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**Report and Recommendations**

The Access Info Cyprus

21 November 2011



Report & Recommendations on

The Right of Access to Information in Cyprus

Document date: 21 November 2011

## About this report

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**Cyprus EU Association** (KAB) was founded by a group of civil society volunteers in 2006 with the aim of ensuring smooth and accurate information flow between the Turkish Cypriots and the international community. <http://www.cypruseu.org>



**Socio-Political Studies Institute** (IKME) was registered in 2002 in Cyprus as a Non Governmental Organisation aiming to contribute to the prevalence of freedom, democracy, socialism and European values. <http://www.ikme.eu>



**Access Info Europe** is an international human rights organisation based in Madrid, which works to promote a strong and functioning Right of Access to Information in Europe and globally. <http://www.access-info.org/>



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## I. Introduction

Depicting today's modern societies as information societies and the modern age as the age of information would not be totally flawed. With rapid advances in technology there has been an unprecedented growth in production and dissemination of information. Information it was once not possible to record, can now be recorded; knowledge it was not possible to share, can now be shared; data it was not possible to store, can now be stored, at an impressive speed and for much longer periods and in much more detail.

The rapid growth in communication technologies not only boosted the production of information but it has made it incredibly easy to transmit and disseminate to the far corners of the world. Ironically, while we are able to talk about more and more information circling the world at a great speed, the issue of access to information is still of vital significance to all social, political and economic life.

Today, there is an increasing tendency towards rights based political advocacy, especially within liberal democratic societies. This, it may be argued, is due to articulation of rights as universal notions. Within a liberal democratic understanding, rights are understood as universal safeguards within a society as well as against the state; the boundaries of the individual. Access to information is one of the foremost of these rights, upholding the very notion of individual against the state and it is the right that allows for state accountability and transparency

The philosophical foundations of the right to access to information lay within the domain of freedom of the individual to his/her own thoughts and opinion free from any interference from others and the state, and the right to freedom of expression. Many rights deriving from the fundamental right of freedom to one's own thoughts and opinions are in the form of negative rights prohibiting the state to act in certain ways. While the right to access information may be read as a negative right – prohibiting the state from withholding information from its citizens – in order to effectively exercise the right of access to information it is clear that the state has positive obligations as well, as has been confirmed by international human rights courts and the UN Human Rights Committee.

Moreover, knowledge is power. Manipulation of information, withholding some and highlighting others, can act as a means of exercise of power by the ruling elite against the individuals or certain groups, feeding the ideological hegemony of those in government, whether be it a class, a political party or a political tradition.

In light of such possibilities, the right to access information safeguards the free flow of information within the society, defusing the hegemonic power held by certain groups. It diffuses information, thus power, into the society, depriving those with privileged access to knowledge of potentially oppressive power.

Further, from the time of Roman Forum, throughout medieval kingdoms, to recent day modern democracies, corruption has long haunted political life; accountability of the state has been demanded by those who had been ruled or governed under different systems in various ways and to differing extents. Nevertheless, the demand has always been the same: to know for what reasons and how the public funds and the state power are utilized, to ensure that decisions are made in a just way, and to ensure that there is equal opportunity for all.

Poor public access to information would allow secret deals and unjust practices by the ruling elite feeding the scourge of corruption. On the other hand, effective and efficient safeguards allowing free flow of information to the public would act as checks and balances against the ruling elite constraining them to act legitimately in their dealings with and on behalf of the state.

Furthermore, access to information is crucial for public participation which is the central foundation for a democratic society. Today, the amount of information accessible to the public held by the public authorities is directly linked to that countries corruption and democracy index values. Nevertheless, the demand by the people and the individuals to access information is by no means enough to effectively achieve democratic principles and public participation. The right of access to information should be engraved and safeguarded by effective and efficient legislation.

In doing so it is not enough for the legislation to equip the people or the individual with the right to access information. Effective and efficient legislation should set out the procedures and means of this access. For example, the time frame for gaining access to information is essential especially for journalists and researchers when it comes to access to information. Thus, effective time frames should be set out by such legislation.

The legislation should not only provide the people with the right to access information, it should also promote and encourage proactive means for making information accessible. Moreover, it should create effective and practical ways of information flow from the state to the people

Cyprus, being the only country in the EU not to have either an access to information law or a draft law proposed by the government, lags behind within the EU with regards to a Right to Access to Information Law. While there is no law in the Republic of Cyprus, in the northern part of Cyprus, even though there is legislation on access to information, there is no effective mechanism for implementation of the right.

However, corruption or access to information is a global problem whether there are laws or not. With governments committing huge sums of their finances to tackle the world's most pressing problems, from the instability of financial markets to climate change and poverty, corruption remains an obstacle to achieving much needed progress in many areas hampering the democratization process and the notion of justice. Across the globe, transparency and accountability are critical to restoring trust and turning back the tide of corruption. Without them, global policy solutions to many global crises are at risk. And without transparency and access to information we cannot achieve progress in these areas.

In this report, Access Info Cyprus Project aims to demonstrate the current situation in Cyprus with legal analysis, landscape research of information proactively published in the websites of public authorities, opinion surveys, monitoring results of how the requests for information are dealt with practice, interviews with civil society, journalists and public officials, which has also been open to public debate during the five month-long public consultation on the findings and recommendations and during the round tables with business people, civil society and public officials. The overall picture is not an optimistic one, but with public support progress can be achieved in a short period of time.

## II. Overview

This report consists of the findings of research into the right of access to information in Cyprus conducted in 2010 by Access Info Europe, KAB and IKME as part of the Access Info Cyprus Project.

The Access Info Cyprus Project is a two-year bi-communal civil society initiative to promote improvements in government transparency and accountability and to increase public participation in decision making in Cyprus. For more information see [www.accessinfocyprus.eu](http://www.accessinfocyprus.eu).

The main elements of the research conducted during the first year of the project were:

1. **Opinion survey** conducted by telephone of 1000 persons in Cyprus (500 in the south and 500 in the north) on attitudes to and perceptions of access to information and public participation in decision making in Cyprus;
2. **Interviews with civil society organisations** about the right of access to information, its relevance to their work, and their experience of trying to access information;
3. **Analysis of the Legal Framework** for the right of access to information in Cyprus, south and north. This is a comprehensive comparative review of all the relevant legislation against international legal standards on the right to know and the ten Principles for an Open Cyprus.
4. **Evaluation information on the websites** of selected public institutions in the south and north to evaluate the level of proactive publication of information.
5. **Testing the openness of public institutions** conducted through an island-wide monitoring of responsiveness to requests for information filed by members of the public. The largest ever access to information monitoring in Cyprus comprised 393 requests submitted to 20 public bodies. These results provide an empirical assessment of the current access to information regimes in practice.
6. **Dialogue with public officials** representing the institutions to which information request had been presented and whose websites had been evaluated to discuss their attitudes to transparency and public participation and gather information on the public authority's access to information policy.
7. **Public consultation** carried out between 24 February 2011 and 20 June 2011. The public consultation was designed to provide members of the public and public officials an opportunity to comment on and contribute to the content, findings and recommendations in this report.

Given the large volume of documents generated as part of the research and consultation, in addition to this report, background documents can be found at: [www.accessinfocyprus.eu](http://www.accessinfocyprus.eu)

This draft report contains sections on the findings of each of these seven stages of the research along with recommendations for the measures that should be taken by public authorities to improve levels of public access to information.

## 1. The Consultation Process

The Consultation was held between 24 February 2011 to 20 June 2011.

During this period, members of the public and public officials had the opportunity to engage in the debate on the right to know and the best mechanisms for advancing transparency and public participation. The Access Info Cyprus Project held round tables with civil society, journalists, business persons, and public officials from across the island during this period.

All the research materials were posted on the Access Info Cyprus Project website along with a questionnaire which could be completed to give feedback. Responses to some of the comments submitted by public officials are also posted on the website.



## 2. The Online Consultation

The online consultation questionnaire was also open during the period from 24 February to 20 June 2011.

The main findings are

1. The low levels of participation in the Online Consultation demonstrate a lack of public consciousness towards political activism outside of the electoral or party political process.

That said, the promising results from the few responses obtained also demonstrate that those who do wish to get involved believe in active participation and interaction between government, state institutions and the public. Access to information therefore is key if civil society participation is to flourish on the island and provide a healthy participatory democracy and environment for civil society to act.

2. The responses to the Consultation demonstrate a desire to see a right of access to information held by all public bodies and strong support for the Ten Principles for an Open Cyprus.
3. In particular, respondents stated they would be interested in a right to access information on government projects and contracts, local and national planning and budget plans as well as general statistics demonstrating a correlation between the recommendations that we have outlined and the demands of the general public.
4. Respondents also stated that they have tried to file requests without success in Cyprus and interestingly have demanded proactive publication of information and documents, "If proper comprehensive (ideally web based) info was available I would probably not need to make any personal info request."
5. With regards to the timeframe, 66.7% of respondents also stated the 15 working day timeframe was suitable, in line with the average timeframes in the existing access to information laws in the European Union area.
6. Most respondents supported the standards of the Council of Europe Convention on Access to Official Documents for legitimate exceptions to the right of access to information whilst revealing specific concerns for people in Cyprus with strongest support for limits on grounds of national security and privacy (85.7% and 71.4% respectively).

The limit on national security issues could be linked as well to the political situation on the island whereby people are very conscious of the national security implications of publicising information such as the location of weapons or defense strategies.

The only other significant agreement on limiting access to information was on grounds of prevention, investigation and prosecution of criminal activities (57.1% so hardly overwhelming). This is another legitimate reason outlined in the Council of Europe Convention.

It is interesting to note as well that there is no public support whatsoever in limiting access to information on economic, monetary and exchange rate policies of the state. This is particularly relevant given the current economic situations in

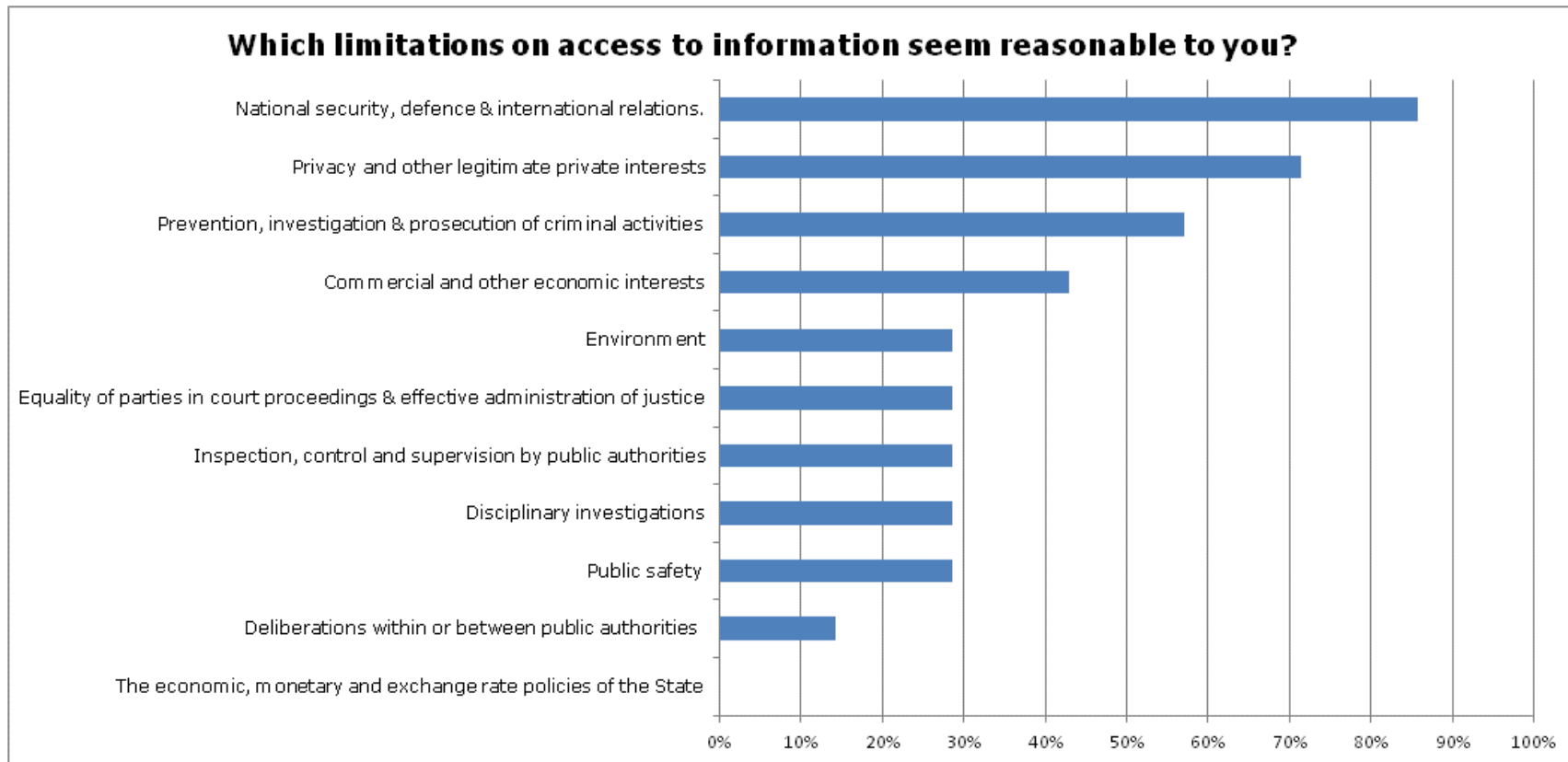
the Republic and the northern part of Cyprus as well as in Europe more widely, and widespread concern about the exposure of Cypriot banks to Greek debt.

7. The survey responses indicate that the public does wish to be more involved decision making on issues that affect their daily lives, particularly on local issues.
8. There is also a public desire to see access to information from international organisations which the Republic of Cyprus is involved in, particularly the European Union, as well as from nations with a history connected to the island, such as Turkey and the UK.
9. Respondents were all in favour of access to databases, that is to say, raw data, as well the right to receive information in any format including in electronic format (100% and 83.3% respectively). This demonstrates a desire on part of the public to be able to access information and not be inhibited in being able to use the information, which also matches the demands made by the Access Info Cyprus Project.

Overall, the Consultations found broad public support for some of the issues raised and highlighted in the remainder of this report:

- » There is an explicit desire for the right to access to information, and a general correlation between the expectations of the public for the legal framework for such a right and the recommended framework set out in the Council of Europe Convention on Access to Official Documents.
- » Cypriots want to be involved in the decision making process, particularly on local issues and are demanding a right to be able to access documents to be informed and knowledgeable on issues affecting them so as to be able to participate effectively in policy making.
- » Without the right of access to information, Cypriot society will not be able to fully participate in democratic processes and truly hold their political leaders to account.

Chart showing Findings from the Public Consultation on Limitations to Access to Information



It is important to note that one respondent underlined that there should be limitations on the limitations: *“Ideally all info should be available unless genuine individual privacy is compromised (eg medical records), even this should not apply to the finances and interests of public office holders. Similarly Ministers should have to authorize withholding info (such as re security or defence) AND have to reveal how often such derogation was authorised.”* This is entirely consistent with international standards which require that all limitations to the right of access to information should be subject to harm and public interest tests before a decision to refuse access to information is taken.

### 3. Summary of Key Findings & Recommendations

The research carried out in 2010 led to many findings and recommendations which are presented in detail in the body of the report in the Chapters which follow. Below is a summary of eight key findings of the research, along with recommendations.

- » **Finding One:** The right of access to information is guaranteed in constitutional provisions on freedom of expression in both parts of Cyprus, but the legal framework is seriously flawed: there is no law on access to information in the south and a law that falls below Council of Europe standards in the north.  
**Recommendation:** Bring the legal framework into line with the Council of Europe Convention on Access to Official Documents, including by adopting an access to information law in the south and/or reforming all relevant legislation in the north/south.
  
- » **Finding Two:** Systematic violations of the fundamental right of access to information island-wide were identified, with 75% administrative silence in response to requests for information.  
**Recommendation:** The government should ensure that the public authorities respond to requests by providing comprehensive information within a reasonable time frame. To this effect they should adopt the necessary legal mechanisms and train all officials in the public's right to know.
  
- » **Finding Three:** Three quarters of people in Cyprus believe that they have a right of access to information according to the Opinion Survey conducted under this project. Only around one in three respondents agree that public authorities in Cyprus are open and trustworthy. Over half of respondents stated that, in practice, access to key documents is not possible.  
**Recommendation:** In addition to ensuring that there are access to information laws which function in practice, the government has an obligation to inform the public of their right of access to information, including through public education campaigns on how to file requests, how to appeal refusals and silence, and where to find proactively published information.
  
- » **Finding Four:** Many public bodies do not appear to have information officers nor to have provided full contact information on their websites or in other public materials.  
**Recommendation:** Ensure that in each public body there is an official responsible for responding to the public's requests for information and for the proactive publication of key classes of information. Ensure that full contact information for this person is published.
  
- » **Finding Five:** There is no Information Commissioner or similar body responsible for oversight of the right to information and for receiving complaints from members of the public. In the north the Access to Information Assessment Commission foreseen by the law has not been appointed.  
**Recommendation:** Ensure that the future access to information law in the south establishes an Information Commissioner fully empowered to promote and protect the right of access to information. Appoint the Access to Information Assessment Commission in the north and give it full powers to enforce the law.

- » **Finding Six:** The research found very poor levels of proactive publication on the websites of public authorities. Monitoring of 20 public bodies across the island found that in the south only 36% and in the north only 13% of core classes of information were available. Information is usually available in only one language.  
**Recommendation:** Ensure full proactive publication of information about the structure, policies, functioning, and budget of each public body is available in multiple languages. The information should be presented in a way that is comprehensible to members of the general public, and should be published both on websites and using other media.
  
- » **Finding Seven:** The websites of public bodies particularly lack financial information such as projected budgets and actual expenditure, details of public procurement processes being run by that public authority and updated information on contracts issued. This was confirmed in interviews with civil society organisations.  
**Recommendation:** A particular effort should be made to ensure the publication of key financial information on the websites of each public authority. This information should be comprehensive and detailed. It is essential for the fight against corruption that public procurement, subsidy, and contracting processes are fully transparent.
  
- » **Finding Eight:** There is a lack of information about public consultations which indicates that there is a very low level of involvement of members of the public in public decision making across the island. This was confirmed, in particular, in the interviews conducted with civil society representatives.  
**Recommendation:** There is a need to open the doors of government to the public, including by establishing frequent public participation mechanisms throughout the policy making process. Information about the opportunities to engage in decision making should be widely publicised including via public body websites, ensuring that all necessary background information is made available.

## III. The Opinion Survey

### 1. 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.

### 2. 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 Access Info 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.

### 3. The Findings in Detail

**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.

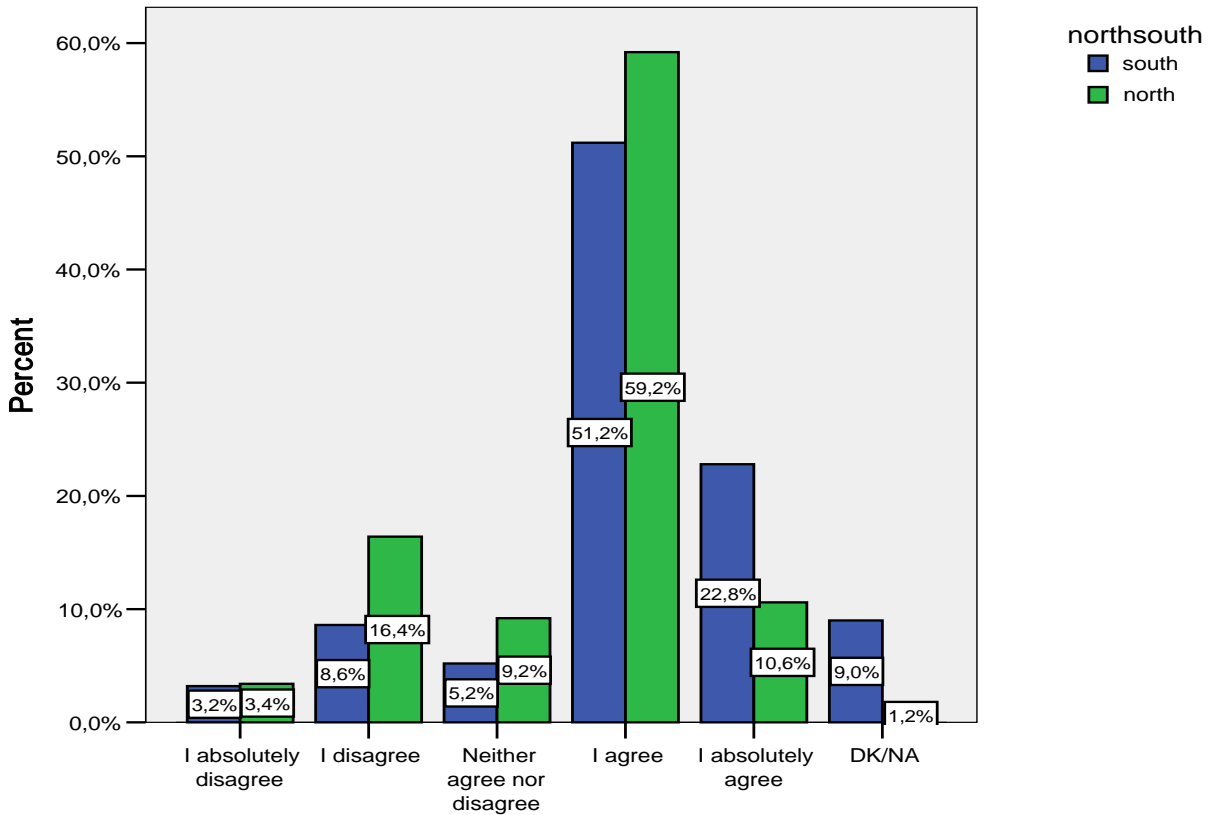
The key findings indicating a high level of awareness that there exists, in theory, a right of access to information are:

- » *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 Access Info Cyprus Project 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.

