

Access Info: Strategy 2009 - 2010

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ACCESS INFO STRATEGY 2009-2010

1. Introduction & Overview

Access Info Europe is a human rights organisation dedicated to promoting and protecting the right of access to information in Europe as a tool for defending civil liberties and human rights, for facilitating public participation in decision-making, and for holding governments accountable.

This paper sets out the strategy underpinning Access Info Europe's activities during 2009-2010 in order to fulfil its mission of promoting and protecting the right of access to information in Europe and contributing to recognition and enjoyment of this right globally.

See Annex I for a definition of the Right of Access to information.

2. About Access Info Europe

Access Info was created in June 2006 to meet the need in Europe for an organisation dedicated to promoting the right of access to information. We work to defend access to information as a fundamental human right in and of itself, and as an instrumental right which is essential for participation in government decision-making, for holding governments accountable, and for defence of other human rights.

Formed by European and international experts in access to information, Access Info is registered as a not-for-profit, non-governmental association under Spain's Law on the Right of Association.¹

Access Info's multidisciplinary and multicultural team brings to this task our specialised knowledge of how the right of access to information functions in practice as well as broad experience of working on civil society advocacy campaigns and strong research and analysis skills. We are passionate, proactive, and possess strong communications skills; with our staff, consultants and partners we work in the major European languages, including English, French, Spanish, and German. In our initial period of operation we have demonstrated our capacity to work at different levels, engaging in both national and international advocacy work, building working relationships with individuals ranging from local civil society representatives to senior government officials.

Access Info's campaigning work since 2006 has included the campaign for a stronger Council of Europe Convention on Access to Official Documents and work on national access to information laws as well as EU transparency. This has enabled us to build a broad network of civil society organisations across the whole of Europe. These CSOs recognise us as experts and have welcomed our readiness to cooperate on issue of common interest. We are similarly acknowledged as experts by inter-governmental bodies such as Council of Europe, OSCE, UNESCO, and some governments with which we have had contact.

3. Vision and Mission: Everyone's right to know

Vision

Our vision is that:

- Everyone in Europe has the right to know what their elected representatives are doing with the power entrusted to them, and how the public's money is being spent;
- Everyone can access the information they need in order to protect other rights, to expose violations of human rights, to participate in government decision-making and to hold governments accountable.

Mandate

Access Info's mandate established in its statutes is to promote and protect the right of access to information in Europe, in law and in practice, as a tool for defending civil liberties and human rights, for facilitating public participation in decision-making, and for holding governments accountable.

Mission

Access Info's mission is that the right of access to information be enshrined in law and deliver greater transparency in practice.

How we have an impact

Governments are not naturally transparent, but rather tend to control power through control of the information they hold and have a tendency to secrecy. Achieving accountable and participatory government is therefore contingent on a strong public demand for openness accompanied by robust legal mechanisms to protect the right of access to information, and a political culture which encourages compliance with these norms. To promote open government it is thus necessary to engage, capacitate, and activate a broad base of support for the right to know.

In response to this challenge, Access Info works as follows:

- Through research and analysis we identify good practices and grey zones and propose legal, technical and policy solutions that will lead to higher legal standards and contribute to generating political will for open government.
- By providing training and legal and strategic guidance to civil society organisations we increase capacity to exercise the right to know, thereby increasing demand for information and building a community of key users who will join forces to defend the right.
- By protesting against and going to court to challenge excessive secrecy we aim to increase access to information in particular cases which can be used in advocacy work to have a wider impact on respect for the right to know.
- By focusing on particular sectors of government activity where there is already high public demand for greater transparency, we leverage change in those specific areas and create positive models which can be replicated across all spheres of public life.

How we measure impact

The interim indicator for the impact of our work is that there is a broad and growing base of public support for the right of access to information across Europe, with civil society

organisations, journalists, politicians, parliamentarians, academics and individuals who value the right of access to information as the cornerstone of democratic and open societies and are ready to take action to defend and promote it.

The definitive indicator of success will be that organisations and individuals across Europe are able to get access to information which was not previously available, not only through the filing of access to information requests but also because there is an increase in levels of proactive publication of relevant information on government websites and in other formats.

Projects with Partners

Access Info is a small organisation with high levels of expertise and energy which maintains its agility and financial stability by having a small core team of staff, volunteers and consultants. In order to have sufficient human resources to manage and implement large-scale projects, almost all our activities are carried out in partnership with other organisations or institutions. Through these partnerships we increase the likelihood that our work will have an impact and in parallel we increase the access to information expertise of our partners.

