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From: General Secretariat of the Council
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Subject: *Questionnaire on Member States' legislation on transparency and access to documents*
– *Member States' replies*

MEMBER STATES' REPLIES BY QUESTION

General Information

- **Question 1: Please indicate your national legislation on access to documents:**
- **Question 2: Please provide a link to your national legislation on access to documents**

(if available)

All but three Member States provide links to their national legislation.

Austria:

- 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.

Duty to Grant Information Act:

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

Belgium:

- Article 32 of the Belgian Constitution guarantees the right of access to administrative documents.

FR: <http://www.ejustice.just.fgov.be/eli/constitution/1994/02/17/1994021048/justel>

NL: <http://www.ejustice.just.fgov.be/eli/grondwet/1994/02/17/1994021048/justel>

- **At federal level there is:**

Act of 11 April 1994 on open government

FR: <http://www.ejustice.just.fgov.be/eli/loi/1994/04/11/1994000357/justel>

NL: <http://www.ejustice.just.fgov.be/eli/wet/1994/04/11/1994000357/justel>

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).

FR: <http://www.ejustice.just.fgov.be/eli/loi/1997/11/12/1997000893/justel>

NL: <http://www.ejustice.just.fgov.be/eli/wet/1997/11/12/1997000893/justel>

Act of 5 August 2006 on public access to environmental information

FR: <http://www.ejustice.just.fgov.be/eli/loi/2006/08/05/2006022669/justel>

NL: <http://www.ejustice.just.fgov.be/eli/wet/2006/08/05/2006022669/justel>

- **In Flanders:**

Decree of 26 March 2004 on open government

NL: <http://www.ejustice.just.fgov.be/eli/decreet/2004/03/26/2004036026/justel>

FR (translation): <http://www.ejustice.just.fgov.be/eli/decret/2004/03/26/2004036026/justel>

- **In the Walloon Region:**

Decree of 30 March 1995 on open government

FR: <http://www.ejustice.just.fgov.be/eli/decret/1995/03/30/1995027312/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/1995/03/30/1995027312/justel>

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

FR: <http://www.ejustice.just.fgov.be/eli/decret/2004/04/22/2004A27184/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/2004/04/22/2004A27184/justel>

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

– legislative part:

FR: <http://www.ejustice.just.fgov.be/eli/decret/2004/05/27/2004A27101/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/2004/05/27/2004A27101/justel>

– secondary legislation part:

FR: <http://www.ejustice.just.fgov.be/eli/decret/2005/03/17/2005A27317/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/2005/03/17/2005A27317/justel>

- **In the French Community:**

Decree of 22 December 1994 on open government

FR: <http://www.ejustice.just.fgov.be/eli/decret/1994/12/22/1994929598/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/1994/12/22/1994929598/justel>

- **In the German-speaking Community:**

Decree of 16 October 1995 on public access to documents

DE:

http://documents.dgparlament.be/dltdownload/yCTt2nlatndezBNIXy_G4sJbeLBxoq46895qO6a7_00u.pdf

(amended by: http://www.ejustice.just.fgov.be/mopdf/2005/06/27_2.pdf#Page24)

FR (translation): <http://www.ejustice.just.fgov.be/eli/decret/1995/10/16/1995033118/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decreet/1995/10/16/1995033118/justel>

- **In the Brussels Capital Region:**

Ordinance of 30 March 1995 on open government

FR: <http://www.ejustice.just.fgov.be/eli/ordonnance/1995/03/30/1995031175/justel>

NL: <http://www.ejustice.just.fgov.be/eli/ordonnantie/1995/03/30/1995031175/justel>

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

FR: <http://www.ejustice.just.fgov.be/eli/ordonnance/2004/03/18/2004031137/justel>

NL: <http://www.ejustice.just.fgov.be/eli/ordonnantie/2004/03/18/2004031137/justel>

Act of 12 November 1997 on open government in the provinces and municipalities (as amended for the Brussels Capital Region):

FR: <http://www.ejustice.just.fgov.be/eli/loi/1997/11/12/1997000893/justel>

NL: <http://www.ejustice.just.fgov.be/eli/wet/1997/11/12/1997000893/justel>

- **In the Common Community Commission of the Brussels Capital Region:**

Ordinance of 26 June 1997 on open government

FR: <http://www.ejustice.just.fgov.be/eli/ordonnance/1997/06/26/1997031268/justel>

NL: <http://www.ejustice.just.fgov.be/eli/ordonnantie/1997/06/26/1997031268/justel>

- **In the French Community Commission of the Brussels Capital Region**

Decree of 11 July 1996 on open government

FR: <http://www.ejustice.just.fgov.be/eli/decret/1996/07/11/1996031302/justel>

NL (translation): <http://www.ejustice.just.fgov.be/eli/decret/1996/07/11/1996031302/justel>

Bulgaria:

- Access to Public Information Act from 2000 and 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.

