |
| <input type="checkbox"/> | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

Annual report by the appeal body on the appeals submitted

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

<http://openbaarheid.vlaanderen.be/nlapps/data/docattachments/jaarverslag%202014-2015.pdf>
<http://openbaarheid.vlaanderen.be/nlapps/data/docattachments/bijlage%202014-2015.pdf>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The archives decree (Article 13(2)) places time restrictions on a number of the exceptions provided for in the open government decree. These can no longer be invoked 30 years after composition or receipt of the document. This provision prevents access to older documents being subject to the disclosure procedure indefinitely. The future decree on administration aims to place time restrictions on all exceptions.

The archives decree (Article 14) makes provision for access to be granted to administrative documents for scientific purposes. Scientific purposes are defined as in Council of Europe Recommendation R (97) 18 of the Committee of Ministers to Member States concerning the protection of personal data collected and processed for statistical purposes (point 14). Such access should be regarded as privileged access. Administrative authorities may apply special and specific conditions in this area.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Belgium
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

There is no national legislation in the traditional sense. The right of access to administrative documents is enshrined in Article 32 of the Belgian constitution. This article contains a rule on the division of powers which has the effect of putting different equivalent bodies of legislation on a par with each other.

At federal level there is:

Act of 11 April 1994 on open government

Act of 12 November 1997 on open government in the provinces and municipalities insofar as it still applies (e.g. to single-municipality police zones)

Act of 5 August 2006 on public access to environmental information

In Flanders:

Decree of 26 March 2004 on open government

In the Walloon Region:

Decree of 30 March 1995 on open government

Provisions in the Local Democracy and Decentralisation Code (for provinces and local authorities)

Regarding access to environmental information: Book I of the Environment Code

At the French Community level:

Decree of 22 December 1994 on open government

At the German-speaking Community level:

Decree of 16 October 1994 on public access to documents

In the Brussels Capital Region:

Order of 30 March 1995 on open government

Order of 18 March 2004 on access to environmental information and spatial information in the Brussels Capital Region

Act of 12 November 1997 on open government in the provinces and municipalities as amended by the Parliament of the Brussels Capital Region

At the level of the French Community Commission of the Brussels Capital Region

Decree of 11 July 1996 on open government

At the level of the Common Community Commission of the Brussels Capital Region

Order of 26 June 1997 on open government

2. Please provide a link to your national legislation on access to documents (if available):

<http://www.ejustice.just.fgov.be/wet/wet.htm>

3. When did your national legislation on access to documents enter into force?

Most of the legislation entered into force shortly before or fairly soon after the entry into force of Article 32 of the constitution on 1 January 1995:

- The Act of 11 April 1994 entered into force on 1 July 1994
- For the Flemish Region there was already a decree in 1991, which was replaced by the decree of 18 May 1999 and subsequently by the decree of 26 March 2004.

The regions had initial regulations on access to environmental information as long ago as 1991. These were replaced by new regulations between 2004 and 2006 as a result of the Aarhus Convention and the implementation of Directive 2003/4/EC.

3.1 Is it currently being reviewed?

Legislation on open government at both federal level and in the Flemish Region is at

present being reviewed and revised.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: widening of the scope, simplification, greater focus on active open government

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) No, it applies to all documents |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain: |

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (i) public authorities |
|-------------------------------------|------------------------|

Please specify which: administrative documents from non-governmental authorities

- | | |
|--------------------------|------------------------|
| <input type="checkbox"/> | (ii) areas of activity |
|--------------------------|------------------------|

Please specify which:

- | | |
|--------------------------|----------------|
| <input type="checkbox"/> | (iii) policies |
|--------------------------|----------------|

Please specify which:

- | | |
|-------------------------------------|-----------------|
| <input checked="" type="checkbox"/> | (iv) categories |
|-------------------------------------|-----------------|

Please specify which: classified documents

- | | |
|--------------------------|-----------|
| <input type="checkbox"/> | (v) Other |
|--------------------------|-----------|

— Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

--

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request (not mandatory, merely a possibility) |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to |

the request

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

30 days, except for the Flemish decree: 15 days

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

<input checked="" type="checkbox"/>
<input type="checkbox"/>

(a) Yes

(b) No

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

For non-environmental information: 45 days, except for decisions based on the Flemish decree: 30 days
For environmental information: 30 days

- 10.2 If yes, indicate the competent authority responsible for review:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

(a) Same as for initial reply

(b) Other

Please specify: For non-environmental information, the Committee for access to administrative documents which delivers an opinion. For environmental information, an Appeal Committee for access to environmental information decides. At federal level and in the Walloon Region this is an independent body; for Brussels this authority is exercised by the Committee for access to administrative documents.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

<input checked="" type="checkbox"/>
<input type="checkbox"/>

(a) Yes

(b) No

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

<input checked="" type="checkbox"/>	(a) Protection of the public interest as regards public security
<input checked="" type="checkbox"/>	(b) Protection of the public interest as regards defence and military matters
<input checked="" type="checkbox"/>	(c) Protection of the public interest as regards international relations
<input checked="" type="checkbox"/>	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input checked="" type="checkbox"/>	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- | |
|---|
| <ul style="list-style-type: none">- The fundamental rights and freedoms of the governed- Public policy- The detection or prosecution of criminal offences- A statutory confidentiality provision- An advisory report or opinion communicated to the government voluntarily and in confidence.- |
|---|

12. Does your national legislation identify reasons for not processing requests for access?

<input checked="" type="checkbox"/>	(a) Yes
<input type="checkbox"/>	(b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

<input checked="" type="checkbox"/>	(a) Unreasonable or abusive request
<input checked="" type="checkbox"/>	(b) Excessive administrative burden
<input checked="" type="checkbox"/>	(c) Failure to clarify the request
<input type="checkbox"/>	(d) Other

_____ Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

13.1 If yes, how regular?

In most cases the various committees for access to administrative documents do compile annual reports. They are not obliged to do so.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

E.g. for the Committee for access to administrative documents:
http://www.ibz.fgov.be/fileadmin/user_upload/nl/com/openbaarheid/jaarverslagen/jaarverslag-CTB-2015.pdf

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The Flemish decree also requires each institution to have a communication official and an information policy and to provide a guide and information upfront.

In addition, all legislation on access to information contains an obligation to explain government documents, indicate the name of the official dealing with a case in all correspondence and state the remedies available when giving notification of an administrative act.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	BULGARIA
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Access to Public Information Act Ordinance on the standard conditions applicable to the re-use of public sector information and its publication in open format. Decision No 214 of the Council of Ministers of 25 March 2016 on the adoption of a register for datasets on priority areas which are published in open format.

2. Please provide a link to your national legislation on access to documents (if available):

--

3. When did your national legislation on access to documents enter into force?

Access to Public Information Act - promulgated in State Gazette No 55 of 7.7.2000.

Ordinance on the standard conditions applicable to the re-use of public sector information and its publication in open format - adopted by Council of Ministers Decree No 147 of 20 June 2016.

Decision No 214 of the Council of Ministers of 25 March 2016.

3.1 Is it currently being reviewed?

NO

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which:

(ii) areas of activity

Please specify which:

(iii) policies

Please specify which:

(iv) categories

Please specify which: Classified information and other protected secret information

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

<http://opendata.government.bg/dataset?tags=%D1%80%D0%B5%D0%B3%D0%B8%D1%81%D1%82%D1%8A%D1%80>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input checked="" type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

14 days/24 days/28 days

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

--

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|--------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input type="checkbox"/> | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

12. Does your national legislation identify reasons for not processing requests for access?

- (a) Yes
 (b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- (a) Unreasonable or abusive request
 (b) Excessive administrative burden
 (c) Failure to clarify the request
 (d) Other

Please specify:

WHENEVER SPECIAL LAWS LAY DOWN A SPECIFIC PROCEDURE
FOR GAINING ACCESS TO THE INFORMATION

REPORTING

13. Does your national legislation require regular reporting?

- (a) Yes
 (b) No

13.1 If yes, how regular?

ANNUALLY

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

https://iisda.government.bg/annual_report/188

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

NO

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Republic of Cyprus.
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

State Archives Law 208 of 1991. A Bill regulating the Right of Access to Public Sector Information is currently before the House of Representatives for discussion.
--

2. Please provide a link to your national legislation on access to documents (if available):

http://www.mjpo.gov.cy/mjpo/statearchive.nsf/D32FF04EF9495F3CC22579B200347DE8/\$file/The%20State%20Archives%20Law%20208%20of%201991.pdf

3. When did your national legislation on access to documents enter into force?

The State Archives Law 40 of 1972 entered into force in 1972 and was repealed by the State Archives Law 208 of 1991, which entered into force in 1991.
The New Bill regulating the Right of Access to Public Sector Information is before the House of Representatives, to be discussed prior to its legislative enactment.

3.1 Is it currently being reviewed?

An amendment to the State Archives Law 208 of 1991, to harmonise the State Archives Legislation with the new Bill regulating the Right of Access to Public Sector Information, is before the House of Representatives to be discussed prior to its legislative enactment.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

The remaining sections of the questionnaire are not applicable to the State Archives Law 208 of 1991, therefore the sections will be answered with reference to the new Bill regulating the Right of Access to Public Sector Information which has NOT yet been enacted.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which:

(ii) areas of activity

Please specify which:

(iii) policies

Please specify which:

(iv) categories

Please specify which:

a) Personal Data Information

b) Information regulated by any other special access legislation

c) Disclosure of information incompatible with any EU obligation

d) Disclosure of information constituting or punishable as contempt of court.

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

Not yet available at this stage.

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|----------|---|
| X | (a) Requests are answered by identifying only documents listed in registers |
| X | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| X | (c) Requests are answered by identifying any content, including content found in emails |
| X | (d) Requests are answered by identifying any content, including extracts from databases |
| | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|----------|---------|
| | (a) Yes |
| X | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

Not Applicable

- | | |
|--|--|
| | (a) The third party is consulted but your public authority issues the final reply to the request |
| | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

20 working days.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The deadline is determined in each review by the Information Commissioner.

- 10.2 If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify: The Information Commissioner.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- (a) Yes
 (b) No

- 11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- (a) Protection of the public interest as regards public security
 (b) Protection of the public interest as regards defence and military matters

X	(c) Protection of the public interest as regards international relations
X	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
X	(e) Protection of privacy and the integrity of the individual
X	(f) Protection of commercial interests
X	(g) Protection of court proceedings and legal advice
X	(h) Protection of the purpose of inspections, investigations and audits
X	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- a) Information accessible by other means.
- b) Information intended for publication.
- c) Parliamentary information, the disclosure of which will impede the proper functioning of the House of Representatives.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

13.1 If yes, how regular?

Annually.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Not yet available at this stage.

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Czech Republic
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GENERAL INFORMATION

1. **Please indicate your national legislation on access to documents:**

Act No. 106/1999 Coll., on Free Access to Information

2. **Please provide a link to your national legislation on access to documents (if available):**

available only in Czech:

<https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=47807&nr=106~2F1999&rpp=15#local-content>

3. When did your national legislation on access to documents enter into force?

1 January 2000

3.1 Is it currently being reviewed?

The Act has been amended by a total of 18 laws. The two most recent amendments are scheduled to come into force on 1 January 2017. The Ministry of the Interior is currently not working on any further amendments to this Act.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input checked="" type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities
Please specify which:
- (ii) areas of activity
Please specify which:
- (iii) policies
Please specify which:
- (iv) categories
Please specify which:

The law does not apply to access to information on the data kept in the central register of accounts and related records, information that is proprietary and other information provided there is a special law governing access to such information, in particular application processing the terms and manner of application submission, statutory periods, remedies and mode of access to such information (see Section 2(3) of the Act on Free Access to Information). The above assumes that special laws may contain comprehensive regulation of access to information, in which case the special law will have priority (e.g. Act No. 123/1998 Coll., on Right of Access to Environment Related Information).

- (v) Other
Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

<https://smlouvy.gov.cz/>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

<input type="checkbox"/>	(a) Requests are answered by identifying only documents listed in registers
<input checked="" type="checkbox"/>	(b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.)
<input checked="" type="checkbox"/>	(c) Requests are answered by identifying any content, including content found in emails
<input checked="" type="checkbox"/>	(d) Requests are answered by identifying any content, including extracts from databases
<input checked="" type="checkbox"/>	(e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: <i>Upon their request, applicants may be given access to, in keeping with the law, anything that meets the definition of information pursuant to Section 3(3) of the Act on Free Access to Information (this may not necessarily concern written information, but shall concern a matter of recorded content, e.g. and mp3 file with recorded sound).</i>

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

<input type="checkbox"/>	(a) Yes
<input checked="" type="checkbox"/>	(b) No

8.1 What is the procedure followed for processing a request for access to a document of a third party?

<input checked="" type="checkbox"/>	(a) The third party is consulted but your public authority issues the final reply to the request
<input type="checkbox"/>	(b) The request is forwarded to the third party to issue the final reply to the request

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The statutory period for replies is 15 calendar days; the period may be, for reasons given by law, extended by 10 calendar days. The applicant must be informed about the extension.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The law recognizes two types of remedies, which are decided, should it concern complaints and appeals, by a superior body upon request of the entity concerned. The superior body shall handle the respective complaint or appeal no later than 15 days of their receipt. The entity concerned by the requests must submit the respective complaint to the superior body within 7 days, or, in case of an appeal, within 15 days.

- 10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| | (a) Same as for initial reply |
| X | (b) Other |

Please specify: *It is a rather large group of superior bodies (e.g. in case of municipalities it is regional authorities; in case of regions it is Ministries and in case of Ministries it is the Minister).*

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

<input checked="" type="checkbox"/>	(a) Protection of the public interest as regards public security
<input checked="" type="checkbox"/>	(b) Protection of the public interest as regards defence and military matters
<input checked="" type="checkbox"/>	(c) Protection of the public interest as regards international relations
<input checked="" type="checkbox"/>	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input checked="" type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input checked="" type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input checked="" type="checkbox"/>	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

12. Does your national legislation identify reasons for not processing requests for access?

<input checked="" type="checkbox"/>	(a) Yes
<input type="checkbox"/>	(b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

<input type="checkbox"/>	(a) Unreasonable or abusive request
<input type="checkbox"/>	(b) Excessive administrative burden
<input checked="" type="checkbox"/>	(c) Failure to clarify the request
<input type="checkbox"/>	(d) Other

Please specify: *A request shall not be recognized as a request under the Act on Free Access to Information should the applicant fail to specify that the request is being filed pursuant to the Act on Free Access to Information, should they fail to provide their mailing address or should they fail to submit their electronic submission to the electronic address of the respective entity's mailroom.*

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

Subjects that are obliged to provide information shall publish, once a year, an annual report on access to information which they shall also publish in the manner allowing remote access.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Each entity has its own official website, which is used to comply with the above mentioned obligation.

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

QUESTIONNAIRE
Member States' legislation on access to documents

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016.

MEMBER STATE:	Germany
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Federal Act governing access to information held by the Federal Government (Freedom of Information Act - *Informationsfreiheitgesetz*, hereinafter referred to as 'IFG')

Environmental Information Act (*Umweltinformationsgesetz*, hereinafter referred to as 'UIG')

Act for the improvement of health-related consumer information (Consumer Information Act - *Verbraucherinformationsgesetz*, hereinafter referred to as 'VIG')

The above-mentioned laws form the basis for the answers to the rest of this questionnaire. There is also legislation on access to information at Land level (e.g. federal state laws on environmental information and access to information)

2. Please provide a link to your national legislation on access to documents (if available):

IFG: <http://www.gesetze-im-internet.de/bundesrecht/ifg/gesamt.pdf>

UIG: http://www.gesetze-im-internet.de/bundesrecht/uig_2005/gesamt.pdf

VIG: <http://www.gesetze-im-internet.de/bundesrecht/vig/gesamt.pdf>

3. When did your national legislation on access to documents enter into force?

IFG: 1 January 2006

UIG: 14 February 2005, recast published on 27 October 2014 (the recast came into force pursuant to Directive 2003/4/EC - Environmental Information Directive; the original version came into force on 16 July 1994)

VIG: 1 May 2008

3.1 Is it currently being reviewed?

No

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:

- (i) public authorities

Please specify which:

IFG: Information/documents from intelligence services or from the authorities or other public bodies of the Federal Government, where these perform duties pursuant to Section 10(3) of the Security Clearance Check Act.

UIG: the supreme federal authorities when acting in the context of the legislative process, and federal courts, unless they are performing public administrative duties (point 1 of Section 2(1) UIG)

VIG: the supreme federal and Land authorities when acting in the context of the legislative process or issuing statutory instruments, independent financial control bodies, courts, prison authorities, law enforcement and disciplinary authorities, and the bodies responsible for them.

- (ii) areas of activity

Please specify which:

- (iii) policies

Please specify which:

- (iv) categories

Please specify which:

- (v) Other

Please specify:

IFG: Access only to official information held by federal authorities or other federal bodies or institutions, insofar as these perform administrative public service tasks (see also the reference given in answer to question 1).

UIG: Access only to environmental information (see Section 1(1) UIG)

VIG: Access only to information on products as defined in the Food and Feed Code and on consumer products which fall under the scope of Section 2(26) of the Product Safety Act (see Section 1

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) ¹ |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails ² |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases ³ |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------------------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No ⁴ |

¹ The prerequisite for information access is always that the information/document must be in the authority's files.

² The prerequisite for information access is always that the information/document must be in the authority's files.

³ The prerequisite for information access is always that the information/document must be in the authority's files.

