

The Right of Access to Information in Cyprus **Open Cyprus Project**

Draft Chapter III for Public Consultation **Interviews with Civil Society Organisations**

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For more information, see: <http://www.accessinfocyprus.eu/>

III. Interviews with Civil Society

1. CSOs and the Wall of Silence

Ten CSO representatives in the Republic of Cyprus and 14 in the northern part of Cyprus were interviewed in order to assess their awareness on the Right of Access to Information, its application (or absence) in Cyprus and their opinions and ideas on how this right should function.

CSO representatives have an acute need to access information held by public bodies in order for CSOs to fulfil their mandates, but the interviews revealed widespread frustrations with the mechanisms for accessing information from public authorities across the island and the challenges this creates when trying to engage in public decision-making processes.

CSO representatives have to resort to use of personal contacts in order to get the legal, financial, statistical and operational data they need in order to do their work defending and promoting human rights and democracy. Even then, in many cases the information cannot be obtained. As one CSO representative noted *"It's easier to get information from a Directorate General of the European Union than from my government"*.

The accounts by CSOs that they meet with a wall of silence when trying to obtain information from public bodies are confirmed by the findings of the information landscape survey of websites (Chapter V) and the monitoring (Chapter VI) – both of which demonstrate that extremely low levels of information in practice are day-to-day realities for CSOs in Cyprus.

At the same time, the interviews showed that CSOs are not well informed about the relevant international standards or about the domestic legal framework. The lack of clarity of the legal framework (see the legal analysis in Chapter IV) and the lack of information about the public's right to know contribute to this. Hence civil society representatives are not always confident of their legal position when arguing in defence of their right to access information held by public bodies.

Cultural Barriers to an Informed Society

In addition, many of the respondents noted the range of cultural barriers to open government in Cyprus. These include the concept that holding onto information is necessary for the exercise of power or even that it is a more effective way to operate, rather than understanding that sharing information could lead to greater efficiency in government and contribute to productivity in society. *"Many in our country think that holding information makes one more powerful... Holding information is a power control mechanism method. However it is a very outdated one."*

Another cultural barrier is the public officials are scared to release information, either for fear of what their immediate superiors will say or because of a fear of the public reaction to the actual information. As a result, a culture is created in which

there is a lack of actual official data circulating in society and much speculation and rumours, which in turn contributes to the fear of releasing real numbers and being criticised for what it reveals. It was noted that this is a fear which needs to be tackled head on: *"Another example is how much the public sector costs. Being scared of disclosing this information is useless; public sector may cost too much but this does not necessarily mean that it is inefficient."*

A third cultural barrier is the scepticism which leads civil society not to ask for information in the first place. As one respondent put it: *"Our problem in Cyprus concerning inaccessibility of information is rooted in a basic supply and demand analysis. Since no one bothers to demand information, then no one is out there to supply it. There is a perception that public information does not have a direct effect on the daily life of people. There is also a deficit of networking [in civil society] that arises from the consumerist and isolating features of our society."*

In reforming the access to information environment in Cyprus, these cultural attitudes need to be tackled in parallel with reforming the legal framework, ensuring good information management, and addressing the practical aspects of guaranteeing the right of access to information with effective mechanisms for proactive publication and for responding to requests for information.

Findings of the Interviews with Civil Society Representatives

- **Finding 1:** Low levels of awareness of the international standards on the right of access to information.
- **Finding 2:** Lack of clarity about the current legal framework for the right to know in Cyprus.
- **Finding 3:** Access to the budgets, plans, and programmes of public Institutions is difficult.
- **Finding 4:** Information on public tenders and awarded contracts is not available.
- **Finding 5:** CSOs know what information they need do to their work – and can't get it.
- **Finding 6:** Civil Society does not have the information needed to participate in decision-making.
- **Finding 7:** Accessing information from the other side of the island is particularly difficult.
- **Finding 8:** CSOs agree that that there are some legitimate limits on access to information.

