

# **The Right of Access to Information in Cyprus**

## **Open Cyprus Project**

### **Draft Chapter II for Public Consultation**

### **Opinion Survey Report**

**Consultation Opens 24 February 2011**

**Consultation Closes 10 June 2011**

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

## II. The Opinion Survey

### Findings of the Opinion Survey on the Right to Know

In order to get a picture of how members of the public across Cyprus perceive the right of access to information and how it is currently implemented, a telephone opinion survey of 1000 people across the island was carried out in March 2010.

The main findings of the Opinion Survey provide a valuable insight into how the public views current levels of government transparency.

- **Finding 1:** Three quarters of people in Cyprus believe that they have a right of access to information.
- **Finding 2:** The public believes that the right of access to information applies, in theory, to key information held by public institutions. Half of respondents stated that, in practice, such access is not possible.
- **Finding 3:** Survey respondents believe (incorrectly) that the Republic of Cyprus has an access to information law while the northern part of Cyprus does not.
- **Finding 4:** The public in Cyprus believes that, in practice, public institutions are not open, not transparent, and not trustworthy. Key processes such as decision making and the legislative process are closed to the public according to most respondents.
- **Finding 5:** Across Cyprus there are mixed attitudes as to whether foreigners should enjoy the right of access to information.
- **Finding 6:** Overwhelmingly members of the public believe that in Cyprus there is a right to information about public participation in theory but not in practice.

In this section of the report we set out and analyse the findings of this research, summarising what it tells us about the right of access to information in Cyprus.

### Opinion Survey - Methodology

The opinion survey involved contact with a total of 1000 adults, 500 of whom were resident in the Republic of Cyprus while the other 500 live in the northern part of Cyprus.

The survey was designed with a stratified methodology and used the criteria of geographical distribution for the random selection of respondents.

It was carried out between the 15<sup>th</sup> and the 25<sup>th</sup> of March 2010 in the language of the respondents, either Greek or Turkish.

It consisted in a series of telephone interviews during which the respondents were guided through a questionnaire that comprised 24 items divided in three sections.

The full questionnaire and the graphics showing the answers to each question can be accessed on the Open Cyprus Project website.

The opinion survey was carried out by Prologue Consulting Limited in the northern part of Cyprus and Cymar Market Research Limited in the Republic of Cyprus.

## The Findings

### Finding 1: Three quarters of people in Cyprus believe that they have a right of access to information.

There is widespread awareness in Cyprus that everyone has a right of access to information in general from public authorities and also that there is a right of access to personal information. Three quarters of all respondents to the Opinion Survey agreed or strongly agreed that these rights exist in theory.

The key findings indicating a high level of awareness that there exists, in theory, a right of access to information are:

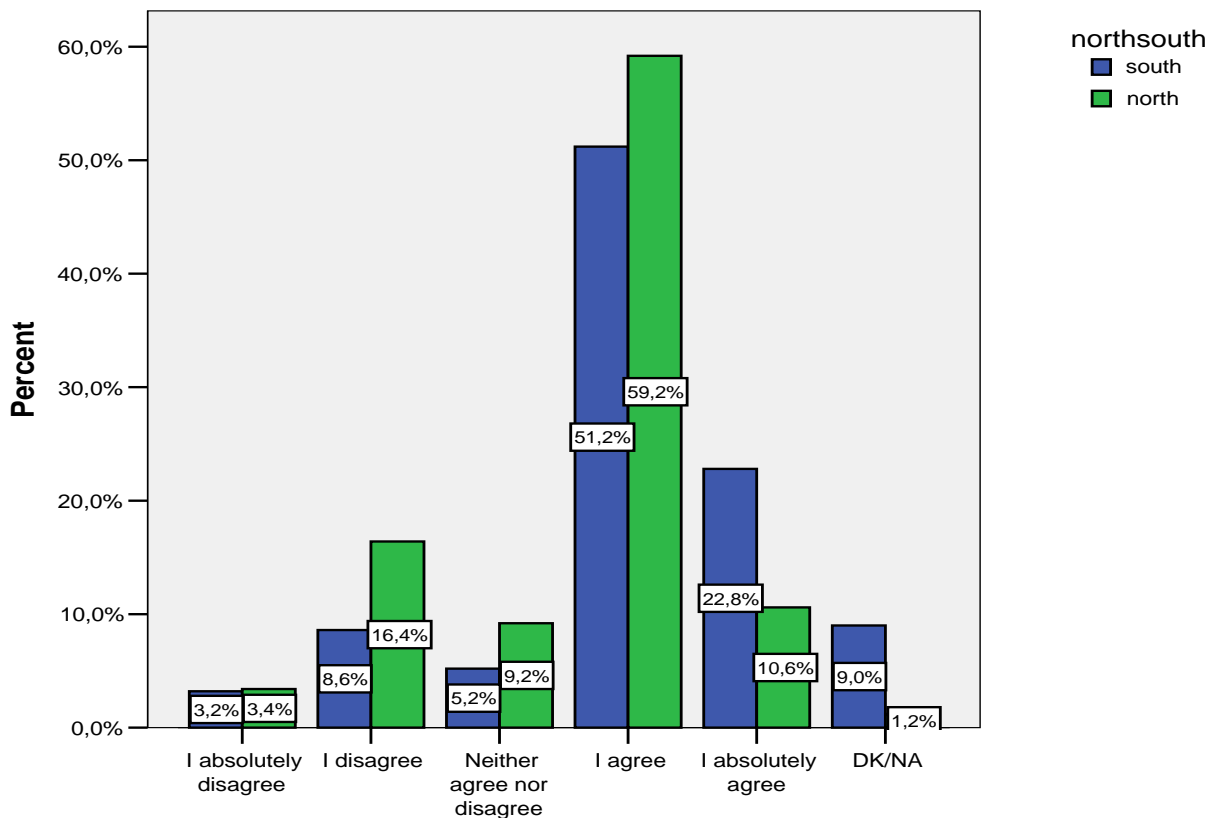
- *Nearly three quarters of those surveyed believe that they have a right to transparent institutions:* A full 74.0% of those surveyed in the Republic of Cyprus and 69.8% in the northern part of Cyprus stated that they have a right to demand transparency of public institution's decisions and action. [Q11]
- *Two thirds of respondents were confident that they know what transparency is:* 66.8% of those surveyed in the Republic of Cyprus and 62.4% of those in the northern part of Cyprus agreed or absolutely agreed with the statement that they know what transparency of public institutions is. [Q9]
- *Similarly, three quarters of respondents in both the Republic of Cyprus and the northern part of Cyprus were aware that they have a right to find out what personal information is held about them by both public authorities and private institutions:* The agree and absolutely agree responses for this question were exactly 75.4% in both Republic of Cyprus and the northern part of Cyprus. [Q1].