⁴ The grounds for refusal stated in the UIG are different, but only with regard to **private** third parties: the first sentence of Section 9(2) contains a provision on the basis of which

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

IFG: One month (two months if a third party is involved)

UIG: Up to one month; maximum of two months for extensive/complex environmental information

VIG: One month (two months if a third party is involved)

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

No fixed deadline for replying to the request for review (appeal), but if no response is given within three months, proceedings for failure to act may be brought before the Administrative Court.

As the decision pertains to an administrative act, the general rules for appeal proceedings laid down in Sections 68 to 73 of the Code of Administrative Court Procedure apply.

environmental information that a private third party has supplied to a body subject to a disclosure obligation, without that party being under, or capable of being put under, a legal obligation to do so, and the disclosure of which would adversely affect the interests of that party, may not be made accessible to others without that party's consent, unless there is overriding public interest served by disclosure.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| X | (a) Same as for initial reply |
| X | (b) Other |

Please specify:

Generally the authority responsible for the review is the same authority as was responsible for the initial reply. In some cases, the next highest authority may conduct the review.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|--|
| X | (a) Protection of the public interest as regards public security ⁵ |
| X | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |
| X | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States ⁶ |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| ? | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

⁵UIG: only 'significant' protected interests of public security

⁶ UIG: No - or in any event, no specific ground for refusal (though 'significant protected interests of public security' may possibly apply in some cases).

11.2 If yes, please indicate exceptions⁷ to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- protection of external and internal security interests (IFG)
- protection of the confidentiality of (international) negotiations and government deliberations (IFG)
- protection of measures to prevent illicit foreign trade (IFG)
- protection of secrecy or confidentiality obligations, and of professional or special official secrecy (IFG)
- protection of information obtained or transferred in confidence, where a third party's interest in confidential treatment still applies (IFG, VIG)
- instances in which the applicant is only entitled to partial access to information and access would require a disproportionate administrative burden (IFG)

- (under certain conditions) protection of other types of proceedings, e.g. criminal investigation proceedings, legal proceedings (VIG)
- protection of information that is available due to reporting or notification requirements (VIG)
- access to scientific research projects, including data obtained within the context of a research project which has not yet been fully evaluated, until those projects have been published in a scientific journal (VIG)
- instances in which processing the request would hamper the authority's proper performance of its duties (VIG)

- adverse effects on the state of the environment and its elements or specified protected interests (UIG)
- manifestly abusive requests (UIG, VIG)
- the authority does not have the information (IFG, UIG, VIG), nor can it forward the request (UIG)
- the request concerns the disclosure of material in the course of completion or unfinished documents or data (UIG)
- the request is too imprecise and, despite being requested to do so, the applicant fails to formulate it in a more specific manner within a reasonable period (UIG, VIG)

⁷ Any derogations involve some discretion or weighing of interests.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|----------------------|
| X | (a) Yes ⁸ |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| X | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

IFG:

The Federal Commissioner for Data Protection and Freedom of Information reports every two years to the German Bundestag.

UIG, VIG: No reporting obligation.

⁸ Requests must always be processed, but may or must be rejected in some cases (see also the grounds for refusal stated under question 11.2)

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Not yet available. The last reporting period was 2013-2014.

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify:

We refer you to the references given in the answer to question 1.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Denmark
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The Danish Access to Public Administration Files Act

2. Please provide a link to your national legislation on access to documents (if available):

<https://www.retsinformation.dk/forms/r0710.aspx?id=152299>

3. When did your national legislation on access to documents enter into force?

The recent act entered into force January 1, 2014.

3.1 Is it currently being reviewed?

The act is currently being evaluated. The evaluation shall be completed in spring 2017 and may result into a revision of the act.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: The act is based on a political agreement. It follows from this agreement that the act shall be evaluated.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

<input type="checkbox"/>
<input checked="" type="checkbox"/>

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

<input checked="" type="checkbox"/>

(i) public authorities

Please specify which: The Danish Police Intelligence Service and The Danish Defence Intelligence Service.

<input type="checkbox"/>

(ii) areas of activity

Please specify
which:

<input type="checkbox"/>

(iii) policies

Please specify which:

<input type="checkbox"/>

(iv) categories

Please specify which:

<input type="checkbox"/>

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

<input type="checkbox"/>
<input checked="" type="checkbox"/>

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input checked="" type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: Text messages from telephones. |

8. Does your national legislation recognize the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

7 days.

However, it is possible to postpone that deadline.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

20 days.

However, it is possible to postpone that deadline.

- 10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| | (a) Same as for initial reply |
| X | (b) Other |

Please specify: The supreme administrative authority within the area and/or The Danish Parliamentary Ombudsman.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| X | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |
| X | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| X | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

The right to access to documents does not include:

- Cases within criminal justice
- Cases of recruitment or promotion in the public service (except for a few details regarding name, working position, payments, etc.)
- Calendars
- Protection of preliminary research and materials provided as a basis for preparing public statistics or scientific research

Access to documents is also limited by the legislation's special rules on the duty of confidentiality.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| X | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| | (a) Yes |
| X | (b) No |

13.1 If yes, how regular?

--

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	ESTONIA
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GENERAL INFORMATION

1. **Please indicate your national legislation on access to documents:**

Public Information Act¹

2. **Please provide a link to your national legislation on access to documents (if available):**

<https://www.riigiteataja.ee/en/eli/518012016001/consolide>

3. When did your national legislation on access to documents enter into force?

Public Information Act¹
Passed 15.11.2000
RT I 2000, 92, 597
Entry into force 01.01.2001

3.1 Is it currently being reviewed?

No

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: § 1 of the act states that “The purpose of this Act is to ensure that the public and every person has the opportunity to access information intended for public use, based on the principles of a democratic and social rule of law and an open society, and to create opportunities for the public to monitor the performance of public duties.”.

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which:

(ii) areas of activity

Please specify which:

(iii) policies

Please specify which:

(iv) categories

Please specify which: § 2. Scope of application of Act (2) This Act does not apply:

1) to information which is classified as a state secret or as classified foreign information, until expiry of classification of such information;

[RT I 2007, 16, 77 - entry into force 01.01.2008]

2) upon granting access to records in the National Archives and local government archives pursuant to the procedure provided for in the Archives Act and on the basis thereof, except in the part of establishment of restrictions on access and the re-use of information;

[RT I, 06.01.2016, 1 - entry into force 16.01.2016]

3) upon responding to memoranda and requests for explanations pursuant to the procedure provided for in the Response to Memoranda and Requests for Explanations Act if responding requires the analysis and synthesis of the recorded information or the collection and documentation of additional information.

4) to restrictions on access to information and to special conditions of, the procedure for and methods of access if these are otherwise provided for in specific Acts or international agreements.

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

It is not mandatory to set up public registers but it is in the interests of the state. If establishing a register/database, then Public Information act § 43³ must be followed.

§ 43³. Establishment of databases

(1) A database is established by an Act or legislation issued on the basis thereof.

(2) Establishment of separate databases for the collection of the same data is prohibited.

(3) Before the establishment of a database or changing the composition of the data collected in a database, introducing a database or terminating a database, the technical documentation of the database shall be approved by the Estonian Information System's Authority, the Data Protection Inspectorate and the Statistics Estonia.

[RT I, 21.05.2014, 2 - entry into force 31.05.2014]

(4) A database not belonging to the state information system which is kept only for fulfilling internal administration needs of an organisation or for inter-agency processing of documents need not be approved pursuant to the procedure provided in subsection (3) of this section.

(5) The specific conditions and procedure for obtaining the approval of the Estonian Information System's Authority and the Data Protection Inspectorate and, where necessary, also the technical and organisational requirements for establishment and maintenance of databases shall be provided by the regulation establishing the support system specified in clause 43⁹ (1) 6) of this Act.

[RT I, 21.05.2014, 2 - entry into force 31.05.2014]

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

§ 18. Terms for compliance with requests for information and calculation of terms for processing

(1) A request for information shall be complied with promptly, but not later than within **five working days**.

(2) If a request for information cannot be complied with due to the insufficiency of the information submitted by the person making the request for information, the holder of information shall notify the person making the request for information thereof within five working days in order to specify the request for information.

(3) The terms for processing requests for information provided for in this Act shall be calculated as of the working day following registration of the requests for information.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

-

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|--------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input type="checkbox"/> | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Exceptions to the right of access can be found in the Public Information Act § 35.
(Explanation to the question 11.1: options c and d in question 11.1 can both be placed under § 35(1)3.)

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: Please see public information act § 23.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

13.1 If yes, how regular?

-

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

-

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

-

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Greece
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The Constitutional provisions (article 5a, 10) regarding the citizens right to access documents is implemented via article 5 of L. 2690/1999. Furthermore, under the provisions of L. 3448/2006, the entirety of Greek Legislation regarding access to public documents and data was codified via Presidential Decree 28/2015. In October 2014, via law 4305/2014, the 2013/37/EU Directive on the re-use of public sector information was incorporated into Greek legislation (namely law 3448/2006). Via law 4325/2015 (article 7) the citizen's right to access documents was extended to documents issued/kept by specified categories of private entities. Finally the 'Transparency Programme', established via Law 3861/2010 obliges all government institutions to upload their acts and decisions on the Internet with a specific focus on issues related to national security and sensitive personal data.

2. Please provide a link to your national legislation on access to documents (if available):

*Greek Constitution: <http://www.hellenicparliament.gr/UserFiles/8c3e9046-78fb-48f4-bd82-bbba28ca1ef5/SYNTAGMA.pdf>
Law 2690/99-article 5 and
Law 3448/2006 (as amended by Law 4305/2014):
Included in Presidential Decree 28/2015: <http://www.minadmin.gov.gr/?p=11138>
Law 4325/2015 (article 7): <http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/Nomos-4325-2015.pdf>
Law 3861/2010: http://www.minadmin.gov.gr/wp-content/uploads/20141201_nom_3861_diavgeia.pdf*

3. When did your national legislation on access to documents enter into force?

Current regulations were put in force via Law 2690/1999 while previous relevant regulations were established via Law 1599/1986.

3.1 Is it currently being reviewed?

No

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other/ plus: |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) No, it applies to all documents |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain: |
| <input checked="" type="checkbox"/> | (i) public authorities |

Please specify which: Authorities not included in the General Government.

(ii) areas of activity

Please specify which:

- Documents relevant to private or family life of third parties.
- Documents pertaining on discussions/consultations within the Council of Ministers
- Documents access to which could substantially undermine the investigation of judiciary, administrative, police or military authorities regarding crimes or administrative offences

(iii) policies

Please specify which:

(iv) categories

Please specify which:

- Documents access to which violates formal rules of secrecy /confidentiality
- Documents access to which violates rights of intellectual or industrial property

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

-

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- (a) Requests are answered by identifying only documents listed in registers
- (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.)
- (c) Requests are answered by identifying any content, including content found in emails
- (d) Requests are answered by identifying any content, including extracts from databases
- (e) Requests are answered by identifying any written content, other than the content

mentioned above. Please specify: any content regardless of medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) as well as any part of such content.

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

<input type="checkbox"/>
X

(a) Yes

(b) No

Note: If the aforementioned question 8 pertains on private documents kept within public records it is noted that if such documents are relevant to a citizens case, whether complete or pending, they can be accessed provided the citizen claims particular interest.

8.1 What is the procedure followed for processing a request for access to a document of a third party?

<input type="checkbox"/>
X

(a) The third party is consulted but your public authority issues the final reply to the request

(b) The request is forwarded to the third party to issue the final reply to the request

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

20 days, according the art. 5 L 2690/1999

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

X
<input type="checkbox"/>

(a) Yes

(b) No

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

No specific process directly relevant to the citizen's requests to access documents is defined. However, under general provisions of Law 2690/1999 (article 24) citizens can appeal against the initial reply of a public authority either to the same authority (demanding the amendment of the reply) or to its superior authority (demanding the annulment of the reply). In either case the deadline is thirty days unless otherwise regulated.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| X | (a) Same as for initial reply |
| X | (b) Other |

Please specify: *No specific process directly relevant to the citizen's requests to access documents is defined. However, under general provisions of Law 2690/1999 (article 24) citizens can appeal against the initial reply of a public authority either to the same authority (demanding the amendment of the reply) or to its superior authority (demanding the annulment of the reply). In either case the deadline is thirty days unless otherwise regulated.*

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| X | (b) Protection of the public interest as regards defence and military matters |
| | (c) Protection of the public interest as regards international relations |
| | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| X | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Please see question 5.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| X | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify: *All of the aforementioned reasons have been accepted by the Legal Council of the State as legitimate reasons for not processing requests for access.*

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| | (a) Yes |
| X | (b) No |

13.1 If yes, how regular?

--

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

--

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

As aforementioned, under the provisions of L. 3448/2006, the entirety of Greek Legislation regarding access to public documents and information was codified via Presidential Decree 28/2015 thus ensuring greater transparency as well as reliability of the action of the Public Administration deriving from a uniform implementation of the existing legislation.

Gathering and mapping the existing provisions into one single text should greatly facilitate the administrative bodies in their duties associated with granting documents as well as reduce administrative costs and allow the full and immediate information of interested citizens and businesses about their rights and obligations regarding their access to public documents and data.

Furthermore, the scope of the legislation was substantially broadened as via law 4325/2015 (article 7) the citizen's right to access documents was extended to documents issued/kept by specified categories of private entities, namely legal entities under private law that belong to or are regularly financed by the State for more than half of their annual budget, to a number of public services and utilities as well as legal persons and business of the municipalities regardless if they belong to the scope of the General Government.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	SPAIN
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

- Spanish Constitution (Article 105(b)).
- Law 39/2015 of 1 October 2015 on the common administrative procedure of public administrations (Article 13(d)).
- Law 19/2013 of 9 December 2013 on transparency, access to public information and good governance.

2. Please provide a link to your national legislation on access to documents (if available):

- Law 19/2013 of 9 December 2013 on transparency, access to public information and good governance:
<https://www.boe.es/buscar/doc.php?id=BOE-A-2013-12887>

3. When did your national legislation on access to documents enter into force?

Law 19/2013 of 9 December 2013 entered into force for the General State Administration on 10 December 2014.

For the Autonomous Communities and local authorities, the legislation entered into force on 10 December 2015.

3.1 Is it currently being reviewed?

NO.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which: The legislature, the judiciary, the royal household and constitutional bodies in respect of non-administrative documentation.

(ii) areas of activity

Please specify which:

(iii) policies

Please specify which:

(iv) categories

Please specify which:

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input checked="" type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

Deadline of one month from receipt of the request by the body with the authority to decide.

The deadline can be extended for a further month if the volume or complexity of the information requested so require and the requester is given prior notification (Article 20 of Law 19/2013).

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|----|---------|
| XX | (a) Yes |
| | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The deadline for a decision and for notification of the decision to review (appeal) by the Transparency and Good Governance Council (CTBG) is three months.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|----|-------------------------------|
| | (a) Same as for initial reply |
| XX | (b) Other |

Please specify: Transparency and Good Governance Council (CTBG)

It is an optional appeal prior to recourse to the courts (Article 24 of Law 19/2013).

The CTBG was established by Law 19/2013; it is autonomous and fully independent in the performance of its functions.

Its rules of procedure were adopted by Royal Decree 919/2014 of 31 October 2014.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|----|---------|
| XX | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|----|---|
| XX | (a) Protection of the public interest as regards public security |
| XX | (b) Protection of the public interest as regards defence and military matters |
| XX | (c) Protection of the public interest as regards international relations |
| XX | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| XX | (e) Protection of privacy and the integrity of the individual |
| XX | (f) Protection of commercial interests |
| XX | (g) Protection of court proceedings and legal advice |
| XX | (h) Protection of the purpose of inspections, investigations and audits |
| XX | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- Professional secrecy and intellectual and industrial property.
- Environmental protection.
Article 14 of Law 19/2013.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|----|---------|
| XX | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|----|-------------------------------------|
| XX | (a) Unreasonable or abusive request |
| XX | (b) Excessive administrative burden |
| XX | (c) Failure to clarify the request |
| XX | (d) Other |

Please specify: - Information being drafted or published.
- Ancillary or supporting information.
- When the competent body is not known.
Article 18 of Law 19/2013.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|----|---------|
| XX | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

Obligation to 'actively publish' regular and updated information (Articles 5 to 8 of Law 19/2013).

The frequency with which the information is published depends on the type of information.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

General State Budget: State revenue for the year 2016. Reports detailing the amounts allocated to each economic item, grouped by budget service and programme for the subordinate bodies and departments:

http://transparencia.gob.es/servicios-buscador/contenido/pge.htm?id=PGE_22abd7c0ed9e217e9edf1dbadb7e17c00f873e19_2016&lang=es&fcAct=2016-11-2BT16:34:01.785Z

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

- Law 19/2013 (Article 21) establishes the obligation to create Transparency Information Units (UITs) in the General State Administration.

- A Transparency Portal has been set up for the Government of Spain:
<http://transparencia.gob.es>

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016.

MEMBER STATE:	Finland
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The right to access information contained in official documents is enshrined in the Constitution (11.6.1999/731): under the second paragraph of Section 12, documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the right of access to public documents and recordings. The public nature of parliamentary activity is provided for in Section 50 of the Constitution.

Access to official documents is provided for in the Act on the Openness of Government Activities, known as the Publicity Act (*Julkisuuslaki*) (21.5.1999/621) and in the pursuant Decree on the Openness of Government Activities and on Good Practice in Information Management (12.11.1999/1030). The Publicity Act applies to state administrative authorities, agencies and institutions, courts of law and bodies for the administration of law, state enterprises, municipal authorities, independent institutions subject to public law, parliamentary agencies and institutions, Åland authorities when performing the duties of state authorities in Åland, private individuals appointed for the performance of a public task, and various boards, consultative bodies and working groups appointed for the performance of a given task on the basis of an Act, a Decree or a decision of an authority (Publicity Act, Section 4).