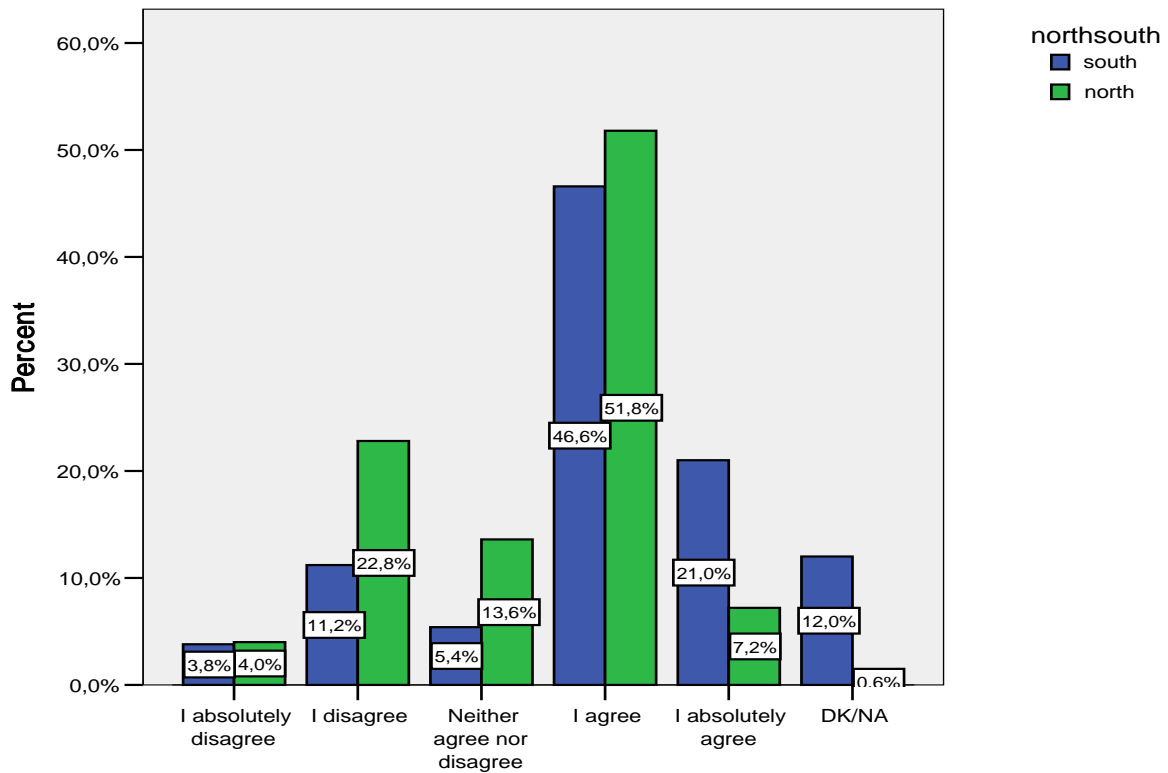
Members of the public can, in theory, have access to information from public institutions about things such as their structure, functions, budgets, plans and policies according to over half of respondents. There is also a right of access to draft budgets, plans and policies, and to public participation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

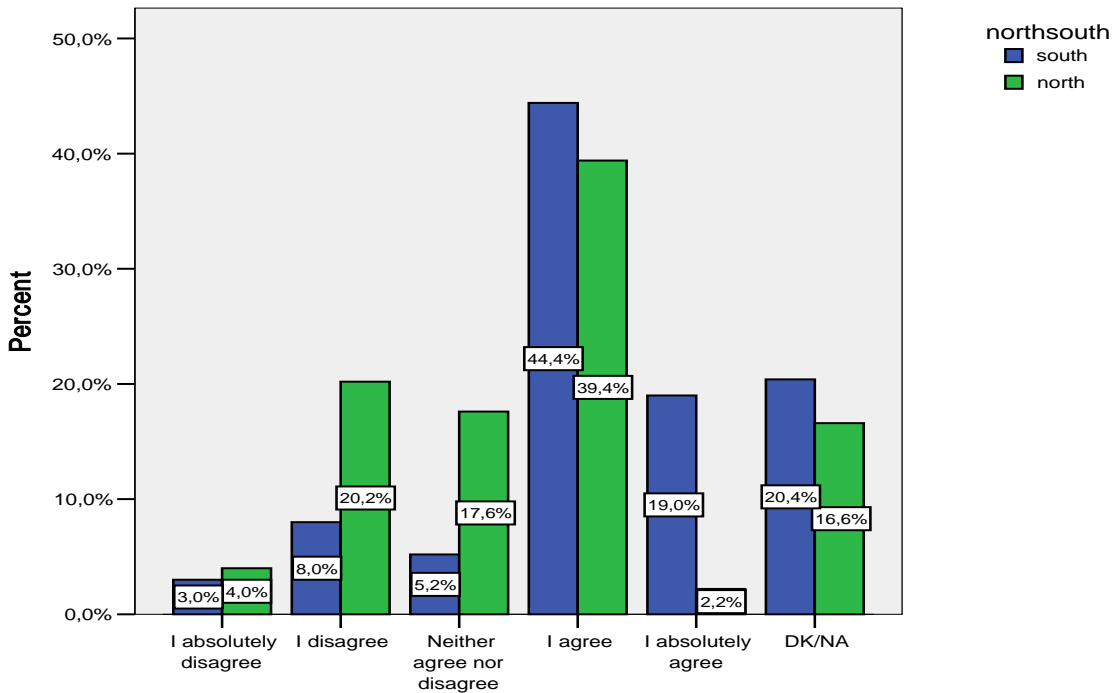
**Finding 3: Survey respondents believe (incorrectly) that the Republic of Cyprus has an access to information law while the northern part of Cyprus does not.**

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.**

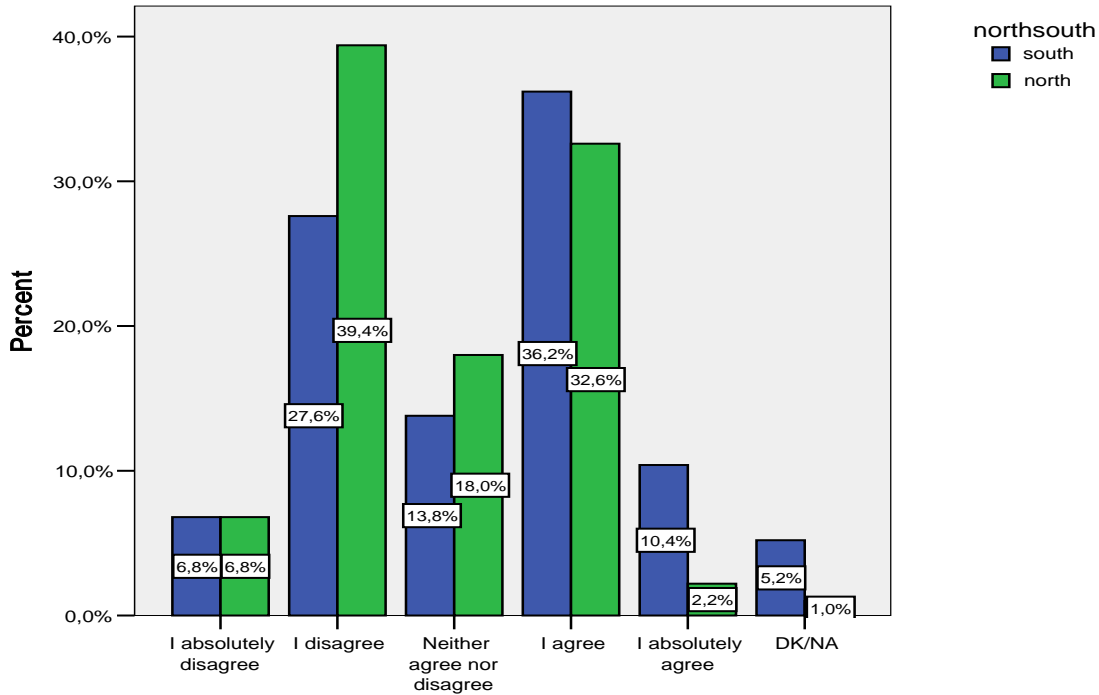
The survey respondents were very clear in asserting that the Cypriot authorities across the island are not sufficiently open and transparent. That the public also believes that its public authorities are not fully trustworthy is undoubtedly a by-product of perceiving them to be secretive institutions.

- » *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 the Republic of Cyprus and the 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 distanced 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, this the perception that is likely to result from secrecy.

This finding indicates an urgent need to open up to greater public participation the basic 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.

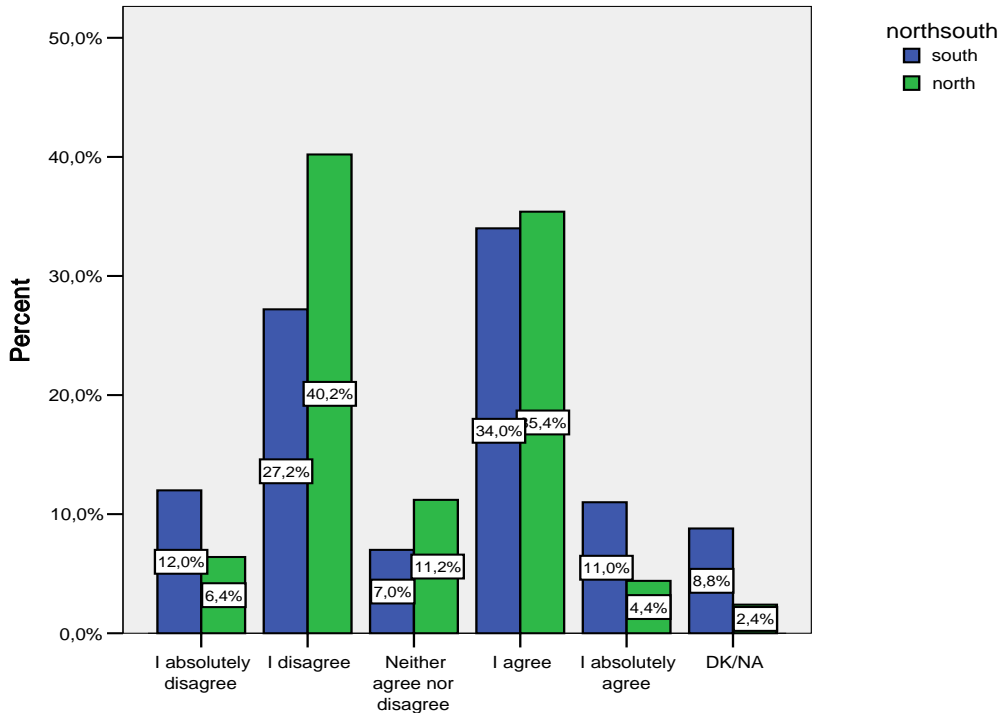
**Recommendation:** Public authorities across Cyprus should act swiftly to release more information to the public. An important place to start would be to make sure that all the key information relating to the decision-making process in each public authority is placed in the public domain (and if it 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 requester.

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 other side of the island:

- » *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 to information 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 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 no discrimination 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.

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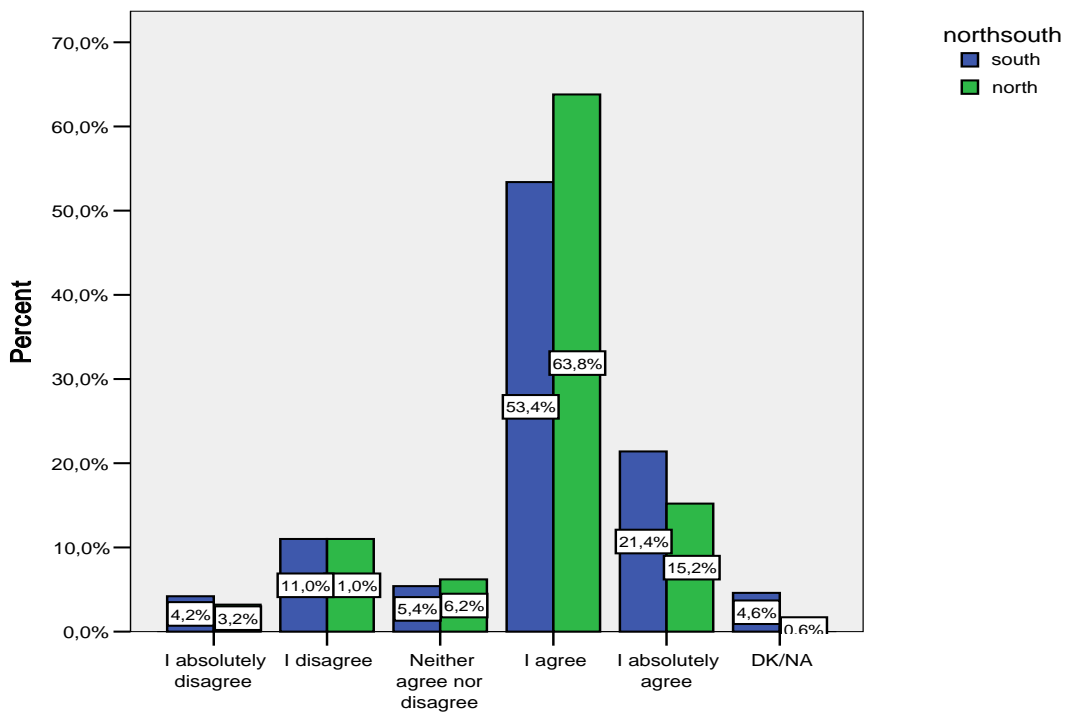
<sup>1</sup> The international legal status of residents in the northern part of Cyprus has not yet been fully clarified at the UN and EU level, which could explain the percent difference (16%) of negative responses in the Republic of Cyprus regarding the right to access information of foreigners (39.2%)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

**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.

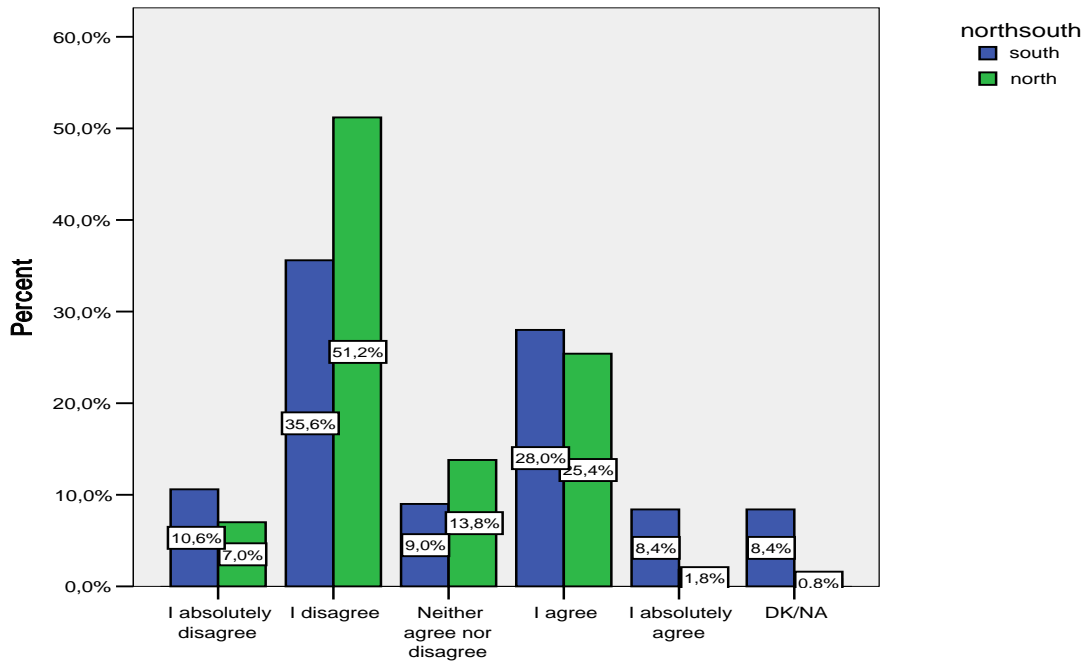
- » Over three quarters of respondents believe that there is a right of the public to information about decision-making by public authorities. This proposition met with a high level of agreement/strong agreement in both the Republic of Cyprus (74.8%) and the northern part of Cyprus (79%). [Q16]
- » Fewer 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 they 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 taken, 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.

## IV. 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.

#### 1.2 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 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 CSOs' 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 rep 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 how 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 Access Info 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 such as budget plans and spending, policies and programmes 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 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.

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).

Class of Information	Examples of Types of Information
Legal Information	<ul style="list-style-type: none"> <li>• legislation</li> <li>• draft laws/proposals</li> <li>• legal procedures</li> <li>• info on the Green Line regulation</li> </ul>
Economic information	<ul style="list-style-type: none"> <li>• cost of living data</li> <li>• average annual income</li> <li>• info on the sectors of the economy where women are mostly employed</li> <li>• salaries of men and women in the private sector to test "equal pay for equal work"</li> </ul>
Statistical information	<ul style="list-style-type: none"> <li>• population statistics (e.g. in the northern part of the island, mixed villages, immigrants),</li> <li>• numerical data on immigrants / refugees / asylum seekers, and on public health issues,</li> <li>• statistical information concerning asylum seekers and refugees such as decision numbers or details about detained asylum seekers at the airport</li> <li>• employment / unemployment data</li> <li>• statistical 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.</li> <li>• 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;</li> <li>• statistical data concerning pregnancy and unemployment rates</li> <li>• statistical and other factual information relating to violence against women (with all identifying data removed)</li> <li>• 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 (with personal data removed)</li> </ul>
Financial Information	<ul style="list-style-type: none"> <li>• procurement and contracts information</li> <li>• information on percentage of budget spent for students, scholarship rules</li> <li>• amounts that [political] candidates spend on election campaigns</li> <li>• the salaries of public officials</li> </ul>
Decision-making information	<ul style="list-style-type: none"> <li>• minutes of sessions of decision-making bodies (e.g. House of Parliament and its committees)</li> <li>• opportunities for participation</li> </ul>
Other	<ul style="list-style-type: none"> <li>• the circulation rate of newspapers</li> <li>• information about project opportunities</li> </ul>



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 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 do 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 in 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 the personal contacts they have in the north. The NGOs said that they consider it very

difficult or impossible 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 highlighted 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 representative 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 there are some legitimate limits on access to information.

The CSO representatives were 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 should 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 have 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 bodes 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.

## V. THE LEGAL ANALYSIS

### 1. Introduction to the Legal Analysis

The right of access to information is a fundamental human right. International human rights tribunals such as the European Court of Human Rights and the Inter-American Court of Human Rights have confirmed that it is an inherent part of the universal right of freedom of expression and information. The Council of Europe Convention on Access to Official Documents (2009, hereinafter “Access Convention”) enshrines the right of access to official documents held by public bodies.

Being a fundamental human right, the right to request and receive information is granted to everyone irrespective of their motives and intentions, and may only be subject to a narrow set of limitations as established by international law and as strictly necessary in a democratic society.

In over 50 countries worldwide the right to information enjoys constitutional protection and the legal framework of over 80 countries incorporates an access to information law. In the Council of Europe region, 40 countries have access to information laws in force and a further three (Spain, Luxembourg and Malta) have draft laws under consideration. That leaves Cyprus, in the company of the small states of Andorra, Monaco, and San Marino as the only countries without an existing or proposed legal framework for the public to gain access to information from public authorities.

The legal situation in Cyprus is complex as there are some provisions which relate to the right to information, including some provisions that can be exercised by journalists and by those wishing to reuse public sector information in the south. In the northern part there is a legal norm which is not fully in force because the implementing regulation has not been adopted.

The purpose of this legal analysis is thus to provide a clearer picture of the legal framework as it currently affects access to information in Cyprus.

The legal analysis is based on a comparison of current legal norms in Cyprus with the [10 Principles for an Open Cyprus](#) which were developed in consultation with international experts and which are drawn from international standards, comparative analysis of European access to information laws, and from the Council of Europe Convention on Access to Official Documents, as shown in the chart below.

Open Cyprus Principles	Access Convention
1. Everyone has a right, without discrimination, to access information held by public bodies	Article 2.1
2. Filing request should be simple and free of charge	Article 4.4
3. There is no need to justify why information is needed nor what will be done with it	Article 4.1
4. Public officials have the obligation to help requesters prepare the request and identify the public body to sent it to	Articles 5.1 and 5.2
5. Responses should be fast, within a maximum 15 working day timeframe	Article 5.4 / EU average response time
6. Information can be accessed in paper copy or electronically, and originals can be viewed	Article 6.1
7. Viewing originals is always free of charge. The only charges can be for photocopying or copying material onto a CD or DVD or other format	Article 7
8. In principle, all information is accessible, subject to limited exceptions. Refusals should be justified according to the exceptions	Articles 2.2.b; 3.1; 3.2; 5.5 Principle of Publicity in Preamble
9. Everyone have the right of appeal against refusals or against administrative silence to an independent body and to the court	Article 8
10. Public bodies should make available automatically the main information about their structure, functions, budget and activities	Article 10

## 2. Summary of Findings: Failing to Meeting Transparency International Obligations

Island-wide the public authorities in Cyprus are failing to meet their international legal obligation to ensure that all persons enjoy a right of access to information.

The Constitutional guarantees of freedom of expression and freedom of information do not translate into a legal framework that grants the right of access. Significant legal reforms are needed, including the adoption of a full access to information law in the south, an implementing regulation in the northern part, and amendments to numerous other laws island-wide that currently limit or only provide partial access.

These reforms will be essential in order to sign and ratify the Council of Europe Convention on Access to Official Documents.

This analysis against the 10 Principles of the Access Info Cyprus Project demonstrates that the current legal framework does not comply with a single one.

Even those other laws in the Republic of Cyprus that might grant access to some classes of information, such as environmental information or archives, require amendments to comply with the basic principles of the right of access to information. The full access to information law which needs to be adopted should comply with the standards set by the Access Convention concerning proper administrative procedures to manage information

requests (timeframes, fees, assistance, etc.). It should also establish a “principle of publicity” presumption that all information is in the public domain save that which can be withheld in accordance with the very limited exceptions permitted by the Convention. Any refusals to release information must be subject to both harm and public interest tests.

In the northern part, the current “Access to Information Law” requires several amendments to comply with European standards. Specifically, the scope of information available for access should be extended to include all classes of information held by public bodies as should be extended the subject of the right of access as to grant it to everyone. A first step on that direction would well be to approve an implementing regulation of the “Access to Information Law”, which clarifies the administrative procedure to request and receive information and defines the practical role and binding powers of the “Access to Information Assessment Commission”.

In both the Republic of Cyprus and the northern part, there is a need to comply with the proactive disclosure obligations imposed by the right to information and to ensure that all public authorities publish at least core classes of information on an ex officio basis.

### 3. Laws used in the Legal Analysis

This legal analysis is based on a compilation and translation of laws made by the partners in the Access Info Cyprus Project, KAB, IKME and Access Info Europe.

This section gives an overview of the laws which were used in the analysis, as well as the short names which are used in the text of the analysis.

The full wording of the relevant provisions of the laws referred to can be found on the Open Cyprus website.

northern part of Cyprus – relevant “laws”	
FULL NAME & REFERENCE	SHORT NAME
N.12/2006: Right to Access Information Law	“Right to Access Information Law” / “Right to Info Law”
N.7/1979: Public Officials Law	“Public Officials Law”
State Procurement Regulation	“State Procurement”
Rules of Procedures of the Parliament	“Rules and Procedures Parliament”
The Personal Data Protection Act, 89/2007	“Data Protection Act”

Republic of Cyprus – Relevant laws	
FULL NAME & REFERENCE	SHORT NAME
N.0/1960: Constitution of the Republic of Cyprus	Constitution
N.138(I)/2001: Act regarding Personal Data Processing	Data Protection Law
N. 132(I)/2006: Act Establishing Rules Governing The Re-Use Of Existing Information Held By	Re-use PSI Law

Public Sector Bodies (Re-Use of Public Sector Information Act 2006)	
N.145(I)/1989: Press Law: Act amending and unifying the Acts regarding taking measures for the protection of press freedom, the recommendation of Press Board and Press Authority, the publication, circulation and sale of newspapers and other printed matters, the registration of books, the possession of printing press, the establishment of printing and other relevant matters	<b>Press Law</b>
N.119(I)/2004: Act regarding the access of the public to information relevant to the environment	<b>Environmental Information Law</b>
N.208(I)/1991: Act providing for the establishment and operation of State Archive and for relevant matters	<b>State Archives Law</b>
N. 216(I)/2002: Act regarding regulations for security of classified information, documents and material and related matters	<b>State Secrets Law</b>
N.1(I)/1990: Public Service Law	<b>Public Service Law</b>
N.1(I)/2006: Act regarding the coordination of procedures for procurement of works, supplies and services in the water, energy, transport and postal services and related matters	<b>Public Procurement Law</b>
N.30(I)/2001: Act regarding the control of public aid	<b>Public Aid Law</b>
N. 158(I)/1999: Act regarding the general principles of administrative law	<b>Administrative Principles Law</b>
Charter of Citizen's Rights (non-binding declaration aimed at promoting efficient administration)	<b>Citizen's Charter</b>

### 3.1 Laws not referred to in the analysis

Several laws from the Republic of Cyprus were reviewed by the legal experts working on the Access Info Cyprus Project but were not included in the final legal analysis. These are not referred to or only in passing in the analysis Principle by Principle because they do not contain relevant provisions for the purposes of this analysis. Mainly this is because they do not require transparency or make specific reference to information held by public bodies:

- Commissioner for Administration Laws, 1991-2004
- Act regarding the right of copyright, 1976-1993
- N.199(I)/1989: Act providing for the right of political parties to acquire, possess and dispose immovable and movable property and the conditions for this



- N.49(I)/2004: Act providing for declaration of assets of the president, the ministers and the members of the Parliament of the Republic of Cyprus and for the control of their estate
- N.2(III)/2004: Ratification Act of the Convention on combating bribery involving officials of the European Communities or the Member States of the European Union
- N.7(III)/2004: Ratification Act of the Convention on Civil Law for corruption and supplementary provisions

From the northern part of Cyprus, the following laws have been reviewed but are not included in the analysis:

- “National Archives and Research Office Act 15/1990 (Law No. 22/1994 and Law No. 84/2007 as amended and consolidated)”: This law does not provide mechanisms for accessing material in the archives and only states at Article 5.2 that the aim of the office of the archivist includes “to conduct scientific and technical preparation necessary for the Archive material to serve science, to provide the material for real and legal persons to benefit” but there is not further elaboration on the mechanisms for access.
- “Electronic Signature Law 93/2007 (10/2010, 2 / 2011 and 43/2011 as amended and consolidated laws as amended)” which could become relevant if electronic signatures are demanded for information requests but for now does not seem to be articulated with the access to information provisions.

## 4. Constitutional Freedom of Expression Provisions

In both the northern part and the Republic of Cyprus the constitutional instruments contain provisions which mirror the language of Article 10 of the European Convention on Human Rights (ECHR), the provision which protects freedom of expression and freedom of information.

The European Court of Human Rights has ruled that the right to freedom of expression and information in Article 10 grants members of the public a right of access to information held by public bodies. In particular, the Court has ruled that when the only holder of the information is a public body (in the words of the Court, when the public body is an “information monopoly”) and when the information is needed to exercise the right to freedom of expression and especially to participate in public debate about matters of public importance, then the information should be provided, subject only to the limited restrictions permitted by Article 10.<sup>2</sup>

The Constitutional provisions in Cyprus, along with the ratification of the European Convention on Human Rights therefore, in theory, grant to all in Cyprus the right of access to information held by public bodies. This implies a right that is enjoyed by all persons, wherever they are resident, on non-discriminatory grounds. As will be seen throughout the text, the current legal framework across Cyprus fails to meet these human rights commitments and does not deliver a full right of access to information.