These findings are important because they show that the public has a high expectation of a right of access to information held by public authorities. If this right is not enshrined in the constitutional and legal framework in Cyprus and upheld in practice by public institutions on a daily basis, members of society will notice the disjuncture between a right they believe to exist and the rights they enjoy in practice. This is likely to lead to dissatisfaction and decreased levels of trust in public authorities.

An additional finding was that half the respondents stated that they believed that EU legislation establishes a right of access to information. They further stated that EU legislation requires the transparency and accountability of public institutions. In the Republic of Cyprus 44.8% of respondents agreed or strongly agreed with this statement, and in the northern part of Cyprus 53.4%. There remained a high level of doubt however, with one in three people (30.0% of those in the Republic of

Cyprus and 33.8% of those in the northern part of Cyprus) disagreeing or strongly disagreeing with the statement that such a right is established by EU legislation (a further 21.4% of those in the Republic of Cyprus and 16.6% of those in the northern part of Cyprus stating that they did not know the answer or neither agreed nor disagreed).

Question 11: I have the right to demand transparency regarding public institution's decisions and actions



The doubt here is correct in that the access to information laws do not form part of the EU's *Acquis Communautaire*. However, the right of access to information is a fundamental human right recognised internationally by bodies such as the European Court of Human Rights, and enshrined in many constitutions and laws worldwide. There is also a fundamental right of access to EU documents, and the vast majority of EU member states recognise the right at the national level.

**Recommendation:** The public authorities in Cyprus should ensure that the right of access to information is recognised as a fundamental human right. Committing to implement the 10 Principles of the Open Cyprus Coalition would be a strong start in this direction, pending any legal or constitutional reform.