2. Interview Findings and Recommendations

Finding 1. Low levels of awareness of the international standards on the right of access to information

The CSOs representatives were asked about the existence of international right of access to information norms. The answers revealed a lack of clarity about what the precise norms and relatively low levels of awareness about this right, in particular low awareness of how the right to information works in practice and to which information it applies.

In the Republic of Cyprus the CSO representatives (with two exceptions) were not aware of the relevant international norms but four presumed that there must be, either guaranteed by the Universal Declaration of Human Rights or under EU legislation.

"There must be legislation on access to information at the EU level. Both the EU and other international bodies should campaign on this issue. ... NGOs in the periphery of Europe are not aware of the right."

In the northern part of Cyprus, the interviewees (with just two exceptions) were not aware of access to information legislation, even though such a legal norm does exist in the north. Furthermore 10 NGO representatives interviewed stated that they were not aware of any international legislation on regarding the right to access information, transparency and accountability of the public institutions while four of them stated that they were aware of such legislation at European Union level (access to EU documents) and one stated that they know of the United States Freedom of Information Act.

"I guess that there should be."

"There is a law regulating EU transparency. I do not know how effective it is."

These findings show that there is an imperative need to increase public awareness and especially CSO's awareness, since CSOs are the entities that should know their rights in order to accomplish their mission in the society.

Recommendation: Public authorities and specialist civil society organisations should undertake further awareness-raising on the right of access to information targeting CSOs in these information campaigns.

Finding 2. Lack of clarity about the current legal framework for the right to know in Cyprus.

Throughout the course of the interviews it became clear that there was a lack of clarity about the current legal framework for the right of access to information in Cyprus.

In the Republic of Cyprus civil society representatives were uncertain about the right to all information but did note that there is a right of access to personal data held by public authorities: *"I don't think that I have this legal right. I know about the law concerning personal data."*

Others were less clear. For instance, in response to the question “Do you have the legal right to know what information is held for your organisation by businesses or public authorities? Should you have that right?” the NGO representatives we interviewed showed uncertainty about this right, with most of them replying “I think this right exists... but not sure / don’t know” or “at least there should exist...” or even “if it exists, it’s not well-implemented in Cyprus - so in effect we do not have it”.

As the interviews proceeded, some began to understand from the questions more about the shape of the right to know: *“I have just realised that I am not aware of the international or national legislation regarding this right! A campaign [on the right to know] would facilitate our work in the future. Because if you don’t know that this is your right, then even if you do have access to information, a public authority can deny access for no reason. That would make your life more difficult, so next time you won’t even bother asking.”*

Many civil society groups noted that the low awareness of the right of access to information extends to the population as a whole and that further education and awareness-raising activities on a large scale are needed. This is confirmed by the Opinion Survey (See Chapter II).

When specifically asked about domestic laws that give people the right of access to information, in the Republic of Cyprus eight CSO representatives said they were not aware of such legislation and two were unsure. This fits with the current situation in the Republic of Cyprus where there is no law. In the responses to this question, one CSO representative referred to the right of petition (this does not in fact provide a right of access to information – see Chapter IV on the legal analysis) and another to the proactive publication of information in the Official Gazette.

In the northern part of Cyprus the request about specific rules resulted in nine of the 14 interviewees saying that there was no such norm, with three unsure and just two knowing about the law that does exist in the north. Clearly the lack of implementation of this law is part of the problem, as one respondent noted: *“There is a law on the right to access information. However, there are problems with its implementation. One should also have the right to reach information as a matter of general rule of law.”*

These findings indicate the need to provide further education to members of the general public about the current legal framework, both with respect to the right of access to information and in general. The level of uncertainty around a fundamental right that is an essential tool for civil society is a significant concern.

Recommendation: Public authorities should take greater measures to inform members of the public of their rights and of the current legal framework. Public authorities should also engage CSOs in the debate about the existing rights framework and how to improve it.

Finding 3: Access to the budgets, plans, and programmes of public institutions is difficult

In both parts of Cyprus, the CSOs stated that it would be “difficult” or “not possible” for them to have access to information about the public institutions’ budgets, plans and programmes. Even those who believed they have (or should have) a right to such information believed it would be hard to access in practice.