In the legal analysis that follows, particular reference is made to the constitutional provisions in the section on Principle 8 where we examine the existence or absence of the harm and public interest tests in the current legal framework in Cyprus. The

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<sup>2</sup> See *Társaság a Szabadságjogokért v. Hungary* (App no 37374/05), ECHR, 14 April 2009 <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=849278&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>. See also *Kenedi v. Hungary* (Appl. no. 31475/05)

shortcomings of the constitutional provisions mean that whereas Article 10.2 of the ECHR establishes a public interest test with the requirement that restrictions be only those “necessary in a democratic society”, the constitutional instrument in the Republic of Cyprus permits the same limitations to freedom of expression but lacks any language which introduces a test of democratic necessity on the restriction. In other words, it fails to establish a public interest test that would override a restriction given the particular circumstances in which it is applied. Similarly, in the northern part there is a test of whether a restriction is necessary but without the key qualification of being necessary in a democratic society as set out in Article 10 of the European Convention on Human Rights.

European Convention on Human Rights Article 10 – Freedom of Expression	
<p>1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.</p> <p>2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p>	
Republic of Cyprus Constitution Article 19 (paragraphs 1-3)	northern part of Cyprus – Article 24
<p>1. Every person has the right to freedom of speech and expression in any form.</p> <p>2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers.</p> <p>3. The exercise of the rights provided in paragraphs 1 and 2 of this Article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.</p>	<p>1. Every person has the right to freedom of thought or opinion. No person shall be compelled to disclose his thoughts and opinion. There can be no crime in view of the thoughts of a person.</p> <p>2. Every person has the right to express and publish his thoughts and opinion, by himself or collectively, by word of mouth, in writing, through pictures or other media. This right includes freedom to express opinion and to receive and impart information and ideas without interference by any public authority and regardless of the boundaries of the State.</p> <p>3. The exercise of the freedom of speech and of the freedom of expression may be subject to such formalities, conditions, restrictions, or penalties as are necessary and as prescribed by law, only in the interest of national security or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.</p>

In the northern part there is an additional constitutional provision on freedom of the press (Article 26) which refers to the “freedom of receiving information” but appears to

do so in the context of the right of people to have access to the mass media rather than from public authorities.

#### 4.1 The Right to Petition - not to ask for information!

In the Republic of Cyprus, Article 29 of the Constitution establishes:

*1. Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.*

*2. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this Article, such person may have recourse to a competent court in the matter of such request or complaint.*

At first glance this would appear to give members of the public the right to request information since this could be interpreted as part of the “written requests” that they may present to public authorities.

Indeed, in submissions to the Council of Europe, that Articles 19 and 26 between them grants a right of access to information. In the “Addendum to the Compliance Report on Cyprus” adopted in June 2010 by the Council of Europe’s Group of States against Corruption (GRECO), it is noted that:

*The authorities of Cyprus again stress - as is already reflected in the Evaluation and Compliance Reports - that anyone may access public information which is not confidential and that the Constitution (Articles 19 and 29) provides that a request for information can be made directly to the competent authorities, which have the obligation to accede to the request within 30 days.*

The GRECO report then notes that while there may be some legislation referring to the right to information in Cyprus, it had found that “no law regulated the entire area of access to public information, to complement the basic provisions in this respect contained in the Constitution.”

The report goes on to emphasise the need for a comprehensive access to information law that meets the standards of the Council of Europe Convention on Access to Official Documents:

*The legislation recommended by GRECO would apply in respect of all public institutions and provide detailed guidance to the general public, those who request information, and to representatives of the public institutions that decide whether to provide the information requested or not. Such legislation is not in place in Cyprus and the statement by the authorities “that almost all governmental bodies and departments have developed their own practices to enhance the right of the public to access information held by public authorities” further underlines the need for common standards, built on the Constitutional principles, that would apply in the same way in respect of all public institutions. GRECO recalls in this respect that the authorities had reported in the Compliance Report that any future such instrument would be prepared in the light of the Council of Europe Convention on Access to Official Documents (CETS No. 205). (GRECO notes that the Convention*

*was opened for signature/ratification on 18 June 2009 and that Cyprus has not yet signed the Convention.)*

Access Info Europe, IKME and KAB note that in addition to this, the constitutional provision is further undermined by article 33.1 of the Act 158(I)/1999, *Law to Codify the General Principles of Administrative Law* which specifically states that:

*“Subject to the provisions of the Article 29 of the Constitution, the right to petition ... does not cover a request for the provision of information, unless this is provided by the law.”*

In other words, Article 29 of the Constitution has no bearing on the right of access to information. This underscores the need pointed out by GRECO for a comprehensive access to information law.

## 5. Legal Analysis Principle by Principle

### Principle 1

**Everyone has a right, without discrimination, to access information held by public bodies**

#### Summary

Principle 1 establishes that everyone has the right to access information held by all public bodies across Cyprus. According to international standards, every person should enjoy the right of access to information without discrimination for **reasons** of ethnicity or nationality, social or professional status, age, gender and others.

The right applies to all information held by public authorities (subject to limited exceptions as set out in Principle 8).

The **Council of Europe Convention on Access to Official Documents** (2009) establishes a general right of access to official documents held by public bodies. The definition of “official documents” given by the Access Convention (Article 1.2.b) is broad, encompassing not only formal records but all information recorded in any format: *“official documents means all information recorded in any form, drawn up or received and held by public authorities.”*

International jurisprudence has recognised that the right of access to information is an inherent part of the universal right of freedom of expression. Being a fundamental human right, it is granted to everyone irrespective of their motives and intentions, and may only be subject to a narrow set of limitations as established by international law and as strictly necessary in a democratic society.

Thus, Article 2.1 of the Access Convention establishes that *“each Party shall guarantee the right of everyone, without discrimination on any ground, to have access, on request, to official documents held by public bodies.”* As the **Explanatory Report** to the Access Convention further explains in Paragraph 1, *“the right of access applies to both natural and legal persons without discrimination, including on the basis of nationality, and even to foreigners living outside the territory of member states.”*

WHO HAS ACCESS TO INFORMATION IN CYPRUS?		
type of information	who (Republic of Cyprus)	who (northern part)
Information in hands of public authorities (subject to limitations)	Journalists	Citizens (not foreigners)
Environmental information (subject to limitations)	All (including foreigners)	(citizens, under general law)
Personal data held by public bodies	Affected persons – those to whom the data relates	All affected persons (including foreigners) to whom the information relates
Information held in archives	State archivists, those with special Ministerial permission	(citizens, under general law)

Although the constitutional instruments in Cyprus grant the right of access, the legal framework does not support this. As the table above shows, some categories of requesters, citizens, journalists, archivists, get privileged access to certain categories of information. The legal framework which permits/limits this access is shown in the following table:

WHO MAY HAVE ACCESS	REPUBLIC OF CYPRUS						NORTHERN PART
	Environ. Info Law	State Archives Law	Personal Data Law	Press Freedom Law (all info)	Re-Use PSI Law	All Other Info	
All, including foreigners	✓	✗		✗	?	✗	✗
Citizens		✗		✗	?	✗	✓
Affected persons / Data subject (including non-citizens)		✗	✓	✗		✗	
Anyone with legitimate interests, including foreigners		✓		✗		✗	✓
Journalists		✗		✓		✓	
National archivists		✓					

### Review of Relevant Legal Provisions - Republic of Cyprus

The Republic of Cyprus does not have an access to information law. Some access to information held by public bodies is granted by specific sectoral laws. As a result,

although the Constitution guarantees freedom of speech to everyone, access to information is still the right of only a few.

The legal framework grants journalists, under the **Press Freedom Law** in Article 7.1, a general right of access to all information held by public bodies. This applies also to foreign journalists. Such positive discrimination on the basis of professional status is a violation of international standards on access to information.

It is common for there to be confusion between a general right to information and the right of access to personal data. These are, however, two distinct rights. The right of an individual to access their personal data is protected in the Republic of Cyprus in the **Data Protection Law**, which makes clear that this data can be accessed by the affected person(s) (Article 12.1). This is in line with European Union standards and does not substitute for nor excuse the absence of an access to information law.

The Council of Europe Access Convention states that the right to information also applies to information held in archives. In Cyprus, however, the **State Archives Law** does not grant the general public access before the expiry of a thirty-year period except in some limited cases determined by the responsible Minister (Article 8.1). The only exceptions to this are if the public records had already been accessible before their transfer to the State Archive (Article 8.1) or if special Ministerial level permission is granted (Article 8.4). In practice, the State Archives website has a form for application for inspection of archives where those making the request must state the reasons for their research (See Principle 3 analysis). It is also noted that the law does not define “general public” and thus it is unclear whether or not foreigners can access public records either during or after the quarantine period. In any case, access after 30 years does not constitute a right of access for purposes of this analysis since the right of access should apply to current as well as historical information.

The **Re-Use of Public Sector Information Law 2006** derives from the EU Directive on Re-Use (EC/98/2003) which is designed to ensure that when a government authority grants one user permission to make use of a large volume of information (such as a statistical database, or meteorological or geographical information), it must grant other users access on the same terms. So if a database is made available free to one user it must be free to other users as well, if there is a charge, they must be equivalent. The goal is to create a level playing field for reuse of information, particularly commercial reuse.

The EU Directive therefore states in Article 11.1 that “the re-use of documents shall be open to all potential actors in the market”. There is, however, one important exception to the right to access information for reuse: it does not apply when the nature of the information is such that a requester would have to express a legitimate interest before being granted access. Generally, this would only apply to narrow classes of information, such as information that contains personal data which would otherwise be withheld from the public domain. Other information which can be obtained under an access to information law should be accessible.

The problem in Cyprus is that while the EU Re-Use Directive presupposes the pre-existence of an access to information law, none exists. Furthermore the transposition of the EU Re-Use Directive to the Republic of Cyprus omits a definition of who may apply for the information, with language such as “any actor in the market”. As a result, it is not clear if foreigners can apply for re-use public sector information in the Republic of Cyprus.

The only law in the Republic of Cyprus which clearly grants access to information on a non-discriminatory basis is the **Environmental Information Law** which in Article 2.1 grants all natural and legal persons, including foreigners, a right of access to environmental information.

In addition, there is the **Charter of Citizen's Rights** which is non-binding (i.e. it is merely a declaration, not a law) but which does make a commitment to providing citizens with information, including the commitment to answer letters promptly and to provide clear information on the services of the public administration. It is not clear whether or not this charter applies to everyone or only to "citizens" in the narrow definition of the term. In any event, such as Charter in no way substitutes for a right of access to information guaranteed by a fully developed law consistent with the Convention on Access to Official Documents.

### Review of Relevant Legal Provisions - northern part

The "**Right to Access Information Act**" has a definition of document which includes all kinds of information, with legitimate limitations, in hands of "public authorities" (Article 2), thus including archives and environmental information. It should be noted, however, that some broad classes of information including classified information, information relating to military and civil intelligence, "internal" documents, and technical and statistical information not directly relating to an administrative decision are all excluded under the exceptions, thereby limiting the scope of this law in terms of the information to which it applies (see Analysis under Principle 8).

Similarly the "Right to Information Act" in Article 5.1 grants the right of access to "everyone", but then in Article 5.2 limits the access by non-citizens: only foreign residents and foreign legal persons which are active in the northern part can have access to information and only to that information which directly concerns them or their activities.

This is clearly in direct contradiction to the concept of access to information as a fundamental human right. It is also contrary to the provisions of the Access Convention which, as the Explanatory Report makes clear, provide a right of access to "everyone" which applies both "irrespective of their motive and intentions" (Paragraph 17) and also applies "to both natural and legal persons without any discrimination, including on the basis of nationality, and even to foreigners living outside the territory of a Party to the Convention" (Paragraph 18 of the Explanatory Report).

As a result, the "Right to Access Information Act" does not comply with Principle 1 nor with the Council of Europe Access Convention which requires that all persons, including both citizens and non-citizens, have an equal right of access to information.

### Recommendations

- 1) The authorities in the Republic of Cyprus should adopt an access to information law which grants all persons the right of access to all information, subject only to legitimate exceptions. The right currently enjoyed, on paper at least, by journalists should be extended to all persons without discrimination.
- 2) The right of access to information in the Republic of Cyprus should apply to all information, including that held in the archives. The right of access to the archives may be subject only to the limitations permitted by the Convention on Access to Official Documents.

- 3) The Re-Use of PSI Law should be amended so as to define who exactly is permitted to access public sector information, and it should be made clear that this includes all individuals, whether or not they are resident in or citizens of Cyprus, and to all companies and other legal persons.
- 4) The authorities in the northern part of Cyprus should modify the “Right to Access Information Act” to ensure that all persons have an equal right to request and receive information, without discrimination, regardless of nationality or residence.
- 5) “The Right to Access Information Act” in the northern part should be modified to ensure that the definition of information is not undermined by exclusions found in the section on exceptions.

## Principle 2

Filing requests should be simple and free. Requests can be sent by post, e-mail or fax, delivered in person or questions asked verbally.

### Summary

The Council of Europe **Convention on Access to Official Documents** establishes that the procedures for filing requests should be as simple as possible and that a variety of methods should be permitted to file requests for information. The Convention states in Article 4.3 that “formalities for requests shall not exceed what is essential in order to process the request”.

The **Explanatory Report** to the Convention confirms in paragraph 43 that “the aim is to have as few [formalities] and simple [procedures] as possible” so that all types of written and verbal requests are permitted. Consequently, any country aiming to meet European standards on access to information should ensure that their legal framework permits easy and free submission of requests.

The current legal framework for access to information regime in northern Cyprus meets these standards although, as previously noted, the lack of an implementing regulation means that those standards are not upheld in practice. In contrast, the legal framework in the Republic of Cyprus only partially meets European standards, as set out in Principle 2. Whilst the laws on Re-use of Public Sector Information and on Access to Environmental Information define how requests may be submitted, there is no clear legal framework for the remainder of information held by public authorities.



SUBMISSION OF REQUEST	REPUBLIC OF CYPRUS					NORTHERN PART
	Re-use PSI	Environment Info	Archives	Data Protection	All Other Info	"Access to Information Law"
Post	✓	✓	✗	?	no law	✓
E-mail	✓	✓	✗	?	no law	✓
Fax	✓	✓	✗	?	no law	✓
Delivered in person	✓	✓	✓	?	no law	✓
Verbally	✗	✓	✗	?	no law	✗
Filing: free of charge	✓	✓	✓	✗	no law	✓

### Review of Relevant Legal Provisions - Republic of Cyprus

In Republic of Cyprus, the lack of an access to information law means that for most information no mechanisms have been defined for submitting access to information requests to public bodies. Research by members of the Access Info Cyprus Project has shown that in practice different public authorities use different systems for receiving requests.

If the information requested is likely to be part of the state archives, then, according to the Ministry of Justice and Public Order website, State Archive section, "when the researcher has identified the specific records that are to be inspected an application is filled in." This requirement runs counter to Principle 5 and the Council of Europe standards, which should permit any person to write a letter of any format requesting access to information held in the archives.

When information requests are made on the basis of the **Re-use of PSI Law**, the requirements are more complicated than the standard set by the Convention on Access to Official Documents. For example, the Re-use of PSI Law requires that the applicant submits a standard form in which the purpose of re-use of that document is declared. This requirement is not mandated by the EU Directive on which this law is based (Directive 98/2003 on the Re-Use of Public Sector Information). In addition, the application procedure in Article 9 requires that the requester "identify the requested document". This is a very vague provision which is clearly open to misinterpretation by public officials who might, for example, take it as meaning that the applicant needs to know the formal name or official reference number of the requested document.

The **Environmental Information Law**, in Article 3, does not preclude any format for requesting environmental information but nor does it explicitly state which methods may be used. Indeed the language in the refusals section suggests that requests can be filed by post, e-mail, fax, and in person. With respect to costs, Article 9.1 of the

Environmental Information Law stipulates that requests are free unless there is a cost associated with the collection and treatment of the requested information.

The **Data Protection Law** does not define the precise methods for submitting applications to exercise the rights of access to personal data (Article 12), although it does state that objection to the processing of personal data must be made in writing (Article 13.1) and the data controllers are always obliged to reply in writing (Articles 12, 13). With respect to fees, the Data Protection law establishes, in Article 14, that the only fees are those for requests to correct records which will be refunded if the objection is found to be well-founded and accepted by the data controller.

In sum the legal framework in the Republic of Cyprus requires a series of legal reforms if Principle 2 is to eventually become part of the institutional culture.

### **Review of Relevant Legal Provisions - northern part**

The **“Right to Access Information Act”** obliges “public bodies” to process all information requests, regardless of the means by which they are submitted. Specifically, Article 7.1 refers to “a letter of request” but Article 7.2 broadens the definition to include “electronic or other means” as lawful methods to file requests although the requirement in Article 7.2 for a signature precludes oral requests.

In Europe, law on oral requests is mixed, although many states do permit them, including for example: Albania, Armenia, Austria, Bulgaria, Denmark, France, Germany, Hungary, Macedonia, Moldova, Netherlands, Romania, Serbia, Slovakia, and Slovenia. The Explanatory Report to the Access Convention underscores at Paragraph 43 that a good number of countries grant this right.

This “Right to Access Information Act” is consistent with Principle 2 in that it permits a fee to be charged only at the time of receiving information and not during the application procedure. There are, however, problems with charges for receiving information which are considered further in the analysis of Principle 7.

### **Recommendations**

In order to comply with Principle 2 and the Council of Europe Convention on Access to Official Documents standards, it is recommended that:

1. A specific access to information law is adopted in the Republic of Cyprus, with provisions which guarantee the right to file requests by the means of choice of the requester (letter, fax, hand-delivery, e-mail, and orally) and ensure that the filing of the requests is free of charge.
2. The Environmental Information Law in the Republic of Cyprus is amended so that the application procedure, including methods and fees, is clearly stated. Oral requests for access to environmental information should also be permitted.
3. An implementing regulation to bring into force the “Right to Access Information Act” in the northern part should be adopted. It is recommended to permit both oral and written information requests.
4. The rules for accessing environmental information in the northern part should be harmonised with the standards of the Aarhus Convention and the EU Directive, either as part of a specific legal framework or within the Right to Access Information Act. Written, e-mail, and oral requests should be permitted.

## Principle 3

There is no need to justify why information is requested nor what will be done with it

### Summary

Principle 3 establishes that the exercise of the right to access information should not require a requester to show any personal interest in the information sought. Further, the requester should not be obliged to give a reason or justification for asking for information, nor to have to give an account of what s/he will do with it.

This principle reflects the **Council of Europe Convention on Access to Official Documents** which provides in Article 4.1 that *"an applicant for an official document shall not be obliged to give reasons for having access to the official document."*

This principle is not fully respected in either the northern part or in the Republic of Cyprus. In the northern part it is not respected because non-citizens do not have a right of access to information without giving reasons. In the Republic of Cyprus it is not respected because there is no access to information law which provides a general right of access and some of the other laws require reasons to be given, such as the Press Freedom Law and State Archives Law. Only the Environmental Information and Re-use PSI laws give a right of access without reasons, but they represent a small fraction of all information held by public authorities.

Justification	REPUBLIC OF CYPRUS						NORTHERN PART
	Re-use PSI	Environment Info	Archives	Data Protection	Press Freedom Law	All Other Info	
<b>No duty to justify requests</b>	✓	✓ Article 3.1	✗	✓	✗ Article 7.2	no law	✗ Article 5.2
							"Access to Information Law"

### Review of Relevant Legal Provisions - Republic of Cyprus

In the south, just one law makes clear that requesters do not have to give reasons: the **Environmental Information Law** clearly states in Article 3.1 that there is no legal duty to invoke or prove interest when submitting a request for environmental information: "Public authorities are obliged to provide information on the environment [...] to any applicant without having to invoke or prove interest."

The **Re-Use of PSI Law** does not require reasons to be given but at the same time it does not apply in cases when another law requires that reasons be given to access a particular piece of information. Article 3.4 states that "[t]his Act shall not apply in cases in which citizens or companies have to prove a particular legitimate interest under the access regime to obtain access to the documents." This means that only information for which the requester is not required to provide reasons or for which another access

regime applies, such as the Archives Law or Data Protection Law, may be requested under the Re-use of PSI Law.

The **Data Protection Law** does not require that reasons be given, which is positive, but of course the requester has to demonstrate that they are the person to whom the information applies.

The **State Archives Law** does not require the general public to prove a legitimate interest in order to consult the State archives, but the official website of the State Archive publishes a series of forms that place obligations on requesters. For example, the "Purpose and Subject of Research" must be stated in the official form for accessing the archives (Documents Request Form) which amounts to proving a legitimate interest and thus is a violation of the Council of Europe Convention on Access to Official Documents, which requires that the right of access to information without having to give reasons also applies to the State Archives.

Any law which is limited to a certain category of requesters, such as the **Press Freedom Law**, is implicitly asking the requester to justify who they are and therefore why they want the information and hence is in contravention of international standards.

### Review of Relevant Legal Provisions - northern part of Cyprus

The "**Right to Access Information Act**" at Article 5.1 states without qualification that "everyone has the right to access information." This right is then immediately narrowed by Article 5.2 which establishes that "*foreign residents and foreign legal persons active in [the northern part of Cyprus] can benefit from the rules of this Law provided that the information asked for concerns themselves or their activities.*"

The requirement that non-citizens and foreigners have to justify information requests is counter to the principles of the Convention on Access to Official Documents which make clear that anyone can file requests without having to give reasons. It is thus a discriminatory provision.

The northern part of Cyprus also has a "**Data Protection Law**" which provides members of the public with the right to access, correct or require deletion of their data held by public and private bodies. It is positive that this law exists and has other features such as controls on the processing of personal data. This law should not be confused with the "Right to Information Act" when it comes to providing reasons: there is a difference between a request for general information from a public body (where no reasons should be required) and a specific request for access to personal data by the person to which that data relates (when it is legitimate to verify the identity of the requester).

### Recommendations

In order to comply with Principle 3 and Article 4.1 of the Council of Europe Convention on Access to Official Documents, it is recommended that:

1. In the northern part, Article 5 of the "Right to Access Information Act" should be amended to remove the discriminatory provision regarding the exercise of the right to access information by foreign residents and foreign legal persons.
2. In the Republic of Cyprus, a full access to information law should be adopted which establishes that anyone making an information request shall not be obliged to give reasons for having access to such information.

## Principle 4

Public officials should have the obligation to help requesters prepare the request or identify the public body to send it to

### Summary

The **Council of Europe Convention on Access to Official Documents** in Article 5, Processing of Requests for Access to Official Documents provides that:

1. *The public authority shall help the applicant, as far as reasonably possible, to identify the requested official document.*
2. *A request for access to an official document shall be dealt with by any public authority holding the document. If the public authority does not hold the requested official document or if it is not authorised to process that request, it shall, wherever possible, refer the application or the applicant to the competent public authority.*

With the exception of the Environmental Information Law in the Republic of Cyprus there is no clear provision in either the legal framework in the Republic of Cyprus or in the northern part requiring that information-seekers be given assistance with the preparation of requests or with identification of the public bodies to which they should be submitted.

	REPUBLIC OF CYPRUS				NORTHERN PART	
<b>Duty to Assist Requesters</b>	Environmental Information Law	Public Service Law	Citizen Charter (non-binding)	Access to Information Law	"Access to Information Law"	"Public Officials Law"
	✓ Article 4	Only partially Article 67.3	Only partially section C	no law	✗	✗

### Review of Relevant Legal Provisions - Republic of Cyprus

As regards the **Environmental Information Law**, Article 7 establishes that the Ministry of Environment and its public officials provide information, guidance and advice regarding the public right to access environmental information. According to Article 4, public authorities have the duty to clarify and assist the requester of environmental information and Article 6 specifies both mandatory and voluntary practical arrangements to that end such as the designation of information officers.

A broad interpretation of Article 60 of the **Public Service Law** might suggest that public officials should help requesters by all means possible in their duty to do their "utmost to serve the public." Furthermore, public officers are mandated in Article 67.3 to offer "technical or professional advice" while performing their public duty. This would not, however, apply specifically to information seekers since the Public Service Law only requires public servants to act in accordance with the law and there is therefore nothing

illegal if they refuse to assist someone looking for information. Once an access to information law comes into force in the future, however, this obligation will exist.

Although the **Citizen Charter** is not a legally binding document, its content openly aims at improving the services to the public by all means possible. According to Section C of the Charter, public services are urged "to be easily accessible and friendly to the citizen and to provide adequate information". This vague, broad, and non-binding language in no way substitutes for an access to information law but nevertheless demonstrates that there is some requirement on public officials to help treat information requesters well and help them find information.

### Review of Relevant Legal Provisions - northern part

The "**Right of Access to Information Act**" does not establish a provision requiring public officials to assist requesters but it does require requests to be transferred, which is very positive. The transfer obligation is established by Article which states that: "*Should the requested information or document be available at another public authority and department, then the application is passed on to the relevant public authority and department and the applicant is informed of this fact by writing or electronic means.*"

In addition, Article 9 states that in cases where the requested information has already been published, "*the applicant is informed when, where and by which means the information or document was published.*"

The "**Public Officials Law**" requires that "public officials" apply the legal frameworks "with due care" (Article 9) and again that they "fulfil their duties with care and caution" (Article 11). This does not however go so far as creating a specific obligation to assist information seekers.