How we work

The typical activities which are included in Access Info's projects and which form the core of our day-to-day work are:

- **Promoting the Right to Know:** increasing public awareness of the right of access to information, how it functions in practice, and the main challenges facing the right;
- **Assisting Civil Society:** working with and supporting the end-users of the right of access to information, building capacity and providing strategic and legal assistance in using and enforcing the right through use of appeals mechanisms and litigation;
- **Leading and joining campaigns** to promote government transparency by engaging in advocacy, conducting research, filing requests, and undertaking legal action;
- **Monitoring levels of transparency** to build a more accurate picture of compliance with the right of access to information across Europe and to develop legal and policy solutions that will lead to increased transparency;
- **Advancing standards for the right to know** both in general and for transparency in specific sectors;
- **Promoting stronger mechanisms for accessing information:** this includes turning the reform of national access to information laws and the development supra-national standards into opportunities to entrench advances in the right of access to information;
- **Promoting increased proactive publication** of information by government and supranational bodies in order that the public does not have to rely on request for information to know what the government is doing and to participate in decision-making;
- **Exchanging Know-How:** sharing information, expertise and experiences on the right to know with national and international CSOs, journalists, national freedom of information commissioners, governments and intergovernmental organizations;
- **Fighting Secrecy:** advocacy, appeals and litigation to challenge secrecy and other laws which neutralize, dilute or conflict with access to information.

4. Context Analysis

The global context in which Access Info is working is one in which the right of access to information has made impressive progress in the two decades since the fall of the Berlin wall. In 1999 only 12 countries had laws on access to documents held by public bodies, now over 80 countries have dedicated access to information laws and the right is recognised in over 50 constitutions.² On 27 November 2008 the Council of Europe adopted the world's first binding treaty dedicated to the right to know, the Convention on Access to Official Documents, which opened for signature in June 2009.

These developments have been confirmed in national jurisprudence that recognises a right of access to information. In September 2006 the Inter-American Court of Human Rights affirmed a fundamental right to seek and receive government-held information that imposes positive obligations on governments. The European Court of Human Rights in April 2009 confirmed that there is a right of access to information, particularly when public bodies hold information that is needed for public debate. An interesting and important feature of the Court's finding is that the right to request and receive information held by public bodies is needed for civil society groups in order to perform their "social watchdog" function – by doing so, the court extended the concept of watchdog beyond the role of the media as "public watchdogs" and linked this "social watchdog" concept to access to information and public participation.

These advances are now at risk: other features of the post-September 11 world, including the threats (real or perceived) to security, combined with economic and environmental instability, are generating countervailing forces to the democratisation agenda. That security is being equated with secrecy is just one of a multitude of resulting threats to civil liberties. Another is the introduction of surveillance and control measures by European governments and, in particular, via the European Union, which is shrouded in secrecy. Many Europeans have not yet woken up to their full implications and the erosion human rights that could result, and the young and still-emerging democracies of Eastern Europe are also vulnerable.

In this context, access to information is an essential tool for defending democracy and ensuring that people are informed and empowered. How Europe responds to the current threats to open societies is important for the 800 million people living in the region and worldwide because Europe is a reference point for the values underpinning human rights and democracy. European governments are influential in international institutions and are major trading partners and aid donors for countries around the world, giving them significant leverage in promoting high standards of transparency.

Access Info has identified a series of problems related to the right of access to information in Europe – western as well as eastern Europe. In the rest of this section we set out in more detail three problem areas to which our strategy and our projects respond:

- Huge variations in the same right of access to information in law and practice around Europe;
- Lack of awareness among European CSOs and citizens of the relevance and usefulness of the right of access to information to defend human rights and, for those who do try to exercise the right, difficulties in obtaining information;
- Much information is still outside the reach of access to information laws because of lack of agreement on standards for the scope of the right and because of governments' unwillingness or failure to publish information proactively.

4.1 European Variations: Differences in Law and Practice

The Right to Know in Law

Access Info's research into the laws of over 30 countries in Europe has confirmed the paradoxical situation that the definition of the right of access to information on paper is narrower in north-west Europe than in the new democracies of central and eastern Europe. The detailed reports can be found on the Access Info website.³ Broadly speaking, in western Europe the right is limited to administrative information held by administrative bodies and does not extend to parliaments and the courts, nor to private bodies performing public functions or operating with public funds. On the other hand in Eastern Europe the definition is wider and often has a basis in a constitutional provision which makes clear that it should be interpreted widely with limited exceptions.