“I think I don’t If I try to exercise the right of access ... I think they will tell me that it is none of my business. I think there is not such a right in Cyprus yet.”

“We only have access to such information through personal contacts.”

However, many of the CSOs noted that budget information is hard to obtain. The published information such as budgets published in the Official Gazette were characterised as “inconsistent” and “not accurate”. This was a particular concern in the north but was also in the Republic of Cyprus, where the difficulty in tracking public spending was noted.

About half of the interviewees in the Republic of Cyprus expressed the notion that they wouldn’t have ever thought about their right of accessing such “special” information from the government, because they had never thought of the existence of the “Right of Access to Information” as a collective set of rights and regulations that would aim to empower them to have effective access. Those other CSOs from both sides of the island who were speaking from the direct experience of having tried to obtain such information confirmed that it is indeed hard to get in practice.

When asked about accessing information about public institutions’ structure and functions the CSOs were more optimistic about being able to access this information and noted that at least some relevant data is published on public institution’s websites.

“If it’s a public institution, I am entitled to have access to information about their structure and functions. Of course nowadays with internet it is easier than five or six years ago. And the EU [membership] helps a lot.”

An important comment which started coming out at this point in the research was the fact that many public officials are “afraid of getting into trouble” and will not grant information for that reason. Hence the observation by many respondents that the only way to get access to information is through the use of personal contacts.

Others noted that the fear on the part of the higher level officials is a criticism by the public for home much the public sector costs (in other words, a fear of public scrutiny of spending even when there is no wrongdoing to be covered up).

It is noted here that the scepticism of the CSOs about accessing budgets, plans, and programmes is not ill founded: both the information landscape website evaluation and the monitoring carried out under the Open Cyprus Project have confirmed that access to such information is nigh on impossible.

Recommendation: In addition to clarifying the legal framework for accessing core classes of information from public bodies, immediate steps should be taken to ensure that such information is provided when requested.

Finding 4: Information on public tenders and awarded contracts is not available.

When asked if they had a right to access information on public tenders and awarded contracts, a not uncommon response was: *"No to all"*

In the northern part of Cyprus, there were conflicting views amongst the CSO representatives interviewed on public tenders. Some believed that with the introduction of the Central Public Tender Commission the process is now transparent while many disagreed with this.

Similarly in the Republic of Cyprus, the CSOs believed that there is a legislation that should provide access to this information, but did not believe that such information as contracts would be granted to them in practice.

It was here also that, from both sides of the island, concerns about clientelism and nepotism entered the responses with a number of respondents expressing the belief that information is either withheld in order to hide favouritism in the granting of contracts. Similarly it was felt by a number of respondents that the information about tender processes is also shared selectively: *"such information is kept within a small circle of people around government authorities"*.

Those who note that there is an obligation to publish such information also expressed the concern, clearly based on direct experience, that it is hard to track the data published. There were complaints that in the Republic of Cyprus it's hard to find information in the Official Gazette, even in the online version. Another concern expressed was that the published information is not enough to get the whole picture and that it is the information that remains hidden that is needed to ensure transparency of public procurement. This concern was also expressed in the northern part of Cyprus: *"Public procurement contracts are sometimes announced in the Official Gazette, but I think that the winner is usually predetermined."*

Significant proportions of public funds are spent through public procurement processes. Transparency of these processes is essential for two main reasons. First, there is a need to ensure a level playing field for the business community so that a business can compete on an equal footing with other businesses when applying for public contracting opportunities. In this way members of the public are assured of getting best value for money in the spending of public funds.

Second, transparency of public procurement is essential to for accountability and to ensure that there was neither corruption nor wastage of the funds allocated. This means that not only tender announcements and news of who received a contract but all associated information has to be made available. This should include information about the early phases of the decision-making process about which tenders will be offered, information about the criteria for awarding the tender and how decisions were taken, as well as full details of the contracts issued. Interim and final evaluation reports should also be made available.