Croatia:

- Law on the Right of Access to Documents, Official Gazette (Narodne novine), no. 25/2013 and 85/2015
http://narodne-novine.nn.hr/clanci/sluzbeni/2013_02_25_403.html
http://narodne-novine.nn.hr/clanci/sluzbeni/2015_08_85_1649.html

And by-laws:

- Ordinance on the organisation, 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)

Cyprus:

- Law No 208 of 1991 on access to the State's Archives.
[www.mjpo.gov.cy/mjpo/statearchive.nsf/D32FF04EF9495F3CC22579B200347DE8/\\$file/Th
e%20State%20Archives%20Law%20208%20of%201991.pdf](http://www.mjpo.gov.cy/mjpo/statearchive.nsf/D32FF04EF9495F3CC22579B200347DE8/$file/Th%20State%20Archives%20Law%20208%20of%201991.pdf)
- A Bill regulating the Right of Access to Public Sector Information is currently before the House of Representatives for discussion.

Czech Republic:

- Act No. 106/1999 Coll., on Free Access to Information
[https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=47807&nr=106~2F1999&rpp=15#loc
alcontent](https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=47807&nr=106~2F1999&rpp=15#localcontent)

Denmark:

- The Danish Access to Public Administration Files Act
<https://www.retsinformation.dk/forms/r0710.aspx?id=152299>

Estonia:

- Public information Act
<https://www.riigiteataja.ee/en/eli/518012016001/consolide>

Finland:

- Constitution (11.6.1999/731), second paragraph of Section 12: the authorities' documents and recordings are public, unless their publication has been specifically restricted by an Act. Everyone has the right of access to public documents and recordings.
- Publicity Act (21.5.1999/621) on the Openness of Government: Access to official documents
<http://www.finlex.fi/en/laki/kaannokset/1999/en19990621.pdf>
- Decree on the Openness of Government Activities and on Good Practice in Information Management (12.11.1999/1030)
<http://www.finlex.fi/en/laki/kaannokset/1999/en19991030.pdf>
- Act on the Publicity of Court Proceedings in General Courts (30.3.2007/370)
<http://www.finlex.fi/en/laki/kaannokset/2007/en20070370.pdf>
- Act on the Publicity of Administrative Court Proceedings (30.3.2007/381)
<http://www.finlex.fi/en/laki/kaannokset/2007/en20070381.pdf>
- Act on the obligation for financial openness and provision of financial information concerning certain companies (24.1.2003/19)
FI: <http://www.finlex.fi/fi/laki/ajantasa/2003/20030019>
SV: <http://www.finlex.fi/sv/laki/ajantasa/2003/20030019>
- Act on the Public Disclosure and Confidentiality of Tax Information (30.12.1999/1346)
<http://www.finlex.fi/en/laki/kaannokset/1999/en19991346.pdf>

- Government Decree on information security in central government (1.7.2010/681) for classifying documents
<http://www.finlex.fi/en/laki/kaannokset/2010/en20100681.pdf>
- Act on International Information Security Obligations (24.6.2004/588)
FI: <http://www.finlex.fi/fi/laki/ajantasa/2004/20040588>
SV: <http://www.finlex.fi/sv/laki/ajantasa/2004/20040588>

France:

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

Germany:

- Federal Act governing access to information held by the Federal Government (Freedom of Information Act – Informationsfreiheitgesetz – IFG)
DE: <http://www.gesetze-im-internet.de/bundesrecht/ifg/gesamt.pdf>
EN (translation): http://www.gesetze-im-internet.de/englisch_ifg/englisch_ifg.pdf
- Environmental Information Act (Umweltinformationsgesetz – UIG)
http://www.gesetze-im-internet.de/bundesrecht/uig_2005/gesamt.pdf
- Act for the improvement of health-related consumer information (Consumer Information Act – Verbraucherinformationsgesetz – VIG)
<http://www.gesetze-im-internet.de/bundesrecht/vig/gesamt.pdf>
- Legislation on access to information of the various federative states

