

European Court of Human Rights takes a huge step Towards recognising Right of Access to Information

Madrid, 14 April 2009 — Access Info Europe welcomes today's ruling by the European Court of Human Rights in which it recognises that when public bodies already hold information that is needed for public debate, the refusal to provide it to those who are seeking it is a violation of the right to freedom of expression and information.

In this case the Hungarian Civil Liberties Union asked Hungary's Constitutional Court to disclose a parliamentarian's complaint questioning the legality of a new drugs policy law. The Constitutional Court refused to release the information. The European Court of Human Rights found this refusal to be a violation the European Convention on Human Rights.

The Court's decision refers to the "censorial power of an information monopoly" when public bodies refuse to release information needed by the media or civil society organisations to perform their "watchdog" function.

Ádám Földes, lawyer with Madrid-based human rights group Access Info, who previously worked with the Hungarian Civil Liberties Union and was deeply involved in the preparation of this case, said "*this extension of freedom of expression to the right to request and receive information from public bodies is a huge step towards full recognition of the right of access to information.*"

Access Info notes that the Court decision itself refers to recent judgments in which it has moved "towards the recognition of a right of access to information".

"*This ruling is a cautious confirmation that the right of access to information is a human right*" added Helen Darbishire, Executive Director of Access Info Europe.

Today's ruling from the European Court of Human Rights has a number of other important features:

- The Court extends the traditional protection of the media as "public watchdogs" to civil society groups who it says have a "social watchdog" function;
- The Court states that use of protection of privacy to refuse to make public information relating to the opinions of public figures on matters of public interest would be "fatal for freedom of expression";
- The State now has an obligation not to impede the flow of information needed for public debate on matters of public importance. In other words, that the public has a right to ask and public bodies have an obligation to answer: to do otherwise would be a violation of freedom of expression;
- The decision refers to a parliamentarian and a constitutional court which implies that the scope of the right of access to information does only apply to the executive branch of power.

This ruling comes just five months after the Council of Europe adopted the world's first binding treaty on the right of access to information, the Convention on Access to Official Documents (click [here](#) to read this new Convention). The importance of the ruling is that it reinforces the right enshrined in the European Convention on Human Rights and in the new Convention on Access to Official Documents by underlining the State's obligation to provide the public with information it holds.

Over 80 countries globally have laws that guarantee the right of access to information. In Europe 40 of the 47 members of the Council of Europe have such laws but implementation is often imperfect and monitoring studies show that many requests by the public for government information go unanswered or are denied. In addition, 24 Constitutions in Europe recognise the right of access to information.

The European Court's Decision can be found at:

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=10&portal=hbkm&action=html&highlight=&sessionid=22108832&skin=hudoc-en>

Case of Társaság a Szabadságjogokért v. Hungary (Application no. 37374/05)

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