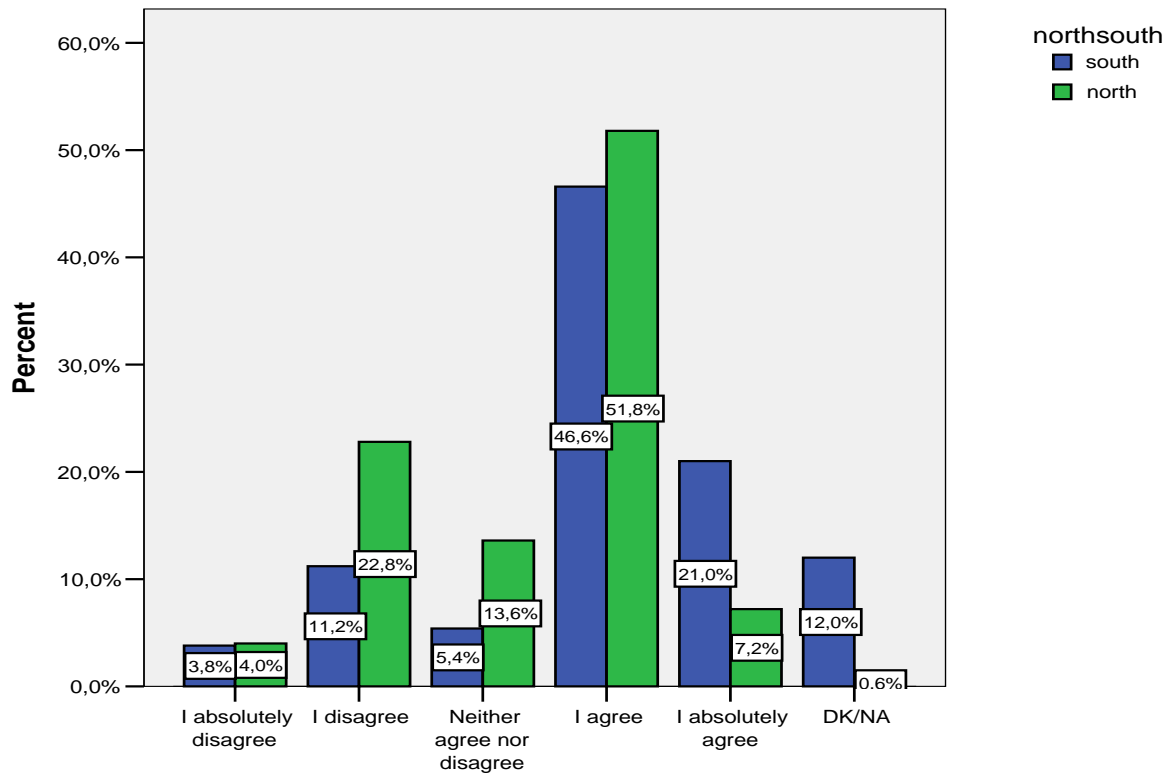
**Finding 2: The public believes that the right of access to information applies, in theory, to key information held by public institutions. Half of respondents stated that, in practice, such access is not possible.**

Members of the public can, in theory, have access to information from public institutions about things such as their structure, functions, budgets, plans and policies according to over half of respondents. There is also a right of access to draft budgets, plans and policies, and to public participation opportunities.

The survey respondents were less confident about whether or not they can have access to information about public procurement tenders and the contracts awarded by public institutions, with just half of respondents agreeing or strongly agreeing with this statement. This means that the other half of respondents do not believe that such access is possible. This lack of confidence is consistent with the findings of the information landscape and monitoring surveys which demonstrate a very low level of access to information in practice.

- *Over half of survey respondents stated that they have, in theory, a right of access to information about the structure, functions and services of public institutions.* In the Republic of Cyprus 57.6% and in the northern part of Cyprus 59% of those surveyed agreed or strongly agreed that they can have such access. [Q2]
- *Similarly, most people believe that they have right of access to the budgets, plans and policies of public institutions.* This belief was slightly stronger in the Republic of Cyprus (58.6%) compared with the northern part of Cyprus (47.0%). [Q3]
- *This right extends to draft budgets, plans and policies of public institutions according to around half of respondents.* In the Republic of Cyprus 53.8% and in the northern part of Cyprus 47.8% of those surveyed agreed or strongly agreed that drafts fall under the scope of the right. It should be noted there that the level of disagreement was very high in the northern part of Cyprus, with almost 4 in 10 of those surveyed (38.8%) stating that they do not have such access. [Q4]
- *Over half of respondents believe they have a right to information about public participation opportunities.* In the Republic of Cyprus 51.4% and in the northern part of Cyprus 58.2% agreed or strongly agreed that they can access information about public participation. [Q6]
- *Under half of respondents believe that they can, in practice, access information about public procurement tenders and the contracts awarded by public institutions.* In the Republic of Cyprus over half, 57% and in the northern part of Cyprus under half, 43.2%, agreed or strongly agreed with that they can have such access. There was a high level of disagreement in the northern part of Cyprus, with 44% stating that they disagreed or strongly disagreed with this statement. [Q5]

Question 2: I can, if I want to have access to information about the structure, functions and services of public institutions.



**Recommendation:** Urgent steps need to be taken by the public authorities to grant access in practice to information which members of the public believe they have a right to access. The information that should be released includes that on public participation opportunities and on the process of awarding public procurement contracts as well as copies of actual copies issued. To the extent that such information is already in the public domain (for example because it is published on websites or in official bulletins) a greater effort needs to be made to ensure that the public is able to locate the information.