The Publicity Act is a general law, but specific provisions on access to documents exist in many other laws, including the Act on the Publicity of Court Proceedings in General Courts (30.3.2007/370), the Act on the Publicity of Administrative Court Proceedings (30.3.2007/381), the Act on the obligation for financial openness and provision of financial information concerning certain companies (24.1.2003/19), and the Act on the

Public Disclosure and Confidentiality of Tax Information (30.12.1999/1346). Special laws may contain different provisions from the Publicity Act applying to matters including data confidentiality.

The grounds for classifying documents of central government and the information security requirements applicable to the handling of such documents are provided for in the Government Decree on information security in central government (1.7.2010/681), and the measures taken by authorities to implement their international security obligations are provided for in the Act on International Information Security Obligations (24.6.2004/588).

It is not the case that if special provisions governing a matter covered in the Publicity Act exist, then the Publicity Act does not apply at all. The provisions of the Publicity Act always apply alongside the special provisions unless there is an explicitly diverging provision in the special law. Both the Publicity Act and the special rules must be interpreted and applied in the spirit of the constitution and in such a way as to promote the principle of public access.

2. Please provide a link to your national legislation on access to documents (if available):

[Act on the Openness of Government Activities \(21.5.1999/621\)](#)
[Decree on the Openness of Government Activities and on Good Practice in Information Management \(12.11.1999/1030\)](#)
[Act on the Publicity of Court Proceedings in General Courts \(30.3.2007/370\)](#)
[Act on the Publicity of Administrative Court Proceedings \(30.3.2007/381\)](#)
[Act on the obligation for financial openness and provision of financial information concerning certain companies \(24.1.2003/19\)](#)
[Act on the Public Disclosure and Confidentiality of Tax Information \(30.12.1999/1346\)](#)
[Government Decree on information security in central government \(1.7.2010/681\)](#)
[Act on International Information Security Obligations \(24.6.2004/588\)](#)

3. When did your national legislation on access to documents enter into force?

There is a long tradition of public access to information in Finland: the earliest legal provisions on the right to access official documents were included in the Swedish-Finnish Freedom of the Press Act of 1766. The precursor of the Publicity Act, the Act on the Publicity of Official Documents, was adopted in 1951. The current Publicity Act and the Decree on the Openness of Government Activities and on Good Practice in Information Management came into effect on 1 December 1999. The legislation governing public access to official documents was completely revised at that point. The principle of public access was elevated to a constitutional right in the new constitution which came into effect on 1 March 2000.

3.1 Is it currently being reviewed?

The Publicity Act is not currently under review.

The working group to investigate the national legislative measures required by the European Union's General Data Protection Regulation is also looking at the coordination between access to documents and protection of personal data. The working group's report should be ready on 31 May 2017.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify which:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

—
Please specify which: The second paragraph of Section 12 of the Finnish Constitution provides that: 'Everyone has the right of access to public documents and recordings.' This is also a premise of the Publicity Act, whose Section 9(1) provides: 'Everyone has the right of access to an official document in the public domain.'

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
 (b) Yes, it excludes documents from certain:

(i) public authorities
Please specify which:

(ii) areas of activity
Please specify which:

(iii) policies
Please specify which:

(iv) categories
Please specify which:

(v) Other

Please specify which: The Publicity Act applies to official documents. An official document is defined in its Section 5(2) as 'a document in the possession of an authority and prepared by an authority or a person in the service of an authority, or a document delivered to an authority for the consideration of a matter or otherwise in connection with a matter within the competence or duties of the authority'.

Section 5(3) specifies which documents are deemed not to be official documents (e.g. personal messages sent to people in the service of an authority). The Publicity Act does not apply to such documents. In addition, Section 5(4) provides that the Publicity Act will apply to documents prepared for negotiations or communications between persons in the service of authorities or between authorities and private individuals or corporations acting on their behalf, or for other comparable internal activities of such

_____ authorities, only if the documents contain such information that, according to the archives legislation, they are to be archived. However if the documents are archived, the authority may order that access to them may be granted only by permission of the authority.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|--------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

Under Section 18(1) of the Publicity Act, authorities are required to realise good practice on information management and to this end, among other things, 'maintain an index of any matters submitted and taken up for consideration and any matters considered and decided, or otherwise make sure that their public documents can be easily located' and 'plan and realise their document and information administration and the information management systems and computer systems they maintain in a manner allowing for the effortless realisation of access to the documents and for the appropriate archiving or destruction of the documents, the information management systems and the information contained therein'. Provisions governing the entry into the public domain of official documents are contained in Sections 6 to 8 of the Publicity Act.

In practice the commonest method of indexing information is by entry into a register. Document management is covered separately in the Archives Act (23.9.1994/831).

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify which: |

Document requests must be dealt with in accordance with the principles of good governance. Under Section 13(1) of the Publicity Act, a request for access to an official document should be sufficiently detailed that the authority can determine which document the request concerns. Where necessary, the person requesting access should be helped to specify the document which they wish to access, for example using the information management system and indexes. If the access requested is not granted, the requester must be given, in writing, the reason for the administrative decision, accompanied in the first instance by guidelines on seeking rectification (Section 14).

Access to a document can be provided: by explaining its contents orally; by giving the document to be studied, copied or listened to in the offices of the authority; or by issuing a copy or a printout of the document (Section 16(1)).

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

Under Section 14(4) of the Publicity Act, a document request must be considered without delay, and access to a document in the public domain must be granted as soon as possible, and in any event two weeks from the date when the authority received the request for the document. If the number of the requested documents is large, if they contain secret parts or if there is any other comparable reason for the consideration and the decision of the matter requiring special measures or otherwise an irregular amount of work, the matter shall be decided and access to the document granted within one month of the receipt of the request for access by the authority.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

Under Section 14(1) of the Publicity Act, the decision to grant access to an official document is generally taken by the authority that is in possession of the document. Under Section 14(2), access to the contents of a document is granted by an official or employee who has been so designated by the authority or to whom the task otherwise belongs by virtue of his or her office or duties.

If the employee refuses to grant the requested access, under Section 14(3) they must inform the person requesting access of the reason for this and also inform them that the matter can be decided by the authority. The person who has filed a written request for access must be asked whether they wish to have the matter forwarded to the authority. The request for rectification must be lodged in writing within 30 days of the decision being notified. It must be processed as a matter of urgency in accordance with the Administrative Procedure Act (Publicity Act, Section 33).

10.2 If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify which:

If the decision was initially taken by an official or employee of an authority, the request for rectification is addressed to the authority that is in possession of the document. The request is dealt with by a decision-making organ of the authority appointed in accordance with the rules and regulations governing the authority. An appeal may be made against an authority's decision to the Administrative Court that has jurisdiction. The decision of the Administrative Court is subject to appeal only with leave of appeal from the Supreme Administrative Court (Publicity Act, Section 33(3)).

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|--|
| x | (a) Protection of the public interest as regards public security (Section 24(1)(5), 24(1)(8) and 24(1)(9)) |
| x | (b) Protection of the public interest as regards defence and military matters (Section 24(1)(10)) |
| x | (c) Protection of the public interest as regards international relations (Section 24(1)(1) and 24(1)(2)) |
| x | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or a Member State (Section 24(1)(11), 24(1)(12) and 24(1)(13)) |
| x | (e) Protection of the privacy and integrity of the individual (Section 24(1)(23) to 24(1)(32)) |
| x | (f) Protection of commercial interests (Section 24(1)(17) and 24(1)(20)) |
| x | (g) Protection of court proceedings and legal advice (Section 24(1)(19)) |
| x | (h) Protection of the purpose of inspections, investigations and audits (Section 24(1)(3), 24(1)(4), 24(1)(5), 24(1)(6) and 24(1)(15)) |
| | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Exceptions to the right of access are considerably more detailed under the Publicity Act than under the Regulation on public access. Exceptions are formulated in such a way that the restriction concerns only specific content, which also reduces an authority's discretion to apply exceptions. There is no precise equivalent in the Regulation to the following exceptions in the Publicity Act:

(7) documents relating to or affecting the realisation of the security arrangements of persons, buildings, installations, constructions, and data and communications systems, unless it is obvious that access will not compromise the achievement of the objective of the security arrangements;

(14) documents containing information on endangered animal or plant species or the protection of important natural habitats, if access would compromise the protection of the species or the habitat;

(16) documents provided to the statistical authority for the compilation of statistics as well as documents that have been voluntarily given to an authority for the purpose of research or the compilation of statistics; (23.4.2004/281)

(18) documents containing information compiled or obtained by the State, a municipality or some other public corporation as a labour partner or a party to a labour dispute, if access would be contrary to the interests of the public corporation as an employer; documents containing information compiled or obtained by the representatives of the State for negotiations on agricultural subsidies, if access would be contrary to the interests of the State as a negotiating party;

(21) documents concerning the basic materials for a dissertation or other scientific study, technological or other development project, or the assessment of the same, unless it is obvious that access will not cause inconvenience to the completion of the dissertation, study or development project or their exploitation, its appropriate assessment or the person carrying out the research, nor to the person commissioning the study or development project;

(22) documents containing information on an entrance examination or other examination or test, if access would compromise the achievement of the objectives of the examination or test, or prevent the future use of the test;

The general right of access is limited not just by secrecy obligations, but also by rules that establish the point in time at which a document, with the exception of its confidential parts, definitely becomes subject to an unconditional right of access (Publicity Act, Sections 6 and 7). The provisions of special laws also establish limits on the right of access to information.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|--------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input type="checkbox"/> | (d) Other |

Please specify which:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

13.1 If yes, how regular?

--

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

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14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The differences between the Publicity Act and the Regulation on public access make it impossible to give a "yes" or "no" answer to every question. Regarding the requirement to set up a public register of documents (question 6), for instance, the authority has a duty to keep a record of the documents in its possession. Public access to those documents is determined by law. However, the Publicity Act contains no rule equivalent to Article 11 of the Regulation. On the other hand, in relation to practices used by authorities to meet requests for access to documents (question 7), an authority is required where necessary to help the applicant specify the document to which they are requesting access.

The Publicity Act defines a document very broadly: as a written or visual presentation, and also as a message relating to a given topic or subject-matter and consisting of signs which, by virtue of the use to which they are put, are meant to be taken as a whole, but are decipherable only by means of a computer, an audio or video recorder or some other technical device. The definition includes paper, electronic documents, images, and video and audio recordings.

A different approach to limiting public access has been adopted in the Publicity Act in comparison with the Regulation. Whereas the Regulation itemises the interests to be protected, in the Publicity Act confidentiality is based on the content of the document or the nature of the information in it. Confidentiality rules must be interpreted restrictively and in the spirit of the constitution. When determining exceptions to the public access requirement, account must be taken of an authority's obligation to ensure that access to information about its activities is not restricted without a valid and legally admissible reason, that the restriction does not go beyond what is necessary in view of the interest to be protected, and that the person requesting access receives equal treatment. When only part of a document is secret, access is granted to the public part if this is possible without disclosing the secret part (Publicity Act, Section 10).

The Publicity Act regulates not just public right of access but also parties' right of access. The party (petitioner, appellant or any other person whose right, interest or obligation is concerned in a matter) has, subject to certain exceptions, the right of access, to be granted by the authority which is considering or has considered the matter, to the contents also of a document which is not in the public domain, if the document may influence or may have influenced the consideration of his or her matter (Publicity Act, Section 11). A party also has, subject to certain exceptions, the right of access to information contained in an official document and pertaining to themselves (Publicity Act, Section 12).

The Publicity Act contains specific provisions on the situations in which one authority may grant another authority access to a secret document (Publicity Act, Section 29). Authorities do not have an automatic right to access secret information from other

authorities.

All documents are made public at some stage. An official document may not be kept secret once the period of secrecy provided for in an Act or ordered on the basis of an Act has ended or when the secrecy order has been revoked. The secrecy period is 25, 50 or 100 years, depending on the nature of the document. The secrecy period may be extended by a maximum of 30 years (Publicity Act, Section 31).

Authorities must also provide access to information in pending matters (Publicity Act, Section 19). Furthermore, authorities must promote the openness of their activities, inter alia by producing publications and actively informing the public about their activities (Publicity Act, Section 20). The more widely documents describing the activities of authorities are subject to confidentiality, the wider the obligation to produce material reflecting statistics, publications and decision-making.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	FRANCE
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The rules on public access to administrative documents were laid down in Law No 78-753 of 17 July 1978 establishing various measures to improve relations between administrative authorities and the public and various administrative, social and fiscal provisions. They were codified by Order No 2015-1341 of 23 October on the legal provisions of the code of relations between the public and administrative authorities, in Book III of this code, entitled 'Access to administrative documents and re-use of public information'.

2. Please provide a link to your national legislation on access to documents (if available):

<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000031366350>

3. When did your national legislation on access to documents enter into force?

These provisions entered into force on 18 July 1978.

3.1 Is it currently being reviewed?

No

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which:

- parliamentary assembly documents;
- government decisions.

(ii) areas of activity

Please specify which:

- court documents which are related to their judicial function and judiciary documents;
- documents which are unrelated to the public service remit of the administrative authority;
- opinions issued by the administrative divisions of the Council of State.

(iii) policies

Please specify which:

(iv) categories

Please specify which:

- unfinished documents (under preparation: Article L311-2 of the aforementioned code of relations);
- documents preparatory to a decision, until that decision has been adopted (Article L311-2);
- documents whose disclosure would jeopardise court or pre-infringement proceedings (point (f) of Article L311-5(2));
- documents whose disclosure would jeopardise the investigation of offences, particularly tax offences (point (g) of Article L311-5(2));
- documents whose disclosure would constitute an invasion of privacy (Article L311-6);
- documents whose disclosure would jeopardise medical confidentiality (Article L311-6(1));
- documents whose disclosure would jeopardise commercial and

industrial confidentiality (Article L311-6(1));

- documents whose disclosure would jeopardise the confidentiality of economic and financial information (Article L311-6(1));
- documents whose disclosure would jeopardise the confidentiality of government proceedings (point (a) of Article L311-5(2));
- documents whose disclosure would jeopardise the confidentiality of national defence and foreign policy (points (b) and (c) of Article L311-5(2));
- documents whose disclosure would jeopardise national security and public security (point (d) of Article L311-5(2));
- documents whose disclosure would be liable to promote speculation or undermine monetary policy (point (e) of Article L311-5(2)).

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The administration has one month to reply to a request for access to documents, failing which the lack of response will be considered an implied decision refusing disclosure.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The administration has two months to reply to an administrative review (which must be conducted prior to any action being brought before the administrative court), whether the request for the review was submitted to the authority which adopted the decision, or to the administrative body immediately superior to that which adopted the decision. It is possible to submit a request for review to the higher administrative body without having previously requested one from the body which adopted the decision, or without waiting for a response from that body to a previous request. If access is denied, the applicant may refer the matter to an independent administrative authority, the Committee on Access to Administrative Documents. The Committee issues an opinion which is non-binding but which the administrative court takes into consideration if an action is brought before it in the event of access being persistently denied.

- 10.2 If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify: higher administrative body (see previous question)

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

The exceptions provided for under French national law are very similar to those provided for in paragraphs 1 to 3 of Regulation 1049/2001. Hence, as already stated in answer to question 5, the following documents may not be disclosed:

- documents whose disclosure would jeopardise national security and public security (point (d) of Article L311-5(2) of the code of relations), cf. 'Protection of public interest as regards public security';
- documents whose disclosure would jeopardise the confidentiality of national defence (point (b) of Article L311-5(2)), cf. 'Protection of public interest as regards defence and military matters';
- documents whose disclosure would undermine foreign policy (point (c) of Article L311-5(2)), cf. 'Protection of public interest as regards international relations';
- documents whose disclosure would be liable to promote speculation or undermine

- monetary policy (point (e) of Article L311-5(2)), cf. 'Protection of public interest as regards financial, monetary or economic policy of the Community or a Member State';
- documents whose disclosure would constitute an invasion of privacy (Article L311-6), which are in principle to be disclosed only to the person concerned, cf. 'Protection of privacy and the integrity of the individual';
 - documents whose disclosure would jeopardise the confidentiality of economic and financial information (Article L311-6(1)) and documents whose disclosure would jeopardise commercial and industrial confidentiality (Article L311-6(1)), cf. 'Protection of commercial interests of a natural or legal person';
 - legal documents or documents whose disclosure would jeopardise court or pre-litigation proceedings, cf. 'Protection of court proceedings and legal advice';
 - documents whose disclosure would jeopardise the investigation of offences, particularly tax offences (point (g) of Article L311-5(2)) and documents whose disclosure would jeopardise pre-litigation proceedings (point (f) of Article L311-5(2)), cf. 'Protection of the purpose of inspections, investigations and audits';
 - documents whose disclosure would jeopardise the confidentiality of government proceedings (point (a) of Article L311-5(2)), cf. 'Protection of the decision-making process'.

There is one exception which is specific to French law: documents produced by a French judge, or at the request of a French judge, which are not considered administrative documents but legal documents (which, by their very nature, may not be disclosed). This exception is designed to protect judicial independence and respect the separation of powers.

In addition to these exceptions, it may be noted that public procurement documents and public service delegation documents are governed by a special regime arising from case-law and the decision-making practice of the Committee on Access to Administrative Documents. Thus, documents related to consultations may be disclosed, including before the contract has been signed, while documents related to calls for tender and tenders submitted may only be disclosed once the contract (or the delegation) has been signed, in order to protect trading competitiveness and industrial and commercial confidentiality.