Indeed, the "Public Officials Law" might discourage transparency as it holds officials personally liable for any "loss and damage they cause to the state, intentionally or negligently" and can be taken to court if they fail in this duty (Article 11). It can be imagined that this provision might discourage an official from releasing information which is of high public importance but which might be deemed to cause damage to the state.

This concern is confirmed by Article 39 of law which states that "*civil servants are prohibited from passing any information or make statements on his/her department services policies and how these are services are carried out, unless they are authorized by their superiors*".

### Recommendations

In order to comply with Principle 4 and with the Council of Europe Convention on Access to Official Documents, it is recommended that:

1. A full access to information law should be adopted in the Republic of Cyprus which provides a section about a general duty to advise and assist along similar lines as above.
2. The "Right to Access Information Act" in the northern part of Cyprus should be amended to add a section about the general duty to advise and assist, as for example: "public officials must, so far as it is reasonable to expect it to do so, provide advice and assistance to a person who proposes to make, or has made, a request for information to it."

- It should be made clear in both the northern part and the Republic of Cyprus that public officials who release information in good faith when applying the terms of an access to information law and who do so in accordance with the provisions established under that law, will not be held liable for any subsequent damage which may arise or any perceived damage or negative political impact caused by making the information public.

## Principle 5

Responses should be fast, within a maximum 15 working day timeframe

### Summary

The average timeframe for responding to requests around Europe is just under 15 working days. This timeframe is consistent with the Council of Europe **Convention on Access to Official Documents** which states in Article 5.4 that:

*“a request for access to an official document shall be dealt with promptly. The decision shall be reached, communicated and executed as soon as possible or within a reasonable time limit which has been specified beforehand.”*

TYPES OF RESPONSES	REPUBLIC OF CYPRUS					NORTHERN PART
	Re-use PSI	Environment Info	Archives	Data Protection	All Other Info	“Access to Information Law”
<b>Initial Response</b> <i>Recommended:</i> maximum 15 working days	20 days	20 days	not defined	4 weeks (to access)	<b>no law</b>	15 working days
<b>Extensions</b> <i>Recommended:</i> maximum additional 20 working days	20 days	20 days	not defined	15 days (to object)	<b>no law</b>	15 working days

The legal framework in the northern part complies with Principle 5 and the Convention on Access to Official Documents by having a 15 working day timeframe for responding to requests. The possibility of an extension for up to additional 15 working days is also acceptable according to comparative international standards. The Access Info Cyprus Project recommends a maximum 20 working day extension, giving public authorities no more than 35 working days which is about seven weeks to answer requests. In the vast

majority of cases it should be possible for public authorities to comply with this upper limit, unless their internal information is very poorly managed.

In the Republic of Cyprus there is no maximum time limit for responding to requests for most information held by public authorities because there is no access to information law. The time frames which are defined – for example, for access to environmental information – are in line with European standards by setting a 20 working day timeframe. Specifically the Environmental Information Law complies directly with the Aarhus Convention by establishing a 20 working day timeframe.

### Review of Relevant Legal Provisions - Republic of Cyprus

Although the Republic of Cyprus lacks a general access to information law, several laws define reasonable timeframes for accessing specific types of information. For instance, the **Data Protection Law** in Article 12.3 requires that public and private bodies respond to requests for access to personal data within four weeks, whereas Article 13.1 establishes that data controllers respond to an objection to the processing of sensitive data submitted by the concerned data subject within a 15-day time limit.

The **Re-use of PSI Law** establishes in Article 9 that applications for the reuse of public information should be processed within 20 days. The relevant public body may extend this by another 20 days if this is reasonably justified and notified to the requester within three weeks of the date of the application.

Similarly the **Environmental Information Law** defines in Article 3.2.a a timeframe of one month, so approximately 20 or 21 working days, for responding to requests for environmental information, either to grant or refuse access. The public authority concerned is allowed to extend that time limit for up to another month if the volume and complexity of the information requested so demands (Article 3.2.b).

The one norm which might establish timeframes for more general access to information is the **Citizen Charter**, a non-binding policy document, which claims to set out the “period of time within which the department has the obligation to reply and provide fuller information and quicker services to the public”, but which then fails to define those timeframes. The Ministry of Interior has established that all letters should be responded to “promptly” but does not state precisely what this means in practice.

### Review of Relevant Legal Provisions - northern part

The **“Right to Access Information Act”** establishes in Article 12 a time limit of 15 working days unless “the content of the request involves more than one public authority and department, in which case the information or document will be provided within thirty days”. If an extension is to be applied, the applicant must be informed of the extension within 15 working days.

With these provisions, Principle 5 is already integrated into the legal framework for access to information in the northern part of Cyprus. There are however problems with the application of these provisions. Adopting an implementing regulation of the law would be a first step to address these problems.

### Recommendations:

In order to comply with the Open Cyprus Principle 5 and to ensure prompt responses to access to information requests within a pre-defined timeframe, as required by the Council of Europe Convention on Access to Official Documents, it is recommended that:



1. A detailed regulation defining the procedure and timeframes for information and administrative services should be adopted in the northern part of Cyprus to bring fully into force the Right to Access Information Act;
2. A legal framework should be adopted for the northern part of Cyprus for reuse of public information, with an average 15 day time limit;
3. Access to environmental information in the northern part can be assured either via a dedicated access to information law or under the general access to information law;
4. A specific access to information law is approved in the Republic of Cyprus, which establishes a 15 working day timeframe for responding to information requests. The extension period should be a maximum of 20 working days and should only be permissible in exceptional circumstances;
5. The government in the Republic of Cyprus approves specific laws and regulations to comply with the policy commitment to set strict timeframes for all administrative procedures, including information requests, as expressed in the Citizen Charter.

## Principle 6

Information can be accessed in paper copy or electronically, and originals can be viewed.

### Summary

This Principle refers to two aspects of the right to access information. The first is that requesters should always have a right to view originals. The second is that copies must be provided, either in paper or electronic copy.

Comparative international standards and the Council of Europe **Convention on Access to Official Documents** establish that the requester has the right to specify the preferred format for receiving the information and that the information should be provided in this format wherever possible. This means that, if information exists in electronic format, to provide the requester with paper copies is a breach of the right.

The Convention states, in Article 6 on Forms of Access to Official Documents, that:

*When access to an official document is granted, the applicant has the right to choose whether to inspect the original or a copy, or to receive a copy of it in any available form or format of his or her choice unless the preference expressed is unreasonable.*

Upholding the right of access to information in electronic format is not just a right related to ensuring that citizens can reuse the information they obtain, it is also an indicator of an effective administration. Electronic storage of information permits it to be stored in a way that it can be accessed rapidly, processed efficiently, and shared with other public bodies.

The one exception to access by viewing originals is when the document is in a fragile state and where handling the original might cause further deterioration. In this case the requester should be given the option of receiving either a photocopy or a scanned/photographed digital copy. Such a limitation is acceptable under the Council of

Europe Convention on Access to Official Documents. In such cases it is acceptable to charge for the copying costs.

The “law” in the northern of Cyprus part fails to provide requesters with the right to opt for the type of access (viewing or copies) or for the format (hard copy, electronic, etc.). It requires public authorities to provide certified copies of information, thereby making it hard to gain access to information in electronic format under the current law of access.

The legal framework in the Republic of Cyprus has no provision for accessing information in electronic format, or in any format for that matter given the absence of a general access to information law. There are two exceptions to this: requesters of environmental information can specify if they wish to view the view information or access it in hard copy or electronically and public authorities shall make every reasonable effort to comply with this request; and information destined for reuse should be provided electronically wherever possible.

Access in specified format	REPUBLIC OF CYPRUS					NORTHERN PART
	Re-use PSI	Environment Info	Archives	Data Protection	All Other Info	“Access to Information Law”
Viewing	?	✓	✓	✗	no law	✗
Copy	✓	✓	✓ (certified)	✓	no law	✓ (certified)
electronic access	✓	✓	✗	?	no law	✗

### Review of Relevant Legal Provisions - Republic of Cyprus

The legal framework in the Republic of Cyprus does not anticipate a general right of access to information and therefore does not anticipate the forms of access. The exhortation in the *Public Service Commission Chairman’s Salutation* that information be published proactively in digital format is laudable but does not substitute for responding to requests by providing information in electronic format.

The **Environmental Information Law** does provide, in Article 5, for requesters to specify the “form or type” of access they prefer. This can include viewing and copies. Public authorities should comply with the wishes of the requester except where the information has already been published in another form or type “which is easily accessible to the applicant” or where “it is reasonable for the public authority to provide this information in another format or type.” These provisions reflect the language of the Aarhus Convention and the EC Directive on public access to environmental information but they are still potentially problematic provisions in the context of Cyprus where there is no culture of providing requesters with information in a format most suitable for their use.

It is positive that the Environmental Information Law also requires that public authorities provide requester with reasons as to why information was not provided in the format specified, but the language could be tightened here to ensure that public officials make due effort to provide the information in the format required. For example, if some data has previously been published in a printed report and a requester asks for that information in electronic format, it would be unreasonable to deny such access. This is consistent with Article 5.2 which requires that public authorities ensure the form or type of access allows easier reproduction of the information and that the information is accessible via telecommunications or electronic means.

The **Re-use of PSI Law** is more specific, Article 5.1.b, requiring that any public information that is approved for reuse should be available in electronic format where possible. In addition, the law requires in Article 6.c and Article 8 that a list of the main documents available for reuse should be accessible on-line. This on-line list does not of course substitute for the provision of the actual documents in electronic formats. It is noted that in many countries, governments are developing data portals where full data sets can be downloaded instantaneously in electronic format, something which should be explored by the public authorities in Cyprus.

The **State Archives Law** does not provide for nor prohibit electronic access. At present, in practice, the State Archives only gives access in the form of paper copies. If a certified copy is required, then, consistent with current administrative practice in Cyprus, it will be provided as a paper copy.

The **Data Protection Law** gives persons a right to access information about themselves in writing, which indicates that viewing of originals is not permitted. This is not a significant problem in the context of access to personal data in the way that it is with a general right of access to information. Additionally, there is no reference to electronic access although it is not explicitly prohibited.

The legal framework in the Republic of Cyprus therefore fails to provide for a general right of access to information in any format.

### **Review of Relevant Legal Provisions - northern part of Cyprus**

The provisions of the **“Right to Access Information Law”** that refer to making a request, i.e. Article 7, do not make any reference to the right of the requester to state in which format they would prefer to receive the information. The article merely states that “[t]he requested information and document [should be] clearly stated in the application.”

A potential problem arises from the provisions which regulate the provision of information in Article 11. It is stated that “[a] certified copy of the requested document is communicated to the applicant by the public authority and department”, which implies that the information will not be delivered in electronic format.

Article 11 also provides that viewing of the document will be permitted only if “the document is not suitable for copying or copying is most likely to damage the document”, which runs counter to the Council of Europe standards which require that requesters must always be able to view the document unless this would risk damaging the document.

Positively the “Right to Access Information Law” in the northern part anticipates in Article 11 that in some cases it may be necessary to listen to recorded information or to view a film, and this is thus permitted as a form of access.

Overall the law in the northern part fails to grant a requester the following essential elements of the right to information: the right to view originals in almost all circumstances and the right to a copy in the preferred format, including electronic, whenever possible.

## Recommendations

In order to comply with Principle 6 and with the Council of Europe Convention on Access to Official Documents, it is recommended that:

1. An access to information law should be adopted in the Republic of Cyprus which gives requesters the right to opt for the preferred type (viewing or copies) and format of access (hard copy, electronic, or other as relevant). The provisions of the law on access to environmental information are relevant here but an even clearer wording could be developed consistent with the provisions of the Convention on Access to Official Documents;
2. The legal framework in the northern part be amended to give requesters a clear right (a) to view original copies of the information should that option be preferred and (b) to have access to electronic copies of documents whenever the information already exists in electronic format;
3. In both the Republic of Cyprus and northern part, legal provisions or guidelines should be adopted on how to apply exceptions to information to be provided in electronic format. There are a number of technical models for this, of which the easiest – often used by the European Union – is to replace the text in a digital file with the words ‘DELETED’ while indicating the size of the deleted text and providing reasons for each deletion in the accompanying decision letter.

## Principle 7

Viewing original is always free of charge. The only charges can be for photocopying or copying material onto a CD or DVD or other format.

### Summary

The Council of Europe **Convention on Access to Official Documents** in Article 7 on “Charges for access to official documents” provides that:

- on-site inspection of official documents “shall be free of charge” (with the minor exception of charges for entering museums and public archives);
- charges made for copies “should be reasonable and not exceed the actual costs of reproduction and delivery of the document”, i.e. in accordance with the “self-cost” principle and not to make a profit from this activity. Where charges are levied, tariffs detailing such charges should be published.

The “Right to Access Information Act” in the northern part includes a broad variety of instances where a fee may apply at the time of requesting or accessing information. The charging provision in the northern part is, therefore, in breach of the Council of Europe Convention which requires that the level of the fee be based only on the actual cost of reproduction or delivery costs associated with providing the information.

The lack of a general access to information law in the Republic of Cyprus has the effect of multiplying the legal provisions on charging of fees when accessing and using public

information. Different laws related to access public information state a variety of fees to be charged. The range of fees charge may have the effect of discouraging requesters because they are unsure about the eventual cost of an information request.

Fee charged	REPUBLIC OF CYPRUS						NORTHERN PART
	Re-Use PSI	Environment Info	Archives	Data Protection	All Info	Other	"Access Information Law" to
Viewing	✘	✓	✓	✓ <i>amending only</i>		no law	✓
Copy	✓	✓	✘	?		no law	✘ <i>statutory minimum</i>
electronic access	✓	✓	?	?		no law	✓

### Review of Relevant Legal Provisions - Republic of Cyprus

The **Environmental Information Law** does not permit fees to be charged for filing requests although fees may be charged for "providing information" (Article 9.2). Whilst it is positive that there is no charge for filing of requests, the charging provision is still vague and it would be better to specify that this means copying and delivery. It is stated that on the spot viewing is free but there is no specific mention of provision of electronic copies. It would be consistent with international standards and in particular the Council of Europe Access Convention to make clear that there are no costs associated with electronic delivery of information.

The **Citizens Charter**, although not a binding document, encourages the Administration to ensure "unimpeded" access to all administrative services, but it has no specific provisions about charges.

The **Re-Use of Public Information Law** states in Article 7 that charging for the reuse of public documents is permitted. Fees are to be set by the public body holding the documents and then approved by the Ministry of Interior. There are many factors that should be taken into account and individuals may request a cost analysis. It is noted that Access Info Europe argues that charges for receiving for data under laws on the reuse of public sector information may run counter to the standards of the Council of Europe Access Convention, something which is still being evaluated at the international level.

The **State Archives Law** establishes in Article 18.1 that the Ministerial Council shall issue Regulations, which shall be published in the Official Gazette of the Republic, for "charging for the inspection of files, located in the State Archive or storage sites determined according to this Act, for the issuance of certified copies or parts of such files and for the provision of any other service by the State Archives officers or officers of other storage sites." On the website of the State Archives there is an application form for copies which states that the cost are €0.34 per A4 copy and €0.68 for A3 copies.

## Review of Relevant Legal Provisions - northern part

"The Right to Access Information Act", in Article 11.2, provides that:

*"For every accessed information and document a fee is charged. This fee is determined by the Council of Ministers' regulation on a proposal from the Finance Ministry and is charged by the public authority or department applied to and is registered as income with the Exchequer. This fee cannot be less than 0.5% of the minimum wage or more than the minimum monthly wage."*

Further, Article 11.3 states the elements to be taken into account in determining the fee: personal use of the information; academic use of the information; commercial use of the information; and information used by the press. Also, the fee reflects *"the effort and the time spent on research, investigation and analysis by the public authority and departments while gathering the requested information and documents."* This provision permits a wide discretion on the level of fee charged and not based on actual costs. It also includes aspects such as "research, investigation and analysis", which are impermissible by international standards and also introduce the possibility that costs will be artificially inflated.

Hence the charging provision in the northern part is in breach of the Council of Europe Convention which requires that the level of the fee be based on the actual cost of reproduction or delivery costs associated with providing the information.

## Recommendations

In order to comply with Principle 7 and with the Council of Europe Convention on Access to Official Documents, it is recommended that:

1. In the northern part, Article 11.2 of the "Right to Access Information Act" should be amended to comply with Article 7 of the Council of Europe Convention, by establishing that charging of fees is discretionary and that it may not exceed the actual costs of making copies and delivering the information.
2. An explicit regulation on charging fees for accessing information should be approved by the Council of Ministers in the northern part as stated in Article 11.2 of the "Right to Access Information Act".
3. In the Republic of Cyprus, Article 9 of the Access to Environmental Information Law should be amended to comply the Council of Europe Convention on access to official documents by introducing a clause which makes clear that the "provision" of information relates only to making copies and delivering the information; viewing of originals and receipt of electronic copies shall always be free of charge.
4. A full access to information law should be adopted in the Republic of Cyprus which establishes that:
  - a) viewing original documents is free of charge;
  - b) that discretionary fees may be charged by public bodies only for making copies and delivering information;
  - c) electronic access to information should always be free of charge.

## Principle 8

In principle, all information is accessible, subject to limited exceptions. Refusals should be justified according to exceptions.

### Summary

The Preamble of the Council of Europe **Convention on Access to Official Documents** establishes a broad regime of access to information when it considers “that all official documents are in principle public and can be withheld subject only to the protection of other rights and legitimate interests”.

The exceptions permitted by the Convention in Article 3.1 are:

- National security, defence and international relations;
- Public safety;
- The prevention, investigation and prosecution of criminal activities;
- Disciplinary investigations;
- Inspection, control and supervision by public authorities;
- Privacy and other legitimate private interest;
- Commercial and other economic interest;
- The economic, monetary and exchange rate policies of the State;
- The equality of partners in court proceedings and the effective administration of justice;
- Environment; or
- The deliberations within or between public authorities concerning the examination of a matter.

The **Explanatory Report** to the Convention confirms that the “list of limitations in Article 3, paragraph 1 is exhaustive” which means that no other exceptions are permitted. Furthermore, Article 3.2 establishes that information can only be withheld from public disclosure if its release would **harm** one of these protected interests and if there is **no overriding public interest** in accessing the information.

*An example here will help illustrate the harm and public interest tests.* For example, it could (possibly!) be argued that for the public to know about spending on the police force will harm the interests of fighting crime and protecting public safety, because criminals will know how many police officers there are and how many cars they have. On the other hand, there is a clear public interest in knowing about the number of police officers and what kind of resources and equipment they have in order to be sure that the government is being effective in the spending of funds to ensure that the public is well protected. It is very hard to have a proper debate about the quality of the police force and if the right amount of this budget is spent on policing without having this information. Therefore, although there is a potential harm to a legitimate interest, there is a greater (overriding) public interest in knowing the information.

A positive outcome of a public interest test will override the finding that release of the information might harm a protected interest. The Memorandum further explains that “the outcome of a harm-test is closely connected with the lapse of time”. As a result, Article 3.3 of the Convention suggests that national laws might “consider time limits beyond which the limitations (...) would no longer apply”. For instance, a lawful refusal to access official information on the basis of an exception for Disciplinary Investigations (d) should be limited to the period of time that those investigations remain officially open. Access to that official document should be granted thereafter.

Whenever an exception is applied, “a public authority refusing access to an official document wholly or in part give the reasons for the refusal,” as stated in Article 5.6.

The exceptions established by the Convention also apply to information classified as a state secret, which must be evaluated on a case-by-case basis each time a request for information is received.

REPUBLIC OF CYPRUS										NORTHERN PART
	Constitution Article 19	Re-use PSI Law	Environment Info Law	State Archives Law	State Secrets Law	Data Protection Law	Press Law	Public Aid Law	All Other Info	“Access to Information Law”
Exceptions Limited	✗	✗	✓	✗	✗	✓	✓	✗	no law	✗
Refusals Justified	✗	✓	✓	✗	✗	✓	✗	✓	no law	✓
Harm Test	✓	✓	✓	✗	✓	✓	✓	✓	no law	✓
Public Interest Test	✗	✗	✓	✗	✗	✓	✗	✗	no law	✗

Neither the legal framework in the northern part nor that in the Republic of Cyprus meets international standards for access to information because they do not apply to all information, as noted elsewhere in this analysis. In addition, even where access is granted, the exceptions are much broader than that permitted by international law.

Specifically, the “Access to Information Law” in the northern part and a combination of the State Secrets and State Archives laws in the Republic of Cyprus exclude much information that should otherwise be available under the access to information regime of a democratic country. In part the particular political context prevailing in Cyprus and the nature of the security concerns have contributed to a culture of secrecy and excessive protections for information which might impact on national security. Nevertheless, the Memorandum of the Convention foresees this situation and recommends at Paragraph 23 that:



*the notion of national security should be used with restraint. It should not be misused in order to protect information that might reveal the breach of human rights, corruption, within public authorities, administrative errors, or information which is simply embarrassing for public officials or authorities.*

As part of the democratisation and stabilisation of Cyprus, it will be necessary to re-evaluate what information should be withheld from the public domain because its disclosure would genuinely harm national security or territorial integrity and which information could in fact be made public in order to further debate and build an open society.

### Review of Relevant Legal Provisions - Republic of Cyprus

This section reviews the Constitution and laws which grant access to some classes of information and evaluates whether the exceptions which they contain fit with the standards of the Council of Europe **Convention on Access to Official Documents**. In addition to this evaluation it is of course noted that without a full access to information law the legal framework for access to information in the Republic of Cyprus still falls short of the Convention requirements.

<b>Article 19 of the Constitution applies to all classes of information</b>			
<u>Exceptions in the law</u>	Council of Europe Convention on Access to Official Documents	Harm Test	Public Interest Test
Security of the Republic and Constitutional Order	✓	✓	✗
Public safety & order, public health & morals	✓	✓	✗
Reputation and rights of others	✓	✓	✗
Information received in confidence	✓	✓	✗
The authority and impartiality of the judiciary	✓	✓	✗

The **Constitution** in Article 19 establishes the right to freedom of expression and information. This provision should be interpreted in line with the rulings of the European Court of Human Rights on the equivalent provision in the European Convention on Human Rights, Article 10. As noted in the Section 4, the European Court of Human Rights has stated that Article 10 grants a right of access to information from public bodies when they are the only source of the information.

The Republic of Cyprus has been a party to the European Convention on Human Rights since 1961 (date of signature; entry into force 1962) and is bound to abide by the jurisprudence of the European Court of Human Rights. This means that the legal system in Cyprus should recognise the right of the public to access information held by public bodies and the Republic of Cyprus Constitution should be interpreted as granting this right. As a result, any exceptions limiting the right of access to information should be in line with those limiting freedom of expression in Article 19 of the Constitution which must be consistent with Article 10 of the European Convention on Human Rights.

Republic of Cyprus Constitution Article 19.3	European Convention on Human Rights Article 10.2
<p>The exercise of the rights provided in paragraphs 1 and 2 of this Article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.</p>	<p>The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p>

As can be seen from the table above, Article 10.2 of the **European Convention on Human Rights** (ECHR) sets limits on freedom of expression that are analogous to those set by Article 19.3 of the Constitution of the Republic of Cyprus. Nevertheless, Article 10.2 of the ECHR establishes a public interest test by the requirement that restrictions be only those “necessary in a democratic society”. Article 19.3 of the Republic of Cyprus Constitution permits the same limitations to freedom of expression but lacks any language which introduces a test of democratic necessity on the restriction, in other words, it fails to establish a public interest test that would override a restriction given the particular circumstances in which it is applied.

Re-use PSI Law only applies to administrative information			
<u>Exceptions in the law</u>	Council of Europe Convention on Access to Official Documents	Harm Test	Public Interest Test
Documents for which third parties hold intellectual property rights	✗	✓	✗
Protection of state security, defence and public security	✓	✓	✗
Commercial confidentiality	✓	✓	✗
Statistical Confidentiality	✗	✓	✗

The **Re-Use of PSI Law** includes limited exceptions which are all subject to a harm test. However, not all these exceptions are contemplated in the Convention on Access to Official Documents. This is because the EU Directive on Re-use of PSI includes exceptions which are not provided for in the Access Convention. Given that the right of access to information is a fundamental right, it should always take precedence over other laws which limit access. This will need to be taken into consideration when applying a future access to information law in the Republic of Cyprus to ensure that access is not denied on grounds established by other laws.