**Finding 3: Survey respondents believe (incorrectly) that the Republic of Cyprus has an access to information law while the northern part of Cyprus does not.**

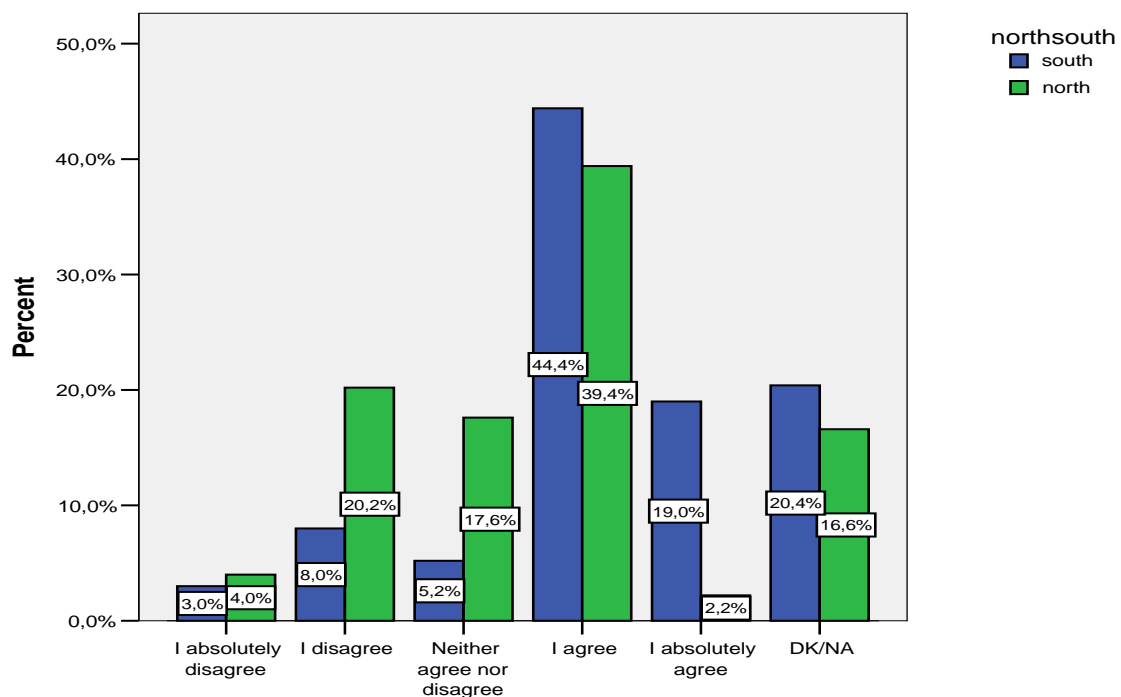
An interesting finding is that two thirds of those in the Republic of Cyprus assume that the legal framework includes an access to information law (which would be consistent with the belief that it is a right and an EU requirement). In fact, there is no access to information law in the Republic of Cyprus. The fact that most respondents believe that this right is not actually upheld in practice (only one in four of those in the Republic of Cyprus believe that there are mechanisms to protect the right) indicates a strong scepticism towards the rule of law and a belief that laws exist but are not applied or respected.

In contrast, there is a belief in the northern part of Cyprus that there is no law (incorrect as such a norm exists) although this is accompanied by a high level of

scepticism as to whether it functions in practice. This indicates that little or nothing has been done to raise public awareness of the right to request information from public authorities in the northern part of Cyprus.

- *Two thirds of those in the Republic of Cyprus believe that they have an access to information law.* The level of those who agreed or strongly agreed with this statement was 63.4%. Only 11% disagreed with the statement, although there was a high level of uncertainty (“don’t know” and “neither agree nor disagree” responses) at 25.6% or 1 in 4 respondents. [Q7]

Question 7: Your part of Cyprus has a law which gives people the right to request and receive information from public authorities



- *Only four in ten of those in the northern part of Cyprus believe that they have an access to information law.* While just 41.6% of those in the northern part of Cyprus believe they have such a law, one quarter (24.2%) stated that they did not, whereas every third person (34.2%) was not was not sure whether such a law existed or not. [Q7]
- *Transparency mechanisms do not work in practice.* When asked whether there are mechanisms safeguarding the transparency of public institutions, the picture was more mixed with around one in four in the Republic of Cyprus and northern part of Cyprus (43.0% and 40.6% respectively) agreeing, and between a quarter and a third disagreeing or strongly disagreeing (25.8% in the Republic of Cyprus and 38.6% in the northern part of Cyprus). [Q10]

These findings indicate that even if there is a belief that there probably is an access to information law, it is not accompanied by effective mechanisms which result in transparency.

It is interesting to note that in fact the respondents to the survey are mistaken: the northern part of Cyprus currently has a law on access to information whereas the Republic of Cyprus does not. That said the law in the northern part of Cyprus is not fully implemented and the oversight body which should protect the right has not been constituted.

**Recommendation:** A full access to information law which meets international standards should be adopted in the Republic of Cyprus. The current norm in the northern part of Cyprus should be fully implemented. All legal provisions guaranteeing the right of access to information should meet the standard set by the Council of Europe Convention on Access to Official Documents.

**Finding 4: The public in Cyprus believes that, in practice, public institutions are not open, not transparent, and not trustworthy. Key processes such as decision-making and the legislative process are closed to the public according to most respondents.**

The survey respondents were very clear in asserting that the Cypriot authorities across the island are not sufficiently open and transparent. That the public also believes that its public authorities are not fully trustworthy is undoubtedly a by-product of perceiving them to be secretive institutions.