At the same time, in eastern Europe, now that membership of democratic club such as the Council of Europe and particularly the European Union has been secured for many countries, there are signs of backsliding on the access to information laws, with regular attempts at legislative amendments which would weaken the access laws or strengthen secrecy rules. There is still a need to support civil society in promoting and defending the right to know in these countries and in sustaining demand for this essential democratic right.

In 2009, the opening for signature and ratification of the Convention on Access to Official Documents offers an opportunity to evaluate the legal framework for access to information in each of the 47 Council of Europe member states and to press for reforms that at the very least ensure that all countries meet the minimum standards established by the convention.

Access in practice

With regard to the practice, it is very hard to get a precise picture of government compliance with the right of access to information because in many countries governments do not collect statistics about the number of requests received or answered and there has been almost no empirical data-gathering by civil society.⁴

Access Info has, however, analysed the available data from governments, reviewed reports from information commissioners and ombudsmen and the independent monitoring studies, and has conducted research and interviews with civil society organisations and journalists to map their use and levels of access. We have found that different levels of democratic development and variations in bureaucratic culture mean that, in reality, levels of access to documents can vary radically. There are often huge differences within countries, either between different sectors of government which hold different types of information (environmental versus police information for example) or between national and regional/local levels.

From our research, general trends can be identified: there is stronger implementation of access to information laws in north-west Europe (even though, as noted above, they are narrower in scope). This situation contrasts with central and eastern Europe where the transition to democracy resulted in a strong legal basis for the right of access to information but still variable compliance with the right in practice, although in a number of countries impressive levels of responsiveness to requests have been achieved due to the work of civil society organisations promoting, using and – where necessary – going to court to enforce the right, something which is much rarer in western Europe.

With respect to proactive publication, many European access to information laws still do not contain specific provisions and although these may be scattered through a range of other legislation, there is no clear European or global standard on the right. There has been no systematic comparative study of the levels of proactive publication of information in different European countries and although the development of the internet has resulted in much information being published proactively by public authorities across Europe, the information is often not presented in a clear and timely fashion and is often not even relevant to the needs and interests of citizens. Only a handful of countries have responded to the opportunities provided by the internet by adopting laws with relatively broad proactive publication provisions, for example Hungary with its e-FOIA Act (2005) or the disclosure policies which are now mandatory under the UK's Freedom of Information Act (2000). As is considered in more detail in Section 4.3 below, the development of e-government initiatives is resulting in proactive publication of information needed for access to government services or for participation in decision-making but this does not always extend to information needed to check for corruption or to protect civil liberties.

No Laws or Weak Laws

The southern European region remains the weakest because of a combination of a lack of law and practice: a number of countries in Europe Union still do not have fully developed legal mechanisms for access to information: Cyprus, Greece, Luxembourg, Malta and Spain. In the wider Council of Europe region these countries plus a number of smaller states (Andorra, Monaco, and San Marino) do not have laws. On 10 February 2009, Russia adopted the "*Federal Russian Law on Providing with the Access to Information on Activity of the State Authorities and Local Governments*" which will enter into force until 1 January 2010; it remains to be seen how it will function in practice.

Other countries have laws but with serious deficiencies. Italy has a law but requestors are required to justify requests and there is little information about its implementation. Austria's law dates from 1987 but the provisions are very thin and do not create a full set of mechanisms such as establishing information officers or appeals bodies. In both these countries our contact with civil society has indicated an extremely low awareness of the law and lack of confidence that it is worth using it to seek information.

Lack of resources dedicated to implementing the laws by means such as training public officials or creating information officers is a problem in many countries, including in France and Germany. As a result, not only are members of the public unaware of their right to file request and receive a response within a fixed time-frame, but so are politicians and public officials. Access Info's work in France during 2007-2008 revealed a staggering level of ignorance of the existence of the 30-year old law, and the seriously underfunded Commission on Access to Official Documents has no resources to raise awareness.

4.2 Threats to human rights and the role of access to information

Access Info's research among civil liberties groups shows that they are finding it hard to obtain a range of information directly linked to the protection and defence of human rights. We have found, however, that these groups are often not aware of how the right of access to information could help them obtain the information they need for their work. If the right of access to information is going to be turned into an effective tool for defending other rights,

then civil society organisations need to be aware of and making full use of this tool.