Full details are available on the Committee on Access to Administrative Documents' website: <http://www.cada.fr/>

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|----------|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|----------|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| | (b) Excessive administrative burden |
| | (c) Failure to clarify the request |
| | (d) Other |

Please specify: On an exceptional basis, the administration is not obliged to respond to requests that are manifestly abusive and are made with the clear intention of impeding the activities of the authorities.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|----------|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

The Commission on Access to Administrative Documents, an independent administrative advisory authority responsible for ensuring freedom of access to administrative documents, produces an activity report every year.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

The 2015 activity report is not yet available. The 2014 activity report can be accessed via the following link:

[http://www.cada.fr/IMG/pdf/rapport activite 2014 site.pdf](http://www.cada.fr/IMG/pdf/rapport_activite_2014_site.pdf)

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Republic of Croatia
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Law on the Right of Access to Documents, Official Gazette (Narodne novine), no. 25/2013 and 85/2015

And by-laws:

- Ordinance on the organization, content and manner of keeping the official register on exercising the right of access to information and re-use information (Official Gazette 83/2014)
- Ordinance on the Central Catalogue of Official Documents of the Republic of Croatia (Official Gazette 124/2015)
- Criteria for Determining the Amount of Reimbursement of the Actual Material Costs and Information Delivery Costs (Official Gazette 12/2014)
- Ordinance on the Content and Manner of Keeping of the Official Register of the Exclusive Rights to Re-Use of Information (Official Gazette 20/2016)

2. Please provide a link to your national legislation on access to documents (if available):

- Law in Croatian:

http://narodne-novine.nn.hr/clanci/sluzbeni/2013_02_25_403.html

http://narodne-novine.nn.hr/clanci/sluzbeni/2015_08_85_1649.html

- Law in English (unofficial translation, consolidated text) accessible at:

<http://www.pristupinfo.hr/en/pravni-okvir/>

- Ordinance on the organization, content and manner of keeping the official register on exercising the right of access to information and re-use information (Official Gazette 83/2014) – in Croatian
- Ordinance on the Central Catalogue of Official Documents of the Republic of Croatia (Official Gazette 124/2015) – in Croatian
- Criteria for Determining the Amount of Reimbursement of the Actual Material Costs and Information Delivery Costs (Official Gazette 12/2014) – in Croatian
- Ordinance on the Content and Manner of Keeping of the Official Register of the Exclusive Rights to Re-Use of Information (Official Gazette 20/2016) – in Croatian

3. When did your national legislation on access to documents enter into force?

The current Law entered into force on 8 March 2013, with amendments entered into force on 9 August 2015.

3.1 Is it currently being reviewed?

No

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) No, it applies to all documents |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain: |

- | | |
|--------------------------|------------------------|
| <input type="checkbox"/> | (i) public authorities |
|--------------------------|------------------------|

Please specify which:

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (ii) areas of activity |
|-------------------------------------|------------------------|

Please specify which:

The Law does not apply to information subject to confidentiality obligations, pursuant to the law governing the security and intelligence system of the Republic of Croatia (Article 1, paragraph 4)

- | | |
|--------------------------|----------------|
| <input type="checkbox"/> | (iii) policies |
|--------------------------|----------------|

Please specify which:

- | | |
|-------------------------------------|-----------------|
| <input checked="" type="checkbox"/> | (iv) categories |
|-------------------------------------|-----------------|

Please specify which:

The Law does not apply to classified information held by international organisations or other countries, or classified information of public authorities originating or exchanged within the framework of cooperation with international organisations or other countries (Article 1, paragraph 5)

- | | |
|-------------------------------------|-----------|
| <input checked="" type="checkbox"/> | (v) Other |
|-------------------------------------|-----------|

Please specify which:

The Law does not apply to parties in court, administrative and other legally based proceedings who are granted access to information by the force of legal regulations (Article 1, paragraph 3)

It is presumed that parties to legally defined proceedings have a greater scope of inspection of documents, in order to protect their rights.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

There is no obligation under the current Law to set up a public register of documents, in comparison to the 2003 Law which had envisaged the obligatory creation of the Catalogue of documents for each public authority.

However, certain categories of public authorities (state bodies, state administration, local governments, public bodies vested with public authority) have an obligation to send certain documents (general acts, strategies, reports, planning documents, etc.) to Central state catalogue of official documents, which serves as a digital archive of official documents.

The Central register is maintained by the Central state office for the development of digital society, and accessible at: <http://www.digured.hr/>

There is also an obligation to publish certain information (documents) at the website of the public authority according to the Article 10. which lists 15 categories of such information.

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input checked="" type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

According to the Law (Article 5., para 1., point 5) "Information" is any information held by the public authority in the form of a document, record, dossier, register or in any other form, regardless of the manner of representation (written, drawn, printed, recorded, magnetic, optical, electronic or any other record), created by the body independently or in

cooperation with other bodies, or received from another person, and arose within the scope or in connection with the organisation and work of public authorities.

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

The Law does not specifically recognize the document authored by third party. However, three situations can be relevant to the question above:

According to the Article 1, paragraph 5, the Law does not apply to the classified information held by international organisations or other countries, and classified information of public authority bodies, originating or exchanged within the framework of cooperation with international organisations or other countries. In this case, the request is simply not taken into consideration and the requestor is informed that the information cannot be obtained on the basis of the Law.

Situation 2: Article 21, paragraph 3: If the public authority body receives a request for access to international information, it is obliged, without delay, but no later than eight days from the date of receipt of the request, to transfer the request to the information holder, and notify the submitter thereof. Exceptionally, the public authority body shall act upon the request for access to international information, if it is evident that information was intended for direct publication.

The third situation arises (according to the Article 15, paragraph 2, point 6) in cases when the access to information has been restricted pursuant to international treaties, or pertains to information arising in procedures of concluding or acceding to international agreements or negotiations with other countries or international organisations, until the completion of such proceeding, or pertains to information arising in the area of diplomatic relations. In this case, the public interest test has to be performed.

Otherwise, any document in possession of public authority might be requested.

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input checked="" type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

But only in situation 2, above under 8, see article 21, paragraph 3)

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The deadline is 15 days.

According to Article 22 the deadline can be extended for additional 15 days

- if the information must be sought outside the seat of the public authority body,
- if the request pertains to numerous different pieces of information,
- if this is necessary to ensure the accuracy and integrity of the requested information, or
- if the situation requires conducting a Proportionality Test and a Public Interest Test.

The public authority body shall, without delay but no later than eight days from the date of receipt of the orderly request, notify the submitter of any extension of deadlines and the reasons thereof.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

A beneficiary may file an appeal to the Information Commissioner against the public authority's decision to refuse or reject a request within 15 days of the date of delivery of the decision.

The Commissioner issues a decision on the appeal within 30 days, or within 60 days (when examining the validity of the Proportionality and Public Interest Test), or 90 days (when dealing with classified information and must consult the Office of the National Security Council).

In the appellate procedure the first step constitutes the review of the initial decision by the first instance body. The appeal can also be lodged on the grounds of the silence of administration.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|-------------------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input checked="" type="checkbox"/> | (b) Other |

Please specify: Information Commissioner, an independent authority for the protection, monitoring and promotion of the access to information and the reuse of information.

The Commissioner is appointed by the Parliament and has an office that supports him/her.

The Commissioner conducts appellate procedures, inspections, deals with the complaints and promotes and monitors access to information.

www.pristupinfo.hr/en

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

The limitations are prescribed in article 15 of the Law, and besides the above stated limitations / exemptions (question 11.1.) they include information related to:

- Criminal investigation
- Classified information

- Professional secret
- Tax secret
- Copyright and other intellectual property rights
- Administrative or other legally defined procedure
- Other legally prescribed limitations

In all cases, except in case of criminal investigation, the test of public interest has to be performed (Article 16). The test should take into account the public interest and the protected interest and their mutual relationship as well as harm the disclosure may have on the protected interest. Protected interest can also include public security, military matters and the interest of economic or social stability, especially in cases of classified information.

According to the Article 1, the Law does not apply to

- to parties in court, administrative and other legally based proceedings, who are granted access to information by the force of legal regulations.

- information subject to confidentiality obligations, pursuant to the act governing the security and intelligence system of the Republic of Croatia.

- classified information held by international organisations or other countries, and classified information of public authority bodies, originating or exchanged within the framework of cooperation with international organisations or other countries.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| X | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify:

Article 20, paragraph 2 Failure to clarify the request

Paragraph 2: In the case of an incomplete or incomprehensible request, the public authority body shall without delay request the submitter to make corrections within 5 days from the date of receipt of the request for corrections. If the submitter fails to correct the request in the appropriate manner, and it can not be clearly ascertained which information are requested from the original request, the public authority body shall reject the request by issuing a decision.

Article 23, paragraph 5, point 5: Abusive requests

Para 5: The public authority body shall issue a Decision rejecting the request:

5) if one or more mutually linked submitters, via one or more functionally linked requests, are obviously abusing the right to access information, and particularly due to the frequency of requests for the same or similar information, or requests demanding a large amount of information which would lead to a burdening of the work and regular functioning of the public authority body.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

The Information Commissioner submits the Annual Report to the Parliament once a year, by 31 March for the previous year.

The public authorities are obliged to submit a report to the Commissioner on the implementation to the Law for the previous year by 31 January. The public authorities submit the report via electronic application, and the data is used for the formulation of the Commissioner's annual report to the Parliament.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

The Annual Report for 2015 is accessible on the Commissioner's webpage

<http://www.pristupinfo.hr/dokumenti-i-publikacije/> - full report in Croatian, see in 'Izvjesca'

<http://www.pristupinfo.hr/en/dokumenti-i-publikacije/> - summaries in English

The Annual Report for the year 2015 with the opinions of parliamentary committees, video of discussion and voting results is available at the Parliament's webpage:

<http://www.sabor.hr/izvjesce-o-provedbi-zakona-o-pravu-na-pristup-0002>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The Law also regulates the obligation of conducting public consultations (Article 11). All public bodies (state bodies, public administration, local governments, public bodies vested with public authority) are obliged to conduct public consultations in the process of law-making or drafting strategic or planning documents that affect the interests of the citizens.

QUESTIONNAIRE

MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	HUNGARY
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The central piece of legislation on access to information in Hungary is: “*az információs önrendelkezési jogról és az információszabadságról szóló 2011. évi CXII. törvény*” [Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (“Info Act”)].

The Info Act provides for general provisions (definitions, procedures for requests, rules on proactive publication, possible grounds for limitations, legal remedies etc.) regulating the exercise of the right to access and the obligations of the bodies with public service functions (including state- or local government-owned companies). In addition rules for sector-specific situations are enshrined in a number of laws, however the listing or detailing those acts do not seem necessary for the completion of the present questionnaire.

2. Please provide a link to your national legislation on access to documents (if available):

http://njt.hu/cgi_bin/njt_doc.cgi?docid=139257.322945 (Hungarian only)

3. When did your national legislation on access to documents enter into force?

The currently applicable general provisions on access to public information of the Info Act entered into force on 01/01/2012.

The predecessor of the Info Act (*Act LXIII of 1992 on the Protection of Personal Data and the Disclosure of Information of Public Interest*) had entered into force on 01/05/1993 and was applicable until 31/12/2011.

3.1 Is it currently being reviewed?

The applicable legislation on the general provisions on access to public information is not under review at the time of providing replies for the present questionnaire.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities
Please specify which:
- (ii) areas of activity
Please specify which:
- (iii) policies
Please specify which:
- (iv) categories
Please specify which:
- (v) Other
Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

According to Article 33(1) of the Info Act “[a]ccess to public information whose publication is rendered mandatory under this Act shall be made available through a website, in digital format, to the general public without any restriction, in a manner not to allow the identification of specific individuals, in a format allowing for printing or copying without any loss or distortion of data, free of charge, covering also the functions of consultation, downloading, printing, copying and network transmission (hereinafter referred to as electronic publication). Access to information disseminated as per the above shall not be made contingent upon the disclosure of personal data.”

The Info Act [Article 33(2)] defines the public bodies which have to fulfil their obligation of electronic publication through their own websites [e.g. Ministries and other government agencies, The National Office for the Judiciary, The Prosecutor General's Office, the State Audit Office etc.), while all other bodies are free to choose whether they fulfil their obligation through their own website or other websites maintained jointly with others, or through a central website set up for this purpose.

Furthermore, in order to provide for a simple and quick accessibility of electronically published data a "central electronic register" (*közérdekű adatok központi elektronikus jegyzéke*) is set up that contains all relevant *descriptive* information on the websites of bodies subject to the obligation of electronic publication. This central register is also accompanied by a "single data retrieval system" (*egységes közadatkereső rendszer*), that can be accessed via the following link: <http://kozadat.hu/kereso/>.

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

According to Article 29(1) of the Info Act the body with public service functions that has the information of public interest shall reply to a request for public information at the earliest opportunity after receipt of the request, within not more than fifteen days. However, in case a request for information is substantial in terms of size or the requested data is of a large amount or if compliance with the request is likely to entail unproportionate workload on the staff of the body with public service functions in carrying out its normal duties, the time limit (fifteen days) may be extended by fifteen days on one occasion, of which the requesting party shall be informed within fifteen days of the date of receipt of the request [Info Act Article 29(2)].

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

In case the applicant's request for access to public information is not complied with, besides the right for a judicial review, the applicant or any other individual, organisation or other legal entity (*actio popularis*) is entitled to lodge a complaint to the Nemzeti Adatvédelmi és Információszabadság Hatóság (Hungarian National Authority for Data Protection and Freedom of Information, hereinafter: NAIH) on the grounds of an alleged violation of the right to access to and disseminate public information and information of public interest or in the event of an immediate threat of such a violation. [Info Act Article 52(1)]

The deadline for the applicant to lodge such a complaint is one year from the date on which the applicant was officially informed of the refusal, or in the event such a refusal was not communicated officially, from the date the deadline to process the request expired. [Info Act Article 52(1a)]

The deadline for the NAIH to examine the complaint is two month.
 As a result of its procedure, the NAIH is equipped with the power to

- a) instruct the body with public service functions to terminate the anomalies detected and remedy the situation;
- b) make recommendations to the supervisory organ of the body with public service functions should the instruction issued have proved to be ineffective;
- c) bring the case before the court if the body with public service functions fails to comply with the instructions issued, seeking a ruling for ordering the body to respect those instructions;
- d) in case a judicial procedure is not necessary to be launched, compile and publish a report on the examinations carried out on the grounds of the complaint which report shall include facts exposed during the course of the investigation, as well as findings made and conclusions drawn on the basis of these.

Besides the above mentioned the NAIH is entitled to launch a formal administrative procedure [*“titokfelügyeleti hatósági eljárás”* (administrative proceedings for the control of secret)] if it considers the rules on classified information were not complied with. In its resolution adopted in administrative proceedings for the control of secrets the NAIH, in the event of any infringement of the regulations pertaining to the classification of national classified information, shall call upon the classifier to modify – in accordance with the law – the level or term of classification of information classified at the national level, or to have it declassified. Such a resolution is subject to judicial review to be initiated by the classifier.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|-------------------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input checked="" type="checkbox"/> | (b) Other |

Please specify: Nemzeti Adatvédelmi és Információszabadság Hatóság
 (Hungarian National Authority for Data Protection and Freedom of Information)

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

<input checked="" type="checkbox"/>	(a) Protection of the public interest as regards public security
<input checked="" type="checkbox"/>	(b) Protection of the public interest as regards defence and military matters
<input checked="" type="checkbox"/>	(c) Protection of the public interest as regards international relations
<input checked="" type="checkbox"/>	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input checked="" type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input checked="" type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input checked="" type="checkbox"/>	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Besides the above listed grounds of limitations, limitations to the right of access to information can be enacted by an act of the Parliament on the grounds of the protection of intellectual property rights, as well as of environmental protection and nature preservation.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

- The body with public service functions shall not be required to comply with the request for information inasmuch as it is identical to the request submitted by the same applicant within a period of one year if the requests are directed to the same information, provided that no change took place in the requested information in

the meantime (repetitive requests).

- The body with public service functions shall not be required to comply with the request for information if the applicant did not give his name, or its corporate name if other than a natural person, and any contact information for sending information and notices related to the request for information (anonymous requests).

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

The body with public service functions shall keep records on the requests refused, including the reasons of the refusal, and shall report on such refusals to the NAIH annually (by 31 January each year).

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

General information on the individual reports submitted by the bodies with public service functions for the year 2015 is available in the annexes of the annual report of the NAIH (<https://www.naih.hu/files/NAIH-BESZ-MOL--2015-MID-RES.pdf>, pages 119-121).

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

1) A unique and typical characteristic of the Hungarian legislation is the notion of „public data on ground of public interest (*“közérdekből nyilvános adat”*)”.

According to point 6. of Article 3 of the Info Act ‘public data on ground of public interest’ shall mean *“any data, other than public information, that are prescribed by law to be published, made available or otherwise disclosed for the benefit of the general public”*.

The term „public data on ground of public interest” was developed originally by the case-law of the Constitutional Court for the very reason to cover personal data and is usually applied in this context. Although as a general rule the principles of the protection of personal data exclude the publication of personal data, a number of acts of Parliament explicitly make personal data accessible on ground of public interest in cases where the public interest regarding access to these information outweigh the interest of data subject to protect its personal data.

The definition of “public data on ground of public interest” and the provisions of the Info Act make it clear that once an act qualifies personal data as public data on ground of public interest they shall be made accessible the same way as data of public interest. It is worth mentioning that the Info Act itself regulates that certain personal data shall be public, thus shall be regarded as public data on ground of public interest (e.g. name and office of civil servants and other persons exercising public functions).