Greece:

- Constitutional provisions (article 5a, 10/right to access documents) article 5 of L. 2690/1999.
- Presidential Decree 28/2015 for access to documents, data and re-use of public sector information
- October 2014 Law 4305/2014 and 2013/37/EU: re-use of public sector information
- Law 4325/2015 (article 7) right to access documents was extended to documents issued by specified categories of private entities.
- Law 3861/2010 "Transparency Program 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.
- Greek Constitution: <http://www.hellenicparliament.gr/UserFiles/8c3e9046-78fb-48f4-bd82-bbba28ca1ef5/SYNTAGMA.pdf>
- Presidential Decree 28/2015: http://www.minadmin.gov.gr/wp-content/uploads/20150323_opengov_kwdikas_fek34A.pdf
- Law 4325/2015 (Article 7): <http://www.ypes.gr/UserFiles/f0ff9297-f516-40ffa70eeca84e2ec9b9/Nomos-4325-2015.pdf>
- Law 3861/2010: http://www.minadmin.gov.gr/wpcontent/uploades/20141201_nom_3861_diavgeia.pdf

Hungary:

- The central piece of legislation on access to information in Hungary is “az információ 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).¹
- http://njt.hu/cgi_bin/njt_doc.cgi?docid=139257.322945

¹ 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.

Ireland:

- Freedom of Information Act 2014
<http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html?q=freedom>

Italy:

- Law 241/90, Chapter V, Articles 22 et seq. – Access to administrative documents
- Presidential Decree DPR 184/2006
- Consolidated Text on 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
<http://www.commissioneaccesso.it/normativa.aspx>

Latvia:²

- 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: <http://likumi.lv/doc.php?id=190612>
- State Administration Structure Law: <http://likumi.lv/doc.php?id=63545>
- Cabinet of Ministers' Regulation No. 21: <http://likumi.lv/doc.php?id=83810>

² Free access to systematised legislation is available at <http://likumi.lv/>. 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.

- Cabinet of Ministers' Regulation No. 887: <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>

Lithuania:

- Law on the Right to Obtain Information from State and Municipal Institutions and Agencies
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.440732?jfwid=-wd7z8g7yf>
- Law on Documents and Archives
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.436564?jfwid=-wd7z8g84a>

Luxembourg:

- At this time, Luxembourg does not yet have any legislation covering such requests for information (except for environmental issues). However, draft legislation (Bill No 6810) to address this was submitted to parliament (as well as to the Council of State and the professional chambers concerned) in May 2015.
<http://www.chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doDocpaDetails&backto=/wps/portal/public/Accueil/Actualite&id=6810>

Malta:

- Freedom Of Information Act – (Chapter 496) Act XVI of 2008
<https://secure2.gov.mt/foi/downloads>

Netherlands:

- Act on public access to Government Information (Wet openbaarheid van bestuur)³
<http://wetten.overheid.nl/BWBR0005252/2016-10-01>

³ 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.

Poland:⁴

- Constitution of the Republic of Poland of 2 April 1997
<http://isap.sejm.gov.pl/DetailsServlet?id=WDU19970780483k>
- Act of 6 September 2001 on access to public information.
<http://isap.sejm.gov.pl/DetailsServlet?id=WDU20011121198>

Portugal:

- 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 (LADA).
<https://dre.pt/application/file/75180115>
Also see: <http://www.cada.pt/>

Slovakia:

- Act No 211/2000 on freedom of access to information and on amendments and updates to certain acts, as amended (Freedom of Information Act)
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2000/211/20160701>

Slovenia:

- 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)
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=USTA1>
- 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)
<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3336>

⁴ Since Polish legislation employs the concept of access to public information and does not lay down separate rules on access to documents, replies to the questionnaire refer in its entirety to the rules concerning access to public information.