Access Info's surveys of human rights and civil liberties groups working on national or transnational human rights issues show that many have never filed a formal access to information request using either their national access to information laws or the EU's access to documents rules⁵. This was true even where individuals interviewed said they were lacking significant information required for their work defending human rights and were aware of the existence of legal mechanisms by which they could request information. Reasons included the legal complexities involved in filing requests, the high levels of administrative silence, and the concern that taking an appeal to an information commissioner or a court will be a time consuming and expensive process. Another reason which is very important for advocacy groups engaged in public policy reform is that launching formal requests for information will be seen by public authorities as an offensive strategy likely to undermine carefully nurtured working relationships.

Thus information request strategies are not integrated into research and campaigns in defence of other rights; they are not yet part of the culture of human rights work in the way they are in the US. In many countries the absence of dedicated national access to information organisations means that those interested in using national access to information laws do not have specialised organisations to which they can turn for support. Although in most countries in central and eastern Europe there is a national level organisation specialising in access to information, in Western Europe the only such organisations the Campaign for Freedom of Information in the UK and the nascent German Association for Freedom of Information, the *Deutsche Gesellschaft für Informationsfreiheit*. In one or two other countries there are experts in the right (Roger Vleugels in the Netherlands for example) who will help in filing requests and taking legal appeals. There is a need to have similar resources in other EU countries.

We have also found that there is very little exchange of comparative information between CSOs in different countries who work on access to information issues. For example, groups working on surveillance and data retention measures introduced under the auspices of the war on terror have not produced a comparative mapping of what information is available in each country even though anecdotal evidence suggests very different levels of access.

With respect to new laws and measures related to the war on terror and security Access Info's research among civil liberties groups shows that they are finding it hard to get information related to a range of measures including communications data retention, biometric passports, DNA collection and CCTV surveillance. Those conducting research into these issues also risk harassment by the authorities: journalists in Germany who received leaked information about extraordinary rendition flights had criminal investigations opened against them.⁶

The EU has adopted secret laws relating to the war on terror⁷ and the EU programmes which define the common security, police and migration policy were adopted with no public consultation or input from civil society.⁸ Measures are being adopted without proper oversight or scrutiny from parliamentarians. For example, the decision-making about the handing over of European air passenger name records (PNRs) to the United States was conducted by an exchange of letters which forms part of an EU-US agreement that is marked "law enforcement sensitive – not for public dissemination."⁹ The European Parliament was not given access to these documents.

That there has not been more of a scandal about these issues across Europe is indicative both of the obscurity of what is happening at the EU level and also the sense of disempowerment in the face of the terrorist threat. The disempowerment is, in turn, being read by at least some in government as support for the measures.¹⁰

Access Info has also found that although civil society often calls for “transparency” these demands are not translated into concrete campaigns for specific measures to strengthen the right. The possibility to push for stronger legal provisions, increased proactive publication, compliance with time limits for responding, faster appeals mechanism, and specialised commissioners is not part of the repertoire of those calling for transparency; nor are many CSOs launching litigation to enforce the right either at the national or the EU level.

An example of converting calls for transparency into specific action has been our work in the aid sector. Access Info worked with aid effectiveness groups to develop a detailed agenda for improving proactive publication and respecting access to information laws that has resulted in creation of the Publish What You Fund campaign.¹¹

The only sector of civil society which has developed a consistent approach to promoting the right to information is the environmental movement. Activists from many European countries succeeded in 1998 in securing adoption of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, as well as the associated EU directive 2003/4/EC on public access to environmental information in 2003. The environmental movement has continued to be active in promoting and using the right of access to information as a tool in environmental protection campaigns. In some countries, however, this has resulted in the rules for access to environmental information being stronger than the general access to information rules, which means that there is a need for focused work in other areas. Yet even the relative strength of recognition of the right in this field and the implementation of these rules still leaves some information out of the reach of the public. Both at the national and at the EU level there has been particular criticism of the lack of transparency of the legislative process related to climate change. Access Info Europe has also been contacted by activists working on environmental issues for help obtaining information which, according to their governments or the EU, does not fall strictly within the definition of environmental information but which is needed for their work.

More recently, there has been some civil society and media activity directed at access to European Union documents (making use of the European Union’s Regulation (EC) No 1049/2001 on regarding Public Access to European Parliament, Council and Commission Documents). The drive for greater transparency of lobbying at the EU level led by groups such as ALTER-EU has not however focused on the wider principles of the right of access to information. A lead has been taken by organisations such as Statewatch and Farmsubsidy.org, but this has not been translated into systematic attempts to work on implementation of national to information regimes.