- *Only around one in three respondents agree that public authorities in Cyprus are open and trustworthy.* In the Republic of Cyprus there is slightly high agreement or strong agreement that public authorities are open and trustworthy (46.6%) with a full 34.4% disagreeing/strongly disagreeing. In the northern part of Cyprus only 34.8% agree/strongly agree while nearly half, 46.2%, disagree/strongly disagree that the public authorities are open and trustworthy. [Q13].
- *Less than half of respondents are optimistic that public authorities are becoming more open.* Such optimism is higher in the Republic of Cyprus (50.4% with 32.2% disagreeing/strongly disagreeing) whereas in the northern part of Cyprus over four in ten believe the situation is getting worse (43.4% disagree/strongly disagree that there is an improvement with slightly less, 40.2% agreeing/strong agreeing). [Q14].

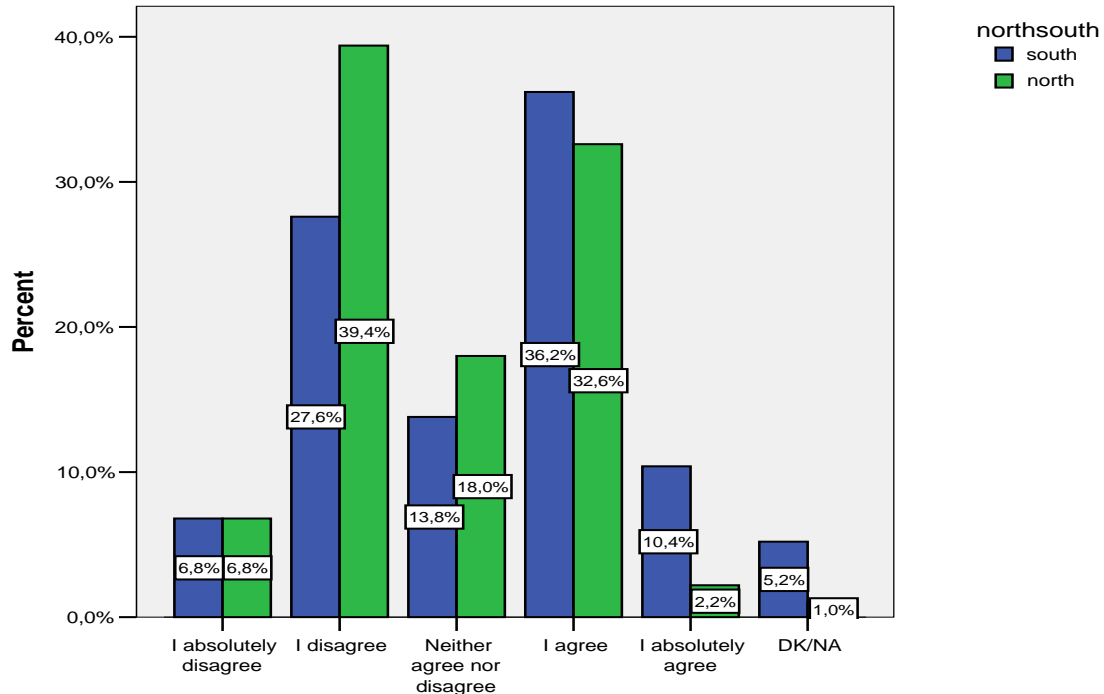
When it comes to specific information, such as transparency of the law making procedure or decision-making procedures, under half of respondents believe that there is any transparency with a high percentage of respondents disagreeing.

- *Only around one in three believe that there is transparency of law making.* This figure is slightly lower in the Republic of Cyprus (37.4%) than the northern part of Cyprus (41.6%). There was also stronger disagreement in the northern part of Cyprus with this statement (41.0% as against 36.4% in the Republic of Cyprus). [Q12]
- *Under half believe that there is transparency of decision-making.* In both Republic of Cyprus and northern part of Cyprus only four in ten agreed or strongly agreed with this statement (43.8% in the Republic of Cyprus and



43.2% in the northern part of Cyprus). Once again there was a high level disagreement/strong disagreement: 34.2% in the Republic of Cyprus, reaching 42.2% in the northern part of Cyprus. [Q17]

*Question 13: Public authorities are generally open and trustworthy*



This finding is of particular concern: when it comes to key decisions which affect their everyday lives, and the development of the laws they will have to obey, members of the public across Cyprus feel that they are being kept in the dark. Being distance from decision-making in this way can rapidly lead to the conclusion that decisions are being taken for reasons linked to nepotism and corruption rather than in the wider public interest; whether or not this is true, it is the perception that is likely to result from secrecy.

This finding indicates an urgent need to open up to greater public participation the basis decision making and legislative process of government. The low levels of trust in public authorities indicated by these questions cannot be reversed without greater transparency.

