



Organization for Security and Co-operation in Europe

The Representative on Freedom of the Media

**A COMPREHENSIVE REVIEW OF LAWS AND PRACTICES ON ACCESS TO
INFORMATION BY THE MEDIA IN THE OSCE PARTICIPATING STATES**

Questionnaire

Instructions:

- Please type your answers under each question.
- If possible, please attach relevant texts of laws and statistics, and web links to laws, to this questionnaire.
- Complete questionnaires should be sent to the Office of the OSCE Representative on Freedom of the Media **by 1 October 2006** via e-mail to:

Mr. Ilia Dohel, Assistant Research Officer
ilia.dohel@osce.org

or by regular mail to:

**OSCE/RFOM
Kärntner Ring 5-7, 2nd floor,
A - 1010 Vienna, Austria,**

or by fax:

+43-1-514-36-6260 (Attn: Mr. Ilia Dohel),

Thank you for your co-operation.

Right of Access to Information

Constitutional Rights

1. In your country, is there a constitutional right of public access to information or to documents held by government bodies?
2. Has the Constitutional Court, the highest court or appellate court interpreted or enforced this right?
3. Does this right apply to all information, or is it limited, in order to protect certain rights or types of information from disclosure?
4. If so, what are the limits and how are they defined by law (for example, the common exceptions made for national security)?
5. Are there other specific constitutional limits on access and dissemination of information?

Legal Rights

6. Is there a national law (a Freedom of Information Act, or a Freedom of Information (FOI) Law) allowing individuals to access or demand any information from government bodies? Please name the law and provide an English translation, and a web link, if available.
7. Are there limits on who can use this law (for reasons of citizenship, legal status, etc)?
8. Does the FOI law give journalists or media organisations a greater right of access to information than citizens?
9. If there is a FOI law, please provide the statistics on the use of the law by journalists and media organizations.
10. Is there a media or press law that gives journalists any additional rights of access to information? Please name the law and provide an English translation, and a web link, if available.
11. Are there any limits in this law on access to, and publication of, information?
12. If there is a legal right in a media or press law to access information, please provide the statistics on the use of that law by journalists and media organizations.

For all the above, please provide texts of laws and other relevant documents, statistics, web links to all documents, preferably in English.

Receiving and Publishing Information

Rules on Classification

13. Is there a law or regulation (a State Secrets Act, Official Secrets Act or Protection of Classified Information Act) that sets standards for state and official secrets, such as :
- Different categories in terms of level of confidentiality?
 - The period of classification and declassification?

Rules on Limitations

14. Does any law, administrative, criminal, or other prohibit the unauthorized disclosure, possession or publication of state secrets *related specifically to national security*?
15. Do these prohibitions only apply to officials whose duty is to protect secret information, or do they also apply to persons who have not signed security agreements, such as members of the public, including the media?
16. Does any law, administrative, criminal, or other, prohibit the unauthorized disclosure, possession or publication of *non-national security related* information held by government bodies or those conducting public business? Please list what types of information are covered by this?
17. Do these prohibitions only apply to officials, or do they also apply to persons who have not signed security agreements, such as members of the public including the media?

Rules on Sanctions

18. What are the civil or criminal penalties for unauthorised disclosure, possession or publication of classified information? Is this part of the regulation on classification, or is it found in another law, such as the Criminal or Penal Code?
19. Do these penalties apply to the media for unauthorised disclosure, possession or publication of classified information? Are there additional or higher penalties for mass publication of information?
20. Have there any cases been brought in the last five years against:
- Officials in charge of the leaked classified information?
 - Members of the public?

- Journalists or media organisations?

Please describe the outcomes, including the date of the case, the defendants and the charges.

For all the above, please provide texts of laws and other relevant documents, statistics, web links to all documents, preferably in English.

Protection of Publication in the Public Interest

21. In cases of breach of secrecy by the media, does the law acknowledge that society's right to know about issues of public interest might override the government's classification? Does the law oblige the judiciary to apply the public-interest test to evaluate the government's classification concerns?
22. In practice, does the judiciary consider the public's right to know as being overriding or equal to the government's classification concerns? Are there milder or no sanctions imposed on journalists and the media for unauthorised release of information that was of legitimate public interest?

For all the above, please provide texts of laws and other relevant documents, statistics, web links to all documents, preferably in English.

Protection of sources

23. Is there a national law on the protection of journalists (also referred to as 'shield law') from sanctions for refusing to disclose their sources of information?
24. If there are sub-national divisions, such as states or provinces, do they follow the national law or independently recognize the right?
25. If there is no national law, are there court decisions, regulations or processes that recognize protection of sources and limit their disclosure?
26. How many times in the last five years has a journalist or media organisation been required by a court or official to disclose their sources of information under this law or any other law?
27. Is the protection absolute? Under what circumstances can an official or a court order a journalist to reveal sources?
28. What are the penalties for refusing to reveal sources of information?
29. Are the journalists prohibited from revealing their source without the permission of the source?

30. In the media, who is protected from disclosure of sources:
- The journalist? The editor? The publisher?
 - Freelance journalists or commentators?
31. Is protection extended to those working for broadcasting media (television, radio, including cable and satellite programmes)?
32. Is protection extended to different types of Internet-based media, Internet journalists and commentators?
33. Are searches of property belonging to the media or the journalists, such as newsrooms or apartments, prohibited by law?
34. Are third parties who act for journalists or media organisations, or provide services to them (like telephone or internet providers) also protected from disclosure of data on journalists' communications with sources, or from interception of them?

For all the above, please provide texts of laws and other relevant documents, statistics, web links to all documents in English.