Furthermore and quite surprisingly, journalists’ knowledge of the right to information and its tactical value for their daily work is quite diverse in Europe. While journalists in the UK are active in getting information through the Freedom of Information Act, our contact with journalists in other well-established western democracies, such as France or Germany, reveals low awareness of the existence of the law and even lower levels of use. More training and

awareness-raising are needed among European journalists. There is also a need to support transnational use of access to information laws for journalists working on stories which involve more than one country (for example, a journalist from the Western Balkans investigating a story which involves public bodies in the UK and Germany). Transnational cooperation and support are needed to promote pan-European investigative journalism that makes best use of access to information laws.

Last but not least, in addition to providing advice to civil society organisations and members of the public, Access Info had identified the need for public officials who are aware of information that is not in the public domain but should be (whistleblowers) to be able to contact an organisation specialising in the right of access to information so that they can discuss how to proceed¹². Access Info has been contacted by public officials who wish to disclose information and we have provided advice on how to proceed; we have also been working with civil society organisations that have leaked information and we have provided advice on information request strategies based on knowledge of the documents held by the public bodies (national and EU level). Whistleblowers are important agents in levering open government and often face less protection in law than those who receive the information, it is therefore important that they are able to turn to experienced organisations which can provide them with confidential advice on how to proceed.

4.3 Standard-Setting, e-Government, Public Participation

As noted above, although the core definition of the right of access to information has been consolidated in the past two decades, there are still some significant areas of public activity which impact directly on the daily lives of people but which are not fully accountable because access to information is restricted.

During the debate over the Council of Europe Convention on Access to Official Documents this was evident in the strong resistance of some western European countries to consider the mandatory extension of the right to the legislative and judicial branches; similarly some states were ready to use what was in effect a veto power to reject the calls by other countries and by the Parliamentary Assembly of the Council of Europe for a water-tight right of appeal and for maximum time frames (Sweden rejected the latter for example).

The areas in which there is lack of agreement about the right of access to information include whether it applies to:

- private bodies performing public functions
- parliaments and other legislative bodies
- all courts and tribunals
- inter-governmental and supranational bodies
- private bodies holding info that could impact on or is needed to protect other rights

There is debate across Europe and at the EU level as to whether a database is a document or if an entire database can be requested under an access to information regime. The database issue is complex because information produced and received by public bodies is increasingly – and will be even more in the future – produced electronically and stored in databases. The documents model of the right to know is under increasing strain and yet, if information in databases is not considered to be a document, much relevant information will be inaccessible to citizens. Furthermore, as government functions are outsourced, the construction of

databases (the software) and the data-gathering that results in the content is often carried out by private bodies and subject to possible intellectual property considerations. This commercialisation of what should be public information held in databases is providing an additional barrier to access and requires new principles about how data is generated, gathered, and stored.

Another challenge in law and practice is that the application of exceptions to the right of access to information is often over-broad, excluding access to information which should be in the public domain. The commonly used exceptions in national laws appear to be wider than those permitted by international treaties.

With respect to inter-governmental bodies, the transparency of the EU is particularly important in Europe because of its decision-making and legislative powers. The Council of Europe is also an important institution because it sets standards on human rights: the somewhat ironic lack of transparency around the final stages of adopting the Convention on Access to Official Documents is an example of why greater openness and accountability of the Council of Europe is important.

Two other key inter-governmental bodies in Europe are the OSCE and NATO. Both of these are important from an access to information perspective because they contribute to standard-setting on, respectively, freedom of expression and information and on classification of documents and secrecy. One frustration with NATO has been that for many years it kept secret its rules on classification that should be followed by member states.¹³

The fact that the right of access to information is still a work in progress could provide opportunities for further debate and some hope of setting higher standards in the longer term. As the debate about the EU's access rules continues and as national laws are reformed it is essential that civil society engage to protect the right and, if at all possible, advance the standards. To this end civil society needs information about the best comparative law and practice and the emerging international jurisprudence.

The Internet, Proactive Publication and Public Participation

The rise of the internet opens up great opportunities for the right of access to information: it simplifies the process of requesting and receiving government information and obliterates cost arguments for proactive publication if a document can simply be posted on a government website.