Thus the balance of the right to protection of personal data and the right to access public information is provided for in the Hungarian legal system by an explicit act of Parliament on the basis of the nature and content of the data concerned, bearing in mind the requirement of necessity and proportionality.

2) The tasks and competences of the NAIH with regard to access to public information is also worth to be mentioned here (see under 10.1. above).

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Ireland
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Freedom of Information Act 2014

2. Please provide a link to your national legislation on access to documents (if available):

<http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html?q=freedom>

3. When did your national legislation on access to documents enter into force?

An FOI Act was first enacted in Ireland in 1997 and amended in 2003. These Acts were repealed on the enactment of the Freedom of Information Act 2014. The 2014 Act further extended freedom of information in Ireland through use of a broad definition of public bodies and the wide range of restrictions in relation to access which were introduced in 2003 were removed. FOI has been extended to all public bodies, subject to limited exemptions in whole or in part and the Act gives the power for FOI to be extended to non-public bodies significantly funded by the State. The legislation also modernized and simplified access to information making it more accessible to the citizen.

3.1 Is it currently being reviewed?

See above. A comprehensive review was carried out on the operation of the Act in 2013 by an external review group and by a group of internal experts. That report was published. In addition in the context of the passage of the Bill through the Oireachtas (our Parliament), the Oireachtas met with interested stakeholders, considered the proposed changes and implementation issues. The findings of the Review and those of the Oireachtas informed policy development and in addition a Code of Practice on the implementation of FOI was developed to assist public bodies.

<http://foi.gov.ie/download/foi-code-of-practice/>

3.2 If yes, what are the main reasons for the review?

- | | |
|---|---|
| X | (a) Practical difficulties in implementing previous legislation |
| X | (b) Adapting to new technologies |
| X | (c) Adapting to new policies |
| X | (d) Other |

Please specify:

The review showed that there were inconsistencies in approach by public bodies in implementing the Act, that further training was needed to guide public bodies and that there needed to be appropriate oversight and accountability. The purpose of the Code is to support the achievement of the objectives of the FOI Act to enable members of the public to obtain access, to the greatest extent possible consistent with the public interest and the right to privacy, to information in the possession of public bodies. The main objectives of the Code are to:

- Promote best practice in public bodies in relation to the operation of FOI;

- Guide and inform the performance of public bodies in relation to their responsibilities under the FOI Act;
- Ensure FOI requests are dealt with by public bodies as efficiently as possible to minimise the administrative burden of FOI;
- Secure appropriate consistency and standardisation of approach by public bodies in responding to FOI requests; and
- Provide a framework for appropriate oversight and accountability of the performance of public bodies through monitoring of compliance with the Code.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|---|--|
| | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| X | (c) Any citizen and any natural or legal person |
| | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|--|--|
| | (a) No, it applies to all documents |
| | (b) Yes, it excludes documents from certain: |
- (i) public authorities
Please specify which:
 - (ii) areas of activity
Please specify which:
 - (iii) policies
Please specify which:
 - (iv) categories
Please specify which:

(v) Other

Please specify which:

Some 600 Public Bodies are covered by the Act. Like other jurisdictions a number of exemptions are set out in the Act which are deemed necessary to enable Public Bodies to perform their functions effectively. In addition Schedule 1 provides for access but also provides for a restriction to some activities of certain Public Bodies; and Schedule 2 restricts access to certain Public Bodies for particular reasons.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes
 (b) No

See below. While registers are not mandatory and are not used by all public bodies, the Act takes a more modern approach providing an obligation to develop publication schemes which would highlight the nature of records held by public bodies and linkages to same on the websites.

6.1 Please provide a link to an example of a public register of documents (if available):

<http://foi.gov.ie/download/model-publication-scheme-guidance-october-2015/>

<http://foi.gov.ie/download/model-publication-scheme-october-2015/>

The Act provides for all Freedom of Information bodies to publish Publication Schemes in line with a model scheme developed by the Minister. The intention is that Public Bodies would publish as much information as possible outside Freedom Of Information and that by having a model scheme, all schemes would follow a similar format providing ease of access to citizens to the records and information more generally.

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

For simple/straightforward requests the deadline is 4 weeks. Other deadlines apply, for example where 3rd party consultation applies. The deadlines are set out in the legislation and also in the manuals and guidance notes which have been developed to support the implementation of FOI.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

15 working days for an internal review within the organisation concerned.

The Act also provides for an appeal to be made to the Office of the Information Commissioner should the requester be dissatisfied with the outcome of the internal review.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|-------------------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input checked="" type="checkbox"/> | (b) Other |

Please specify:

The same authority but it would be someone at a more senior level and in a different area in the organisation (provided for in the Code of Practice)

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

While exemptions are provided in the areas indicated at 11.1 above, a number of these are discretionary exemptions and are subject to a harm test or public interest test. The decision-making process is only subject to an exemption for example where the deliberations are ongoing and once that period of time has passed and a decision is made, the records become FOIable.

Part 4 of the 2014 Act sets out the exemptions. The Act also makes it clear however that the weight is towards release and records must only be withheld if there is good reason and these reasons would be set out in the response.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input checked="" type="checkbox"/> | (b) Excessive administrative burden |
| <input checked="" type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

See Section 15 of the Act which provides for non-processing of a request in exceptional circumstances but only where the requester has refused to refine the request.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

13.1 If yes, how regular?

- | |
|---|
| <ul style="list-style-type: none">• Practice of public bodies is to report to management boards on a monthly basis• The Office of the Information Commissioner (OIC) publishes annual reports which provide statistics on implementation of Freedom Of Information |
|---|

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

OIC Annual Report - <http://www.oic.gov.ie/en/Publications/Annual-Reports/2015-Annual-Report/>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

- Public Bodies are automatically subject to the Freedom of Information Act unless otherwise exempt. Definition of Public Bodies is very broad
- Development of a Publication Scheme is a new feature and is considered important in facilitating access by all to records and information held by public bodies outside of FOI
- Supported by the Code of Practice which is developed on a statutory basis and underpins manuals, guidance notes etc. to support Public Bodies
- Act strengthens the powers of the Information Commissioner
- Sets out policies and measures to be taken into account by Public Bodies when processing requests (Section 11)
- Reinforces that records should be released unless specifically exempt
- Simplifies the previous legislation for example in terms of layout and structure of the Act and using terms such as 'FOI body' instead of referencing different sections of the Act
- Removes restrictions previously inserted in the 2003 Act to increase access to records and information
- Provides that access should be given electronically where possible
- Allows more informal means of making requests (e.g. email)
- Removes the up-front fees for making FOI requests and significantly reduced the cost of internal review and appeal to the Information Commissioner, In addition new search, retrieval and copying fees were introduced, which when the requester refines their request, it can allow the requester to receive the information for free.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE	ITALIAN REPUBLIC
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Law 241/90, Chapter V, Articles 22 et seq. - Access to administrative documents
PRESIDENTIAL DECREE DPR 184/2006
Consolidated Text on Local Authorities (Local authorities) Legislative Decree 67/2000, Articles 10, 11 and 43
Law on access to environmental information, Legislative Decree 153/2002
Legislative Decree No 33/2013, Revised rules on citizens' right of access and obligations on public administrations as regards publicity, transparency and dissemination of information as amended by Legislative Decree 97/2016

2. Please provide a link to your national legislation on access to documents (if available):

www.commissioneaccesso.it
www.gazzettaufficiale.it

3. When did your national legislation on access to documents enter into force?

1990

3.1 Is it currently being reviewed?

NO

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other Please Specify: |

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:

(i) public authorities
Please specify which:

(ii) areas of activity
Please specify which:

(iii) policies
Please specify which:

(iv) categories
Please specify which: Non-administrative (policy, judicial, etc.) documents. In the case of administrative documents, categories excluded under Article 5a of Legislative Decree 33/2013 and under Article 24 of Law 241/90

(v) Other
Please specify:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

30 days

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Yes Article 25 subparagraph 4 of Law 241/90 |
| <input type="checkbox"/> | (b) No |

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

30 days

- 10.2 If yes, indicate the competent authority responsible for review:

- | | |
|-------------------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input checked="" type="checkbox"/> | (b) Other |

Please specify: Committee for Access to Administrative Documents

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

- 11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic |

<input type="checkbox"/>	policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input checked="" type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input type="checkbox"/>	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

12. Does your national legislation identify reasons for not processing requests for access?

<input type="checkbox"/>	(a) Yes
<input checked="" type="checkbox"/>	(b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

<input type="checkbox"/>	(a) Unreasonable or abusive request
<input type="checkbox"/>	(b) Excessive administrative burden
<input type="checkbox"/>	(c) Failure to clarify the request
<input type="checkbox"/>	(d) Other

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

13.1 If yes, how regular?

Annual report to Parliament

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

<http://www.commissioneaccesso.it/i-lavori-della-commissione/relazioni-al-parlamento.aspx>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The basic legislation in Law 241/90 provides that the right of access must be guaranteed to 'all private entities, including those representing public or common interests, who have a direct, specific and current interest corresponding to a legally protected situation linked to the document to which access is requested' (Article 22 of Law 241/90).

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	LITHUANIA
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Law on the Right to Obtain Information from State and Municipal Institutions and Agencies

Law on Documents and Archives

2. Please provide a link to your national legislation on access to documents (if available):

<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.436564?jfwid=-wd7z8g84a>

<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.440732?jfwid=-wd7z8g7yf>

3. When did your national legislation on access to documents enter into force?

Law on the Right to Obtain Information from State and Municipal Institutions and Agencies entered into force in 2000.
Law on Documents and Archives entered into force in 1995.

3.1 Is it currently being reviewed?

Currently not, but recently the Law on the Right to Obtain Information from State and Municipal Institutions and Agencies has been reviewed and a new version of it will enter into force on the 1 of April, 2017.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

These amendments of the Law on the Right to Obtain Information from State and Municipal Institutions and Agencies were necessary in order to comply with Directive 2013/37/EU.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input checked="" type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: Any citizen of the EEA and any natural or legal person residing in the EEA

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which:

(ii) areas of activity

Please specify which:

(iii) policies

Please specify which:

(iv) categories

Please specify which:

For example, information held by Lithuanian national radio and television or other broadcasters funded by the State budget;
information held by schools, libraries or scientific research bodies;
information in respect of which State and local authority bodies hold industrial property rights or third parties hold copyright or related rights or database producer (sui generis) rights;
information held by theatres or concert venues;
information which by law is not to be provided for reasons of national or public security, national defence interests or owing to a restriction on the use of statistical data, or which constitute a State, official, commercial, professional or banking secret in other cases specified by law;

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

<https://www.e-tar.lt/portal/en/index>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input checked="" type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

Requested information must be provided in the course of 20 working days from the date of the receipt of request. If request consists of a large amount of information or complicated information, the term of 20 working days may be extended to another 20 working days. In this case the applicant is informed in writing about the extension of the time limit and the reasons for the extension.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

(a) Yes

(b) No

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

No longer than 20 working days, if there is a necessity this term may be extended to another 10 working days

10.2 If yes, indicate the competent authority responsible for review:

(a) Same as for initial reply

(b) Other

Please specify:

The Chief Administrative Disputes Commission

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- (a) Yes
 (b) No

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- (a) Protection of the public interest as regards public security
 (b) Protection of the public interest as regards defence and military matters
 (c) Protection of the public interest as regards international relations
 (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
 (e) Protection of privacy and the integrity of the individual
 (f) Protection of commercial interests
 (g) Protection of court proceedings and legal advice
 (h) Protection of the purpose of inspections, investigations and audits
 (i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Protecting prevention, investigation and prosecution of criminal activities

12. Does your national legislation identify reasons for not processing requests for access?

- (a) Yes
 (b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input checked="" type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

the information requested has already been published; in such cases, the body shall, within five working days following receipt of the request, indicate to the applicant where it has been published;

the applicant concerned is requesting the same information again;

the body has ceased to collect and process certain information owing to a change in its functions;

the content of the request is unspecific.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|----------------------------------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No (at this moment) |

13.1 If yes, how regular?

But as it was mentioned a new version of Law on the Right to Obtain Information from State and Municipal Institutions and Agencies will enter into force on the 1 of April, 2017 and it contains an obligation for the Ministry of Transport and Communications to submit a report every 3 years to the Commission on the availability of public sector information for re-use and the conditions under which it is made available and the redress practices.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Mentioned above.

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

Law on Documents and Archives

Article 20. Limitations to the Right of Access to Documents of the National Documentary Fond

3. Access to the documents containing information regarding the persons who have admitted to secret collaboration with the intelligence agencies of the USSR and who have been entered on the record of the persons who have confessed, as well as in the cases when a person who suffered from the intelligence agencies of the USSR expresses his will on the limitation of use of the information on him until his death, shall be limited. The procedure for accessing and using the restricted documents, as well as the procedure according to which a person who suffered from the intelligence agencies of the USSR expresses his will on the limitation of use of the information on him shall be laid down by the Government of the Republic of Lithuania in compliance with this and other laws.

5. Access to the documents of the National Documentary Fond which contain information on person's private life, as well as to structured sets of personal data shall be limited for a term of 30 years after that person's death, and in the event of failure to determine the date of death – for a term of 100 years from his birth. If neither the date of birth nor the date of death of a person is determined, the access shall be limited for a term of 70 years from the creation of the documents, with the exception of the cases when the terms fixed in paragraph 3 of this Article shall apply.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Grand Duchy of Luxembourg
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

At this time, the Grand Duchy of Luxembourg does not yet have any legislation covering such requests for information (except for environmental issues). However, a draft legislation (**Projet de loi 6810**) to address this was submitted to parliament (as well as to the State Council and the concerned professional chambers) in May 2015.

The link with all the documents regarding this draft legislation has been indicated below.

2. Please provide a link to your national legislation on access to documents (if available):

http://www.chd.lu/wps/portal/public/RoleEtendu?action=doDocpaDetails&backto=/wps/porta/public/accueil/actualite/!ut/p/b1/jYy9DoIwGEWfxSfo7afFdoQWSqNiaKOBLOBGBJ-FuPzi4ubkbud5JzLImu5EpyDQHvWsDh1r_7RPft56oYPx-TmyVy92xFkWUm4JE_M2WoAYhHaRTBfQSuCs_XxoLmADdt1PUkZvE1PuVKXDA6ah7zOlida1-PHUvzrq3Ie72yMQ1HIIdPMGw3sonw!!/dl4/d5/L2dJQSEvUUt3QS80SmtFL1o2X0QyRFZSSTQyME9FUzYwMjNQM0FSUzIwMDA0/&id=6810#

3. When did your national legislation on access to documents enter into force?

A draft legislation concerning national legislation on access to documents was submitted to parliament (as well as to the State Council and the concerned professional chambers) in May 2015.

A specific date of entry into force cannot be provided at this time.

Please refer to the link above for further details on the draft law.

3.1 Is it currently being reviewed?

See answer to question 3 above.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: **See answer to question 3 above**

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

<input type="checkbox"/>
<input checked="" type="checkbox"/>

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

<input checked="" type="checkbox"/>

(i) public authorities

Please specify which:

Deliberations of the Government Council*

(*Council of Ministers)

<input checked="" type="checkbox"/>

(ii) areas of activity

Please specify which:

- External relations
- Security of the Grand-Duchy / public order
- security of private individuals and respect of privacy
- intellectual property, secrecy or confidentiality protected by law

<input type="checkbox"/>

(iii) policies

Please specify which:

<input type="checkbox"/>

(iv) categories

Please specify which:

<input type="checkbox"/>

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

<input type="checkbox"/>
<input checked="" type="checkbox"/>

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input checked="" type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: Any written correspondence. |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

1 month
2 months in exceptional cases (certain exceptions are made for specific cases e.g. high volume of requests, or complexity of the request, when one additional month may be required)

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

(a) Yes
 (b) No

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

2 months

- 10.2 If yes, indicate the competent authority responsible for review:

(a) Same as for initial reply
 (b) Other

Please specify:

Special commission for access to documents composed of civil servants stemming from different departments.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| X | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |
| X | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| X | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- Confidentiality of the deliberations of the council of government,
- protection of secrecy or confidentiality protected by law
- intellectual property rights
- Prevention and investigation proceedings in criminal matters

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| | (b) Excessive administrative burden |
| | (c) Failure to clarify the request |
| X | (d) Other |

Please specify:

- Documents still in process or unfinished
- Already published documents
- Internal communication.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| | (a) Yes |
| X | (b) No |

13.1 If yes, how regular?

--

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

Draft legislation (Projet de loi) 6810
Article 1 provides mandatory publishing of all accessible documents by the public authorities without request.

Attention - Please note that this questionnaire has been completed with regard to the draft legislation (Projet de loi) 6810 mentioned in question 1 (link provided in question 2) and are subject to change in the final applied legislation.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	LATVIA
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Legislation on access to documents in Latvia is regulated in different levels by law and Cabinet of Ministers' Regulations.

In Latvia the access for information is regulated for official secrets and restricted access information.

Regulation on official secrets is regulated by Law On Official Secrets and related Cabinet of Ministers' Regulations.

Restricted access information is regulated by Freedom of Information Law and related Cabinet of Ministers' Regulations.

More specific information (examples: personal data, commercial secrets) is regulated by the laws that regulate that particular sphere.

To access restricted access information, a persona shall give motivation on necessity and the use the information.

Access on official secrets shall only be permitted to those persons who in accordance with the official (service) duties or a specific work (service) task are required to perform work related to the use or protection of official secrets and who in accordance with this Law have received special permits.