Whilst small amounts of information might be withheld to protect commercial confidentiality, it is noted that there is much comparative jurisprudence from around Europe making clear that when private companies do business with government, they have to accept that information will be public and the use of the

funds they receive will be subject to public scrutiny as well as to oversight from the public body awarding the contract.

Recommendation: Public authorities in Cyprus should make available significantly more information about public procurement processes, the issuing of contracts, and delivery of the work or product for which the contract was issued.

Finding 5: CSOs know what information they need to do their work - and can't get it

The CSO representatives interviewed expressed a huge desire for access to information and were able to enumerate many classes of information that would benefit their daily work if only they could gain access.

In the Republic of Cyprus the information needs relate to the particular cause worked on by the CSO so that they have the data necessary to help them serve their mission, including legal, financial, and statistical information, as well as other classes of information. Similarly, in the northern part of Cyprus the varied range of information needs of the interviewees included economic and financial information and also in particular statistical information.

Class of Information	Examples of Types of Information
Legal Information	<ul style="list-style-type: none"> • legislation • draft laws/proposals • legal procedures • info on the Green Line Regulation
Economic information	<ul style="list-style-type: none"> • cost of living data • average annual income • info on the sectors of the economy where women are mostly employed • salaries of men and women in the private sector to test "equal pay for equal work"
Statistical information	<ul style="list-style-type: none"> • population statistics (e.g. in the northern part of the island, mixed villages, immigrants), • data on immigrants / refugees / asylum seekers, public health issues, • information concerning asylum seekers and refugees such as decision numbers or details about detained asylum seekers at the airport • employment / unemployment data • information on youth including the number of young people residing on the island (with data on migrant and local youth); data on members of youth groups, data on the number of young people who are disabled, who are involved in sports, and who misuse drugs or alcohol. • the sex ratio of people employed in senior positions in public services and decision-making bodies, as well as of those employed by or involved in NGOs and trades unions; • statistical data concerning pregnancy and unemployment rates • any information relating to violence against women, • the geographical distribution of cases of and details on the educational background of victims and perpetrators, information

	about domestic violence against children or LGBTT members
Financial Information	<ul style="list-style-type: none"> • procurement and contracts information • information on percentage of budget spent for students, scholarship rules • amounts that [political] candidates spend on election campaigns • the salaries of public officials
Decision-making information	<ul style="list-style-type: none"> • minutes of sessions of decision-making bodies (e.g. House of Parliament and its committees) • opportunities for participation
Other	<ul style="list-style-type: none"> • the circulation rate of newspapers • information about project opportunities

When asked how they access information, many of the CSO representatives stated that they have to rely on personal conducts. One interviewee highlighted that *“Accessing information requires strife and endeavour; it is hard and tiring”*.

Some also raised concerns that most of the information that should be readily available in web-sites are not (See also Chapter V on the Information Landscape Website Evaluation).

Doubts were also raised about “information on information”: there was some confusion as to which public body that may hold the information they need to access to. There is a general lack of guidance as to how to go about accessing information.

The lack of information from public authorities is extremely concerning. Civil society organisations cannot play their role in society nor work in partnership with government to promote democracy if they do not have access to basic operational and statistical information held by government. The severe lack of publicly available data in Cyprus is hampering economic and democratic development.

Recommendation: The public authorities in Cyprus urgently need to ensure that much of the information gathered and held by public authorities is made available to civil society organisations. Where information is not held, public authorities should work with civil society organisations to identify priorities for the social and economic data and statistical information that should be collected in order to have more effective decision-making that serves the needs of the general population.

Finding 6: Civil Society does not have the information needed to participate in decision-making

In the northern part of Cyprus all but one of the interviewees stated that civil society does not have access to the information it needs to be able to participate actively in decision-making procedures. In the Republic of Cyprus seven said they do not have the necessary information and three said that they can sometimes get access to such information although this depends either on contacts or on making a great effort to get to know the relevant people inside government.

Although asked about the information necessary to participate many of the CSO representative stressed that the existing decision-making mechanisms are not open and there are few participatory processes.