- Decree on the communication and re-use of public information (Official Gazette of the Republic of Slovenia, No 24/16)

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6941>

Spain:

- 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

<https://www.boe.es/buscar/doc.php?id=BOE-A-2013-12887>

Sweden:

- The Freedom of the Press Act (Tryckfrihetsförordningen [SFS1949:105]), Chapter 2
https://www.riksdagen.se/sv/dokumentlagar/dokument/svensk-forfattningssamling/tryckfrihetsforordning-1949105_sfs-1949-105
- The Public Access to Information and Secrecy Act (Offentlighets- och sekretesslagen [SFS 2009:400])
http://www.riksdagen.se/sv/dokumentlagar/dokument/svenskforfattningssamling/offentlighets--och-sekretesslag-2009400_sfs-2009-400

United Kingdom:⁵

- Freedom of Information Act 2000 (FOIA)
<http://www.legislation.gov.uk/ukpga/2000/36/contents>
- Freedom of Information (Scotland) Act 2002 (FOISA)
<http://www.legislation.gov.uk/asp/2002/13/contents>
- Environmental Information Regulations 2004 (EIR)
<http://www.legislation.gov.uk/uksi/2004/3391/contents/made>
- Environmental Information (Scotland) Regulations 2004 (EISR)
<http://www.legislation.gov.uk/ssi/2004/520/contents/made>

⁵ UK legislation provides access to recorded information rather than specifically to the documents containing it.

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

Austria:

- 1987

Belgium: 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 Flanders, 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.

Bulgaria:

- 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.

Croatia:

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

Cyprus:

- 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.

Czech Republic:

- 1 January 2000

Denmark:

- 1 January 2014

Estonia:

- 1 January 2001

Finland:

- 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.

France:

- 18 July 1978

Germany:

- IFG: 1 January 2006
- UIG: 14 February 2005 (and recast on 16 July 1994)
- VIG: 1 May 2008

Greece:

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

Hungary:

- 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.

Ireland:

- 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.

Italy:

- 1990

Latvia:

- 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" 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

Lithuania:

- The Law on the Right to Obtain Information from State and Municipal Institutions and Agencies entered into force in 2000.
- The Law on Documents and Archives entered into force in 1995.

Luxembourg:

- Draft legislation concerning national legislation on access to documents was submitted to parliament (as well as to the Council of State and the professional chambers concerned) in May 2015. A specific date of entry into force cannot be provided at this time.

Malta:

- 1 September 2012

Netherlands:

- 1980

Poland:

- Constitution of the Republic of Poland of 2 April 1997: 17 October 1997
- Act of 6 September 2001 on access to public information: 1 January 2002

Portugal:

- Article 48 LADA – Entry into force and temporal application of the law:
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.
Article 43 of this Law shall enter into force on 1 January 2017.
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.

Slovakia:

- 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.

Slovenia:

- Constitution of the Republic of Slovenia :23 December 1991 with subsequent amendments and additions
- Act on access to public information : 7 March 2003 with subsequent amendments and additions
- Decree on the communication and re-use of public information : 7 March 2003 with subsequent amendments, additions and updates

Spain:

- 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.

Sweden:

- 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).

United Kingdom:

- 1st January 2005 (all the legislation listed above).

Question 3.1: Is it currently being reviewed?

Yes	Austria, Belgium, Cyprus, Czech Republic, Denmark, Malta, Luxembourg, Netherlands, Sweden.
No	Bulgaria, Croatia, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Slovakia, Slovenia, Spain, United Kingdom.

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

(a) **Practical difficulties in implementing previous legislation** (Belgium (Flanders), Ireland, Portugal).

(b) **Adapting to new technologies** (Czech Republic, Ireland, Portugal).

(c) **Adapting to new policies** (Austria, Belgium (Flanders), Cyprus, Czech Republic, Portugal, Malta, Netherlands, Ireland).

(d) **Other** (Belgium, Denmark, Ireland, Lithuania, Luxembourg, Malta, Sweden)

please specify:

Austria:

- It is being discussed.

Belgium:

- Widening of the scope, simplification, greater focus on active open government.
- Integration of the open government decree into an overarching decree on administration.

Cyprus:

- 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.

Denmark:

- The act is based on a political agreement and it shall be evaluated.

Ireland:

- Need of further training to guide public bodies and overcome difficulties in implementing the Act.
- Scope of training: Better practice, boost performance and Secure appropriate consistency and accountability and oversight.

Luxembourg:

- First adoption of such legislation (see question 3).

Lithuania:

- 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.

Malta:

- Need for more clarity, clearness and accessibility.

Sweden:

- Need of linguistic modernisation.
- The Public Access to Information and Secrecy Act is very detailed and is constantly being reviewed for various reasons.