<b>Environmental Information Law – applies to all environmental information</b>			
<u>Exceptions in the law</u>	Convention on Access to Official Documents	Harm Test	Public Interest Test
In-house communications, confidentiality of administrative proceedings	✓	✗	✓
Confidentiality of proceedings of a public authority	✓	✓	✓
International relations, public security, national defence	✓	✓	✓
Administration of justice, fair trial, and disciplinary investigations	✓	✓	✓
Confidentiality of commercial and industrial information to protect legitimate economic interests	✓	✓	✓
Intellectual property rights	✗	✓	✓
Personal data protection, and protection of persons supplying information voluntarily	✓	✓	✓
Protection of environment	✓	✓	✓

The **Environmental Information Law** transposes the **Aarhus Convention on Access to Environmental Information** in the Republic of Cyprus. The law grants access to environmental information with limited exceptions subject to both harm and public interest tests in most cases. However, refusals of access to in-house communications and administrative proceedings (Article 8.1.e) are not subject to a harm test. The Aarhus Convention does not require a harm test for in-house communications (Article 3.c) and administrative proceedings (Article 4.a) if “such an exemption is provided for in national law”. However, according to the standards of the Council of Europe Convention on Access to Official Documents, a harm and public interest test should be applied to all exceptions to access, including in-house communications and administrative proceedings.

The exceptions to access established by Article 8.2.e in order to protect intellectual property rights are in line with the Aarhus Convention (Article 4.e) but not the Access Convention. As the **Explanatory Report** to the Access Convention explains, a public authority may only “be justified in refusing to provide a copy of the document if (...) intellectual property rights might be infringed” (Paragraph 54). This means that

according to the standards of the Access Convention, public bodies in the Republic of Cyprus should be permitted to refuse to provide a copy of environmental documentation if those documents are copyrighted by a third party, but the authority should not refuse access to view those copyrighted documents. There may be exceptional cases where even viewing original information would in itself contain the risk of direct harm to intellectual property rights.

Press Law applies only to information requested by journalists			
Exceptions in the law	Convention on Access to Official Documents	Harm Test	Public Interest Test
public order & security	✓	✓	✗
security of the constitutional order	✓	✓	✗
protection of the rights & reputation of others	✓	✓	✗

The **Press Law** provides all journalists, whether Cypriot or foreign, with a reasonably strong regime of access to information. Article 7 grants “the right (...) to search and receipt of information from any competent authority of the Republic” and these in turn are “obliged to provide the requested information.” Exceptions to this rule are set out in Article 7.3, and are shown in the chart above. These exceptions fail to meet the Access Convention standard as they do not include a public interest test.

The **State Archives Law** applies to all public records which the State Archivists determine should be preserved for posterity. It fails to meet the Access Convention standards in two main ways. First, documents are kept in Archives for 30 years (Article 8.1) and cannot be accessed without special Ministerial-level permission (Article 8.4). This violates the Convention on Access to Official Documents which should apply equally to documents held in archives, subject only to the application of limitations as provided for by the Convention. The one exception to this is documents which were accessible to the public before their transfer to the archives, but given the current state of access to information in Cyprus, this is likely to apply to only a limited number of documents and so does not assist with access to much of the information in the State Archives.

Second, the Ministerial prerogative to extend the 30-year period to prevent a “breach of good faith” (Article 8.2) when the information was provided in confidence from a source outside the Cyprus government is over-broad. Such information should always be available in principle. If it is necessary to protect the identity of those who provided the information, then any relevant sections which reveal a name or could reveal the identity of living individuals in need of protection can be done by blanking out the relevant sections rather than withholding the entire document. Such a possibility currently exists in so far as the Minister may determine the conditions for any access (Article 8.2) but the language here is not strong enough: the legal grounds for withholding the information need to be specified, as well as the alleged harm that will be caused. In addition, a public interest test should be applied to determine whether, in some cases, information should be released.

The **Data Protection Law** complies with European standards on Principle 8 in the sense that the limitations which may be placed on the rights of the data subject to access their

personal data is in conformity with the Convention on Access to Official Documents and international data protection standards.

A future access to information law should, however, ensure that in some cases the public will have access to personal data when that data refers to persons performing public functions, such as ministers or public officials. So for example, biographical data about a private individual or their salary may not be a matter of public interest but the public has a right to know about the relevant professional experience of a public official and how much he or she is earning with a salary drawn from public funds contributed by tax payers. In other words, there will be instances when the protections of personal data in the data protection law and the limitations it imposes on what may be done with that data are overridden by the public interest test that forms part of the public's right to know.

The **State Secrets Law** in the Republic of Cyprus will have an important relationship in the future with the new access to information law. The Law applies to classified information as well as to information originating from the EU which is classified. In addition, public works contracts the execution of which involves access to classified information fall under the scope of the Act.

Like many State Secrets laws, the law classifies information whose publication "without permission may harm to varying degrees the national security and general interests of the Republic, setting up a threat for its internal stability or international relations". This is a legitimate ground for classifying information and includes the harm test. It does not, however, include a public interest test which would therefore only be applied if a request for the information were to be made under a future access to information law.

The State Secrets Laws does not permit requests to be filed for classified information nor does it provide for administrative or judicial mechanisms to challenge the classification of a specific document. The future access to information law should ensure that requests can be made for documents which have been classified and that the classification should be reviewed upon receipt of the request; should it be found that there is an overriding public interest, the information should be released. The Information Commissioner and the courts should have oversight of access to classified information and should be empowered to order disclosure.

### **Review of Relevant Legal Provisions - northern part**

At the level of the constitutional provisions in the northern part, the Article 24 provisions on Freedom of Thought, Speech and Expression also mirror Article 10 of the European Convention on Human Rights. The same right to "to receive and impart information and ideas" is included, as is the same listing of exceptions.

The one difference is that that the test of necessity is not qualified by reference to a democratic society, so that the "necessary" restrictions could be "necessary" on other grounds. This undermines the important protection of access to information in which there is a public interest.

northern part of Cyprus – Article 24	European Convention on Human Rights Article 10.2
<p>The exercise of the freedom of speech and of the freedom of expression may be subject to such formalities, conditions, restrictions, or penalties as <b>are necessary</b> and <b>as prescribed by law</b>, only in the interest of national security or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.</p>	<p>The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are <b>prescribed by law</b> and are <b>necessary in a democratic society</b>, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p>

In addition, there are four main problems with “the Right to Access Information Act” with respect to Principle 8.

First, information classified as state secrets in the northern part of Cyprus lies outside the scope of the “Right to Access Information Act” (Article 27), regardless of its content when such information has been classified as secret. This is counter to European standards which only permit case-by-case refusals to release information on grounds such as national security. If classified information is requested, it must be reviewed for possible release.

Second, a number of other exceptions, including regarding the civil or military intelligence unit’s activities (Article 18), the secrecy of communication (Article 22), information subject to intellectual property (Article 24), and internal information that is of “no concern to the public” (Article 25) are all excluded from the scope of the law.

Third, although most of the exceptions in the “Right to Access Information Act” establish a harm test, they do not establish a public interest test. The failure to provide for a public interest test means that the law does not fully comply with Article 3.1 of the Access Convention which requires that the public interest test apply to each and every exception.

Fourth, some of the exceptions appear superficially to comply with the Access Convention but in fact do not because they exclude entire classes of information. A case in point is Article 26 which states that “opinions received, memorandum, proposals and recommendations received by the public authorities and departments while executing their activities are within the scope of this Law **unless stated otherwise**” (emphasis added). This provision contains the potential for broad exclusion of information by other law or regulation or simply by executive fiat.

Similarly Article 26 establishes that “Testimonies on cultural, scientific, statistical, technical, medical, financial, legal and similar matters by those who are legally obliged to do so, are accessible provided they form the principles of the public authority’s and department’s decisions.” In other words, if this information does not relate directly to and form part of a decision, it cannot be accessed. Since much statistical and technical information is not related to a specific decision, this would exclude large swathes of the information held by public authorities. It is also important to note the spirit in which the exceptions must be applied. The Explanatory Report of the Convention states at Paragraph 22 that Article 3 on the Convention calls for “the provision of the widest possible access to official documents and not hindering such access by a misapplication of the limitations.”

<b>“Access to Information Act” – applies to all classes of information</b>			
<u>Exceptions in the law</u>	Council of Europe Convention on Access to Official Documents	Harm Test	Public Interest Test
Classified information	✗	✗	✗
State security and national safety	✓	✓	✗
Foreign affairs	✓	✓	✗
National Economy	✓	✓	✗
Intelligence and national security	✓	✗	✗
Administrative investigations	✓	✓	✗
Judicial investigations	✓	✓	✗
Privacy	✓	✓	✗
Secrecy of communications	✓	✗	✗
Trade secrets	✓	✗	✗
Concept and Art Works	✗	✗	✗
Department’s internal organisation	✗	✗	✗
Department’s internal memorandum and advices	✗	✗	✗

The legal framework in the northern part of Cyprus also currently lacks a Data Protection Law. Further, international experiences demonstrate that access to public information and personal data protection are better strengthened when the same independent public body oversees the defence of both the right to know and the right to privacy.

### **Recommendations - Republic of Cyprus**

1. Any future access to information law in the Republic of Cyprus should include a list of exceptions consistent with the Council of Europe Convention on Access to Official Documents which establishes both harm and public interest tests for every exception.
2. Article 19 of the Constitution should be amended to include the language “necessary in a democratic society” to bring it into line with Article 10.2 of the European Convention on Human Rights.
3. The State Archives Law should be harmonised with the future access to information law by making it possible to request access to any information held in the archives, which may only be withheld if it falls under a legitimate exception. The future access to information law should also apply to any information which has been classified under the State Secrets Law.
4. Article 7.3 of the Press Law is amended so as to include a public interest test which determines whether to exclude any information in response to a request made by a journalist. In addition, the Press Law should be amended to require that public bodies justify in writing all refusals to grant journalists access to public information.

### **Recommendations - northern part of Cyprus**

1. The “Right to Access Information Act” should be amended to include a public interest test for each limitation on access to information.
2. The “Right to Access Information Act” is amended in order to permit requests for access to classified information (state secrets). Requests may only be refused if it is demonstrated both that the release of such information would harm legitimated protected interests and rights and that there is no overriding public interest in its release.
3. The “Right to Access Information Act” should be amended to remove the blanket exclusions of information about civil or military intelligence unit’s activities (Article 18), the secrecy of communication (Article 22), information subject to intellectual property (Article 24), and internal information that is of “no concern to the public” (Article 25). These provisions should be reformulated to fit with the permissible limitations under the Council of Europe Convention on Access to Official Documents and should be subject to both harm and public interest tests.
4. The fact that information is subject to intellectual property should not be a grounds for excluding it per se from the scope of the access to information law. Only when it is impossible to copy such information on grounds of protecting intellectual property rights should such information be excluded from release.



5. The State Secrets Law should be amended to comply with European standards on access to information by introducing the harm and public interest test into the law so that the 'secret' status of a document can change if its release becomes necessary in a democratic society.

## Principle 9

Everyone should have the right of appeal against refusals or against administrative silence to an independent body and to the court.

### Summary

The right to appeal against refusals to grant information or failures to publish information proactively must be granted to information seekers in line with the principle that all fundamental human rights should benefit from protection by the judicial system.

The right to appeal a refusal to provide information should be accessible to all members of the public, which means that it should not be an overly complex or expensive process. In addition, for protection of the right of access to information to be effective, decisions should be made rapidly (as the European Court of Human Rights has said "news is a perishable commodity" – if information is not provided rapidly, it can lose its value).

For these reasons, many EU member states have established the institution of an Information Commission or an Information Commissioner, an independent authority, usually with judicial powers, which can review failures to comply with the national access to information law and can order disclosure of documents should they find in favour of the requester. In a number of countries this information commissioner is combined with the data protection agency, something which works well as it permits the balancing of the two rights.

The Council of Europe **Convention on Access to Official Documents** supports the creation of such an institution, recommending that appeals be both to the courts and to "*another independent and impartial body established by law*" (Article 8.1).

Countries which have Information Commissioners: Germany, Ireland, Serbia, Slovenia, Switzerland, United Kingdom.

Countries with Information Commissions: Belgium, France, Iceland, Italy, Macedonia, Portugal, and Turkey.

Countries where Ombudsman has oversight of right to information: Albania, Armenia, Austria, Bosnia Herzegovina, Croatia, Denmark, Estonia, Finland, Greece, Kosovo, Lithuania, Norway, Sweden.

In Cyprus there is no effective oversight of the right of access to information. In the northern part the law establishes an "Access to Information Assessment Commission" but

this body has not been set up. Taking cases to the courts is complex, time-consuming and slow.

In the Republic of Cyprus the Data Protection Commissioner is charged with receiving and processing appeals against failures to provide personal data but for all other information, there is either only recourse to the Supreme Court (for Environmental Information) or no specific mechanism.

	REPUBLIC OF CYPRUS					NORTHERN PART
	Re-use PSI	Environment Info	Archives	Data Protection	All Other Info	"Access to Information Law"
<b>Administrative appeal</b>	✓	✓	✗	✓	✗	✓
<b>Independent body</b>	✗	✗	✗	✓	✗	✓
<b>Courts</b>	?	?	✗	?	✗	✓

### Review of Relevant Legal Provisions - Republic of Cyprus

None of the legal provisions relating to access to information in the Republic of Cyprus establish rapid and low-cost appeal mechanisms. The law which most resembles an access to information law, the **Environmental Information Law**, grants the possibility of an optional internal appeal and an appeal to the Supreme Court (Article 11). This is consistent with the **Constitution** of the Republic of Cyprus which in Article 146.2 establishes that the Supreme Constitutional Court is the competent court in issues of violations of any right, which would therefore include freedom of speech. The same right of appeal to the Supreme Court is established for the **Re-use of Public Sector Information Law**.

The **Data Protection Law** provides in Article 12.3 for an appeal to the **Data Protection Commissioner** if the controller does not reply in four weeks to a request for information about the processing of personal data or an objection to such processing (Article 13.2). As noted above, the Data Protection Commissioner in a number of countries is the body also responsible for ruling on access to information requests. Given that Cyprus already has such a body, it makes sense to give this agency responsibility for the oversight of a future access to information law.

Other laws such as the **Archives Law** and the **Commissioner for Administration Law** do not include any provision regarding appeals.

It should be noted that with respect to the right to petition, Article 36 of **Act 158(I)/1999, on the General Principles of Administrative Law**, establishes that any administrative silence after three months is considered negative, in other words, silence constitutes a refusal. Such a provision would not be acceptable for an access to information law because there should be an obligation always to provide reasons for a refusal, so administrative silence should never be permitted. It also noted that the Article

33.1.c of the General Principles of Administrative Law makes clear that the right of petition does not apply to requests for information, unless otherwise provided by law.

For the future access to information law it should be ensured that the requesters have the right to appeal against administrative silence *per se* and should have the right to insist on a written response which, in the case that access to the information is to be denied, should give reasons, and should demonstrate how the harm and public interest tests have been applied. A future Information Commissioner should have oversight of the application of these provisions. A fast track appeals process against administrative silence should be established.

### Review of Relevant Legal Provisions - northern part of Cyprus

The **“Right to Access Information Act”** in the northern part meets the international standards on paper in a number of ways. First it requires that public authorities inform requesters of the reason for any refusal and the options for appeal (Article 13). Next it establishes that in addition to the possibility of a court appeal, requesters have recourse to the **“Access to Information Assessment Commission”** which should be set up specifically to take decisions on implementation of the right of access to information. This Commission should investigate appeals against rejections by public authorities of access to information requests and make recommendations (Article 15). Appealing to the Commission is not mandatory but may be done before taking a case to court (Article 14).

There are two problems with this Commission: first, its decisions are not binding (Article 15.10) so it does not replace a decision by a judicial body and requesters still need to go to court to get a decision enforced.

The second, and more serious, problem is that the Commission has not been constituted! This body, which should comprise a number of legal experts including a member of the Bar Association, an attorney appointed by the Attorney General, a law professor, three civil servants, and an appointee of the Prime Minister, has not been created. Requesters unhappy with their access to information requests must therefore turn to court, a more complex and lengthy process.

An alternative avenue open to requesters seeking information from public authorities in the northern part of Cyprus is to turn to the “Inspection and Supervision Ombudsman”. In theory the “Ombudsman”’s office could review complaints of poor administration relating to access to information requests; in practice this route is rarely used and the Ombudsman has not made an effort to assert or publicise his competence in this area. Indeed, there is a potential clash of competences between the “Ombudsman” and the Commission. In the opinion of the Access Info Cyprus Project the highest priority is to establish the Commission and ensure that it is fully functioning.

To meet international standards, this body must be set up as rapidly as possible and should be granted binding decision-making powers.

### Recommendations - Republic of Cyprus

1. Any future access to information law in the Republic of Cyprus should explicitly grant the right to appeal refusals and administrative silence, and should establish effective, rapid, and low cost legal mechanisms to do so. The law should require that requesters are informed of their rights to appeal when issued with any refusal notice.

2. Following best international practices on access to information, it is recommended that the existing Data Protection Commission becomes the oversight administrative body protecting the right of access to information and its implementation, becoming the Data Protection and Access to Information Commission.

### Recommendations - northern part

1. As obliged by Article 15.1 of the "Right to Access Information Act", the "Access to Information Assessment Commission" should be constituted immediately and be provided with the appropriate means to exercise fully its oversight function.
2. Without excluding the possibility of requesters to appeal a refusal of access before the courts, Article 15.10 of the "Access to Information Law" should be amended so that the decisions of the Commission are vested with binding power.

## Principle 10

Public bodies should make available automatically the main information about their structures, functions, budget and activities.

### Summary

According to international standards, public bodies have an obligation to make information public in a proactive way. The Council of Europe **Convention on Access to Official Documents** expresses in Article 9 the obligation of public bodies to publish information about their core functioning and activities: "*Provide information on the matters or activities for which they are responsible.*" In Article 10, the Convention further requires public authorities to:

*take the necessary measures to make public official documents which it holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest.*

The Access Info Cyprus Project conducted a study of the international standards to develop a comprehensive list of classes of information that public bodies in Cyprus should make available proactively. As the chart below shows, the current legal framework in Cyprus does not comply with the Principle 10 standard. Based on the Convention and comparative law, Principle 10 calls on public bodies to make information available proactively.

Proactive Publication	REPUBLIC OF CYPRUS	NORTHERN PART
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Classes of Information	Environment Info	Public Procurement	Citizen Charter	"ATI Law"	"State Procurement"	"Rules & Procedures Parliament"
Website	✓	✗	✗	✗	✗	✗
Internal Regulations	✓	✗	✓	✓	✓	✗
Organisational Structure	✗	✗	✗	✗	✗	✗
Contact Info	✓	✗	✓	✗	✗	✗
Operational Info	✓	✓	✗	✗	✗	✗
Decisions and Policies	✓	✓	✓	✗	✗	✗
Decision-making Info	✓	✓	✗	✗	✓	✗
Evaluations	✓	✓	✓	✗	✓	✗
Meeting Minutes	✗	✗	✗	✗	✗	✗
Info on Services	✓	✗	✓	✗	✗	✗
E-Access to Services	✓	✓	✓	✗	✗	✗
Projected budget	✗	✓	✓	✗	✗	✗
Salary Info	✗	✗	✗	✗	✗	✗
Income and Expenditure	✗	✗	✗	✗	✗	✗
Subsidies Information	✗	✗	✗	✗	✗	✗
Open Meetings Information	✗	✗	✗	✗	✗	✗
Public participation	✗	✗	✗	✗	✗	✗
Public Procurement	✗	✓	✗	✗	✓	✗
Contracts Info	✗	✓	✗	✗	✓	✗
Registers and databases	✓	✗	✗	✗	✗	✗
Information on Info Held	✓	✗	✓	✗	✗	✗
Right to Know Information	✓	✗	✓	✗	✗	✗
Info Links	✓	✗	✓	✗	✗	✗
Environmental Information	✓	✗	✗	✗	✗	✗

The **Environmental Information Law** includes legal requirements for the proactive publication of most classes of information. However, the content of the law is insufficient in respect to the disclosure of most kinds of financial information, including the spending of environmental projects and the salary of decision-making officials. The law also fails to provide for a legal obligation to proactively publish information on public participation mechanisms.

Regarding the **Public Procurement**, there are two main pieces of legislation which relate to the transparency of the public procurement process. The first is Law **12(I)/2006 "The Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts and Related Matters"** which is a general act regarding all the public procurements.

The second is **Law 11(I)/2006 Regarding Public Procurement on Projects, Supplies, and Services in the Fields of Water, Energy, Transportation and Postal Services** which refers to the public procurements in the specific sectors mentioned.

These acts require that public procurement contracts with a value of over €750,000 be published in the Official Journal of the European Communities. The tender opportunity may not be published locally before it is published at the level of the European Union.

Act	Relevant sections	Publication in Cyprus Gazette	Publication in EC Journal	Publication to buyer's profile
12(I)/2006	38 and 40	Yes- implied	yes	optional
11(I)/2006	44 and 45	Yes- explicitly	yes	optional

Neither of these acts provides for the right to access information about public procurement processes. That is to say, they do not establish the right of a person to request information regarding public procurement. On the other hand in both acts there are provisions regarding publishing public procurements and details of the contracts in the European gazette and the official gazette of the Republic of Cyprus.

The policy behind these provisions is not to hold contracting authorities accountable and promote transparency in the sense of giving the right to people to know where their taxes go. The purpose is to make sure that the participants in a competition know who the winner was, and if this was fair in order to be able to pursue their legal rights if they believe that they were infringed.

What is needed, therefore, in the Republic of Cyprus is a clearer legal obligation to publish information about tender opportunities of any value at the national level. This should include broad dissemination not only in the Official Gazette but also on websites and using other media which are likely to reach those who may wish to participate in the tender process.

Finally, the **Citizen Charter** of the Ministry of Interior is a very positive official statement in favour of transparency and public participation because it requires each department of each public body to make available "specific and clear information about the services" it provides. However, it should be fully developed in all government departments and introduced as a binding document in the legal framework governing public bodies.

## Recommendations - Republic of Cyprus

1. The Environmental Information Law is amended to introduce the duty of publishing basic financial information of environmental agencies, such as current budget and project expenditure, and public procurement and tenders information related to the environment.
2. The Public Procurement Law is amended, along with its regulations, so that all public procurement above a certain minimum value (for example, €3,000 or €5,000) are processed as open procedures and mediated by public tenders and notices.
3. It is recommended that a Right to Access Information Act that includes specific legal requirements for the proactive publication of essential classes of information is adopted in the Republic of Cyprus.

## Review of Relevant Legal Provisions - northern part of Cyprus

As seen in the charts above, the legal framework in the northern part lacks specific legal requirements for proactive disclosure of information. Only the “**State Procurement Regulation**” contains some provisions on the classes of information to be proactively published. However, the general legal requirements are wholly insufficient.

## Recommendations - northern part of Cyprus

1. The “Right to Access Information Act” is amended so as to introduce the necessary legal requirements conducive to comply with Principle 10 and the Convention on Access to Official Documents in matters of proactive publication of official documents “in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest” (Article 10).
2. “The Rules and Procedures of Parliament” are amended so as to introduce obligations of proactive publication, particularly regarding the following classes of information: draft bills, salary and expending information and public participation mechanisms as consultations and open meetings.
3. “The State Procurement Regulation” is amended in Article 9 to expand the classes of information to be published particularly in respect to procurement contracts and tenders information. It is also recommended that Article 6.2 and 7 are amended so that participants and minutes of the Procurement Commission meetings are publicly available at least once after procurements processes are closed.

## VI. Information Landscape Survey - Websites

### 1. The Obligation to Publish Information Proactively

The right of access to information has two dimensions: the obligation to respond to requests for information and the obligation to make information available in a proactive manner.

This proactive publication obligation is confirmed by international standards,<sup>3</sup> including in the Europe region by the Council of Europe Convention on Access to Official Documents, which in Article 10 establishes:

*“At its own initiative and where appropriate, a public authority shall take the necessary measures to make public official documents which it holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest.”*

The Explanatory Report (paragraphs 71-73) encourages “national rules on proactive publication” and recommends that key classes of information are released “on a regular basis and in formats including the use of new information technologies”, specifically websites.

As the Explanatory Memorandum suggests, there is a series of core classes of information that will enable the public to form an informed opinion on the activities of their governments, and this includes “information about [public bodies’] structure, staff, budget, activities, rules, policies, decisions, delegations of authority, information about the right of access and how to request official documents”.

Further, the Convention suggests that any official document that is frequently requested by the general public should be added to the key classes of information for proactive publication.

The emphasis on the publication on websites is important. The internet has brought a substantial change for communications between public institutions and the public, permitting information to reach much wider audiences, both inside a particular country and globally. Internet publication is relatively cheap for public authorities and once information has been put on websites, it can be circulated easily in society.