One interviewee has stressed that in Cyprus *"no public body takes [CSOs] seriously ... the existing mechanisms are not participatory."*

This is true for decisions by the executive and legislative branches: many of the CSOs highlighted that in northern Cyprus *"a draft bill might be ratified overnight"* and one added that *"we find out in the media about draft legislation."*

In the northern part of Cyprus, more than half of the NGO representatives interviewed stated that they had never directly involved in such procedures and all agreed on that the procedures do not in most of the cases work efficiently. One interviewee described his own experience with an example: *"we got actively involved during the decision-making process concerning the electricity connection for the Karpaz area. Although civil society was mobilised for this issue, nothing finally changed."* This shows that there is a lack of mechanisms to receive submissions from the public, to process them, and to give feedback explaining why (or why not) and how the input was incorporated into final decision. Indeed one CSO representative commented that there is a great resistance to feedback: *"if an opposite view is expressed, then the procedure is halted."*

Similarly in the Republic of Cyprus, most of the interviewed CSOs do not think that currently they can have an active role in decision-making procedures because of the absence of adequate public participation mechanisms. Many commented that CSOs are not considered by the public authorities as organizations that should have a say, and that they are deliberately excluded from these processes. As a result *"we just demonstrate."*

Even those CSOs that do have a chance to engage in public authority decision-making argued that the mechanisms does not work as effectively as they should and are open only to preselected organisations. As a result, CSOs are passive when it comes to decision-making: they just receive the decision when it is taken.

It was noted that there is a general lack of transparency around decision-making procedures which extends to the Committees of the House of Parliament. It was noted that there is no access to the minutes of parliamentary committees, which makes it harder for CSOs to engage in discussions with members of parliament.

Another concern raised throughout the interviews which is particularly relevant in the context of decision-making is that information is not received in a timely fashion. Respondents stressed that information is not timely, it is not useful for the CSO in its work: *"if you cannot have the information you need on time, then it is useless because you cannot intervene when, for example, there is a law to be passed soon and you want to object."*

There is clearly a huge democratic deficit in Cyprus when it comes to public participation in decision-making: both the mechanisms for full participation and the information needed to engage are largely absent according both to the CSOs interviewed and also the findings of the information landscape survey and the monitoring (See Chapters V and VI).

Recommendations: Legal and practical measures should be taken to open up public decision making to members of the wider public, creating specific mechanisms whereby CSOs can engage in the full decision-making cycle in the executive branch and can participate in the discussions around development of new legislation in a meaningful way which ensures that their views and substantive contributions based on their in-depth expertise in their respective fields of activity are given due consideration.

Finding 7: Accessing information from the other side of the island is particularly difficult

The CSO representatives were asked whether they need information from the other part of the island, and if so what kind of information they need and whether they are currently able to access it. The great majority stated that they do need information from the other side of the island but stated that in many cases it was hard or impossible to access directly, that they needed to rely on support from CSOs on the other side of the island, and that even then information was often not forthcoming.

In the northern part of Cyprus 12 of the 14 CSO representatives interviewed stated that they need information held by public bodies of the Republic of Cyprus. As with the information needed in the north, the classes of information include financial and statistical data, legal and environmental information, and information about the functioning of public bodies.

In the Republic of Cyprus, all the CSOs interviewed said that there is at least some information that they need from the northern part of Cyprus. A number of the CSOs contact other CSOs and individuals in the north to get the information they need via their personal contacts that are established in the north. The NGOs said that they consider very difficult or impossible the possibility of them to have direct access to the information in the north without the help of intermediaries.

In both parts of Cyprus, the types of information that CSOs need is the same as for their side of the island. Examples of the classes of information needed by CSOs in the northern part of Cyprus include: *data on the education received by Turkish Cypriot minority children in the Limassol district; statistical information concerning the population in 1960s; socio-economical data; information related to certificates that might be useful for students abroad such as the EU Health Card; gender related data; information of waste; rights of Turkish Cypriots in the Republic; human rights; migration; import and export figures; laws and regulations in relation to the implementation of the Green Line Regulation.*

Data needed by those in the Republic of Cyprus is also similar to that needed in the south, including information related to their CSO's cause (for example population data, information on educational and human rights issues) and also information on properties, businesses, legislation, about CSOs, topographical maps, and statistical data such as on health issues (for example one organisation needs data on levels of AIDS).