Beneficiaries, Scope and Definitions:

Question 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 (Greece, Malta, Lithuania, United Kingdom).

(b) Any citizen of the EU and any natural or legal person residing in the EU (Lithuania, Malta, United Kingdom).

(c) Any citizen and any natural or legal person (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom).

Question 5: Does your national legislation set limits to its scope?

(a) No, it applies to all documents (Belgium (Flanders), Finland, Hungary, Poland, Slovenia).

(b) Yes, it excludes documents from certain

(i) public authorities (Belgium, Denmark, France, Germany, Greece, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Spain, United Kingdom).

Please specify:

Documents from "non-governmental authorities", Parliament and Council of Ministers, Intelligence Service, National Defence, Secret Service, Security, legislative bodies and federal courts, independent financial control bodies, supreme federal and state authorities, Electoral Commission, Employment Commission, Public Service Commission, Office of the Attorney General, National Audit Office, Broadcasting Authority, Office of the Ombudsman, individuals' personal data, National Bank etc.

ii) areas of activity (Austria, Croatia, France, Greece, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovakia, United Kingdom).

Please specify:

Areas of activities related to State and public authorities, judiciary, tax, statistical, medical documents, external relations, intellectual property documents, private life of third parties, police, military, scientific activities, museums, libraries, artistic, literary and industrial property, national trade treaties.

(iii) policies (Austria, Portugal)

– Austria: 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.

– Portugal: Documents with fundamental interests of the state.

(iv) categories (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Greece, Italy, Latvia, Lithuania, Malta, Portugal, Slovakia).

Categories referred to: classified documents, classified information and protected secret information, central register of accounts data, national and government archives, unfinished Documents regarding court proceedings, tax offences, invasion of privacy, medical confidentiality, national defence and security, foreign policy, commercial and industrial confidentiality, economic and financial information, governments proceedings, monetary policy.

(v) Other (Austria, Croatia, Germany, Ireland, Portugal, Sweden).

– Austria:

- The Act is granting access to information, but not to documents.

– Croatia:

- Parties in court, administrative and other legal based proceedings are excluded.

– Germany:

- IFG: access only to official information held by federal authorities
- UIG: access to environmental information
- VIG: information on products as defined in the food and feed code

– Ireland:

- Restrictions concerning particular activities or bodies (schedules 1 and 2)

– Portugal:

- 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.

Sweden:

- The public only has access to "official documents" held by a public authority.
- Preliminary outlines, drafts and memoranda are not official documents if they have not been retained for filing.
- A document is official if it is held by a public authority and according to special rules is regarded as having been received or drawn up by a public authority.
- Official documents may not be kept secret in order to protect interests other than those listed in the Freedom of the Press Act.

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

(a) Yes (Belgium (Flanders), Bulgaria, Cyprus, Czech Republic, Hungary, Ireland⁶, Lithuania, Malta, Slovakia, Slovenia, Sweden⁷).

(b) No (Austria, Belgium, Croatia, Denmark, Estonia, France, Germany, Greece, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Spain, United Kingdom).

⁶ Registers are not mandatory, but an obligation to develop publication schemes is applied.

⁷ Certain exceptions apply.

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

Belgium:

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

Bulgaria:

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

Croatia:

- <http://www.digured.hr/>

Czech Republic:

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

Hungary:

- <http://kozadat.hu/kereso/>

Ireland:

- <http://foi.gov.ie/download/model-publication-scheme-guidance-october-2015/>
- <http://foi.gov.ie/download/model-publication-scheme-october-2015/>

Lithuania:

- <https://www.e-tar.lt/portal/en/index>

Malta:

- https://socialdialogue.gov.mt/en/Pages/The_Ministry/Freedom_of_Information.aspx
- https://socialdialogue.gov.mt/en/Documents/The_Ministry/Freedom_of_Information/PERM_SEC%20MSDC%20ART%2017.pdf

Netherlands:

- www.rijksoverheid.nl/documenten

Slovakia:

- <https://www.crz.gov.sk/>

Slovenia:

- http://www.mnz.gov.si/si/o_ministrstvu/informacije_javnega_znacaja/katalog_mnz/
- <http://www.policija.si/index.php/informacije-javnega-znacaja/katalog-ijz>
- <https://www.ip-rs.si/informacije-javnega-znacaja/katalog-ijz-informacijskegapooblascenca/>
- <http://www.maribor.si/podrocje.aspx?id=644>
- http://www.upravneenote.gov.si/informacije_javnega_znacaja/katalog_informacij_javnega_znacaja_upravne_enote/