The level of publication on the websites acts as a useful indicator of public authorities’ willingness to provide information to the public in a proactive manner. Hence, for the Access Info Cyprus Project, the publication of information on websites was selected to test levels of proactive publication.<sup>4</sup>

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<sup>3</sup> For a detailed analysis of the international standards see “Proactive Transparency: The future of the right to information? A review of standards, challenges, and opportunities” by Helen Darbshire, published by the World Bank Institute, July 2010, available at:

[http://siteresources.worldbank.org/WBI/Resources/213798-1259011531325/6598384-1268250334206/Darbshire\\_Proactive\\_Transparency.pdf](http://siteresources.worldbank.org/WBI/Resources/213798-1259011531325/6598384-1268250334206/Darbshire_Proactive_Transparency.pdf)

<sup>4</sup> Internet publication should never completely replace traditional means. Not everyone has access to the internet. According to International Telecommunications Union data from June 2010 sourced at <http://www.internetworldstats.com/europa.htm#cy>, Cyprus has a level of internet Penetration of 39.3% which means that a full 60% of people in Cyprus do not have regular internet access. The average for the European Union is given as 58.4 %. Public authorities should therefore communicate core information via other means such as printed bulletins, notice-boards, use of



## 2. Indicators, Methodology and Scoring

The evaluation of proactive publication of information on public authority websites in Cyprus was done by assessing the websites of 10 public bodies in the northern part of Cyprus and 10 in the Republic of Cyprus. See Section 3.1 below for the full details.

The indicators used for this evaluation were the existence or not of a website, the publication of 21 classes of information and whether the website had links to other government websites. The 21 classes of information were based on international standards such as the Access Convention and on comparative studies of the proactive disclosure obligations under the laws of countries with access to information regimes.

Researchers scored the publication of 21 classes of information according to the following scoring system:

- Class of information available on the website in detail – 2 points
- Information Partially available – 1 point
- Information Not available – 0 points

Two points were given for the existence of a website and 1 or 2 points for links to other institutions. Hence the maximum possible score for a total of 23 indicators tested across 10 public bodies is 460 points. The total scores for the bodies monitored were 166 (or 36%) in the Republic of Cyprus and 60 (13%) in the northern part of Cyprus.

### Scores for all the monitored public bodies

Republic of Cyprus	Score	Northern part of Cyprus	Score
Ministry of Interior	22	"Ministry of Interior"	0
Ministry of Commerce, Industry and Tourism	12	"Ministry of Economy and Energy"	0
Ministry of Labour and Social Insurance	17	"Ministry of Labour and Social Security"	13
Ministry of Education and Culture	16	"Ministry of Education, Youth and Sports"	12
Ministry of Agriculture, Natural Resources and Environment	22	"Ministry of Tourism Environment and Culture"	9
Ministry of Health	17	"Ministry of Health"	9
District Authority – Nicosia	12	"District of Nicosia"	0
District Authority - Limassol	12	"District of Famagusta"	0
Municipal Authority - Nicosia	21	"Municipality Nicosia"	8
Municipal Authority - Limassol	15	"Municipality Famagusta"	9
<b>TOTALS</b>	<b>166</b>		<b>60</b>
	<b>36%</b>		<b>13%</b>
<b>Available → 2 points    Not Available → 0 points    Partially Available → 1 point</b>			

announcements in newspapers and on radio and television, and placing information in public places such as town halls and public libraries.

**Proactive Publication – Indicators**

INDICATOR	DESCRIPTION
1. Website	Website exists – Yes (2 points) or No (0 points)
2. Internal Regulations Info	Information about internal regulations, functions and mandates of the public body
3. Organisational structure	Information about the organisational structure of the public body
4. Contact Info	Names and contact information of those public servants responsible for each department of the public body
5. Operational Info	Periodic strategy and planned activities
6. Decisions and Policies	Main decisions and policies adopted by the public body
7. Decision-making Info	Drafts of the documents and the data being use to formulate those policies and strategies
8. Evaluations	Evaluation reports on the activities undertaken
9. Meeting Minutes	Minutes of meetings and decisions taken
10. Info on Services	Description of services offered to public
11. E-access to Services	Digital copies of forms for administrative procedures
12. Projected budget	Information about the detailed projected budget for the current year
13. Salary Info	Information about salaries & bonuses for public servants
14. Income and Expenditure	Actual income and expenditure, audit reports and other key financial information
15. Subsidies Info	Information about financial subsidies issued, including details of beneficiaries, amounts, and supervisory mechanisms
16. Open Meetings Info	Notices of open meetings, including date, time and venue
17. Public Participation Info	Information on public participation mechanisms (i.e. consultations) in the decision-making procedures
18. Public Procurement Info	Detailed information on public procurement processes, selection criteria, budget, and outcomes of tenders
19. Contracts Info	Copies of the contracts awarded by the public body and regular reports on their implementation
20. Registers and Databases	Information about the content, public accessibility and privacy policy of the databases managed
21. Information Held	Index or register of the main documents, or at least of the classes of information, held by the public body
22. Right to Know Info	Information about the right of access to information, including how to request information and the responsible civil servant in the public body
23. Links	Links to other governmental websites and other relevant internet resources

### 3. Main Findings

Public bodies in Cyprus, both in the northern part of Cyprus and in the Republic of Cyprus, fail to proactively publish key classes of information on their websites.

In the Republic of Cyprus all the public bodies monitored had websites whereas in the north 4 of the 10 public bodies did not have websites. There was also a greater volume of information on the websites in the Republic of Cyprus, although the total scores of 36% in the Republic of Cyprus and 13% in the northern part of Cyprus are both disappointing.

The maximum possible score for a single public body was 46 points. Not one of the bodies evaluated scored even half of this or 23 points. Only three public bodies came close to this score by gaining over 20 points, all were in the Republic of Cyprus: Ministry of Interior (22), Ministry of Agriculture, Natural Resources and Environment (22) and the Municipal Authority – Nicosia (21).

The research also found that the design of public authority websites was poor and that websites were difficult to navigate and had search functions that did not work properly.

Also, key information should be translated into the main languages of potential information seekers. In the context of a multi-ethnic Cyprus, best practices should made information available in Turkish, Greek and English.

A user-friendly public website permits ease of navigation, incorporates a search function and user guidance, highlights an access to information guidance and is available in several languages. Additionally, basic web navigation tools such as search functions should be checked frequently to ensure that they are working properly.

The logical structure of the websites should fit with the public's need for information so that the design of the website facilitates access to information.

As far as availability of information is concerned, all public bodies in Cyprus should make a significant effort to upload to their websites key classes of information both in a user-friendly format and in original documents for those who seek more in-depth information. All public bodies should also improve their current standards regarding accessibility, meaning the degree to which information can be found easily by an average internet user.

Public bodies in Cyprus should take a step back and approach the design and content of their websites from the perspective of those information seekers who are not familiar with the structure and internal functioning of each public body. There are a series of broad recommendations that are applicable to most public bodies monitored, both in the northern part of Cyprus and in the Republic of Cyprus. The proactive availability and easy accessibility to key classes of information in each specific public body, both in the northern part of Cyprus and the Republic of Cyprus, are further discussed below.

### 3.1 Proactive publication in the Republic of Cyprus

All ten monitored public authorities had a website, although the websites of the District Authorities of Nicosia and Limassol are subsections of the website of the Ministry of Interior.

The specific web addresses are:

- **Ministry of Interior:** [www.moi.gov.cy](http://www.moi.gov.cy)
- **Ministry of Commerce, Industry and Tourism:** [www.mcit.gov.cy](http://www.mcit.gov.cy)
- **Ministry of Labour and Social Insurance:** [www.mlsi.gov.cy](http://www.mlsi.gov.cy)
- **Ministry of Education and Culture:** [www.moec.gov.cy](http://www.moec.gov.cy)
- **Ministry of Agriculture, Natural Resources and Environment:** [www.moa.gov.cy](http://www.moa.gov.cy)
- **Ministry of Health:** [www.moh.gov.cy](http://www.moh.gov.cy)
- **Nicosia District Authority:** [http://www.moi.gov.cy/moi/da/dadmin.nsf/dmlindex\\_gr/dmlindex\\_gr?OpenDocument](http://www.moi.gov.cy/moi/da/dadmin.nsf/dmlindex_gr/dmlindex_gr?OpenDocument) (note: all district authorities are featured in a subpage of Ministry of Interior)
- **Limassol District Authority:** [http://www.moi.gov.cy/moi/da/dadmin.nsf/dmlindex\\_gr/dmlindex\\_gr?OpenDocument](http://www.moi.gov.cy/moi/da/dadmin.nsf/dmlindex_gr/dmlindex_gr?OpenDocument) (note: all district authorities are featured in a subpage of Ministry of Interior)
- **Nicosia Municipality:** [www.nicosia.org.cy](http://www.nicosia.org.cy)
- **Limassol Municipality:** [www.limassolmunicipal.com.cy](http://www.limassolmunicipal.com.cy)

Public Bodies: Republic of Cyprus										
INDICATORS	Interior	Commerce, Industry and Tourism	Labour and Social Insurance	Education and Culture	Agriculture, Natural Resources and Environment	Health	District Nicosia	District Limassol	Municipal Nicosia	Municipal Limassol
Website	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Internal Regulations	partial	partial	partial	partial	partial	partial	partial	partial	partial	partial
Organisation Structure	available	none	available	partial	available	available	available	available	partial	partial
Contact Info	partial	partial	partial	partial	partial	available	available	available	partial	partial
Operational Info	partial	none	partial	partial	partial	none	none	none	partial	available
Decisions & Policies	none	none	none	none	none	none	none	none	none	none
Decision-making info	partial	none	none	none	partial	none	none	none	partial	none
Evaluations	none	none	partial	none	none	none	none	none	none	none
Meeting Minutes	none	none	none	none	none	none	none	none	none	none
Info on Services	available	available	available	available	available	available	none	none	available	available
E-Access to Services	available	available	available	available	available	available	available	available	available	none
Projected budget	none	none	none	none	none	none	none	none	none	available
Salary Info	none	none	none	none	none	none	none	none	none	none
Income and Expenditure	partial	none	none	none	partial	none	none	none	partial	none

Subsidies Information	none	none	none	none	none	none	none	none	none	none
Open Meetings Information	partial	none	none	available	partial	none	none	none	none	none
Public participation	partial	none	none	none	partial	none	none	none	available	none
Public Procurement	partial	none	partial	none	partial	partial	partial	partial	available	none
Contracts Info	none	none	none	none	none	none	none	none	none	none
Registers and databases	partial	none	none	none	partial	none	none	none	none	none
Information on Info Held	partial	none	none	none	partial	partial	none	none	none	none
Right to Know Information	none	none	none	none	none	none	none	none	partial	none
Links	available	available	available	available	available	available	none	none	available	available

Some information is not available on any of the websites of the public authorities evaluated:

- Main decisions and policies adopted;
- Minutes of meetings;
- Information about the salaries and bonuses of public servants;
- Detailed information about financial subsidies issued, including details of beneficiaries, amounts, and supervisory mechanisms, and external audit reports;
- Copies of the contracts awarded and regular reports on their implementation;

Some information was not available with only a few exceptions of partial information:

- Information about the right of access to information by citizens, including how to request information and the contact information for the responsible civil servant (the one exception was partial information on the websites of Nicosia municipality).
- Evaluation reports on the activities undertaken by the selected public body (the one exception was partial information on the website of the Water Development Department "Τμήμα Αναπτύξεως Υδάτων" of the Ministry of Agriculture, Natural Resources and Environment)
- Although three bodies (Ministry of Interior, Ministry of Agriculture, and the Ministry of Health) had some partial information about what was to be found on their websites, none contained an index or register of the main documents, nor a comprehensive listing of the types of information held.

The absence of **financial information** was particularly noticeable. Although budget information is available elsewhere, data on current budgets was not widely present on the surveyed websites. No websites contained information about financial subsidies issued or about supervision of such subsidies, and there was a complete absence of information about any external audit reports.

Similarly there was an absence of online information about the **public procurement** budget and about specific procurement processes, selection criteria, and the outcomes of tender applications. The partial information that was available did not amount to transparency of the procurement process. The exception here was the website of the Nicosia municipality.

There was also a dearth of information about **public participation**, with only three bodies having partial information on open meetings or other participatory mechanisms such as consultations. The general picture was that participation in decision-making is not encouraged.

**E-government policies:** It was positive that most of the surveyed websites contained information about services and how to access these. It was also positive that for almost all the surveyed websites there are links to other governmental websites and other relevant internet resources. The one exception here is the District Administrations' websites which are a subset of the Ministry of Interior's website. These links indirectly assist the communication process, as they may help website visitors to locate other governmental departments/institutions that might be better placed to answer a specific request.

At the same time, however, **numerous problems** with the websites undermined these positive findings:

- » In general, the websites do not meet the standards for proactive publication of information: information is missing, parts of the websites are not up to date, and links are broken or not functioning;
- » Most websites provide at least one e-mail address for communication, but many do not provide web form as a medium of communication. This means, that a citizen without an e-mail account (or who wants to submit a comment anonymously) cannot contact those institutions via the internet;
- » The postal address, telephone and fax numbers of the institutions are mostly available on the websites indicating that that is still the preferred method of official communication between the public and the institutions. This indicates a mentality that "traditional" means of communication (like post and fax) are preferred over the "modern" ones (like e-mail). The exception was the websites of the district authorities, where the postal addresses were not available;
- » Certain methods of communication proposed by those websites appeared to be either erroneous, or non-functioning. This inevitably leads to doubts in the mind of the potential user of whether the inbox is still active, or whether a request sent via a web form will reach a responsible official who will attend to it.

Another finding, although not formally monitored in this survey, is that significantly less information is available in Turkish on the surveyed websites, if any. Given that Turkish is the other official language of the Republic of Cyprus alongside the Greek language, this is a finding of concern for ensuring the possibility that all people on the island can access information. Although by law all public information should also be available in Turkish, in practice this is not the case regarding the websites. By contrast, there was a significant amount of information available in English (not an official language).

## Conclusions - Republic of Cyprus

From the results it can be concluded that there is no effective policy in place in the Republic of Cyprus to ensure that the public is informed by means of the websites.

Although some information was available, the lack of uniformity across the classes of information assessed seems to confirm the absence of such a policy and rather an ad hoc approach depending on who is running the website of the particular public body.

The Republic of Cyprus is failing to reach international access to information standards when it comes to the websites of the public institutions. The government needs to adopt a concrete government policy that will promote transparency and proactive publication.

### 3.2 Proactive publication in the northern part of Cyprus

Four out of the ten public bodies monitored in northern part of Cyprus did not have a specific website as of September 2010. These are: **“Ministry of Interior”**, **“Ministry of Economy”**, **“District Authority of Nicosia”**, and **“District Authority of Famagusta”**.

The public bodies that had a specific institutional website were:

- **“Ministry of Labour And Social Security”** at [www.csgb.eu](http://www.csgb.eu)
- **“Ministry of Education, Youth and Sport”** at [www.mebnet.net](http://www.mebnet.net)
- **“Tourism Environment and Culture”** at [www.turizmcevrekultur.org](http://www.turizmcevrekultur.org)
- **“Ministry of Health”** at [www.saglikbakanligi.com](http://www.saglikbakanligi.com)
- **“Nicosia Municipality”** at [www.lefkosaturkbelendiyesi.org](http://www.lefkosaturkbelendiyesi.org)
- **“Famagusta Municipality”** at [www.magusa.org](http://www.magusa.org)

It is important to note that, as shown in the chart below, many classes of key information are not available in any of the websites of the public authorities monitored in the northern part of Cyprus. Specifically:

- Decision-Making Information;
- Projected Budget;
- Salary Information;
- Income and Expenditure Information;
- Contract Information
- Subsidies Information;
- Open Meetings Information;
- Public Participation Information.

As regards to other classes of core information, there is no consistency in the information displayed at public bodies' websites. Information is scarce in general and seems to be published unsystematically.

PUBLIC BODIES / NORTHERN PART OF CYPRUS										
INDICATOR	Interior	Economy and Energy	Labour and Social Security	Education, Youth and Sports	Tourism Environment and Culture	Health	District Nicosia	District Famagusta	Municipality Nicosia	Municipality Famagusta
Website	NO	NO	YES	YES	YES	YES	NO	NO	YES	YES
Internal Regulations	n/a	n/a	partial	partial	none	none	n/a	n/a	none	none
Organisational Structure	n/a	n/a	available	available	none	available	n/a	n/a	available	partial
Contact Info	n/a	n/a	available	available	none	partial	n/a	n/a	none	partial
Operational Info	n/a	n/a	none	none	none	none	n/a	n/a	partial	partial
Decisions and Policies	n/a	n/a	none	none	none	none	n/a	n/a	none	partial
Decision-making info	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Evaluations	n/a	n/a	none	none	none	none	n/a	n/a	partial	none
Meeting Minutes	n/a	n/a	none	none	none	available	n/a	n/a	none	partial
Info on Services	n/a	n/a	available	available	available	none	n/a	n/a	none	partial
E-Access to Services	n/a	n/a	none	none	partial	partial	n/a	n/a	partial	none
Projected budget	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Salary Info	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Income and Expenditure	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Subsidies Information	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Open Meetings Information	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Public participation	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Public Procurement	n/a	n/a	none	none	none	none	n/a	n/a	partial	none
Contracts Info	n/a	n/a	none	none	none	none	n/a	n/a	none	none
Registers and databases	n/a	n/a	partial	none	partial	none	n/a	n/a	none	none
Information on Info Held	n/a	n/a	partial	none	partial	none	n/a	n/a	none	partial
Right to Know Information	n/a	n/a	none	partial	none	none	n/a	n/a	none	none
Links	n/a	n/a	available	available	available	partial	n/a	n/a	none	partial



From the results of the monitoring of public bodies' websites in the northern part of Cyprus, it can be concluded that there is not a governmental policy line advancing transparency measures and thus promoting the right of access to official documents. Some examples suffice to illustrate the point:

- » The "Ministry of Labour and Social Security" and the "Ministry of Education, Youth and Sports" include information about the functions and mandates of their ministries in their websites whilst lack information on internal regulations. The other three public bodies with a website do not include any of these two classes of information;
- » Out of ten public bodies, the main decision and policies adopted are only available in the websites of three: "Ministry of Labour and Social Security"; the "Ministry of Education, Youth and Sports"; and the "Ministry of Tourism, Environment and Culture";
- » The public policy strategies and planned activities are only partially available in the website of the two municipalities monitored. Apart from this, none of the other public bodies' websites display this class of information;
- » Detailed information on public procurement processes, selection criteria, the budget, and the outcomes on tender applications is only available in the website of the "Municipality of Nicosia", albeit partially.
- » The website of "Ministry of Education, Youth and Sports" is the only one displaying information about the right of access to information by citizens, including how to request information. Nevertheless, the contact information of the information officer of the said Ministry is not provided;
- » Partial access to digital copies of forms for administrative procedures is only granted in three websites: "Ministry of Health"; "Ministry of Tourism, Environment and Culture"; and "Nicosia Municipal Authority".

A further observation is that the information proactively published is not up to date. In addition, it was found that very little information was available in other languages.

## **Conclusions - Northern part of Cyprus**

The administration in the northern part of Cyprus is failing to meet international access to information standards on proactive publication when it comes to the websites of the public institutions.

The lack of consistency between the existence of and, where they exist, the content on the websites, shows that there is no concrete government policy on the issue.

## **4. Recommendations on Proactive Publication**

As a result of the findings of the Information Landscape Survey, the authorities across Cyprus should take the following steps:

1. Adopt a central policy on proactive publication of information on websites of the public bodies which is in line with international standards, including the Council of Europe Convention on Access to Official Documents.

2. This policy should define a detailed list of the classes of information to be published proactively and a timeframe for progressively achieving publication of these classes of information. The policy should also establish the frequency with which information should be updated;
3. The future access to information law in the Republic of Cyprus should include a chapter on proactive publication of information;
4. The existing rules on access to information in the northern part of Cyprus should be amended to include detailed proactive publication obligations;
5. Public bodies that do not currently have a website should establish one immediately;
6. Public bodies should assign at least an officer to be responsible for the development and update of the websites.
7. Public bodies should take immediate steps to ensure that key classes of information are available in their websites. One guide as to what information is to be published should be the frequency of requests for information by the public;
8. It is recommended that the design and layout of public bodies' websites is improved so as to ease navigation and facilitate accessibility;
9. Systems should be set in place to ensure, wherever possible, automatic publication of the non-exempted information, which will help ensure that information is up to date.
10. It is recommended that public bodies publish information in the three main languages used on the island (Greek, Turkish, and English).

## VII. MONITORING OF PUBLIC BODIES

### 1. The Wall of Silence

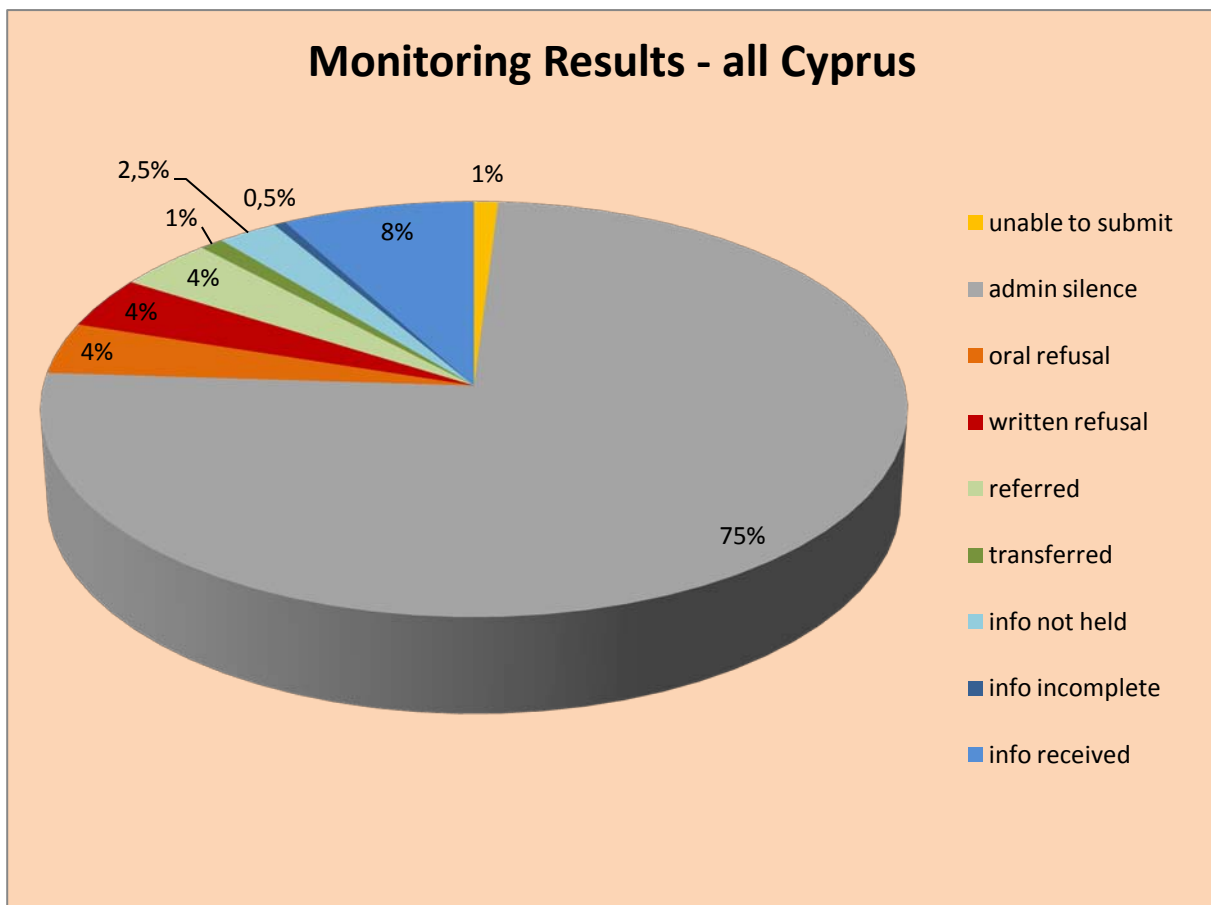
The Access Info Cyprus Project carried out an extensive monitoring of 20 public bodies in Cyprus with a total of 393 information requests submitted. The performance of the public bodies monitored was very poor with only 9% of information requests resulting in the release of any information at all.

Public bodies island-wide failed to respond at all to three quarters of all the requests submitted (75% administrative silence). One in four requests resulted in administrative silence even after the requests had been presented for a second time.

There was a minimal difference in performance between the two parts of the island: the level of administrative silence in the northern part of Cyprus was 78% whereas in the Republic of Cyprus it was 72%.

In terms of responses that fully answered the questions, the total for the Republic of Cyprus was just 7% whereas in the northern part of Cyprus 9% of responses provided complete information.

Overall, the monitoring survey found that across the island the right of access to information is being breached and public bodies are failing to comply with Council of Europe standards on access to information.



These findings of the monitoring study indicate that public authorities in Cyprus disregard the right of members of the public to access to information in two principle ways. First, information requests are ignored in a systemic manner. This is a violation of the obligation to respond to any request for information received within a reasonable period of time.

This situation in Cyprus runs counter to the innovative policies that most Council of Europe and OECD member states are currently implementing in order to advance transparency, increase the accountability of public authorities, and improve citizen participation in decision-making.

Not only is this a serious failure by the Cypriot authorities to respect the fundamental right of access to information, but it is likely to have a serious knock-on effect in other areas of democratic development: open and transparent government increases the trust of the general public in their elected authorities, improves the internal efficiency of administrations, and strengthens the ability of governments to focus their policy and decision-making power to address the real needs of society.