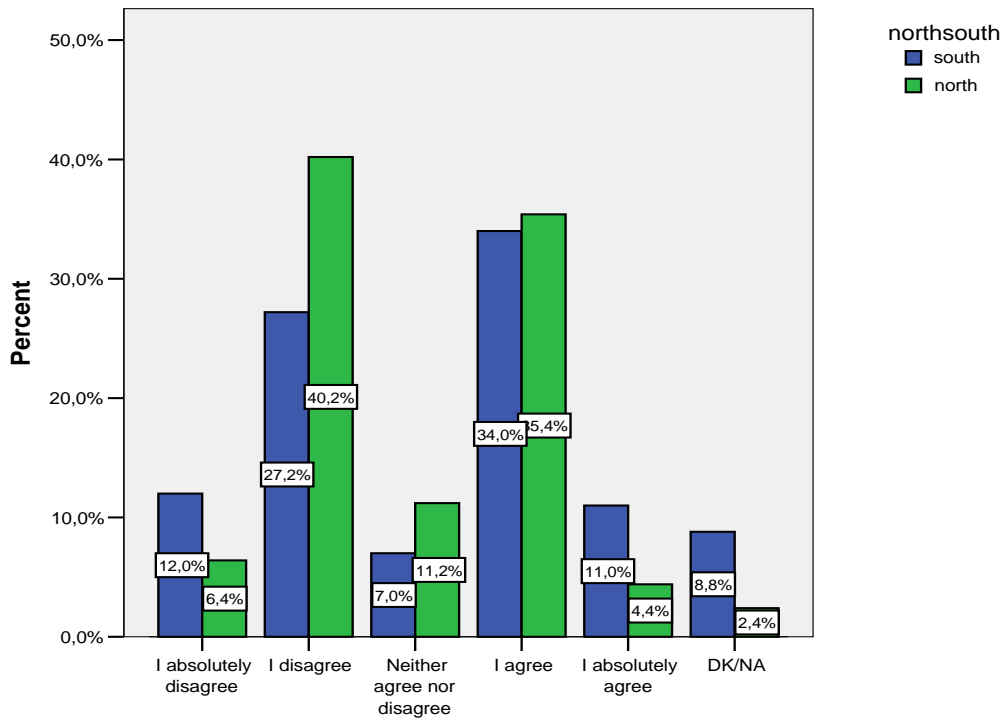
**Recommendation:** Public authorities across Cyprus should act swiftly to release more information to the public. An important place to start would be to make sure that all the key information relating to the decision-making process in each public authority is placed in the public domain (and if it is already in the public domain, to make sure that it is easily accessible to the public). Similarly urgent steps should be taken to ensure that the information about the legislative process is fully and easily available to all members of the public. Full use of websites as well as other means of communication should be deployed as part of this proactive transparency initiative.

**Finding 5: Across Cyprus there are mixed attitudes as to whether foreigners should enjoy the right of access to information.**

The Opinion Survey identified very mixed attitudes to whether or not foreigners and citizens should have the same right of access to information.

- *In both the northern part of Cyprus and the Republic of Cyprus around four in ten of respondents said that foreigners have the same rights, while another four in ten disagreed. This mixed picture was the same in both the northern part of Cyprus and the Republic of Cyprus:*
  - In the Republic of Cyprus there was agreement/strong agreement by 45.0% of those surveyed, and disagreement/strong disagreement by 39.2%. [Q8]
  - In the northern part of Cyprus, there was agreement/strong disagreement by 39.8% of those surveyed, and disagreement/strong disagreement by 46.6%. [Q8]

Question 8: Foreigners and citizens have the same right to access information



This mixed picture is probably only partly due to the particular political situation pertaining in Cyprus. In other countries it is relatively common for members of the public to have some doubt about whether the right of access to information applies to foreigners as well as to citizens. To the extent that the right to information is about holding governments accountable for spending of taxpayers' money, this makes sense. But the right of access to information has been recognised by international human rights tribunals as being directly linked to the right to freedom of expression, a universal and fundamental right, and hence the right to request information should apply to all persons, whether or not they are resident in, voting in, or paying taxes in, a particular jurisdiction.

This is confirmed by the Council of Europe Convention on Access to Official Documents which establishes that the right shall be respected by public authorities with no discrimination of any kind as to the nationality, residence, profession, or other attributes of the requestor.