Sweden:

- <http://diarium.lansstyrelsen.se/Case/CaseSearchResult.aspx?query=oJ/Yw8gzqEr9ngHRvO/S/2ldmWTFvgjFlqUZFUyhPZnwUx8MwAuFzFTiAb1/7bMntiEZH+fFgiW5ALWxF1I5vx/EiAYmdEdOahK/pYQOCJNpe9L5Jt80e37e2AYeGxWF5uv2VC1mGFUGlmQ+oY9IE7xN+o5eG7hzn88ESgkv+xGVerTzgJBHP+ermLL1tFyVzWEi9XzIX1tnM=>

Question 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:

Cyprus, Latvia, Portugal, Slovakia

(b) Requests are answered by identifying any content, including content found in non-registered documents (internal notes, memos, etc.):

Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Hungary, Ireland, Italy, Malta, Netherlands, Slovenia, Sweden, United Kingdom

(c) Requests are answered by identifying **any content**, including content found in **emails**:

Belgium, Croatia, Cyprus, Czech Republic, Denmark, Germany, Hungary, Ireland, Italy, Malta, Netherlands, Slovenia, Sweden, United Kingdom

(d) Requests are answered by identifying **any content**, including **extracts from databases**:

Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, France, Germany, Hungary, Ireland, Italy, Lithuania, Malta, Netherlands, Slovenia, Spain, Sweden, United Kingdom

(e) Requests are answered by **identifying any written content**, other than the content mentioned above:

Croatia, Czech Republic, Denmark, Greece, Luxembourg, Malta, United Kingdom

Other practices:

Austria:

- Applies to any facts known, but not to views and legal opinions.

Croatia:

- Any written, drawn, printed, recorded, magnetic, optical, electronic form

Czech Republic:

- Recorded content

Denmark:

- Text messages

Finland:

- Only sufficiently detailed requests are taken into account and access can be provided by explaining its contents orally. A document can be studied, copied or listened to in the authority's offices.

Greece:

- 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

Luxembourg:

- Any written correspondence

Malta:

- Recorded information in a form of electronic data, images, scale models, video recordings

Poland:

- 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).

United Kingdom:

- Recorded information

Question 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

Belgium (Flanders), Bulgaria, Hungary, Ireland, Italy, Latvia, Luxembourg, Slovakia, Slovenia, Spain

(b) No

Austria, Belgium, Croatia⁸, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany⁹, Greece, Lithuania, Malta, Netherlands, Poland, Portugal, Sweden, United Kingdom

Question: 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:

Belgium, Czech Republic, Denmark, Estonia, Germany, Hungary, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia.

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

Bulgaria, Croatia¹⁰, Greece, Latvia, Lithuania, Spain

No answer: Austria, Cyprus, Finland, France, Poland, United Kingdom.

Sweden: The authority makes its own damage assessment and usually the third party is not consulted.

⁸ However, three situations relevant to this question may occur:

- 1) 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.
- 2) 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.
- 3) 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, the public interest test has to be performed.

⁹ Only for private third parties.

¹⁰ In the second situation mentioned in footnote 7.

Deadlines and review

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

2 months:

Austria, Germany (UIG-extensive/complex environmental information), Luxembourg (occasionally), Portugal (exceptionally)

1 month:

Belgium, Bulgaria (complex cases), Croatia, (extension¹¹), Czech Republic (periodically), Finland (large number of requested documents, documents with secret parts, special measures), France, Germany (IFG and VIG), Hungary (occasionally), Ireland, Italy, Latvia, Luxembourg, Netherlands, Spain.

20 days: Cyprus, Greece, Lithuania (normally)¹², Malta (normally)¹³, Slovenia, United Kingdom¹⁴.

15 days: Belgium (Flanders), Bulgaria, Croatia, Czech Republic (normally), Finland¹⁵, Hungary (normally), Poland, Slovakia (when the information is provided to a blind person).

2-10 days: Denmark, Estonia, Portugal, Slovakia (normally).

1-2 days: Sweden

¹¹ information outside the seat of the public authority body, different pieces of information requested, need to ensure the accuracy and integrity of the requested information, conducting a proportionality test and a public interest test.