As many countries introduce new procedures for electronic interactions with government (in areas such as accessing services, applying for licences, and paying taxes) it also creates opportunities for not only about accessing government services but also for participating in decision-making using electronic channels, sometimes referred to e-democracy. This in turn is likely to generate a greater demand for information and a greater sensitivity to issues of government transparency and how access to information functions in practice.

At present, however, as noted above, the proactive dimension of the right is seriously under-developed in law and some access to information laws have no provisions for it at all. Our research has shown that in practice large amounts of information are put into the public domain but that often this information is not relevant to people's everyday lives and is not the information needed to participate in decision-making or to hold governments accountable. The

public need direct access to relevant and timely information from public bodies without the burden of filing information requests and the delays caused by waiting for answers.

There are no standards on the mechanisms for public participation and although the European Union is spending millions of dollars for business to develop the IT platforms for participation, there has been almost no discussion with civil society and the general public about the principles which will underpin future public consultation exercises or the good practices which are being taken as models. It is hard to get information about the technological solutions that the EU is developing and there is a risk that these may not be designed with a full right of access to information in mind.

5. Access Info's Strategic Activity Areas

Our work is structured in three strategic lines designed to address the main problems identified in Section 4, using the approach defined by the Access Info mission and our theory of change. These strategic lines result in three activity areas which are described below. The activity areas have been conceived from the perspective of Access Info's internal strategy but also to make sense when communicating our work to external actors. Hence, this logic is also used in the structure of our website so that people approaching Access Info with little prior knowledge of our work should be able rapidly and easily to identify what we do, how we are doing it, and to find information which is of direct relevance to their needs or interests.

The three activity areas in which Access Info works are:

- **Advancing the Right to Know:** promoting access to information in law and practice across Europe;
- **Using the Right to Know:** helping NGOs, journalists, and citizens to get information;
- **Thinking Info!** standard-setting and policy discussions on the right to information.

Specific projects are developed in these three activity areas in response to the needs identified in Section 4. Not all of the problems identified are yet associated with specific projects, as it is necessary to prioritise and to focus our energies where it is most important and most likely that we will have an impact. This section gives an overview of the strategic approach to each activity area and the current projects; more information on specific projects can be found in separate project documents.

5.1 Advancing the Right to Know

Goal: This activity area aims to achieve improved and equal access to information held by governments for all European citizens by promoting common standards on access to information across Europe and by improving the quality of and compliance with legislation at the national and supranational level.

Specific work strategy: Initiating, leading and joining advocacy campaigns

Needs addressed:

- Citizens around Europe do not enjoy equal levels of access to information held by public authorities.
- The very minimum standards in the new Council of Europe Convention on Access to Official Documents are not fully incorporated into the legal framework of all European

countries, nor in the access regimes of intergovernmental and supranational organisations such as the European Union, Council of Europe, OSCE and NATO.

- Some countries are still without specific laws on access to information and others are lagging behind current international standards.
- Politicians and public authorities are not always aware of the latest developments on the right internationally and of the comparative best standards.

Results we aim to achieve:

- Countries without full access to information laws adopt legislation that, at the very least, meets common minimum standards.
- National and supranational rules on access to information are reformed to bring them into line with international standards.
- Countries sign, ratify and implement the Council of Europe Convention on Access to Official Documents.
- Increased compliance with existing access to information legislation at the national and supranational level.
- Increased awareness among politicians and public officials of the importance of the right of access to information and how it should function in democratic societies.

Current projects:

1. **Ratification Readiness:** Council of Europe Convention on Access to Official Documents: Promoting ratification and implementation. In partnership with national access to information groups.
2. **European Transparency** for Participation and Accountability. Part of project in partnership with Corporate Europe Observatory (Brussels) and Statewatch.
3. **Spain: Coalición Pro Acceso:** the campaign for a law on access to information. In partnership with 30 leading Spanish NGOs and assisted by volunteers in Spain. Work with International Budget Partnership to analyse budget transparency in Spain.
4. **Aid Transparency:** Promoting greater transparency of international aid flows.

Projects pending funding:

1. **Cyprus: The Right to Information:** Researching and Reforming Transparency Participation, Accountability and Reconciliation.

5.2 Using the right to know for human rights and civil liberties

Goal: The second strategic activity area aims to help people to defend their fundamental human rights and civil liberties using the right of access to information.