In line with the perception about the general rights of foreigners to access information in a particular jurisdiction, there was a mixed picture when the question was specifically about Cyprus. The survey found that people generally believed that they had a right of access to information on the other side of the island, but responses were mixed when it came to the access rights of those from the others side:

- *Over half of those surveyed believe that they have a right of access to information in the other half of the island.* In the Republic of Cyprus a full two thirds (65.2%) agreed/strongly agreed that they should have a right of access in the northern part of Cyprus. Similarly, in the northern part of Cyprus, over two thirds (71.2%) believed that they should have a right of access to information in the Republic of Cyprus. [Q23 & Q24]
- *When asked whether people from the other side of the island should have access to information, the picture was again mixed, perhaps reflecting typical attitudes to the rights of foreigners in general as well as the particular situation in Cyprus.* In the Republic of Cyprus only one third (33.4%) agreed/strongly agreed that those in the northern part of Cyprus should have access and over half (55.2%) disagreed/strongly disagreed. Similarly, of those surveyed in the northern part of Cyprus half (52.0%) agreed/strongly agreed, whereas just over a third (38.4%) disagreed/strongly.<sup>1</sup> [Q23 & 24]

Overall, these results are positive, particularly given the context of a long-standing conflict: they demonstrate that there is a readiness on the part of a significant proportion of the population to grant everyone the right of access to information. If all the figures are taken together, over half of those surveyed (55.4%) believe that the right of access to information should be enjoyed equally on both sides of the

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<sup>1</sup> The international legal status of residents in the northern part of Cyprus has not yet been fully clarified at the UN and EU level, which could explain the percent difference (16%) of negative responses in the Republic of Cyprus regarding the right to access information of foreigners (39.2%) in general or those from the northern part of Cyprus in particular (55.2%).

green line. This forms the basis for raising greater awareness of the right of access to information as a fundamental right which should be enjoyed by all persons, regardless of citizenship or residence.

At the same time, the findings also demonstrate that there is a need to educate the wider public about the right of access to information and the fact that it is a right of all persons, irrespective of residence or nationality.

Many of the respondents are ahead of their own governments' legislation: the current legal norm in the northern part of Cyprus does not grant the right equally to non-residents, while in the Republic of Cyprus journalists enjoy special privileges with regard to access to information, not enjoyed by other members of the public. In both cases these norms breach international human rights standards for the right to know.

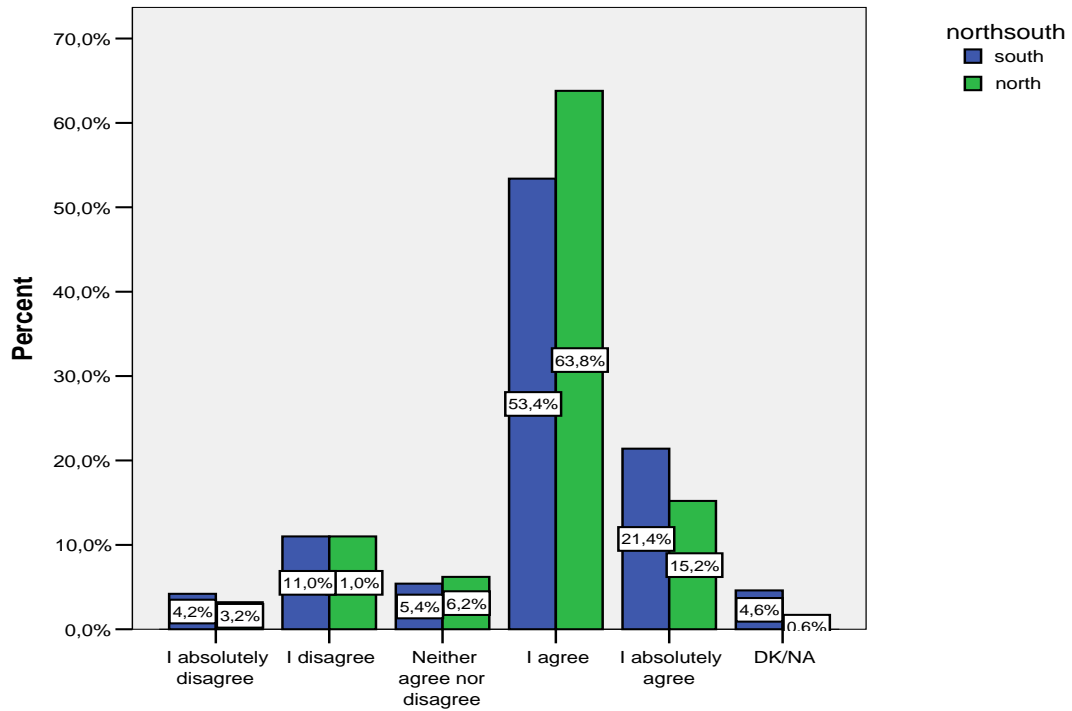
**Recommendations:** The legal framework for exercising the right of access to information in Cyprus should ensure that it grants the right to all persons, with no discrimination, including not on grounds of citizenship or residence. Education campaigns informing the members of the public of their right to know should stress that this right can be exercised by all persons. Public authorities should take steps to train relevant public officials so that they treat all information requests equally, without discrimination.