¹² May be extended by another 20 days in case of a large amount of information or complicated information.

¹³ May be extended by another 40 days in case of a large amount of information or complicated information.

¹⁴ Sometimes 40 days due to volume and complexity.

¹⁵ As soon as possible and in any event within two weeks.

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

(a) Yes

Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(b) No

Bulgaria, Estonia, Latvia

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

3 months: Croatia (when dealing with classified information and must consult the Office of the National Security Council), Germany, Netherlands (in case of the appointment of an advisory committee), Spain.

2 months: Austria, Croatia (examination of proportionality and public interest), Hungary, France, Luxembourg, Netherlands (6 weeks) Portugal, Slovenia.

45 days: Belgium (non-environmental information)

40 days: Portugal,

1 month: Belgium (environmental information), Belgium (Flanders/non-environmental information), Croatia (usually), Greece, Italy, Finland (request for rectification), Lithuania (in case of extension).

15-20 days: Croatia, Czech Republic (complaints and appeals), Denmark, Ireland, Lithuania, Poland, Slovakia, United Kingdom (internal review).

10 days: Malta

7 days: Czech Republic (entities)

1-2 days: Sweden

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

(a) Same as for initial reply

Austria, Belgium, Finland¹⁶, France¹⁷, Germany¹⁸, Greece, Ireland¹⁹, Malta (at first), Netherlands, Portugal, Slovakia, Sweden²⁰, United Kingdom

(b) Other

Belgium/Belgium (Flanders), Croatia, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta (after first internal review), Poland, Slovenia, Spain, , United Kingdom

Please specify:

Belgium:

- Non-environmental information: the Committee of access to administrative documents
- Environmental information: an appeal committee

Croatia

- Information Commissioner (independent authority) appointed by the Parliament.
(www.pristupinfo.hr/en)

Czech Republic:

- Group of Superior Bodies e.g regional authorities (municipalities)
- The Minister (in case of ministries)

Cyprus:

- Information Commissioner

¹⁶ Decision-making organ other than the official who had initially replied.

¹⁷ At more senior level.

¹⁸ In some cases, the next highest authority may conduct the review.

¹⁹ At more senior level.

²⁰ Head of the authority or their delegate.

Denmark:

- Supreme administrative authority within the area and Danish Parliamentary Ombudsman

Hungary:

- National Authority for Data protection and Freedom to information

Ireland:

- Senior employee from a different area from the same authority

Italy:

- Committee for access to Administrative Documents

Lithuania:

- Special Commission disputed by the Chief Administrative

Luxembourg:

- Special Commission for access to documents

Malta:

- Freedom of Information Supervisor

Poland:

- A higher-ranking authority

Slovenia:

- Information Commissioner

Spain:

- Transparency and Good Governance Council (CTBG)

United Kingdom:

- Information Commissioner or Scottish Information Commissioner

Limits to the right of access to documents

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

(a) Yes

Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Poland, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(b) No

Austria: There is no right of access, but a right to information.

Question 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:

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

(b) Protection of the public interest as regards defence and military matters:

Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(c) Protection of the public interest as regards international relations:

Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

(d) Protection of the public interest as regards financial, monetary or economic policy of the EU or one of its Member States :

Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Spain, Sweden, United Kingdom

(e) Protection of privacy and the integrity of the individual:

Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(f) Protection of commercial interests:

Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(g) Protection of court proceedings and legal advice:

Belgium (Flanders), Croatia, Cyprus, Czech Republic, Estonia, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Poland, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(h) Protection of the purpose of inspections, investigations and audits:

Belgium (Flanders), Croatia, Cyprus, Czech Republic, Estonia, Denmark, Finland, France, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(i) Protection of the decision-making process:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

Question 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:

Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, United Kingdom

Exceptions: information about Criminal data, Advisory report, manifestly unreasonable application, documents about administrative penalty, security, intelligence, defence, army forces, working positions, payments, preliminary research, third parties, data and communication systems, the preservation of animal and plant species, compilation of statistics, State's negotiation, scientific and technological research and study documents, information about examination tests, financial, monetary and economic policy of the Community, foreign affairs, trade and policy, commercial and industrial documents, legal advice and court proceedings, tax offences, inspections, investigations and audits documents, decision making process, deliberations of the Council of the Government, intellectual property rights, information about the Crown or the Royal Family.