<http://likumi.lv/doc.php?id=205971>

2. Please provide a link to your national legislation on access to documents (if available):

Constitution of the Republic of Latvia – <http://likumi.lv/doc.php?id=57980>
Law On the Press and Other Mass Media – <http://likumi.lv/doc.php?id=64879>
Law On Official Secrets – <http://likumi.lv/doc.php?id=41058>
Freedom of Information Law – <http://likumi.lv/doc.php?id=50601>
Personal Data Protection Law – <http://likumi.lv/doc.php?id=4042>
The Commercial Law – <http://likumi.lv/doc.php?id=5490>
Administrative Procedure Law – <http://likumi.lv/doc.php?id=55567>
Cabinet of Ministers' Regulation No. 300 “Rules of Procedure of the Cabinet of Ministers” – <http://likumi.lv/doc.php?id=190612>
State Administration Structure Law – <http://likumi.lv/doc.php?id=63545>
Cabinet of Ministers' Regulation No. 21 “Regulations regarding the Protection of Official Secrets, and North Atlantic Treaty Organisation, European Union and Foreign State Institution Classified Information” – <http://likumi.lv/doc.php?id=83810>
Cabinet of Ministers' Regulation No. 887 “List of Official Secret Objects” – <http://likumi.lv/doc.php?id=95649>
Law On Submissions – <http://likumi.lv/doc.php?id=164501>
Law On the Prevention of Money Laundering and Terrorism Financing – <http://likumi.lv/doc.php?id=178987>
Archives Law – <http://likumi.lv/doc.php?id=205971>

Likumi.lv (<http://likumi.lv/>) is a website ensuring free access to systematized (consolidated) legislation of the Republic of Latvia. The legislation is supplemented with the most recent amendments and is available in its actual wording. In addition, access to the “historic” and “future” wordings is provided on the website. The validity status is indicated for the laws and regulations. The laws and regulations are provided with a list of contents. The website offers wide legislation search options (advanced search, fast search, lists of legislation by type (chronological and alphabetical), topic and number of views. There are links to translations in English (if available) for the laws and regulations. Some translations in English of the laws and regulations are available at the home page of the State Language Centre (<http://www.vvc.gov.lv/advantagecms/LV/tulkojumi/dokumenti.html?folder=%2Fdocs%2FLRTA%2FLikumi%2F>).

The most recent legislation is published on the website on the day of its proclamation in the official gazette *Latvijas Vestnesis* (<https://www.vestnesis.lv/>). The entire contents of *Likumi.lv* are of informative character and – in the case of differences – the official publication shall prevail. <http://likumi.lv/doc.php?id=205971>

3. When did your national legislation on access to documents enter into force?

Constitution of the Republic of Latvia – 07.11.1922.
Law “On the Press and Other Mass Media” – 01.01.1991.
Law “On Official Secrets” – 01.01.1997.
Freedom of Information Law – 20.11.1998.
Personal Data Protection Law – 20.04.2000.
The Commercial Law – 01.01.2002.
Administrative Procedure Law – 01.02.2004.
Cabinet of Ministers' Regulation No. 300 “Rules of Procedure of the Cabinet of Ministers” – 17.04.2009.
State Administration Structure Law – 01.01.2003.
Cabinet of Ministers' Regulation No. 21 “Regulations regarding the Protection of Official Secrets, and North Atlantic Treaty Organisation, European Union and Foreign State Institution Classified Information” – 04.02.2004.
Cabinet of Ministers' Regulation No. 887 “List of Official Secret Objects” – 29.10.2004.
Cabinet of Ministers' Regulation No. 280 “Regulations regarding the protection of the information for official use only” – 30.04.2005.
Law On Submissions – 01.01.2008.
Law “On the Prevention of Money Laundering and Terrorism Financing” – 13.08.2008.
Archives Law – 01.01.2011.

3.1 Is it currently being reviewed?

No.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) No, it applies to all documents |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain: |

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (i) public authorities |
|-------------------------------------|------------------------|

Please specify which: the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Interior, the Corruption Prevention and Combating Bureau, the President's Chancery, the State Chancellery, State security institutions

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (ii) areas of activity |
|-------------------------------------|------------------------|

Please specify which:

An official secret shall be such military, political, economic, scientific, technical or other type of information which is included in the list approved by the Cabinet and the loss or illegal disclosure of which may cause harm to the security, and economic or political interests of the State. (Law "On Official Secrets", section 2)

- | | |
|--------------------------|----------------|
| <input type="checkbox"/> | (iii) policies |
|--------------------------|----------------|

Please specify which:

- | | |
|-------------------------------------|-----------------|
| <input checked="" type="checkbox"/> | (iv) categories |
|-------------------------------------|-----------------|

Please specify which:

Accessibility shall be restricted for:

1. records which contain the State secret in accordance with the regulatory enactments;

____ 2.records the restrictions for accessibility of which are determined by

laws;

3. public records which have been created or received by the State security institutions, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Interior, the Corruption Prevention and Combating Bureau, the President's Chancery, the State Chancellery or are stored in the National Archives of Latvia which contain the information related to national security, protection or foreign affairs the disclosure of which may cause harm to the interests of the State or public. (Archives Law, section 13)

4. Restricted access information. (Freedom of Information Law, section 5)

5. Information for the internal use of institutions. (Freedom of Information Law, section 6)

6. Information regarding commercial secrets. (Freedom of Information Law, section 7; The Commercial Law, section 19)

7. Information regarding the private life of natural persons, personal data. (Freedom of Information Law, section 8; Personal Data Protection Law)

8. information which is for official use only (Freedom of Information Law section 8¹):

8.1. protected information created in Latvia, which is associated with State security and does not contain official secrets

8.2. information, which is transferred to Latvia from a foreign state, international organisation or the institutions thereof and which is classified as "RESTRICTED", as well as information created in Latvia associated with such information;

9. information which are North Atlantic Treaty Organisation or European Union documents, which are designated as "NATO UNCLASSIFIED" or "LIMITE" respectively; (Freedom of Information Law, section 5)

10. Private records for which the restriction period for accessibility has been determined by the owner thereof. (Archives Law, section 13)

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes
 (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|----------|---|
| X | (a) Requests are answered by identifying only documents listed in registers |
| | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| | (c) Requests are answered by identifying any content, including content found in emails |
| | (d) Requests are answered by identifying any content, including extracts from databases |
| | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|----------|---------|
| X | (a) Yes |
| | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|----------|--|
| | (a) The third party is consulted but your public authority issues the final reply to the request |
| X | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

An institution shall provide a reply on the merits within a reasonable period of time, taking into account the urgency of solving the issue referred to in the submission, but not later than within one month after receipt of the submission, unless otherwise provided by the law. (Law On Submissions, section 5)

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

--

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|--------------------------|-------------------------------|
| <input type="checkbox"/> | (a) Same as for initial reply |
| <input type="checkbox"/> | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

None.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|----------|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|----------|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|----------|---------|
| | (a) Yes |
| X | (b) No |

13.1 If yes, how regular?

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

None.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

INCORPORATES THE POSITION OF THE MALTESE GOVERNMENT

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	<i>Malta</i>
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GENERAL INFORMATION

- 1. Please indicate your national legislation on access to documents:**

FREEDOM OF INFORMATION ACT – (Chapter 496) ACT XVI of 2008.

- 2. Please provide a link to your national legislation on access to documents (if available):**

<https://secure2.gov.mt/foi/downloads>

3. When did your national legislation on access to documents enter into force?

1 September 2012 (in full)

3.1 Is it currently being reviewed?

Yes

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: Review to provide more clarity but not to the extent that one may state that there was practical difficulties. The general idea is to make it more accessible, simplified and clear.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input checked="" type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU
- with qualification. See definition of “eligible person” below |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person
- with qualification. See definition of “eligible person” below |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

Article 2 of the Freedom of Information Act, Chapter 496 of the Laws of Malta allows an “eligible person” to file a Freedom of Information request. “Eligible person” means a person who is resident in Malta and who has been so resident for a minimum of five years, and who is either a citizen of Malta or a citizen of any other Member State of the European Union or a citizen of any other State the citizens of which have a right, in virtue of any treaty between such state and the European Union, to be treated in Malta in the same manner as citizens of Member States of the European Union.

Internal instructions have been issued to the effect that if anyone submits a Freedom of Information request, it may be processed without needing to confirm the identity of the applicant. The review process of Chapter 496 of the Laws of

_____ Malta shall make this procedural amendment legally binding.

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities

Please specify which:

Article 5(4) of the Freedom of Information Acts imposes the following restrictions on access to the following documents:

- 1. Documents of the Electoral Commission;*
- 2. Documents of the Employment Commission;*
- 3. Documents of the Public Service Commission;*
- 4. Documents of the Office of the Attorney General;*
- 5. Documents of the National Audit Office;*
- 6. Documents of the Security Services;*
- 7. Documents of the Broadcasting Authority, in so far as such documents relate to its functions under Article 119(1) of the Constitution of Malta⁹;*
- 8. Documents of the office of the Ombudsman*

Present discussions are moving towards having that the 'administrative aspect of these public authorities e.g. funding, expenditure, would become open to FOI requests; however the central functions of these authorities would still be protected, e.g their investigative and auditory functions'

- (ii) areas of activity

Please specify which:

According to Article 5(3) of the Freedom of Information Act, the provisions of the Act shall not apply to (1) documents containing personal data which is subject to the rules contained within the Data Protection Act, Chapter 440 of the Laws of Malta, and (2) information the disclosure of which is prohibited by any other law, but where it is possible to partially disclose the requested document with such

⁹ 119 (1) It shall be the function of the Broadcasting Authority to ensure that, so far as possible, in such sound and television broadcasting services as may be provided in Malta, due impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy and that broadcasting facilities and time are fairly apportioned between persons belonging to different political parties.

_____ *qualifying data being omitted, disclosure shall take place.*

(iii) policies

Please specify which:

(iv) categories

Please specify which:

Unless the act regulating the particular field provides for access to the documents, the following categories of documents are excluded from the application of the provisions of the Freedom of Information Act. This does not mean that access to the information is not possible, but that access is catered for in the provisions of the specific Act:

- 1. Documents held by Local Councils, and which are subject to Article 45 of the Local Councils Act;*
- 2. Documents which are subject to the Freedom of Access to Information on Environment Regulations or to any other regulations made under the Environment Protection Act and providing for freedom of access to information;*
- 3. Documents that have been transferred to the National Archives in accordance with the National Archives Act;*
- 4. Documents that are accessible to the public under any other law;*
- 5. Documents that are available for purchase by the public in accordance with arrangements made by a public authority;*
- 6. Documents that are held by a Commercial Partnership in which the Government or any other public authority has a controlling interest, in so far as the documents in question relate to the commercial activities of the commercial partnership.*

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

<p>https://socialdialogue.gov.mt/en/Pages/The_Ministry/Freedom_of_Information.aspx</p> <p>https://socialdialogue.gov.mt/en/Documents/The_Ministry/Freedom_of_Information/PERMSEC%20MSDC%20ART%2017.pdf</p>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|---|---|
| | (a) Requests are answered by identifying only documents listed in registers |
| x | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| x | (c) Requests are answered by identifying any content, including content found in emails |
| x | (d) Requests are answered by identifying any content, including extracts from databases |
| x | (e) Requests are answered by identifying any written content, other than the content mentioned above. |

Please specify:

Article 2 of the Freedom of Information Act provides the following definition of what constitutes a document: "document" means any article that is held by a public authority and on which information has been recorded in whatever form, including electronic data, images, scale models and other visual representations, and audio or video recordings, regardless of whether the information can be read, seen, heard or retrieved with or without the aid of any other article or device.

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|--|---------|
| | (a) Yes |
|--|---------|

- (b) No - it applies to all documents 'held by' a public authority

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- (a) The third party is consulted but your public authority issues the final reply to the request
- (b) The request is forwarded to the third party to issue the final reply to the request

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The deadline for providing a reply is limited to 20 days according to Article 10 of the Freedom of Information Act. However, the deadline may be extended by a further 40 days in the following situations, as per Article 11 of the Freedom of Information Act:

Where a request in accordance with Article 6 (of the Freedom of Information Act) is made or transferred to a public authority, the authority may extend the time limit as established by Article 10 by up to forty working days in respect of the request if –

- (a) The request is for a large number of documents or necessitates a search through a large number of document, and meeting the original time limit would be unreasonably interfere with the operations of the public authority; or*
- (b) Consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.*

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
- (b) No

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

10 working days. (par. 8.3 – code of practice)

<https://secure2.gov.mt/foi/downloads?l=43B1FE761FE51D49B79B53A17BBED958E92687B53C6D6161>

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|--|
| x | (a) Same as for initial reply |
| x | (b) Other (since a complaint procedure should (ideally) involve more people in the deliberation of a complaint – but within same Public Authority) |

Please specify:

The applicant is required to submit a complaint to the relevant public administration in reply to the negative or unsatisfactory reply to the request. If the applicant is not satisfied with the reply that applicant may file a complaint to the Freedom of Information supervisor, who is the Information and Data Protection Commissioner). The applicant may file a complaint with the Information and Data Appeal Tribunal, which shall consider the matter. If the applicant remains unsatisfied with the reply, that applicant may apply to the Court of Appeal for review.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| x | (a) Protection of the public interest as regards public security |
| x | (b) Protection of the public interest as regards defence and military matters |
| x | (c) Protection of the public interest as regards international relations |
| x | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| x | (e) Protection of privacy and the integrity of the individual |
| x | (f) Protection of commercial interests |
| x | (g) Protection of court proceedings and legal advice |
| x | (h) Protection of the purpose of inspections, investigations and audits |
| x | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

N/A

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| x | (a) Unreasonable or abusive request |
| x | (b) Excessive administrative burden |
| x | (c) Failure to clarify the request |
| x | (d) Other |

Please specify: Non-eligibility of the applicant in terms of the definition of “eligible person” under the Freedom of Information Act, Chapter 496 of the Laws of Malta.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

The Information and Data Protection Commissioner (the supervisor) is to report to Parliament annually.

Art 21(5) of the FOIA

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Report is being currently being finalised. Will refer when the report is presented and made public.

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

N/A

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	The Netherlands
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Act on public access to Government Information (Wet openbaarheid van bestuur). This act contains general provisions governing public access to government information, without prejudice to provisions concerning access to specific information that is laid down in other acts, such as the Intelligence and Security Services Act 2002.

2. Please provide a link to your national legislation on access to documents (if available):

<http://wetten.overheid.nl/BWBR0005252/2016-10-01>

3. When did your national legislation on access to documents enter into force?

The Dutch act on public access to government information first entered into force in 1980.

3.1 Is it currently being reviewed?

Yes

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any (non)-citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) No, it applies to all documents |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain: |

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (i) public authorities |
|-------------------------------------|------------------------|

Please specify which:

- *Dutch Broadcast Foundation (de Nederlandse Omroep Stichting)*
- *The Dutch Central Bank (de Nederlandsche Bank)*
- *The Dutch Authority for the Financial Markets (de Autoriteit Financiële Markten)*
- *Regional review committees appointed to assess reported cases of termination of life on request and assisted suicide, as concerns their assessments referred to in article 8, subsection 1, of Termination of Life on Request and Assisted Suicide (Review Procedures) Act*

- | | |
|-------------------------------------|------------------------|
| <input checked="" type="checkbox"/> | (ii) areas of activity |
|-------------------------------------|------------------------|

Please specify which:

_____ *Disclosure of information concerning specific areas of activity can be excluded in acts other than the Act on public access to government information, such as article 67 of the State Taxes Act.*

(iii) policies

Please specify which:

(iv) categories

Please specify which:

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

<input type="checkbox"/>	(a) Yes
X	(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

www.rijksoverheid.nl/documenten

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

<input type="checkbox"/>	(a) Requests are answered by identifying only documents listed in registers
X	(b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.)
X	(c) Requests are answered by identifying any content, including content found in emails
X	(d) Requests are answered by identifying any content, including extracts from databases
<input type="checkbox"/>	(e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify:

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

Comment: In general third party authors of documents which fall under an application under the Wob will be given the opportunity to present their views on giving access to their documents. The final decision on whether or not to disclose the information is however for the authority that holds the document.

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The administrative authority shall decide on the application for information at the earliest possible opportunity, and at the latest within four weeks after the date of receipt of the application. Article 6, subsection 1.

The administrative authority may postpone the decision for a maximum period of four weeks. Article 6, subsection 2.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---|
| X | (a) Yes, only in cases of failure of the administrative authority to make a decision in due time. |
| | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

Within four weeks after the date of receipt of the application. Article 7:10, subsection 1, of the General Administrative Law Act.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| X | (a) Same as for initial reply |
| | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| X | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |
| X | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| X | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Disclosure of information shall not take place insofar as:

- *this might endanger the unity of the Crown;*
- *the data concerned relate to companies and manufacturing processes and were furnished to the government in confidence by natural or legal persons.*

Disclosure of information take place insofar as its importance does not outweigh one of the following:

- *the investigation of criminal offences and the prosecution of offenders;*
- *the importance to the addressee of being the first to note the information;*
- *the prevention of disproportionate advantage or disadvantage to the natural or legal persons concerned or to third parties.*

Where an application concerns information contained in documents drawn up for the purpose of internal consultation, no information shall be disclosed concerning personal opinions on policy contained therein.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|--------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input type="checkbox"/> | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) <i>No, but the government has reported on the application of the Act on public access to government information in 2004. Refer to question 13.2.</i> |

13.1 If yes, how regular?

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Refer to question 13. <https://www.recht.nl/doc/evaluatieWob2004.pdf>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

The refusal to grant access to government information in order to protect specific interest (refer to question 11.1 and 11.2) is not determined a priori, but is subject of evaluation in each case. Disclosure of information takes place insofar as its importance outweighs the importance of protecting the aforementioned interests.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016.