Needs addressed:

- Civil society organisations are finding it hard to get information needed to protect fundamental human rights.
- The right of access to information is not being used to its full potential by civil society organisations and individuals to defend other fundamental human rights.
- Many civil society organisations do not have a thorough knowledge of how the right of access to information works in practice or lack strategies for integrating it into their research and advocacy work.
- Journalists need training and support in incorporating the filing of requests into investigative and daily reporting work.

- There is a need for sharing of information on levels of government transparency between CSOs working in different countries around Europe.
- There is a particular need in specific areas to convert calls for transparency into targeted campaigns to promote the right of access to information in order to make a greater volume of relevant information held by Governments available to citizens. These areas include government counter-terrorism measures and international aid funding.
- There is a need for a help desk which can provide advice and support to members of the public, CSOs and public officials on the right of access to information.

Specific work strategy: cooperating with and supporting civil society organisations, journalists and groups of citizens.

Results we aim to achieve:

- Civil society organisations in Europe have a deeper knowledge of the right of access to information and how it can be used in their work to have a greater impact, even when information requests are not answered. As a result there is an increase in filing of requests and civil society groups join the campaign for greater proactive publication of information in specific sectors and generally.
- European journalists are aware of the right of access to information and of its use as a tactical tool for their daily work. There is an increased use of cross-border filing of information requests in investigations into areas of common interest between different countries all across Europe.
- Access Info gathers, analyses, and publishes comparative data about levels of transparency in Europe which can in turn be used in advocacy campaigns.
- Greater transparency in specific sectors which touch upon essential issues of European citizen's interest both through increased proactive publication of information and higher rates of response to requests for information.
- Civil society organisations, journalists, members of the public can access independent advice about the right of access to information and, where necessary, be put in touch with lawyers who can help on a particular case.

Current projects:

1. **"Legal Leaks"**: Access to information and data security for journalists: toolkits, training and legal support. In partnership with n-ost and regional/national partners.
2. **Litigation**: cases at the national and European level in defence of access to information. Supported by *pro bono* lawyers in Madrid, Brussels and Amsterdam.
3. **Toolkits** – guidance for the general public, journalists, and specialised NGOs on how to file request and how to appeal against refusals or administrative silence.
4. **Access Info Help Desk** – assistance for requestors who are unsure how to proceed with filing a request or who are considering appealing a refusal to provide information.

Projects pending funding:

1. **"Turn on the Light"**: Promoting transparency of information needed for the fight against corruption in the Western Balkans. In partnership with MANS, Montenegro and Transparency International chapters in W. Balkans.
2. **Access for Rights**: access to information as a tool for civil liberties and human rights protection. In partnership with Statewatch.

5.3 Thinking Info! Advancing the frontiers of the right to information

Goal: Access Info's third strategic activity area aims to contribute to advancing the definition of the right at the European level and internationally in order that more information falls within the reach of the right to know and can be accessed by the public.

Needs addressed:

1. Some areas of public activity which impact directly on the daily lives of people are still not fully accountable because the right of access to information does not apply to the relevant institutions or because the information they hold is classified or subject to broadly interpreted exceptions.
2. People still need access to information of relevance in their daily lives but which lies outside the reach of national access to information laws. This includes information about the totality of public activity and spending of public funds, including information about public services which have been outsourced to private bodies, information from parliaments and the courts.
3. There is a need for the right of access to information to apply to inter-governmental and supranational bodies if they are to become fully accountable and open to public participation in decision-making.
4. There is a need to ensure that all information held by public bodies, including information held in databases, is in principle accessible by the public.
5. The application of exceptions to the right of access to information is often over-broad, excluding access to information which should be in the public domain.
6. There is therefore a need for further investigation, collection of best practices, know how exchange between experts, and standard-setting to address these grey areas.
7. The public needs to have direct access to relevant and timely information from public bodies without the burden of filing information requests and the delays caused by waiting for answers. There is therefore a need to advocate for and achieve increased levels of proactive publication.

Specific work strategies: research and policy development, leading and engaging in regional and international debate on the right of access to information.

Results we aim to achieve:

- Improved definition of the nature, scope and functioning of the right of access to information.
- Expansion of the scope of the right to other bodies and sectors.
- Advancement of common standards and principles on access to information.

Current projects/activities:

1. **Thinking Info!** Access Info team members publish occasional policy papers, and keep a watching brief on issues which, although not formally part of project activities, may become so in the future. We join ongoing debates about the frontiers of the right to know and contribute our perspective, expertise and analysis.
2. **Access Info Principles** on the Right of Access to Information.
3. **Principles on proactive publication** of information held by public authorities.
4. **Principles on Classified Information:** Standard setting on classification of documents – research and analysis of good practice. Working with Justice Initiative.

