



Reasons not to limit access to information because of age

The Parliament of Catalonia has proposed to limit the right of access to information to over-16s in their transparency law, which is a limitation that not only would violate the fundamental principles governing the right of access to information, but also that would create more work for civil servants, slowing down the process of access to information. This limitation is not present in any of the 95 countries with access to information laws and for this reason, Access Info Europe asked the international access to information community to give their opinions on the issue. The following report will explain the arguments against limiting the right and cites the reactions of international access to information experts on the issue.

Based on the principle that should inspire and be reflected in transparency laws, "all information in the hands of public institutions is public except that which damages legitimate public interests as outlined in the said transparency law", it does not make sense to limit the number of people that can ask for information given that once it is in the public domain, this information can be consulted by anyone who is interested in it, including those under the age of 16. All information in the hands of public institutions is by its nature, public property and therefore there is no reason to restrict a document because of the age of the requester.

[The Council of Europe Convention on Access to Public Documents](#), the only binding international convention, which Spain should sign, establishes that the right of access to information is a right for everyone without limits at any point regarding the age of requesters. The Convention also establishes that only the necessary information needed to respond to a request should be required in order to answer; the identity of the requester, the information they are requesting, and the address where to send the information. In this sense, having to identify a requester's age would be an extra requirement that would impede the successful ratification of this convention.

The limitation also would require an extra effort by civil servants, when managing and answering access to information requests, to verify the age and the permission of a minor exercising this right. One of the worries that always comes up when regulating the right of access to information is the cost to the public administration, which should not be an impediment to implementing a fundamental right which must be respected, if we should be thinking about the most cost-effective way to keep costs down. In this sense, adding another element to the process implies a higher cost.

In a global context, Scotland is the only case where access to information is limited because of age. Section 69 of its 2002 access to information law establishes a limit

of 12 years of age. Whilst also being less than 16 years of age, Kevin Dunion, ex-Information Commissioner of Scotland, outlines in his book *'Freedom of Information in Scotland in Practice'* that this limit in reality refers to the capacity of the minor to understand the implications of exercising their right of access to information and that they will be treated like any adult requester.

It is highly improbable that young people under 16 years of age will inundate and bring down the public administration access to information systems with mass requests, given that this has not happened yet in the 95 countries with access to information laws. Even if there was a possibility for mass requests, it is unlikely that these would be undertaken only by under-16s.

It is important to add that the UN Convention on the Rights of the Child, signed by Spain in 1990, establishes in article 13¹

"1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals."

Developing this, the UN Human Rights Committee recognises in its general observations of article 19 in the UN Declaration of Human Rights¹ that the right of access to information is an inherent part and is essential to freedom of expression²: *"Article 19, paragraph 2 embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production."*

Finally, and briefly, it is important to encourage young people to be informed and participate in the decision-making process in their community. A strong democracy is built on the strength and existence of informed public debate, with the European Court of Human Rights signalling that the right of access to information is essential recognising it as a fundamental right. Youth must form part of this public debate and have a voice on the issues that affect them directly, so restricting their right of access to information would impede them from doing this.

¹ El Comité de Derechos Humanos es el órgano de [expertos independientes](#) que supervisa la aplicación del [Pacto Internacional de Derechos Civiles y Políticos](#) por sus Estados Partes.

² Observaciones generales sobre el artículo 19:
<http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

To end, here are some comments on the topic from experts on access to information.

Helen Darbishire, Executive Director of Access Info Europe, Europe/Spain:

"In an open and democratic society, the right of children to obtain the information necessary to form and express opinions is clearly protected by international treaties, thereby permitting them to understand and participate in the political and social culture in which they are growing up. Attempting to limit the right to adults is thus a violation of the rights of the child. Such a limitation also introduces unnecessary bureaucratic obstacles, which are pointless as once information is in the public domain, anyone including children can access it".

Toby Mendel, Executive Director of the Centre for Law and Democracy, Canada:

"The European Court of Human Rights has held that access to information held by public authorities is a human right; this should no more be denied to children than any other human right."

Codru Vrabie, President/Chairman at Association EPAS, Romania:

"the real danger that I see here is that FOI requesters would need to also present proof of age, along with the FOI request, and that will definitely slow down the procedure. In addition, that might prevent email requests from going through smoothly, and would place a terrible additional burden on all public institutions."

Markus Fin Hametner, FOI Austria :

"An age-limitation of access to information not only introduces unnecessary bureaucracy - and, therefore, cost - but also severely damages all efforts to encourage participation by the Youth. This goes against the tendency of other countries, like Austria, to allow more participation at a younger age. For example, local and municipal governments allow people to vote from the age 16."

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