No further exceptions:

Latvia, Malta

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

(a) Yes

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Spain, Sweden, United Kingdom

(b) No

Finland, Italy, Poland, Slovakia

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

(a) Unreasonable or abusive request:

Austria, Belgium, Croatia, Cyprus, Denmark, France, Germany, Greece, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Spain, United Kingdom

(b) Excessive administrative burden:

Austria, Belgium, Croatia, Denmark, Germany, Greece, Ireland, Lithuania, Malta, Slovenia, Spain, United Kingdom

(c) Failure to clarify the request:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Germany, Greece, Ireland, Latvia, Malta, Netherlands, Spain, Sweden, United Kingdom

(d) Other:²¹

Estonia, Hungary, Ireland, Lithuania, Luxembourg, Malta²², Netherlands, Poland, Slovenia, Spain, Sweden²³, United Kingdom

Reporting

Question 13: Does your national legislation require regular reporting?

(a) Yes

Belgium (Flanders), Bulgaria, Croatia, Cyprus, Czech Republic, France, Germany, Hungary, Ireland, Italy, Malta, Portugal, Slovenia, Spain

(b) No Austria, Belgium, Denmark, Estonia, Finland, Greece, Latvia, Lithuania (no at this time), Luxembourg, Netherlands, Poland, Slovakia, Sweden²⁴, United Kingdom

²¹ Applications without applicants' personal data, mail address, full name, manifestly abusive applications, unfinished required documents, already published documents, internal communication documents, high cost of processed information, incomplete and incomprehensible requests, abusive requests, ancillary or supporting information, not a written request.

²² 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.

²³ A request for documents must be sufficiently detailed.

²⁴ Swedish authorities' application of the rules on public disclosure and confidentiality are subject to supervision by regulators.

Question 13.1: If yes, how regular?

Not applicable/Not obligatory

Austria, Belgium, Germany (UIG,VIG), Netherlands, United Kingdom

Annually

Belgium(Flanders), Bulgaria, Croatia, Cyprus, Czech Republic, France, Hungary, Italy, Malta, Portugal, Slovenia

Monthly

Ireland

Other: Germany: every 2 years (IFG); Lithuania: every 3 years; Spain: depends on the type of the information

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

10 countries provide links to a reporting exercise

Belgium (Flanders):

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

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

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

Croatia: <http://www.pristupinfo.hr/dokumenti-i-publikacije/>

France: http://www.cada.fr/IMG/pdf/rapport_activite_2014_site.pdf

Hungary: <https://www.naih.hu/files/NAIH-BESZ-MOL--2015-MID-RES.pdf>

Ireland: <http://www.oic.gov.ie/en/Publications/Annual-Reports/2015-Annual-Report/>

Italy: <http://www.commissioneaccesso.it/i-lavori-della-commissione/relazioni-al-parlamento.aspx>

Portugal: <http://www.cada.pt/modules/news/index.php?storytopic=14/>

Slovenia:

http://www.mju.gov.si/si/delovna_podrocja/transparentnost_in_dostop_do_informacij_javnega_znacaja/porocilo_o_stanju/

Spain:

http://transparencia.gob.es/servicios-Buscador/contenido/pge.htm?id=PGE_22abd7c0ed9e217e9edf1dbadb7e17c00f873e19_2016&lang=es&fcAct=2016-11-28T16:34:01.785Z

Czech Republic: different official websites of each entity

Not applicable: Austria, Belgium, Cyprus, Germany, Malta, Netherlands, United Kingdom

No answer: Denmark, Estonia, Greece, Finland, Greece, Latvia, Luxembourg, Poland, Slovakia, Sweden

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

Belgium:

- 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.

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

The Flemish 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 Flemish 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.

Croatia:

- 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.

Finland:

- 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.

Greece:

- 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.

Hungary:

- 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 overweigh 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.

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).

Ireland:

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.

Italy:

- 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).

Lithuania:

- 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.."

Luxembourg:

- Bill 6810: Article 1 provides mandatory publishing of all accessible documents by the public authorities without request. Mandatory publishing of all accessible documents.
The questionnaire has been completed with regard to the draft legislation.

Netherlands:

- 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.

Slovenia:

- 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(5) 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/>

Spain:

- 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>

Sweden:

- 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>

United Kingdom:

- 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.

***No other provision or characteristic:** Bulgaria, Germany, Latvia, Malta, Portugal.