### **Finding 6: Overwhelmingly members of the public believe that in Cyprus there is a right to information about public participation in theory but not in practice.**

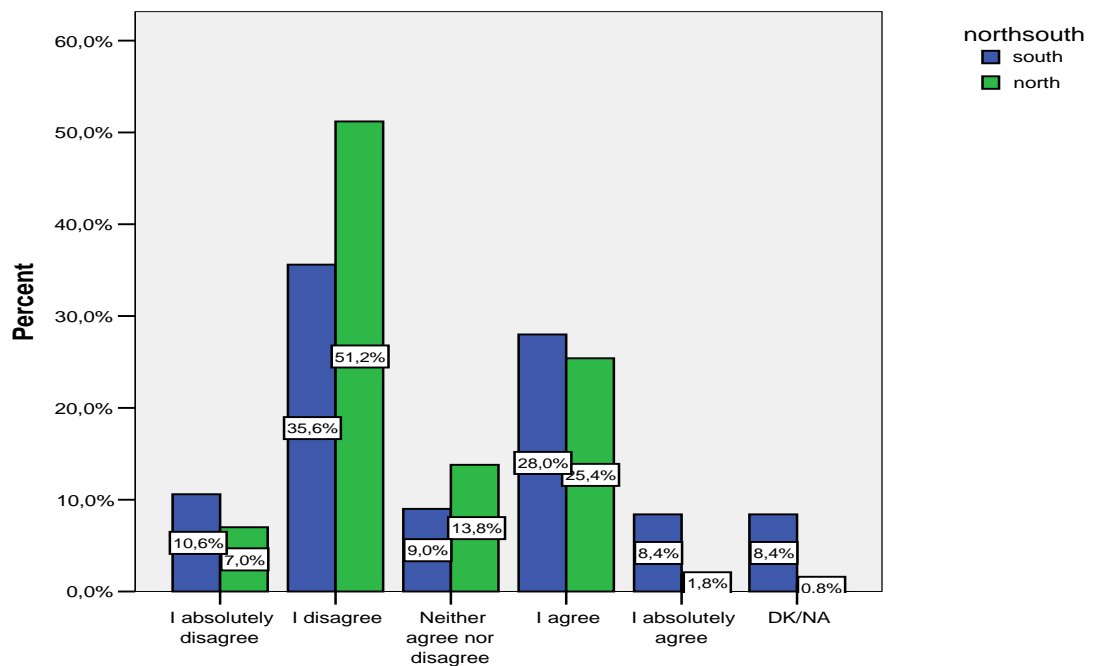
A high level of agreement that there exists a right to public participation is one of the key findings of this survey: over three quarters of those surveyed believe that they have this right. In sharp contrast to this, there was an equally strong assertion from members of the public that they don't have the information necessary to exercise this right, with only one third of those surveyed saying that they have the necessary information.

- *Over three quarters of respondents believe that there is a right of the public to information about decision-making by public authorities.* This proposition met with a high level of agreement/strong agreement in both the Republic of Cyprus (74.8%) and the northern part of Cyprus (79%). [Q16]
- *Fewer than four in ten respondents believe that mechanisms exist to give effect to this right.* Only four in ten (41.4%) of those in the northern part of Cyprus and just one third (37%) of those in the Republic of Cyprus agreed/strongly agreed with this statement. Levels of disagreement/strong disagreement reached 36.8% in the northern part of Cyprus and 32.4% in the Republic of Cyprus. [Q19]

Question 16: Members of the public have the right to obtain information about the decisions that the authorities make



Question 18: In practice, members of the public have the information necessary to participate in public authorities' decision-making



- *Half of respondents state that they do not have the information necessary to exercise this right; under one third believe that they have such information.* In total those saying they don't have the information to engage in public participation reached 46.2% in the Republic of Cyprus and 58.2% in the northern part of Cyprus. Just 36.4% of those in the Republic of Cyprus and 27.2% of those in the northern part of Cyprus believe that have such information. [Q18]
- *Similarly, only around a third of respondents said that they personally have the information needed to participate in decision-making.* In the Republic of Cyprus 42.2% of those surveyed and 37% of those in the northern part of Cyprus agreed or strongly agreed that they personally had the information necessary to participate actively in decision-making. [Q20]

It is clear that members of the public believe that they have a right to participate directly in public decision-making in Cyprus but that they cannot do so in practice due to lack for information. This is an important finding because it shows that there is some desire to participate more actively in the process of government. Experience from other countries around the world shows that active public participation programmes can contribute to better decision-making, with more public support for decisions once they are taking, and can lead to increased levels of public trust in government.

**Recommendation:** The authorities across Cyprus should take immediate steps to ensure that there is a comprehensive legal framework for public participation, that it is implemented in practice, and that all necessary measures are taken to ensure that full information is easily accessible to all persons (on websites and via other media) who may want to participate in the decision-making process. Full feedback on the outcomes of the public participation process should be made public and widely disseminated, along with explanations about how the final decisions were taken. Public officials should receive the necessary training to manage public participation processes.