MEMBER STATE:	POLAND
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Since Polish legislation employs the concept of access to public information and does not lay down separate rules on access to documents, the questionnaire below refers in its entirety to the rules concerning access to public information.

1. Constitution of the Republic of Poland of 2 April 1997
2. Act of 6 September 2001 on access to public information

2. Please provide a link to your national legislation on access to documents (if available):

<http://isap.sejm.gov.pl/DetailsServlet?id=WDU19970780483k>
<http://isap.sejm.gov.pl/DetailsServlet?id=WDU20011121198>

3. When did your national legislation on access to documents enter into force?

- | |
|---|
| <ol style="list-style-type: none">1. Constitution of the Republic of Poland of 2 April 1997 - entered into force on 17 October 19972. Act of 6 September 2001 on access to public information - entered into force on 1 January 2002 |
|---|

3.1 Is it currently being reviewed?

The provisions concerning access to public information are not currently under review.
--

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

Under Article 2(1) of the Act of 6 September 2001 on access to public information, *all individuals enjoy - subject to the provisions of Article 5 - the right of access to public information (hereinafter referred to as the 'right to public information')*. The Act further provides (Article 2(2)) that a person exercising his or her right to public information must not be required to demonstrate a legal or factual interest.

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents:

(i) from certain public authorities

Please specify which:

(ii) concerning certain areas of activity:

Please specify which:

(iii) concerning certain policies

Please specify which:

(iv) concerning certain categories

Please specify which:

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

Since none of the suggested replies corresponds fully to the procedure for dealing with requests for access to public information in Poland, a summary of the key elements of that procedure is given below.

When responding to requests for access to public information, public bodies first examine the subject-matter of the request and assess whether the request relates to public information.

Article 1 of the Act on access to public information contains a statutory definition of public information: *any information about public matters shall constitute public information within the meaning of the Act and shall be accessible and reusable in accordance with the principles and procedure described in this Act.*

Attention should also be drawn to the doctrinal definition resulting from the judgment of the Supreme Administrative Court of 12 July 2011 (OSK 610/2011), according to which: *public information shall mean any piece of information emanating from or relating to public authorities in the broadest sense or emanating from or relating to other entities performing public functions in the exercise of public authority tasks and the management of public property or property of the State Treasury.*

Once it has been established that a request relates to public information, the public authorities assess whether it is subject to any criteria restricting access to such information (questions 11 and 12 in this questionnaire).

The final element subject to assessment before a public body grants access to public information is the nature of the information: whether it is simple or processed. If the applicant is requesting access to processed information, then he or she must demonstrate its particular relevance to the public interest.

In the absence of a statutory definition of 'processed information', a doctrinal definition has been developed according to which public processed information is *qualitatively new information which did not previously exist* in its established content and form (judgment of the Provincial Administrative Court of 13 April 2012, II SA/Wa 18/12); it is also defined as *public information drawn up by a competent entity using additional efforts and resources, on the basis of data in its possession, at the applicant's request and on the basis of criteria defined by the latter; in other words, information which is 'specially' prepared for the applicant in accordance with criteria defined by him or her* (judgment of Szczecin Provincial Administrative Court of 10 January 2013, II SAB/Sz 51/12).

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The deadline for granting access to public information is laid down in Article 13(1) of the Act on access to public information, according to which access to such information must be granted without undue delay, but in any case not later than 14 days from the date of submission of the request.

Pursuant to Article 15(1) of the Act on access to public information, if the request concerns public information for which access will entail additional costs for the provider, then the latter may charge the applicant a fee corresponding to those costs. In such cases, the deadline for granting access to public information is counted from the fourteenth day following the date on which the applicant is notified of the amount of the fee (Article 15(2) of the Act on access to public information).

Whenever access to public information cannot be granted within the aforementioned deadlines, the competent entity must explain the reasons for the delay within those same time limits and must specify the date on which the information will be made available, which must not be more than two months after the date of submission of the request (Article 13(2) of the Act on access to public information).

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

Under point (1) of Article 16(2) and Article 17(1) and (2) of the Act on access to public information, an entity is required to examine a request for the review of an initial reply within 14 days.

10.2 If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify:

A higher-ranking authority, in this case: the Provincial Administrative Court.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- (a) Yes
 (b) No

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- (a) Protection of the public interest as regards public security
 (b) Protection of the public interest as regards defence and military matters
 (c) Protection of the public interest as regards international relations
 (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
 (e) Protection of privacy and the integrity of the individual
 (f) Protection of commercial interests
 (g) Protection of court proceedings and legal advice
 (h) Protection of the purpose of inspections, investigations and audits

- (i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Under Article 5(1) of the Act on access to public information, the right to public information is subject to restrictions with regard to and in accordance with the principles laid down in the provisions concerning the protection of classified information and the protection of other secrets protected by law.

12. Does your national legislation identify reasons for not processing requests for access?

- (a) Yes
 (b) No

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- (a) Unreasonable or abusive request
 (b) Excessive administrative burden
 (c) Failure to clarify the request
 (d) Other

Please specify:

Point 7 in this questionnaire raises the issue of the procedure governing requests concerning processed information and the costs associated with the production of such information (cf. point 9 in the questionnaire). Consequently, given the possibility of incurring high costs for the production of processed information, the applicant may withdraw his or her application. In legal literature, the view is that the cost of access to processed public information consists of, inter alia, the hours worked by the official concerned, the costs of carriage and the operating and other costs (Tomasz R. Aleksandrowicz, Comments concerning the Act on access to public information, Warsaw 2008, p. 296).

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

13.1 If yes, how regular?

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

1. Act of 25 February 2016 on the reuse of public sector information - entered into force on 16 June 2016
 2. Regulation of the Minister for the Interior and Administration of 18 January 2007 on the Public Information Bulletin - entered into force on 22 January 2007

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016.

MEMBER STATE:	PORTUGAL
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Law No 26/2016 of 22 August 2016
laying down the rules on access to administrative and environmental information and re-use of administrative documents, implementing Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 and Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 (hereinafter 'LADA')

2. Please provide a link to your national legislation on access to documents (if available):

<http://www.cada.pt/>
Law No 26/2016 of 22 August 2016 (LADA):
<https://dre.pt/application/file/75180115>

3. When did your national legislation on access to documents enter into force?

Article 48 LADA

Entry into force and temporal application of the law

- 1 - This Law shall enter into force on the first day of the second month after its publication [**i.e. 1 October 2016**], without prejudice to the following paragraphs.
2 - Article 43 of this Law shall enter into force on 1 January 2017.
3 - Article 29 applies to the appointment of the members of CADA (*Comissão de Acesso aos Documentos Administrativos*, commission on access to administrative documents), which shall take place in 2016.

3.1. Is it currently being reviewed?

The current national legislation was reviewed very recently.

3.2. If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input checked="" type="checkbox"/> | (b) Adapting to new technologies |
| <input checked="" type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities

Please specify which:

- Documents drawn up other than as a result of administrative activity, in particular for meetings of the Council of Ministers and/or of the State Secretaries and for the preparation thereof;
- Documents produced in the context of Portugal's diplomatic relations;
- Notarial and public register documents, civil identification documents and criminal records, electoral register information and documentation, and documents under other information systems regulated by special legislation;
- Documents held by inspectorates-general and other bodies concerning matters resulting in financial, disciplinary or merely administrative liability, where the procedure is subject to a security system in accordance with the applicable law.

- (ii) areas of activity

Please specify which:

- Documents protected by copyright or related rights, in particular those held by museums, libraries and archives, and documents containing secrets relating to literary, artistic, industrial or scientific property, are accessible, without prejudice to the applicability of the restrictions arising from the Code on Copyright and Related Rights and the Industrial Property Code and other legislation applicable to the protection of intellectual property;
- Documents covered by judicial secrecy, tax secrecy, statistical confidentiality, banking secrecy, medical confidentiality and other types of professional secrecy.

- (iii) policies

Please specify which:

Documents containing information knowledge of which is considered to have the potential to put the fundamental interests of the state at risk are subject to prohibited access or access with authorisation for such time as is strictly necessary.

- (iv) categories

Please specify which:

- Access to the content of audits, inspections, surveys, investigations or inquiries may be deferred until the expiry of the deadline for instituting disciplinary proceedings.

- (v) Other

Please specify which:

- Access to administrative documents which are preparatory to a decision or form part of proceedings that have not yet been concluded may be deferred until the decision is taken, the case is dismissed, or one year has expired since they were drawn up, whichever occurs first.

- Without prejudice to the other restrictions provided for by law, administrative documents are subject to prohibited access or access with authorisation for such time as is strictly necessary in order to safeguard other legally relevant interests, by decision of

the competent body or entity, where they contain information knowledge of which would be liable to:

- a) Impair the effectiveness of monitoring or supervision, including monitoring or supervision plans, methodologies and strategies;
- b) Undermine the operational capacity or security of the facilities or personnel of the armed forces, the Portuguese intelligence services, the security forces and services and the criminal police, and the security of diplomatic and consular representations; or
- c) Cause serious, not-easily-reversible damage to property or interests in property of third parties in excess of the property and interests protected by the right of access to administrative information.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

6.1. Please provide a link to an example of a public register of documents (if available):

Although there is no public register of documents within the meaning of the above question, the following principles laid down in LADA must be mentioned in this context:

- a) The principle of open administration, in accordance with Article 2(2);
- b) The principle of active dissemination of information, referred to in Article 10; and
- c) The principle of active dissemination of information concerning the environment, set out in Article 11.

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1. What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is not consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

It should be noted that the administration does not forward requests to third parties for a ruling, even if the information is owned by the latter. At the request of the individual, the administration either:

- a) Gives a ruling granting access;
- b) Gives a ruling denying access, in which case the applicant may lodge a complaint with CADA; or
- c) If there are any doubts regarding the decision to be taken, asks CADA for advice in accordance with Article 15(1).

Furthermore, it should be noted that LADA distinguishes three types of information (also applicable to third-party documents):

- a) Information that must be made available by the administration for transparency reasons, in accordance with Articles 2(2), 10 and 11;
- b) Information contained in administrative documents, made available at the request of the person concerned, in accordance with Article 3(1)(a);
- c) Information subject to restricted access, namely the documents identified in Article 6, only accessible under the conditions provided for therein.

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

- | |
|---|
| <p>- Within five days of receipt, to inform the applicant of any missing data and ask them to supply it within the deadline provided for that purpose;</p> <p>- The body to which the request for access to an administrative document was addressed must, within</p> |
|---|

10 days:

- a) Specify the date, location and means for carrying out the consultation, if requested;
- b) Issue the requested copy or certificate;
- c) Explain in writing the reasons for total or partial denial of access to the document, and the guarantees of administrative and judicial appeal against the decision available to the applicant, namely the possibility of lodging a complaint with CADA, with notification of the requested body by the court;
- d) Indicate that it does not have the document and, if it knows which body does, forward the request, advising the applicant of the action taken;
- e) Explain to CADA any doubts it may have regarding the decision to be taken, so that the former may deliver an opinion;

- In exceptional cases, if the volume or complexity of information so warrant, the above deadline may be extended up to a maximum of two months. The applicant must be informed of this and provided with the reasons within 10 days.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

10.1. If yes, please indicate the deadline for your public administration to reply to the review:

Within the deadlines set out in the Code of Administrative Procedure in accordance with the general law governing administrative procedure. CADA delivers a non-binding opinion, in accordance with Article 16(4), within 40 days.

10.2. If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- (a) Yes
 (b) No

11.1. If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

<input checked="" type="checkbox"/>	(a) Protection of the public interest as regards public security
<input checked="" type="checkbox"/>	(b) Protection of the public interest as regards defence and military matters
<input checked="" type="checkbox"/>	(c) Protection of the public interest as regards international relations
<input checked="" type="checkbox"/>	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
<input checked="" type="checkbox"/>	(e) Protection of privacy and the integrity of the individual
<input checked="" type="checkbox"/>	(f) Protection of commercial interests
<input checked="" type="checkbox"/>	(g) Protection of court proceedings and legal advice
<input checked="" type="checkbox"/>	(h) Protection of the purpose of inspections, investigations and audits
<input checked="" type="checkbox"/>	(i) Protection of the decision-making process

11.2. If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Article 5(5) of Law No 26/2016 of 22 August 2016
 For documents containing personal data, access is only granted where necessary in instances of constitutionally protected legitimate direct personal interest.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1. If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input type="checkbox"/> | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

13.1. If yes, how regular?

Annually, in accordance with Article 30(1)(g) of Law No 26/2016 of 22 August 2016

13.2. If yes, please provide a link to a reporting exercise for the year 2015:

CADA's 20th compliance and activity report, relating to the year 2014.

<http://www.cada.pt/modules/news/index.php?storytopic=14>

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

None.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	Sweden
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

The basic laws are:

- The Freedom of the Press Act (Swedish: **Tryckfrihetsförordningen [SFS 1949:105]**), Chapter 2
- The Public Access to Information and Secrecy Act (Swedish: Offentlighets- och sekretesslagen [SFS 2009:400])

2. Please provide a link to your national legislation on access to documents (if available):

The Freedom of the Press Act (in Swedish: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/tryckfrihetsforordning-1949105_sfs-1949-105) (in English: <http://www.riksdagen.se/en/SysSiteAssets/07.-dokument--lagar/the-freedom-of-the-press-act-2015.pdf/>)

The Public Access to Information and Secrecy Act (in Swedish): http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/offentlighets--och-sekretesslag-2009400_sfs-2009-400

3. When did your national legislation on access to documents enter into force?

The first national legislation on access to documents entered into force in 1766.

The current Freedom of the Press Act entered into force in 1950 (changes have been made since).

The current Public Access to Information and Secrecy Act entered into force in 2009 (changes have been made since).

3.1 Is it currently being reviewed?

Yes.

3.2 If yes, what are the main reasons for the review?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

- Chapter 2 of The Freedom of the Press Act is in need of linguistic modernization.
- The Public Access to Information and Secrecy Act is very detailed and is constantly being reviewed for various reasons. For example, there is currently a review of the rules on funeral secrecy, library secrecy and personal data of civil servants.

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

5. Does your national legislation set limits to its scope?

- | | | | | | | | | | | | |
|-------------------------------------|--|--------------------------|---|--------------------------|---|--------------------------|---|--------------------------|--|-------------------------------------|------------------------------------|
| <input type="checkbox"/> | (a) No, it applies to all documents | | | | | | | | | | |
| <input checked="" type="checkbox"/> | (b) Yes, it excludes documents from certain:
<table border="1"><tr><td><input type="checkbox"/></td><td>(i) public authorities
Please specify which:</td></tr><tr><td><input type="checkbox"/></td><td>(ii) areas of activity
Please specify which:</td></tr><tr><td><input type="checkbox"/></td><td>(iii) policies
Please specify which:</td></tr><tr><td><input type="checkbox"/></td><td>(iv) categories
Please specify which:</td></tr><tr><td><input checked="" type="checkbox"/></td><td>(v) Other
Please specify which:</td></tr></table> | <input type="checkbox"/> | (i) public authorities
Please specify which: | <input type="checkbox"/> | (ii) areas of activity
Please specify which: | <input type="checkbox"/> | (iii) policies
Please specify which: | <input type="checkbox"/> | (iv) categories
Please specify which: | <input checked="" type="checkbox"/> | (v) Other
Please specify which: |
| <input type="checkbox"/> | (i) public authorities
Please specify which: | | | | | | | | | | |
| <input type="checkbox"/> | (ii) areas of activity
Please specify which: | | | | | | | | | | |
| <input type="checkbox"/> | (iii) policies
Please specify which: | | | | | | | | | | |
| <input type="checkbox"/> | (iv) categories
Please specify which: | | | | | | | | | | |
| <input checked="" type="checkbox"/> | (v) Other
Please specify which: | | | | | | | | | | |

As a basic principle, the public only have access to “official documents”.

A document is *official* if it is

1. held by a public authority, and
2. according to special rules is regarded as having been received or

_____ drawn up by a public authority.

Preliminary outlines and drafts (for example, of a decision of an authority) and memoranda (notes) are not official documents if they have not been retained for filing. By 'memorandum' is meant an *aide-mémoire* or other notation made for the preparation of a case or matter and which has not introduced any new factual information.

Official documents may not be kept secret in order to protect interests other than those listed in the Freedom of the Press Act. The cases in which official documents are secret must be carefully specified in a special statute, that is to say the Public Access to Information and Secrecy Act. However, it is permitted to include provisions concerning secrecy in other enactments provided that the Public Access to Information and Secrecy Act makes reference to them.

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Yes* (<i>*certain exceptions apply</i>) |
| <input type="checkbox"/> | (b) No |

6.1 Please provide a link to an example of a public register of documents (if available):

Link to the public register of the County Administrative Board of Stockholm
[LINK](#)

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|----|---|
| | (a) Requests are answered by identifying only documents listed in registers |
| x* | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| x* | (c) Requests are answered by identifying any content, including content found in emails |
| x* | (d) Requests are answered by identifying any content, including extracts from databases |
| | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

** The research needed is determined by the request. Often it is sufficient to consult the registers to respond to the request.*

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|---|---------|
| | (a) Yes |
| x | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--|--|
| | (a) The third party is consulted but your public authority issues the final reply to the request |
| | (b) The request is forwarded to the third party to issue the final reply to the request |

Other: The authority makes its own damage assessment and usually the third party is not consulted.

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

A request to obtain an official document must be considered speedily by the authority (usually 1-2 days). An official currently working with the document does not need to release it immediately but unnecessary delay is not permitted. One reason for some delay in the provision of an official document may be that the authority must consider whether the information contained in the document is secret, according to one of the provisions of the Public Access to Information and Secrecy Act.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---------|
| x | (a) Yes |
| | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

A request to obtain an official document must be considered speedily by the authority (usually 1-2 days).