On both sides of the island a presumption of prejudice prevented the CSO representatives from asking for the information. The answers ran along the line of: *"I wouldn't dare to ask for information [in the north] right now" ... "I think that*

they wouldn't give me the information" ... "If there were a democratic system in the future, they I would definitely [ask]" ... "Personally I have never tried".

Hence the answers underscored that the persistent political problem in Cyprus is a significant factor inhibiting CSO representatives from the Republic of Cyprus from seeking access to information in the other part of the island. The anticipation of discrimination is not, however, the only factor, as those who have tried to get information noted the frustrations: *"Our efforts to obtain information have not got beyond our efforts to try to make an appointment with the relevant officials"* noted one CSO rep from the north. *"And even to make those appointments we had to resort to our personal contacts."*

A further and very significant issue is the language barrier: *"The language issue is very important and one of the biggest problems is that information for both sides is going through a third language (English); this is not direct communication."*

The overwhelming desire to access information in the north indicates, as one respondent noted, that the political context is changing and that CSOs are now increasingly working cross border.

Recommendations:

- Public authorities in Cyprus should respond to the demand by civil society across the island by ensuring that there is no discrimination in the treatment of information requesters.
- Greater efforts should be made to make key classes of information, including financial and economic data and statistics as well as laws, legal information, and information about public participation opportunities, available in both Greek and Turkish languages as well as in English.

Finding 8: CSOs agree that that there are some legitimate limits on access to information.

The CSO representatives we asked to imagine that they were legislators and to state what limitations or exceptions they would place on the right of the public to access information held by public institutions.

This yielded some very well-reasoned responses in which the CSO representatives argued in favour of broad access to information with narrow exceptions where necessary to protect particular interests.

In the Republic of Cyprus, the CSO representatives underlined the importance of protecting the right to privacy by preventing access to personal data (e.g. medical records, details on personal habits, and personal financial data) and the rights of minors by protecting personal data about children. It was noted by a couple of respondents that these privacy rights do not extend to all public officials, and that some personal information should be published, including details on salaries, assets and information on potential conflicts of interest.

Some CSO representatives noted the need to protect state security (i.e. national defence) and that thus the related information should be restricted from public access: *"With the exception of [the location] of weapons, I do not see the need for*

secrecy." Protection of criminal investigations was noted as another legitimate reason for withholding information.

It was noted that while it is necessary to protect legitimately classified information, mechanisms must be in place to ensure that exceptions are not abused. *"Certainly there must be a mechanism in place to exclude the abuse of power. Because the problem is that under the guise of necessity certain information is retained but this serves other purposes."*

Otherwise, all agreed that the right of access to information should not have any restrictions to anyone, so long as publication of the information would not violate the legal rights of others.

Similarly in the northern part of Cyprus, most of the CSOs interviewed stated that they would not set any limitations or exceptions to the right of citizens to access information held by public institutions apart from personal data of individuals and information that could harm public security or national security (although all has stated that this exception should be very limited). Only one interviewee stated that he would set limitations on financial matters and issues concerning international relations as well. Protection of trade secrets was another legitimate secret that was mentioned.

These responses demonstrate that across the island the demand for a full right of access to information is matched by a clear understanding that not absolutely all information in the hands of public authorities can be made available and that there are legitimate exceptions when narrowly drawn in law and applied in practice.

This augurs well for the process of adopting a full access to information law in the Republic of Cyprus in line with the Council of Europe Convention on Access to Official Documents: there is likely to be strong civil society support for a law which contains a list of exceptions which match those set out in the Convention.

Recommendation: The authorities in Cyprus should ensure that the legal framework for access to information is brought into line with the Council of Europe Convention on Access to Official Documents, that the exceptions to access match the legitimate purposes established by that convention, and that they are subject to harm and public interest tests.