5. **Open government data formats:** research map out and evaluate the current state of initiatives to promote use by governments of open formats for storing and disclosing information. Working with OSI Information Program, researchers from Oslo University, e-Governance academy.
6. **Five Principles for an Open and Accountable NATO** – principles designed to open up the transatlantic security body to the public. Working in liaison with NATO Watch.

In addition to the projects listed above, project in this activity area are sometimes short-term or **micro-projects** in which we react to a particular threat or opportunity, making statements, undertaking legal analysis, and other campaign actions in defence of the right to know. We will also respond to opportunities for standard-setting by engaging with other experts in development of a set of standards or issuing a statement in response to a particularly regressive or progressive move by a government.

For all these issues, Access Info aims not only to propose standards ourselves but to engage with policy makers, political leaders, civil society, academics and the media and to stimulate debate. Our policy and position papers and our website will be designed to broaden discussion about the nature and scope of the right of access to information.

Annex I

The Right of Access to Information:

The right to ask ... the right to know

The right of access to information places two kinds of obligations on governments: the duty to publish information at their own initiative and the duty to answer requests from the public.

The first obligation is to disseminate to the public relevant information about what public bodies are doing. This obligation is increasingly recognised by national laws and by international legal instruments as an integral part of the right of access to information.

The second obligation is to receive from the public requests for information and to respond within a short timeframe, either by letting the public view the original documents or by providing copies of documents and information held by the public bodies. This obligation is a common feature of all the over 80 access to information laws in the world.

This above definition of the right of access to information is in line with recent trends in international and comparative law, jurisprudence, and practice and is reflected in the best standards drawn from the over 80 access to information laws around the world.

Access Info maintains that the right of access to information should apply to all public bodies in all branches of government and to private bodies that deliver public services and/or operate with public funds, at least with regard to their public activities, as well as to private bodies that hold information necessary for the protection of other fundamental rights.

The proactive publication obligations, still being defined in international and comparative law, include information about the activities of government bodies that is relevant to the public. At a minimum this includes detailed information on how decisions are taken and on how public funds are spent, as well as information necessary to protect life, health, and the environment. Where such information is not already available or is not available in a format that is of use and meaning to the public, governments have an obligation to compile or to create it.

¹ Ley Orgánica 1/2002, de 22 de marzo, reguladora del Derecho de Asociación. Access Info's was founded on 26 June 2006 and registration was confirmed by decision of Spain's Ministry of Interior on 2 October 2006 (registration number 587828).

² For a full list see the website: www.right2info.org

³ See www.access-info.org

⁴ No data is collected in Sweden, France, Spain or Italy, for example. On the other hand, very precise data is collected in the UK and a number of Eastern European countries (Hungary and Bulgaria for example). One of the only comparative studies is the Open Society Justice Initiative's "Transparency and Silence" which reports on monitoring carried out in 2004; Helen Darbishire directed that 14-country global study.

⁵ The findings of this first stage interview research survey can be found on the interactive *Access for Rights Map* available on-line, [click here](#) (note: you need to be logged in to Google Maps)

⁶ See the Association of European Journalists report "Goodbye to Freedom?" at www.aje-france.com

⁷ See Access Info's press release at <http://www.access-info.org/data/pressreleases/09%2003%2011%20European%20Court%20Aircraft%20Rules%20Release.pdf>

⁸ For more information on the proposed measures see Statewatch www.statewatch.org

⁹ Copies of the documents have been leaked and are available on the Statewatch website www.statewatch.org.

¹⁰ Responding to concerns that the measures were disproportionate, former EU Transport Commissioner Jacques Barrot argued that "[t]he understanding and the readiness with which the vast majority of our citizens have accepted this measure and the inconvenience it brings are the best proof that they consider it to be adequate and necessary".

¹¹ See www.publishwhatyoufund.org.

¹² Access Info has recently been contacted by public officials who wish to disclose information and we have provided advice on how to proceed; we have also been working with civil society organisations that have leaked information and we have provided advice on information request strategies based on knowledge of the documents held by the public bodies (national and EU level). We have also provided information to the Council of Europe on the legal situation of whistleblowers in Spain and are participating as experts in Council of Europe conferences on threats to freedom of expression, access to information and protection of sources.

¹³ The classification rules were released in 2006 following an information request to the Hungarian government by Ádám Földes.