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| | (a) Same as for initial reply |
| x | (b) Other |

Please specify: Usually, an official at the authority who currently has the document in his or her care makes a decision whether the document should be disclosed or not. If the official does not release the document, the question of disclosure may be referred to the head of the authority (or a person to whom responsibility has been delegated) for an official decision.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Protection of the public interest as regards public security |
| <input checked="" type="checkbox"/> | (b) Protection of the public interest as regards defence and military matters |
| <input checked="" type="checkbox"/> | (c) Protection of the public interest as regards international relations |
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

The preservation of animal or plant species.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input checked="" type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify:

A request for documents must be sufficiently detailed.

Special rules apply regarding compilations of information from a recording for automatic data processing, (such as a computer hard drive). Such compilations are only deemed to be held by the authority if the authority can extract them by means of routine kinds of measures.

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No* (Swedish authorities' application of the rules on public disclosure and confidentiality are subject to supervision by regulators) |

13.1 If yes, how regular?

--

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

More information concerning public access to information and secrecy legislation can be found here:

<http://www.regeringen.se/49bb7e/contentassets/2c767a1ae4e8469fbfd0fc044998ab78/public-access-to-information-and-secrecy-act>

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	REPUBLIC OF SLOVENIA
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

1. Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, Nos. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148 &47/13 – UZ90,97,99);
2. Act on access to public information (Official Gazette of the Republic of Slovenia, No. 51/06 – official consolidated text, 117/06 – ZDavP-2, 23/14, 50/14, 19/15 – odl. US in 102/15);
3. Decree on the communication and re-use of public information (Official Gazette of the Republic of Slovenia, No 24/16);

2. Please provide a link to your national legislation on access to documents (if available):

1. <http://www.pisrs.si/Pis.web/pregledPredpisa?id=USTA1>
2. <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3336>
3. <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6941>

3. When did your national legislation on access to documents enter into force?

- | |
|--|
| 1. <u>23.12.1991</u> with subsequent amendments and additions |
| 2. <u>7.3.2003</u> with subsequent amendments and additions |
| 3. <u>7.3.2003</u> with subsequent amendments, additions and updates |

3.1 Is it currently being reviewed?

X

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| X | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

- (a) No, it applies to all documents
- (b) Yes, it excludes documents from certain:
- (i) public authorities
Please specify which:
- (ii) areas of activity
Please specify which:
- (iii) policies
Please specify which:
- (iv) categories
Please specify which:
- (v) Other
Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

- (a) Yes
- (b) No

6.1 Please provide a link to an example of a public register of documents (if available):

1. http://www.mnz.gov.si/si/o_ministrstvu/informacije_javnega_znacaja/katalog_mnz/
2. <http://www.policija.si/index.php/informacije-javnega-znacaja/katalog-ijz>
3. <https://www.ip-rs.si/informacije-javnega-znacaja/katalog-ijz-informacijskega-pooblascenca/>
4. <http://www.maribor.si/podrocje.aspx?id=644>
5. http://www.upravneenote.gov.si/informacije_javnega_znacaja/katalog_informacij_javnega_znacaja_upravne_enote/

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

Within **20 working days** of receipt of the complete application (Article 23 of the Act on access to public information).

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- (a) Yes
 (b) No

- 10.1 If yes, please indicate the deadline for your public administration to reply to the review:

At the latest **within two months** from the date on which the authority receives the complete complaint (Article 256 of the General Administrative Procedures Act).

- 10.2 If yes, indicate the competent authority responsible for review:

- (a) Same as for initial reply
 (b) Other

Please specify: **Information Commissioner**

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- (a) Yes
 (b) No

- 11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- (a) Protection of the public interest as regards public security
 (b) Protection of the public interest as regards defence and military matters
 (c) Protection of the public interest as regards international relations

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| <input checked="" type="checkbox"/> | (e) Protection of privacy and the integrity of the individual |
| <input checked="" type="checkbox"/> | (f) Protection of commercial interests |
| <input checked="" type="checkbox"/> | (g) Protection of court proceedings and legal advice |
| <input checked="" type="checkbox"/> | (h) Protection of the purpose of inspections, investigations and audits |
| <input checked="" type="checkbox"/> | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

- | |
|--|
| <ol style="list-style-type: none"> 1. data, the disclosure of which would breach the confidentiality of individual data on reporting units under the law regulating government statistical activities; 2. data, the disclosure of which would breach the confidentiality of the tax procedure or tax secrecy under the tax procedure law; 3. data on natural or cultural assets, under the law on the conservation of natural and cultural heritage, are not accessible to the public in order to protect natural or cultural assets; |
|--|

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|-------------------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> | (a) Unreasonable or abusive request |
| <input checked="" type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input checked="" type="checkbox"/> | (d) Other |

Please specify: protection of confidential sources (Art. 5 of the Act on the access to public information)

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

13.1 If yes, how regular?

State and local authority bodies must compile an annual report on the implementation of this Act and submit the report for the previous year to the Ministry by 31 January of each year.

The government adopts a joint report on the implementation of the Act on the basis of the reports referred to in the first paragraph of this Article, every two years, by 31 March, and sends it to the National Assembly of the Republic of Slovenia for information.

The next annual joint report **will be drawn up in 2017** for 2015 and 2016. Notwithstanding the above, the annual reports of individual bodies are usually published on their websites.

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Link to the joint annual report for 2014; the reports for 2015 and 2016 will be prepared in 2017.

http://www.mju.gov.si/si/delovna_podrocja/transparentnost_in_dostop_do_informacij_javnega_znacaja/porocilo_o_stanju/

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

More information on transparency and open data in the Republic of Slovenia is available at:

http://www.mju.gov.si/en/areas_of_work/transparency_and_open_data/

- **The ZDIJZ (Act on access to public information) provides that companies that are majority-owned by the State and municipalities are also subject to**

certain requirements under the law

Inter alia, Article 1 of the Act on access to public information establishes that business entities majority-owned by the State and municipalities are also subject to certain requirements to provide public information (the so-called business entities under the dominant influence of bodies governed by public law).

- **The ZDIJZ (Act on access to public information) provides for the proactive online publication of information on financial transactions subject to the Act.**

Article 10 of the Act on access to public information, which provides that the body responsible for making public payments must publish in its website information on transactions carried out by direct and indirect budgetary users and authorised persons.

- **The ZDIJZ provides for the proactive online publication of public procurement contracts on the public procurement portal**

Article 10, fifth paragraph, of the Act on access to public information: within 48 days from the award of the contract, the award of a concession or selection of the public-private partnership, the contracting authorities, grantors or public partners must make available the publicly accessible information and publish it on their website in machine-readable format. Link: <http://www.enarocanje.si/objavaPogodb/>

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016.

MEMBER STATE:	Slovak Republic
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

Act No 211/2000 on freedom of access to information and on amendments and updates to certain acts, as amended (Freedom of Information Act).

2. Please provide a link to your national legislation on access to documents (if available):

Slov-lex collection of laws online:
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2000/211/20160701>

3. When did your national legislation on access to documents enter into force?

Act No 211/2000 on freedom of access to information and on amendments and updates to certain acts, as amended (Freedom of Information Act) and as last revised by Act No 125/2016, entered into force on 1 July 2016.

3.1 Is it currently being reviewed?

No.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| <input type="checkbox"/> | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| <input checked="" type="checkbox"/> | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

(i) public authorities

Please specify which: *documents dealing with the decision-making capacity of the courts, international judicial authorities and criminal law enforcement authorities, and inspection authorities, in the case of documents dealing with inspections currently underway*

(ii) areas of activity

Please specify which: *the area of intellectual property, documents containing trade secrets, information that is classified under specific laws, and conciliation or arbitration proceedings*

(iii) policies

Please specify which:

(iv) categories

Please specify which: *environment*

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

Central Register of Contracts: <https://www.crz.gov.sk/>

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The statutory deadline for handling requests for information, pursuant to Article 17(1) of the Freedom of Information Act, is eight working days from the date of submission of the request or from the date on which any errors in the request are addressed, and 15 working days when information is provided to a blind person.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|-------------------------------------|---------|
| <input checked="" type="checkbox"/> | (a) Yes |
| <input type="checkbox"/> | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

Pursuant to Article 19(1) and (3) of the Freedom of Information Act, an appeal can be lodged against the decision of the person responsible for the refusal of a request for information within the 15 days following receipt of the decision or following the expiration of the time limit for issuing a decision on the request. The Appellate Body will rule on the appeal within 15 days of receipt of the appeal by the person responsible. If the Appellate Body does not issue a decision within that time limit, it is assumed that it has issued the decision which the appeal was challenging, i.e. maintained the contested decision.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|-------------------------------------|-------------------------------|
| <input checked="" type="checkbox"/> | (a) Same as for initial reply |
| <input type="checkbox"/> | (b) Other |

Please specify:

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

- | | |
|---|---|
| X | (a) Protection of the public interest as regards public security |
| X | (b) Protection of the public interest as regards defence and military matters |
| X | (c) Protection of the public interest as regards international relations |
| | (d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States |
| X | (e) Protection of privacy and the integrity of the individual |
| X | (f) Protection of commercial interests |
| X | (g) Protection of court proceedings and legal advice |
| X | (h) Protection of the purpose of inspections, investigations and audits |
| X | (i) Protection of the decision-making process |

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

Pursuant to Article 11(1)(f) of the Freedom of Information Act, information is not made accessible/access is limited when the information deals with the incidence of protected types of plant, animal, mineral and fossil which may be threatened by unpermitted disturbance, damage or destructive behaviour.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|--------------------------|-------------------------------------|
| <input type="checkbox"/> | (a) Unreasonable or abusive request |
| <input type="checkbox"/> | (b) Excessive administrative burden |
| <input type="checkbox"/> | (c) Failure to clarify the request |
| <input type="checkbox"/> | (d) Other |

Please specify:

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

13.1 If yes, how regular?

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

QUESTIONNAIRE
MEMBER STATES' LEGISLATION ON ACCESS TO DOCUMENTS

Please reply to the questions below by filling in the text boxes with the requested information or by inserting a cross ('X') inside the box beside the most appropriate option. For some questions, you may select as many options as you consider appropriate.

Please send your reply to the General Secretariat of the Council by email no later than 15 December 2016

MEMBER STATE:	UNITED KINGDOM
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GENERAL INFORMATION

1. Please indicate your national legislation on access to documents:

<ol style="list-style-type: none">1. Freedom of Information Act 2000 (FOIA)2. Freedom of Information (Scotland) Act 2002 (FOISA)3. Environmental Information Regulations 2004 (EIR)4. Environmental Information (Scotland) Regulations 2004 (EISR) <p>UK legislation provides access to recorded information rather than specifically to the documents containing it.</p>
--

2. Please provide a link to your national legislation on access to documents (if available):

<ol style="list-style-type: none">1. FOIA: http://www.legislation.gov.uk/ukpga/2000/36/contents2. FOISA: http://www.legislation.gov.uk/asp/2002/13/contents3. EIR: http://www.legislation.gov.uk/uksi/2004/3391/contents/made4. EISR: http://www.legislation.gov.uk/ssi/2004/520/contents/made

3. When did your national legislation on access to documents enter into force?

All the legislation listed above has had full effect since 1 January 2005.

3.1 Is it currently being reviewed?

No.

3.2 If yes, what are the main reasons for the review?

- | | |
|--------------------------|---|
| <input type="checkbox"/> | (a) Practical difficulties in implementing previous legislation |
| <input type="checkbox"/> | (b) Adapting to new technologies |
| <input type="checkbox"/> | (c) Adapting to new policies |
| <input type="checkbox"/> | (d) Other |

Please specify:

BENEFICIARIES, SCOPE AND DEFINITIONS

4. Who are the beneficiaries of your national legislation on access to documents?

- | | |
|--------------------------|--|
| X | (a) Any citizen of your Member State and any natural or legal person residing in your Member State |
| X | (b) Any citizen of the EU and any natural or legal person residing in the EU |
| X | (c) Any citizen and any natural or legal person |
| <input type="checkbox"/> | (d) Other |

Please specify:

5. Does your national legislation set limits to its scope?

<input type="checkbox"/>
X

(a) No, it applies to all documents

(b) Yes, it excludes documents from certain:

X

(i) public authorities

Please specify which: *Security bodies listed in section 23(3) of FOIA.*

X

(ii) areas of activity

Please specify which: *information held by public sector broadcasters (e.g. BBC) for the purposes of “journalism, art or literature” is not subject to FOIA; and nor is information held by the Bank of England for the purposes of “monetary policy, financial operations for the purposes of maintaining stability, and the provision of private banking services and related services”. (Relates to FOIA only).*

<input type="checkbox"/>

(iii) policies

Please specify which:

<input type="checkbox"/>

(iv) categories

Please specify which:

<input type="checkbox"/>

(v) Other

Please specify which:

6. Is the setting up of public register(s) of documents mandatory under your national legislation?

<input type="checkbox"/>
X

(a) Yes

(b) No

6.1 Please provide a link to an example of a public register of documents (if available):

Not applicable

7. Please indicate which of the practices below are used by your public authorities to reply to requests for access:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | (a) Requests are answered by identifying only documents listed in registers |
| <input checked="" type="checkbox"/> | (b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.) |
| <input checked="" type="checkbox"/> | (c) Requests are answered by identifying any content, including content found in emails |
| <input checked="" type="checkbox"/> | (d) Requests are answered by identifying any content, including extracts from databases |
| <input checked="" type="checkbox"/> | (e) Requests are answered by identifying any written content, other than the content mentioned above. Please specify: <i>UK legislation covers all "recorded information" held by public authorities irrespective of the format in which it is held.</i> |

8. Does your national legislation recognise the definition of a 'document authored by a third party' (e.g. another Member State or an EU institution)?

- | | |
|-------------------------------------|---------|
| <input type="checkbox"/> | (a) Yes |
| <input checked="" type="checkbox"/> | (b) No |

8.1 What is the procedure followed for processing a request for access to a document of a third party?

- | | |
|--------------------------|--|
| <input type="checkbox"/> | (a) The third party is consulted but your public authority issues the final reply to the request |
| <input type="checkbox"/> | (b) The request is forwarded to the third party to issue the final reply to the request |

DEADLINES AND REVIEW

9. Please indicate the deadline for your public administration to reply to a request for access:

The standard response period under all UK information rights legislation is 20 working days. However, under FOIA it is permissible to extend this where the public interest is being considered in relation to qualified exemptions for such time as is “reasonable in the circumstances”; and under the EIR and EISR it is permissible to extend the deadline by an additional 20 working days where the “volume and complexity” of the information necessitates this.

10. Does your national legislation provide for the possibility of a review of an initial reply (other than a judicial review)?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

10.1 If yes, please indicate the deadline for your public administration to reply to the review:

The review process by the public administration has two stages before further appeals may be made to the relevant tribunals / courts:-

- An “internal review” by the authority which answered the original request.
- An appeal to the Information Commissioner in relation to FOIA or the EIR, or to the Scottish Information Commissioner in relation to FOISA or the EISR.

10.2 If yes, indicate the competent authority responsible for review:

- | | |
|---|-------------------------------|
| X | (a) Same as for initial reply |
| X | (b) Other |

Please specify: Information Commissioner and Scottish Information Commissioner.

LIMITS TO THE RIGHT OF ACCESS TO DOCUMENTS

11. Does your national legislation set limits to the right of access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

11.1 If yes, please indicate which of the exceptions in Regulation 1049/2001 on access to documents is also provided for in your national legislation:

X	(a) Protection of the public interest as regards public security
X	(b) Protection of the public interest as regards defence and military matters
X	(c) Protection of the public interest as regards international relations
X	(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States
X	(e) Protection of privacy and the integrity of the individual
X	(f) Protection of commercial interests
X	(g) Protection of court proceedings and legal advice
X	(h) Protection of the purpose of inspections, investigations and audits
X	(i) Protection of the decision-making process

11.2 If yes, please indicate exceptions to the right of access provided for in your national legislation other than those identified in Regulation 1049/2001:

FOIA and FOISA also provide protection for information:-

- already reasonably accessible to the applicant;
- which is intended for future publication;
- relating to pre-publication research;
- likely to prejudice relations within the United Kingdom;
- which would breach Parliamentary Privilege;
- relating to communications with the Royal Family or Household, or the awarding of honours or dignities;
- likely to endanger health and safety;
- where disclosure would constitute an actionable breach of confidence; or
- where disclosure is prohibited by other legislation etc.

12. Does your national legislation identify reasons for not processing requests for access?

- | | |
|---|---------|
| X | (a) Yes |
| | (b) No |

12.1 If yes, please indicate which of the reasons below are provided for in your national legislation:

- | | |
|---|-------------------------------------|
| X | (a) Unreasonable or abusive request |
| X | (b) Excessive administrative burden |
| X | (c) Failure to clarify the request |
| X | (d) Other |

Please specify: *Request not in writing, or applicant does not provide their name or an address for correspondence. (FOIA and FOISA)*

REPORTING

13. Does your national legislation require regular reporting?

- | | |
|---|---------|
| | (a) Yes |
| X | (b) No |

13.1 If yes, how regular?

Not applicable

13.2 If yes, please provide a link to a reporting exercise for the year 2015:

Not applicable

14. Is there any other provision or characteristic of your legislation on access to documents that would be useful to mention? Please specify.

UK legislation provides rights of access to recorded information rather than specifically to the documents containing it.

In relation to Section 8 of this survey, although UK legislation does not make specific provisions relating to information authored by third parties, such material is subject to it where held by a public authority.