

Brief on access to information



On a number of occasions, the OSCE participating States recognized the importance of full respect of everyone's right to freedom of opinion and expression, in accordance with the Universal Declaration of Human Rights (UDHR), particularly Article 19, and the International Covenant on Civil and Political Rights (ICCPR), particularly Article 19. They acknowledged that it constitutes one of the essential foundations of a democratic society and is one of the basic conditions for its progress and development.

The right to information is an integral part of the right to freedom of expression, as defined in Article 19 of the UDHR, and Article 19 of the ICCPR, and that this right includes freedom to seek, receive and impart information and ideas through any media and regardless of frontiers. Therefore any restrictions on the right to freedom of information may only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of Article 19 of the ICCPR. Being an integral part of the right to freedom of expression, any restrictions on the right to information may only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of Article 19 of the ICCPR.

In the 1990 Copenhagen Document, the OSCE participating States explicitly stressed that the right to freedom of expression includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers. The OSCE commitments on the right to freedom of information and access to information include the decisions adopted in Moscow 1991, Istanbul 1999, Maastricht 2003, Sofia 2004, Dublin 2012, Basel 2014, Milan 2018, as well as in other relevant OSCE documents.

These documents include commitments to make governments more transparent by further developing processes and institutions for providing timely and reliable information, including statistics, with a view to promoting a well-informed and responsive dialogue. Freedom of information and access to information foster openness and accountability in public policy and procurement, and enable civil society, including the media, to contribute to preventing and combating corruption, the financing of terrorism, and money-laundering and its predicate offences. Transparency in public affairs is an important element of access to information and an essential condition to the accountability of States and for the active participation of civil society in political and economic processes, while free and pluralistic media, which enjoy maximum editorial independence from political and financial pressure, have an important role to play in ensuring such transparency.

Access to information has two sides:

Proactive, or transparency of public bodies:

The positive obligation of public bodies to provide, to publish, and to disseminate information about their main activities, budgets, policies and plans, so that the public can know what they are doing, can participate in public matters, and can control how public authorities are behaving.

Reactive, or the right of everyone to seek and obtain information:

The right of all persons to ask public offices and officials for information about what they are doing and any documents they hold, and the right to receive an appropriate answer. The majority of information held by public bodies should be available, but there are some cases where the information is withheld in order to protect privacy, national security or commercial interests (see: AccessInfo: <https://www.access-info.org/right-to-know/>).

Freedom of information is central in the context of the World Summit on the Information Society (WSIS), which reaffirmed freedom of expression and universal access to information as cornerstones of inclusive knowledge societies.

The adoption and implementation of constitutional, statutory and/or policy guarantees for public access to information serves as an indicator for the advancement to the relevant Sustainable Development Goal and Target of the United Nations 2030 Agenda for Sustainable Development. In the OSCE region, most States have right to information laws (see: <https://www.rti-rating.org/country-data/by-section/right-of-access/>).

Independent information commissioners, ombudsmen, or other relevant oversight bodies help ensure that these statutory provisions with respect to the right to information are effective.

In 2019, the United Nations General Assembly proclaimed 28 September as the International Day for Universal Access to Information (IDUAI). This followed the efforts of the United Nations Educational, Scientific and Cultural Organization to highlight the relevance and importance of the right to information, such as in the Brisbane Declaration, adopted at the International Conference on Freedom of Information: the Right to Know, held in 2010.

Independent media are essential to a free and open society and accountable systems of government, and are of particular importance in safeguarding human rights and fundamental freedoms, as stated in the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE. Participating States are committed to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information, which are considered to be an essential component of any democratic, free and open society.

At the same time, journalism and technology are rapidly evolving and this contributes to the public debate. The freedom to seek, receive and impart information is strengthened by the internet. The growing importance of investigative journalism, the ability of the media to probe publicly important information, and to publish the results of their investigations, including on the internet, without fear of reprisal, can play an important role in our societies, including in holding public institutions and officials accountable.

The Office of the OSCE Representative on Freedom of the Media has provided expertise to the participating States on issues of access to information, including recommendations to improve relevant legislation and policies (see: <https://www.osce.org/fom/267746>).