## 2. Methodology

In the monitoring, a total of 393 requests for information based on 52 questions were submitted to 20 public bodies by 23 monitors (10 from the Republic of Cyprus, 10 from the northern part of Cyprus and 3 international requesters).

Of these requests 393 were presented according to a standardised methodology (Sections 3-6 of the analysis) and 22 were individual requests submitted by the monitors which are analysed in Section 7.

The monitors were trained before the monitoring exercise started and given a protocol to follow when making requests to ensure standardised behaviour of each monitor and therefore comparable results.

Being a bi-communal project, it was essential to test the reaction of public bodies to requests coming from all parts of Cyprus. Consequently, all public bodies received four questions (the “Generic Questions” – see below) twice: once from a monitor in the Republic of Cyprus and once from a monitor in the northern part of Cyprus. In addition, three questions were submitted by requesters from abroad.

### 2.1 The Requests

The core of the monitoring consisted of a total of **393 requests** based on **64 questions** submitted to **20 public bodies** in Cyprus.

The monitoring questions were designed by Access Info Europe, KAB and IKME with input from the monitors. Some additional questions were also suggested and submitted by the monitors.

The questions were simple and, in principle, of public interest so that the information requested would not fall under one of the 11 legitimate exceptions of the Council of Europe Convention on Access to Official Documents. The full list of questions can be downloaded at [www.accessinfocyprus.eu](http://www.accessinfocyprus.eu).

The questions were grouped as follows:

- » **Generic Questions (four questions):** to be submitted to all public bodies. These included questions such as:

*Please send me a description of your organisational structure, giving the names of the heads of all departments.*

The Generic Questions were submitted twice to each public body, once by a monitor from the Republic of Cyprus and once by a monitor from the northern part of Cyprus.

- » **Specific Questions (45 questions):** these were submitted to the relevant public body depending on the issue raised by the question (between 3 and 6 questions depending on the public body). These included questions such as:

*How many people sought citizenship in 2009?*

*In 2009 what was the spending on education per student?*

- » **Questions from abroad (3 questions),** submitted from Spain and from the United Kingdom to all 20 public bodies to test the reaction of public bodies to requests coming from abroad. For example:

*Please provide me with a list of the projects financed by EU funds and the total value of each project.*

## 2.2 The Monitored Public Bodies

A total of 20 public bodies were monitored. They were selected as a representative range of central, regional and local government bodies or “ministries”. The Council of Europe Convention on Access to Official Documents requires that a public body at all levels of government respect the right to access information.

TABLE 1: MONITORED PUBLIC BODIES	
Republic of Cyprus	Northern part of Cyprus
Ministry of Interior (Interior)	“Ministry of Interior and Local Administrations” (“Interior”)
Ministry of Commerce, Industry & Tourism (Commerce)	“Ministry of Economy and Energy” (“Economy”)
Ministry of Labour and Social Insurance (Labour)	“Ministry of Labour and Social Security” (“Labour”)
Ministry of Education and Culture (Education)	“Ministry of Education, Youth and Sports” (“Education”)
Ministry of Agriculture, Natural Resources and Environment (Environment)	“Ministry of Tourism, Environment and Culture” (“Environment”)
Ministry of Health (Health)	“Ministry of Health” (“Health”)
Nicosia District (Nicosia Dis.)	“Nicosia District” (“Nicosia Dis.”)
Nicosia Municipality (Nicosia Muni)	“Nicosia Municipality” (“Nicosia Muni”)
Limassol District (Limassol Dis.)	“Famagusta District” (“Famagusta Dis.”)
Limassol Municipality (Limassol Muni)	“Famagusta Municipality” (“Famagusta Muni”)

In the Republic of Cyprus public bodies received an average of 20.7 requests, with a range of 15-27 requests per public body. In the northern part of Cyprus the public bodies received an average of 18.6 requests, with a range of 15-29 requests per public body.

First, each body received four Generic Questions. As noted above, the monitoring was designed so that each public body received the four Generic Questions twice: once from monitors living in the Republic of Cyprus and once from monitors in the northern part of Cyprus.

Then, each public body received a set of specific questions (between three and six) requesting information about issues that would arguably fall under the mandates of the public body.

In addition to that, all public bodies received requests from abroad.

As an example, the following are the specific questions submitted to the Ministry of Health of the Republic of Cyprus and the "Ministry of Health" in the northern part of Cyprus:

Q29. How many people work in night clubs?

Q30. Please provide me with the total number of abortions and C-sections that were carried out in 2009?

Q31. In 2009, how many people died in (a) public and (b) private hospitals, and what were the five leading causes of death?

Q32. Please provide me with the number of people that tested positive for STDs in 2009.

### 2.3 The Monitoring Process

A total of **20 monitors** participated, all of whom work in or are associated with civil society organisations. The monitors came from both sides of the island, ten being residents of the northern part of Cyprus and the other ten residents of the Republic of Cyprus. In addition Access Info Europe staff members submitted requests from abroad.

All monitors submitted between ten and 20 requests. The monitoring exercise ran over a period of several months, from **May to August**, so that the submitting of requests and tracking them would not become a burden for the daily professional activities of the monitors. This also meant that not all requests were presented to all public bodies at the same time.

In April 2010 the monitors were trained on the **Request Protocol**, which was designed to include clear and easy-to-follow rules, as well as a description of the possible outcomes, so that the data collected by each monitor would be fully comparable with the results obtained by the other monitors.

This monitoring was designed on the basis of a maximum of **two attempts** per request. In other words, the monitor could file each request a second time if the response to the first request did not provide information or if there was no response to the first requests.

A **time-limit of 20 working days** was selected for this monitoring. It is noted that this is above the average timeframe in the European Economic Area, which is 15 working days. In practice, this meant that a given monitor submitted a request with a given public body and waited 20 working days for a response. If the monitor got no response

(administrative silence) then the request was resubmitted to the same public body and the monitor waited another 20 working days. After this, any response received or the fact of administrative silence were recorded as the final outcomes.

The protocol contained step-by-step guidance on what to do depending on the responses from the public bodies. For example, if a monitor received an answer referring him/her to another public body to get the information, then the monitor would follow the protocol and would submit the question to that body. This would be recorded as a second attempt for that request.

After the training the monitors were provided with a personalised **Monitoring Chart** which included the precise request(s) he/she had to file, where this should be done (public body contact point), when (dates) and by which medium (either e-mail, post, by hand, web-form or by phone).

Results were recorded on a **Master Sheet** where the data from each monitor was compiled by the project coordinators. The results presented in this report have been extracted from the Master Sheet.

## 2.4 Classification of the Responses

Access Info Europe carries out regular comparative studies on access to information. The table below shows the responses classification that is standard for access to information research at the international level.

<b>Table 2: OUTCOMES</b>		
<b>OUTCOME</b>	<b>DESCRIPTION</b>	<b>RESPONSE TYPE</b>
Unable to Submit	Not possible to file the request	Non-compliant
Refusal to Accept	Public official refuses to receive the request	Non-compliant
Excessive Fees	Fees charged for filing the request are unreasonable or higher than permitted by law.	Non-compliant
Administrative Silence	No response at all – administrative silence	Non-compliant
Oral Refusal	Public official verbally refuses to answer the request	Non-compliant
Referred	The public body with which the request was filed directs the requester to another public body	Compliant* (if permitted by national law)
Transferred	The public body with which the request was filed sends it to another public body for consideration	Compliant
Written Refusal	The public body refuses in writing to answer the request	Compliant*
Partial Access	Access to part of the information is provided and part denied on the basis of exceptions to the right of	Compliant*

	access.	
Information Not Held	The public body claims that they do not hold the requested information	Compliant*
Information Incomplete	Only part of the requested information is provided	Compliant
Information Received	The information requested was provided in full to the requester	Compliant
* For the purposes of this monitoring exercise, it has been assumed that these responses are a true reflection of the situation and that information is not being illegally withheld.		

### 3. The Outcomes of the Requests

The overall performance of the public bodies monitored was very poor with a mere 8.5% of requests receiving any information and a full 75% resulting in administrative silence, with no response whatsoever provided to the requester.

The level of formal refusals to provide information was only 4% (in response to just 16 requests).

	unable to submit	admin silence	oral refusal	written refusal	referred	transferred	info not held	info incomplete	info received
<b>RoC</b>	1.5 %	72 %	1 %	7 %	5 %	1.5%	4 %	0.5 %	7 %
<b>north</b>	1 %	78 %	8 %	1 %	2 %	0 %	0.5 %	0.5 %	9 %
<b>TOTAL</b>	1 %	75 %	4 %	4 %	4 %	1 %	2.5 %	0.5 %	8 %

The overall results of this monitoring, with a total of 393 requests across the island, indicate that the fundamental human right of access to information is not granted practically and as a general rule, either in the northern part or in the Republic of Cyprus. In addition, the behaviour of all public bodies tested on the island demonstrates that the administrative procedures and legal measures related to access to information are extremely inefficient.

Overall there were no significant differences between the public authorities in the different parts of the island:

- In the Republic of Cyprus, only 7% of a total of 220 requests received a complete answer, whereas 72% of the requests resulted in administrative silence.
- In the northern part of Cyprus, only 9% of a total of 195 requests received a complete answer, and 78% of request resulted in administrative silence.

**Finding:** Island-wide in Cyprus silence is the rule and access to information the exception.



**Recommendation:** The public authorities in Cyprus should approve the necessary laws and administrative rules so that the fundamental human right of access to information is fully developed in the legal framework and therefore can be complied with in practice.

### 3.1 Compliance with the Right to Know

In addition to the high level of administrative silence, the study also found a very high level of “non-compliant” responses, at 80%. A non-compliant response is one that is treated in a way that is in breach of international standards for implementation of the right of access to information.

For the purposes of this study, a compliant response to an information request is one of the following; *information received, information incomplete, information not held, referred, transferred, or a written refusal*. Compliance to information requests by public bodies means that the public authority responded to the requester and either provided information, informed them that the body did not hold it, directed them to where it might be found, or explained why it would not be provided.

The questions for this monitoring were intentionally designed to avoid requesting sensitive information and it has been assumed, for the purpose of this monitoring exercise, that the responses reflected the true situation and that information is not being illegally withheld.

Table 4: Compliance vs. Non-compliance		
Outcome	N° of requests	percentage
compliant responses	76	19 %
non-compliant responses	317	81 %
total requests	393	100 %

Whilst the majority of the non-compliant responses are accounted for by administrative silence, there were also 5 unable to submit outcomes, 1 refusal to accept outcome, 15 oral refusals and 2 attempts to charge excessive fees.

There was some difference in levels of non-compliance with the Republic of Cyprus having a 75% non-compliance level and the north having 87% non-compliance. Aside from administrative silence, the biggest single problem was oral refusals of which there were 3 in the Republic of Cyprus and 13 in the northern part of Cyprus. See sections 4 and 5 below for more details.

Table 3: COMPLIANCE					
	OUTCOME	Republic of Cyprus	northern part of Cyprus	TOTAL	
Non-Compliant	Unable to Submit	1 %	1 %	1 %	79.5%
	Refusal to Accept	0 %	0 %	0.5 %	
	Administrative Silence	73 %	78 %	75 %	
	Oral Refusal	1 %	8 %	4 %	

<b>Compliant</b>	Referred	5 %	2 %	3 %	19.5%
	Transferred	1 %	0 %	0.5 %	
	Written Refusal	6%	1%	4 %	
	Partial Access	0 %	0 %	0 %	
	Information Not Held	5 %	0.5 %	3 %	
	Information Incomplete	1 %	0.5 %	1 %	
	Information Received	7 %	9 %	8 %	

The high level of non-compliance is a particular concern and underlines the serious efforts that need to be made by the public authorities in Cyprus to ensure that they do not violate the public’s right to know.

**Finding:** Public bodies treated the access to information requests presented in this monitoring in a way that is compliant with the right of access to information in response to just 1 in 5 requests (20%), while in 4 in 5 instances (80%) public bodies island-wide did not uphold the fundamental right of access to information of members of the public.

**Recommendation 2:** All public officials dealing with information requests should be trained in how to justify refusals to release information only on the basis of the legitimate limitations set out in the Access Convention.

### 3.2 Response Times

Where public bodies did respond to requests for information in ways that are compliant with the right to know, the response times were largely in line with the international standards.

The table below shows the average response time for public bodies in the Republic of Cyprus and the northern part of Cyprus in working days:

<b>Table 5: Response Times</b>		
<b>Working Days</b>	<b>Republic of Cyprus</b>	<b>Northern part of Cyprus</b>
(Oral Refusal – non-compliant )	(9)	(20)
Referred	21	
Transferred	14	
Written Refusal	14	22
Information Not Held	12	
Information Incomplete	10	
Information Received	7	14
<b>AVERAGE FOR COMPLIANT</b>	<b>13 working days</b>	<b>18 working days</b>

The average time mandated for responding to information requests in the laws of the countries in the European Economic Area is 15 working days. This is the same time limit which the European Union has established for its institutions to answer access to information requests. According to international standards, public bodies have the prerogative to extend the 15 days time limit for another 15 days if the information requested is complex and provided that the requester is informed of this in writing.

The average response time in the Republic of Cyprus for compliant responses is 13 working days, so within the average for the European Economic Area (EEA).

In the northern part of Cyprus the average response time was 18 working days, so slightly higher than the 15 working days required by the Right of Access to Information law.

In both cases the responses show that where there is a will to respond to the requester, it is possible to do so within the timeframe. Indeed, in both parts of the island, provision of information was the fastest response, taking just 14 working days in the northern part of Cyprus and just 7 working days on average in the Republic of Cyprus.

Although these compliant responses represent only a small percentage of the questions asked, they do demonstrate that where public bodies are ready to answer information requests they have the capacity to do so within timeframes that are consistent with international standards.

## Recommendations

- The government of the Republic of Cyprus should approve an access to information law that establishes time limits for responding to requests at around the average EU time limit: 15 calendar days + 15 days for extensions. The monitoring has demonstrated that this would be feasible.
- Public authorities in the northern part of Cyprus should ensure that public officials comply with the 15 working day time limit established in the Right to Access to Information Law (Act 12/2006) that applies to public bodies in the northern part.

## 3.3 Acknowledgements

Most access to information laws – along with administrative codes and standards for good administrative practice – require that public bodies issue an acknowledgement so that the requester knows that his/her request has been received and is being processed.

In this monitoring in the Republic of Cyprus only 34 out of 207 requests were acknowledged. The average time for receipt of the acknowledgement was seven working days, with the range going from immediate (same or next day response to requests sent by web form, fax or e-mail in six cases) to up to 28 working days.

In the northern part of Cyprus just eight out of 186 requests received an acknowledgement. The average time for sending the acknowledgement was ten working days, ranging from immediately after the request was submitted to 32 working days later.

An acknowledgement is not, however, a guarantee of the eventual processing of the requests: in the Republic of Cyprus, eight of the 34 acknowledgements were followed by

administrative silence. Only five acknowledgements were followed by provision of information.

**Finding:** Public authorities across Cyprus are not only failing to respond to requests but they also fail to provide an acknowledgement or receipt of the request.

**Recommendation:** Requests should be acknowledged. The future access to information law in the Republic of Cyprus should include an obligation to acknowledge receipt of a request after a maximum of five working days. The law in the northern part of Cyprus should be amended to introduce this obligation.

### 3.4 Referred and Transferred

It may happen that requesters contact the wrong public body and that another public body holds the information. In this monitoring every effort was made to ensure that requests were submitted with the correct institution, but in some cases the requests were referred (requester advised to approach another body) or transferred to other public bodies (the request was forwarded by the body that had received it).

In the Republic of Cyprus there were 11 referrals to other bodies and three transfers of requests. In the northern part of Cyprus there were three cases when requesters were referred elsewhere and no transfers.

The three transfers in the Republic of Cyprus (one by the Ministry of Education and Culture and two by the Ministry Commerce, Industry & Tourism) are examples of good administrative practice as was the fact that the requesters were informed about where the requests had been directed. Nevertheless, none resulted in information being provided.

**Finding:** Where public bodies did not hold information they preferred to refer requesters rather than transfer requests themselves.

Recommendations:

- The future access to information law in the Republic of Cyprus should require that public authorities transfer requests in line with best international practice. This transfer should be done within five working days.
- The Right of Access to Information law in the northern part of Cyprus should include a requirement to transfer requests within five working days and to notify the requester.
- Public authorities receiving a transferred request should be required to respond within 15 working days of receipt of the transferred request.

### 3.5 Second Attempts

Monitors were instructed to submit a second request if there was no response or an unsatisfactory response. They did this in order to follow up on 30% requests.

The results show that second attempts at requesting information have a low likelihood of success. This is particularly so in the northern part of Cyprus where just 3.85% (two out of 52) second attempts succeeded in obtaining the information requested.

In the Republic of Cyprus, after filing a second request, 14.5% of answers (nine out of 62) were compliant according to the classification of responses table set out in Section 2.4 . However just 8% (or five out of 62) elicited the actual information requested.

**Finding:** Public bodies are impervious to the repeated attempts of the public to obtain information, and even second submissions of requests are likely to result in administrative silence.

**Recommendation:** Urgent measures need to be taken to ensure that public bodies answer requests for information when they are received and do not wait for phone calls or other follow up by the requester.

### 3.6 Compliance by submission method

In the northern part of Cyprus two methods of submitting requests for information were significantly more successful than others. The method which received the most compliant responses was submissions made by hand where 26% (five out of 19) of requests were compliant.

Postal requests were the second most successful form with 16.7% (or nine in 54) of requests being compliant. E-mail, fax and web form requests were significantly less successful, with all of them having compliance of less than 10%.

In the Republic of Cyprus there was a much smaller disparity between the success rates of the different methods of submitting the requests. Phone applications were technically the most successful method with a 50% success rate but with just two requests being made by phone, this is not a representative result.

The most successful method which was used on a number of occasions was web form with 33.3% (four in 12) success. This was followed closely by post at 27.8% (or ten in 36) and hand delivery at 21.5% (three in 14). E-mail and fax had very similar rates of compliance at 14.5% and 14.9% respectively.

**Finding:** The public bodies in the northern part of Cyprus are failing to recognise e-mail submission of requests as legitimate.

**Recommendation:** All means of submitting requests should be recognised as legitimate in law and practice on both sides of the island.

### 3.7 Written Refusals

The Council of Europe Convention on Access to Official Documents requires that refusals to grant access to information based on the legitimate exceptions be made in writing.

In the monitoring of public bodies across the island, only 16 requests were refused in a written form (by e-mail or letter) whereas a full 75% of requests were refused passively, through administrative silence.

Written and well justified refusals are essential for requesters to be able to defend their right to information by taking an appeal to the courts. The right to appeal is recognised in both the Constitution of the Republic of Cyprus and the "legal framework" of the northern part of Cyprus. This right cannot be exercised if the response to information

requests is widespread silence. Hence the failure to reply seriously impedes the capacity of the general public to defend their right before the courts.

In the northern part of Cyprus, only two requests received a written refusal but neither was appropriately justified, according to international standards. One of the refusals used the pretext of the request not having a date to reject it – this is clearly not acceptable under European standards.

In the Republic of Cyprus, 14 requests received a written refusal, of which just six match the legitimate exceptions of the Access Convention: four requests were refused in writing on grounds of personal data protection and two on grounds of confidentiality of the requested material.

It should be underlined, however, that the Access Convention establishes that public bodies should release documents and black out the specific information that falls, for instance, under the legitimate exception of personal data protection. This was not done in Cyprus. Indeed, one of the monitors was told in an official letter that the requested information could not be provided under the Data Protection Law. She followed up by phone and suggested - with no success - that the sensitive information could be blanked out but the rest of the document released.

Another interesting example of misplaced limitations to the right of access was when one the monitors in the Republic of Cyprus requested a “list of all meetings and consultations held with civil society organizations during the course of 2009, including the names of the organizations.” The monitor was told in writing that the information could not be provided because of its volume. The Access Convention and many national access to information laws foresee this situation and permit extensions to the timeframes in order to compile a significant quantity of documents. An outright refusal is not, however, permitted.

Written Refusals Reasons Table	Republic of Cyprus
Data protection	4
Info too voluminous	1
Reasons requested	1
Confidentiality of the information	2
Requests did not have a date	1
others (non legitimate justifications)	5
<b>Total Written refusals</b>	<b>14</b>

## 4. Republic of Cyprus

The graph below shows the results for all requests submitted to public bodies of the Republic of Cyprus.

unable to submit	admin silence	oral refusal	written refusal	referred	transferred	info not held	info incomplete	info received
1.5%	72%	1%	7%	5%	1.5%	4%	0.5%	7%

### Finding:

- 72% of the requests received no answer whatsoever, administrative silence.
- Only 7% of requests resulted in information being released in full.

**Recommendation:** Public authorities in the Republic of Cyprus should take the necessary legal and administrative measures to ensure that the right of access to information is upheld by all public bodies. The rate of administrative silence should be urgently addressed by the concerned authorities in order to comply with European standards.

### 4.1 Compliance

Just one in four requests (25.5%) were processed and responded to in a way that is compliant with access to information standards.

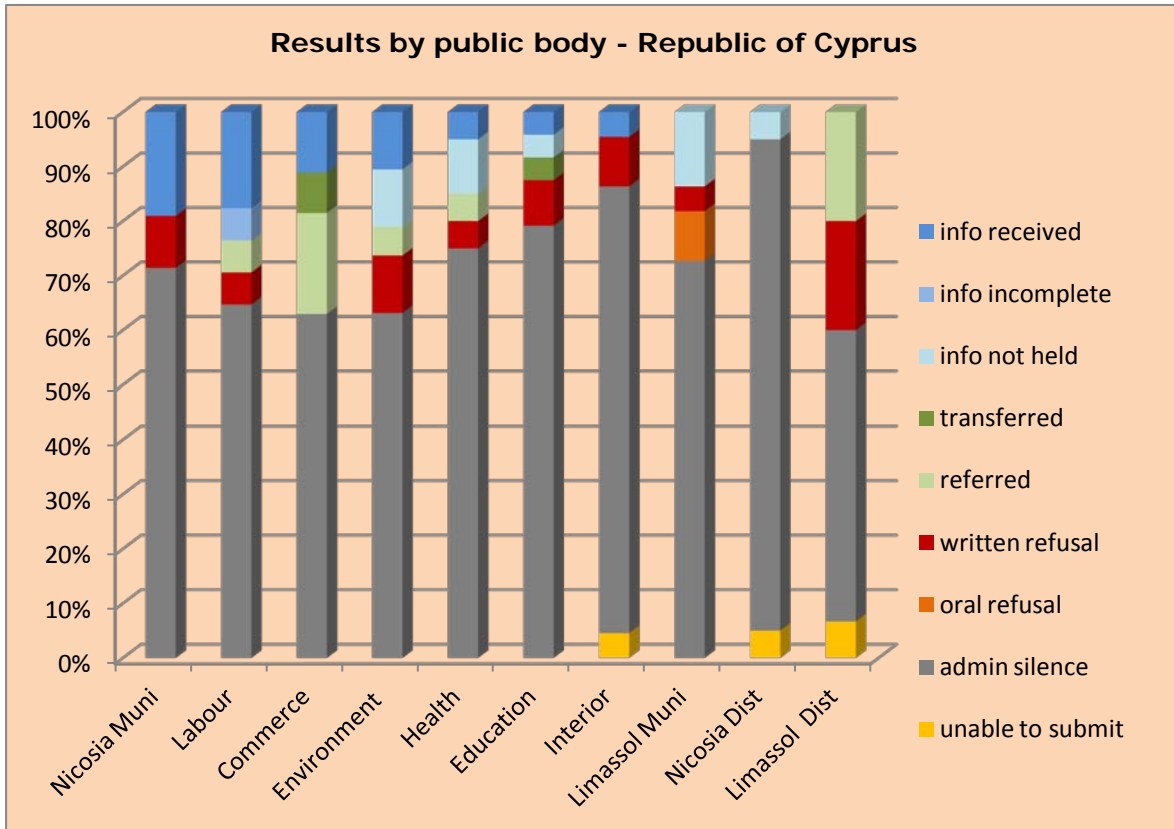
Table 6: Outcomes Republic of Cyprus			
OUTCOME		Republic of Cyprus	
Non-Compliant	Unable to Submit	1.5 %	74.5 %
	Refusal to Accept	0 %	
	Administrative Silence	72 %	
	Oral Refusal	1 %	
Compliant	Referred	5 %	25.5 %
	Transferred	1.5 %	
	Written Refusal	7 %	
	Partial Access	0 %	
	Information Not Held	4 %	
	Information Incomplete	1 %	
	Information Received	7 %	

**Finding:** There is a massive failure to uphold of the right of access to information with three in four requests resulting in non-compliant responses.

**Recommendation:** The government of the Republic of Cyprus must take urgent steps to ensure respect of the right of access to information in line with Council of Europe standards.

#### 4.2 Performance of Public Bodies

The graph below shows the results for each of the ten monitored public bodies in the Republic of Cyprus. The public bodies received an average of 20.7 requests, with a range of 15-27 requests per public body.



Nicosia Municipality was the public body that performed best, granting full access to information to four out of 21 requests (19%). The Ministry of Labour and Social Insurance provided answers to three requests and a further incomplete answer.

One of the bodies with a high level of compliance was the Ministry of Commerce, Industry & Tourism which provided information in response to three requests, and also transferred two requests (which is good practice) and referred another five. It nevertheless met 17 requests with administrative silence.

Three public bodies – Limassol Municipality, Nicosia District, and Limassol District provided no information at all. Whilst Limassol District had six compliant responses, these were three written refusals and three referrals.



<b>Table 7: Performance Public Bodies Republic of Cyprus</b>				
<b>Republic of Cyprus</b>	<b>total requests</b>	<b>information incomplete</b>	<b>information received</b>	<b>compliant</b>
Nicosia Municipality	21		4	6
Ministry of Labour and Social Insurance	17	1	3	6
Ministry of Commerce, Industry & Tourism	27		3	10
Ministry of Agriculture, Natural Resources and Environment	19		2	7
Ministry of Health	20		1	5
Ministry of Education and Culture	24		1	5
Ministry of Interior	22		1	3
Limassol Municipality	22			4
Nicosia District	20			1
Limassol District	15			6
<b>TOTALS</b>	<b>207</b>	<b>1</b>	<b>15</b>	<b>53</b>

**Finding:** All bodies performed very poorly and while some provided information, none excelled at treating requests in a compliant fashion with none achieving over 40% compliance.

**Recommendation:** all public bodies should make greater efforts to ensure that they are processing all requests in line with the right of access to information.

## 5. Northern part of Cyprus

The graph below shows the results for all requests submitted to public bodies in the northern part of Cyprus.

<b>unable to submit</b>	<b>admin silence</b>	<b>oral refusal</b>	<b>written refusal</b>	<b>referred</b>	<b>transferred</b>	<b>info not held</b>	<b>info incomplete</b>	<b>info received</b>
1%	78%	8%	1%	2%	0%	0.5%	0.5%	9%

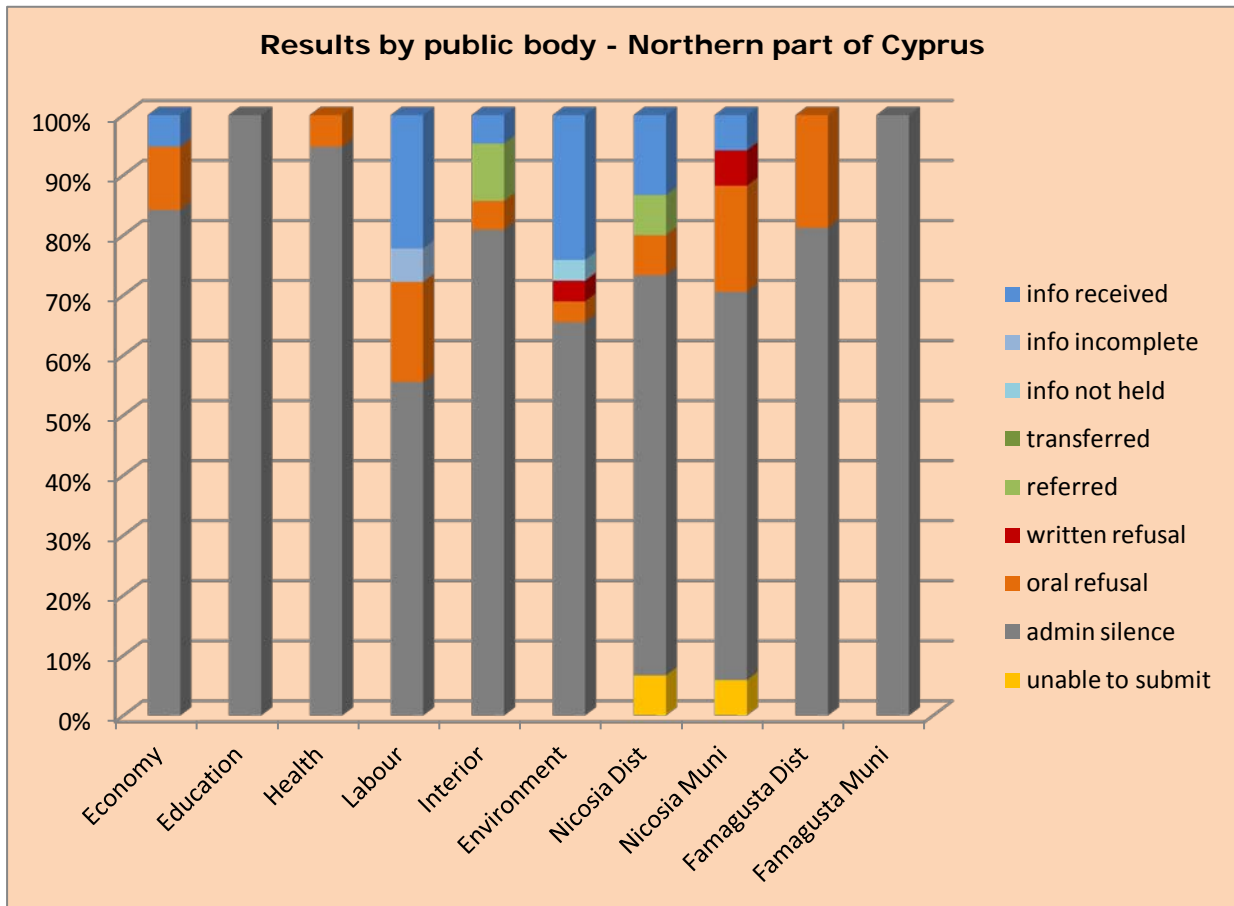
### Finding

- Over three in four requests, 78%, did not receive any type of response from the public bodies to which they were submitted (administrative silence).
- Only in 9.5% of cases was any information at all provided to the requester.
- There were 8% of oral refusals, in which the public body refused to answer the request but also refused to put that answer in writing; this contrasts with only 2% of written refusals.

**Recommendation:** Public authorities in the northern part of Cyprus should take the necessary administrative and procedural measures to ensure that public officials comply with the law on access to information. The rate of administrative silence to information requests should be urgently addressed by the authorities and necessary measures taken to ensure a significant increase in the number of requests from members of the public that receive a response.

### 5.1 Performance of public bodies

The graph below shows the overall performance of each public body monitored in the northern part of Cyprus. Public bodies received an average of 18.6 requests, with a range of 15-29 requests per public body.



Four in every ten public bodies in the northern part of Cyprus did not provide any compliant responses. These were the “Ministry of Education, Youth and Sports”, “Ministry of Health”, “Famagusta District” and “Famagusta Municipality”.

<b>Table 8: Performance Public Bodies northern part of Cyprus</b>				
<b>Northern part of Cyprus</b>	<b>total requests</b>	<b>info incomplete</b>	<b>info received</b>	<b>compliant</b>
"Ministry of Tourism, Environment and Culture"	29		7	9
"Ministry of Labour and Social Security"	18	1	4	5
"Nicosia District"	15		2	3
"Ministry of Interior and Local Administrations"	21		1	3
"Nicosia Municipality"	17		1	2
"Ministry of Economy and Energy"	19		1	1
"Ministry of Education, Youth and Sports"	15			0
"Ministry of Health"	19			0
"Famagusta District"	16			0
"Famagusta Municipality"	17			0
<b>totals</b>	<b>186</b>	<b>1</b>	<b>16</b>	<b>23</b>

The public body that answered most requests in the entire monitoring was the "Ministry of Tourism, Environment and Culture" which provided complete answers to seven requests. This nevertheless represented only 26% of the 29 requests it received. The other compliant responses were one written refusal and one information not held. The remaining non-compliant outcomes were one oral refusal and 19 administrative silence outcomes.

The second highest provision of information in the monitoring study came from the "Ministry of Labour and Social Security" which provided four complete and one incomplete answer, followed by "Nicosia District" with two complete answers. On the other hand, it failed to respond to eleven out of 17 responses.

Three bodies provided just one full response to the questions they received and four released no information whatsoever. These were the "Ministry of Education, Youth and Sports", the "Ministry of Health", the "Famagusta District" authority, and the "Famagusta Municipality".

**Finding:** These results clearly show that public bodies in the northern part of Cyprus do not comply with international standards on access to information or with the Right of Access to Information law. Unjustified silence is the norm and access to information the exception in the overall performance of public bodies in the northern part of Cyprus.

**Recommendation:** Officials should be trained on how to apply the access to information law currently in place in the northern part of Cyprus because information requests are currently ignored in a systematic manner.

## 5.2 Compliance

Nearly nine in every ten requests (87%) were processed and responded to in a way that is not compliant with access to information standards.

Table 9: Compliance northern part of Cyprus			
OUTCOME		Northern part of Cyprus	
Non-Compliant	Unable to Submit	1 %	87 %
	Refusal to Accept	0 %	
	Administrative Silence	78 %	
	Oral Refusal	8 %	
Compliant	Referred	2 %	13 %
	Transferred	0 %	
	Written Refusal	1 %	
	Partial Access	0 %	
	Information Not Held	0.5 %	
	Information Incomplete	0.5 %	
	Information Received	9 %	

**Finding:** In spite of having a law on the Right of Access to Information, there is a massive failure to uphold of the right of access to information with just 13% resulting in a compliant response and just 9.5% resulting in information being released.

**Recommendation:** The authorities in the northern part of Cyprus must take urgent steps to ensure respect of the right of access to information in line with Council of Europe standards.

## 6. Trans-island and International Requests

This monitoring is part of a bi-communal project. Hence, reference should be made to the institutional behaviour regarding information request when those requests came from abroad, specifically from Spain and United Kingdom, and as well as from the other side of the island. The figures are even poorer than in the cases explained above.

### 6.1 International Requests

The tables below summarise the result for requests submitted from abroad:

Table 10: Foreign requests submitted island-wide = 57	
Administrative Silence	50
Information Received	1
Referred	1
Unable to Submit	5

The level of administrative silence for requests coming from abroad is significantly higher (87%) than the percentage of administrative silence for those requests submitted either within the Republic of Cyprus (72%) or within the northern part of Cyprus (78%).

Just a single public body (Ministry of Labour and Social Insurance) in the Republic of Cyprus provided the information as requested. The response was provided by the European Social Fund Unit within the Ministry, which provided a list of projects financed with EU funds.

**Finding:** Requests coming from outside Cyprus are treated even more poorly than those from within the country.

Recommendations:

- Public authorities in the Republic of Cyprus should approve an access to information law that complies with the Council of Europe standards that recognised the right of everyone to access official documents independently of nationality or other conditions.
- Public authorities in the northern part should train public officials to comply with international standards, which permit everyone to have information requests properly attended. Also, public authorities in the northern part of Cyprus should amend the current access to information law so that foreigners are not required to provide reasons when requesting information, so as to comply with international standards.

## 6.2 Trans-island requests

The table below shows the results for requests that crossed the green line:

<b>Table 11: Trans-island requests</b>	
<b>52 requests</b>  (submitted from the Republic of Cyprus area to the public bodies in northern part of the island)	1 Information received
	2 Oral refusal
	<b>49 administrative silence</b>
<b>54 Requests</b>  (submitted from the northern area of Cyprus to public bodies in the Republic of Cyprus)	1 information received
	1 information incomplete
	3 referred
	<b>49 administrative silence</b>

These results prove that the right of access to information is not enjoyed by everyone, independently of nationality, ethnicity or other conditions. In comparison with the performance of public bodies when receiving requests from within their jurisdiction, albeit very poor, the results for requests crossing the green line suggest an even greater reluctance to respond.

**Finding:** There is an unequal treatment of requests depending on where these came from.

**Recommendation:** Public authorities should ensure that there is no discrimination on any grounds in the procedures for handling information requests. Internal policies and

rules in each public body should ensure that requests are treated equally and processed rapidly no matter who has submitted them.

## VIII. Interviews with Public Officials

As part of the investigations carried out in 2010 and 2011 by the Access Info Cyprus Project, interviews were conducted with public officials on both sides of the island. The goal was to interview representatives of the bodies to which access to information requests had been sent and whose websites had been monitored and to get their perspective on the transparency of their institutions.

Requests for interviews were sent out to all the Ministries in the Republic of Cyprus and all the "Ministries" in the northern part as well as four municipalities on both sides of the island.

In the **Republic of Cyprus**, we were only successful in conducting an interview with the Ministry of Labour and Social Insurance at the ministry level, and one with the Municipality of Nicosia. A representative of the Access Info Cyprus Project met with a senior official at the Ministry of Agriculture, Natural Resources, and Environment but the official refused to grant an on-the-record interview.

In addition, representatives of the Ministry of Education participated in the round table for public officials held in June 2011 and contributed to the discussions on greater proactive transparency. Apart from this, the monitored agencies did not respond to the requests for interviews or responded but failed agree to a time for an interview.

The lack of response and willingness to talk about an issue such as the public's right of access to information demonstrates the battle that is needed to begin the process to create an access to information law in the Republic of Cyprus. It also demonstrates the negative political culture whereby public officials appear unwilling to encourage participation outside of any official process.

In the **northern part of Cyprus** we were granted interviews with representatives of the "Ministry of Economy and Energy", "Ministry of Labour and Social Security", "Ministry of Tourism Environment and Culture", "Ministry of Health", "Ministry of Education", the "Nicosia Municipality" and the "Famagusta Municipality". This showed more willingness to speak about the issue of transparency which may, in part at least, be due to the fact that an access to information law already exists, although when conducting the interviews, knowledge about this specific domestic law was not apparent. It may also be attributed to the strength of civil society in securing meetings with public officials, more of whom came to the round table held in June 2011 in the northern part of Cyprus than the equivalent round table in the Republic of Cyprus.

Table showing the number of interviews secured

Republic of Cyprus	Interview	northern part of Cyprus	Interview
Ministry of Interior	✘	Interior	✘
Ministry of Commerce, Industry and Tourism	✘	Economy and Energy	✓
Ministry of Labour and Social Insurance	✓	Labour and Social Security	✓
Ministry of Education and Culture	✘	Education, Youth and Sports	✓
Ministry of Agriculture, Natural Resources and Environment	1/2	Tourism Environment and Culture	✓
Ministry of Health	✘	Health	✓
District Authority – Nicosia	-	District Nicosia	-
District Authority - Limassol	-	District Famagusta	-
Municipal Authority - Nicosia	✓	Municipality Nicosia	✓
Municipal Authority - Limassol	✘	Municipality Famagusta	✓
<b>Key:</b> ✓ = interview granted and held - = interview not requested ✘ = interview not granted ½ = interview granted but refusal to answer questions on the record			

## Findings

The findings of the interviews show a number of similarities as well as differences between the Republic of Cyprus and the northern part of Cyprus regarding public officials' attitudes to the right of access to information.

The responses given during the interviews also demonstrate how the political situation on the island affects the way in which Public Officials perceive the need for transparency and the functioning of their administrations as regards access to information.

- » **Finding 1:** Although public officials say that they believe in the public's right of access to information, they set firm limits to its application. In particular, they place a strong emphasis on national security and the protection of personal data.
- » **Finding 2:** There is a lack of readiness to take responsibility for processing access to information requests: public officials prefer to argue that it is someone else's responsibility.



- » **Finding 3:** Public authorities from across the island state that they are ready to accept access to information requests from the other side of the island, even though the data from the monitoring show that this is not the case in practice, particularly in the Republic of Cyprus.
- » **Finding 4:** There is a disparity on the island with respect to knowledge about European Union and Council of Europe standards on access to information. Officials from the Republic of Cyprus Public appear to be aware of the existing norms although they assert that they are already complying with them, whereas in the northern part of Cyprus public officials do not know about the international standards and hence feel they have to work more to improve access to information issues.
- » **Finding 5:** In the absence of a clearly defined legal framework, public officials from both sides of the island are reluctant to publish information or respond to requests for fear of sanctions from superiors.

### Finding 1: Wide Limits on the Right to Know

Public officials were asked if they believe in the public's right of access to information. The answers revealed a generally positive reaction to this right, although two officials from the northern part of Cyprus and both officials from the Republic of Cyprus declared that there were limitations to this right.

The protection of personal data was cited as one of the main reasons for placing limits on access to information, which is acceptable as it is in line with international standards which require that the right of access to information to be balanced against the right to privacy and protection of personal data.

However, the officials from the **Republic of Cyprus** argued that this limitation means that a requester should provide legitimate reasons for asking for any information, which is not acceptable under international standards.

In addition, during the course of the discussions, the officials appeared to argue that the imposition of limitations by a public authority should be definitive, not recognising the right of a citizen to challenge this decision by going to court to appeal against it.

In the **northern part of Cyprus**, there did not appear to be any insistence on requiring legitimate reasons to be made by a requester to access information held by public officials.

**Public Officials on both sides of the island** stated the need to limit public access to information when the request affects **national security**. This is not surprising given the political situation on the island and the level of mistrust that still exists between the two sides: while a sense of insecurity remains, national security will inevitably be cited as a strong reason for restricting the right of access to information.

This is however, a misguided approach. Indeed, greater transparency here could actually contribute to building trust and finding political solutions in Cyprus: having transparent and open institutions has been demonstrated in other contexts to increase trust and permit greater public participation in decision making, which can have a positive impact in problem solving and lead to better decisions.

As much as being an access to information issues, this indicates the need for more measures to increase trust at the institutional level, in addition to current inter-communal trust-building initiatives and increased cooperation between civil society organisations.

### Recommendations:

- Public officials in Cyprus should examine with way in which the personal data and national security exceptions are applied in other parts of Europe and should be guided by these in interpreting limits on the public's right to information.
- There should be a discussion between public officials and civil society about the kinds of information which should be made public, including information relating to politically sensitive issues in Cyprus. This should result in more information being made available, in order to improve the quality of public debate.

### Finding 2: Taking Responsibility for Answering Information Requests

Another common attitude amongst public officials in the whole island found by the interviews was the lack of readiness by senior officials to take responsibility for access to information requests which had been sent to their institutions.

When asked if they had dealt with or how they would deal with requests to access information, officials were keen to push responsibility over to others.

In the **Republic of Cyprus**, public officials contested that responding to access to information requests were not seen as responsibility of the Ministry itself. One public official was adamant that information can be accessed through the websites of Ministries and that this should be sufficient (even though it was pointed out that the investigations for the Access Info Cyprus project proved this not to be the case).

The believe that proactive transparency is sufficient demonstrates a lack of understanding and practical knowledge on the part of public officials and potentially poor administrative practice by higher-level public officials about Council of Europe and European Union standards on the right of access to information. It also shows a high level of disinterest on part of the Ministries to deal with and interact with the general public.

In the **northern part of Cyprus**, passing responsibility to other institutions tended to be for specific issues. For example, all but one of the public officials referred to the "Central Public Tender Commission" to process requests about public procurement or as the body responsible for making such information available proactively. More generally, one public official stated that information requests are dealt with by "other ministries".

On a more positive note, both sides appear competent enough to be able to pass requests over to other 'relevant' institutions which would help with efficiency should requests be filed with the wrong body by mistake. This however rarely happened in practice during the monitoring.

### Recommendations:

- Public Officials on both sides of the island need to take a much more positive approach in reacting to requests by the public for access to information.

- Officials need to take responsibility for proactively publishing information they hold.
- Systems need to be established for transferring requests between public authorities so the correct body which holds the information receives the request and answers it.

### Finding 3: Responding to Requests from All Parts of Cyprus

When asked whether people from the other side could make successful requests for information, the public officials interviewed asserted that they can.

This bodes well for inter-communal cooperation, but there were limitations expressed by public officials in the northern part towards releasing certain sensitive information.

Public officials in the **northern part of Cyprus** said that whilst they receive few request from the Republic of Cyprus, there is cooperation on a municipal level over some issues in Nicosia and on health or those who have connections with communities in the northern part, such as the Maronite community.

Due to the lack of recognition by the Republic of Cyprus of the northern part of Cyprus, there is no official interaction on the state level which also impedes information flows. One “ministry” expressed the belief that Republic of Cyprus officials do not trust officials in the northern part of Cyprus which makes it harder for them to obtain information.

Similarly, in the **Republic of Cyprus**, public officials said that there was no reason why people living in the northern part could not access information from the Republic of Cyprus. The Ministry of Labour and Social Insurance stated that they receive requests for information, although these tend to have a narrow focus on issues of workers’ rights (such as unemployment benefit).

**Translation of information on websites** was also raised by the Access Info Cyprus Project as a failing indentified by our research. The Ministry of Labour and Social Insurance stated that its website is also translated into Turkish. On the other hand the “ministries” in the northern part of Cyprus admitted to a lack of translation of information for non-Turkish speaking requesters.

Overall, whilst both sides state that in theory there is no problem for anyone to request information, in practice there seemed to be a lack of strong interest in taking the steps necessary to facilitate access either through requests or through proactive publication of information duly translated into multiple languages.

In this sense, having much stronger access to information laws could force officials to provide information to information seekers from across the island, which could contribute to a better informed populace and to increased inter-communal trust.

#### Recommendations:

- The political leaders in the Republic of Cyprus and the northern part of Cyprus should make clear to all public officials that they have a duty to respond to access to information requests from across the island.
- The stronger legal frameworks recommended elsewhere in this report should be accompanied by training of public officials in their obligations to make information public.

- Significantly more information should be published on websites in both the official languages of Cyprus – Greek and Turkish – as well as in English to facilitate access by visitors, tourists, immigrants and those from abroad seeking information about Cyprus.

#### Finding 4: Lack of Knowledge of International Access to Information Norms

The interviews also sought to ascertain whether public officials were aware of international standards on the right of access to information. In the northern part public officials were also asked if they knew of domestic legislation regarding the right of access to information.

In the **Republic of Cyprus**, public officials stated they were aware of European directives regarding access to information and pointed to the Environmental Information Law as an example, there were however no references to the Council of Europe Convention on Access to Official Documents or other international standards.

The interview responses gave the impression that public officials in the Republic of Cyprus believe that being aware of the international guidelines and pointing to specific examples constitutes “doing enough” on the issue of access to information.

Similarly, the assertion that their websites are replete with information (even though the monitoring found this not to be the case) demonstrates a belief by public officials that they are taking sufficient steps to inform the public.

In the **northern part of Cyprus**, all the public officials interviewed stated that they did not know of any specific international legislation and only one official knew of the northern part of Cyprus law on access to information.

Whilst this demonstrates how international isolation has also kept the political culture of the northern part in the dark about developments on access to information, there is also a lack of knowledge regarding domestic developments. It is a serious issue if public officials are not aware of their obligations and duties to provide the public with access to information and this issue of communication is something that needs to be addressed.

In the Republic of Cyprus however, officials did explain that they are actively trying to publish as much as they can online and also to update all their systems and information to be available through electronic means. Whilst they too lack lots of information on their websites, there is at least the conscious acceptance that more needs to be done.

#### Recommendations:

- Public officials in all parts of Cyprus need to be better educated on the right of access to information. This should be done hand in hand with steps to improve the legal framework for the right of access to information, including through adoption of an access to information law in the Republic of Cyprus and strengthening the law and its implementation in the northern part of Cyprus.
- Public officials in the northern part of Cyprus should make an effort to be more informed on international developments on the right of access to information.
- Public authorities in the Republic of Cyprus should take more seriously their obligations to proactively publish information through electronic means.

## **Finding 5: The Prevailing Culture of Secrecy**

The interviews also revealed that public officials feel very bound by the legal framework and so do not take the initiative when dealing with access to information requests.

The interviewed public officials in the Republic of Cyprus referred to the need for clearly regulated procedures if they are to provide information to members of the public. They stated that it should not be up to an individual public official to determine whether to answer or to reject a request.

On the one hand, whilst this can be seen in a positive light since it recognises the need for the right to be protected by law; on the other hand it also demonstrates that without a specific law, public officials do not feel confident to answer requests using common sense about whether they feel that it would be acceptable to provide this information to the public. This finding points to a larger issue of the practices of public administration in the Cyprus and the culture of secrecy which still prevails.

In the northern part of Cyprus a public official referred to a specific case where a decision had been taken to proactively publish information which was then overturned by a superior and the official was swiftly told not to do it again. Such experiences act as a disincentive to respond to requests or to proactively disclose information.

These answers to the interview questions revealed a very similar administrative culture in both parts of Cyprus, an administrative culture which does not encourage efficient processing of requests of any kind and which discourages direct interaction with the public. The difficulty in securing the interviews for this project is part of that problem.

Transparency and access to documents is not just about physically allowing documents to be published, but it also is about ensuring that the bureaucratic culture is one which assumes openness so that public officials can respond in an efficient manner of benefit to the requester and the general public.

### **Recommendations:**

- The public authorities in both the Republic of Cyprus and the northern part of Cyprus should make clear to public officials that unless information is specifically classified, it should be presumed to be public and public officials should be encouraged to make information available either proactively or in response to requests.
- There is a need to review the sanctions for public officials and to shift the paradigm from one in which public officials are punished for revealing information to one in which they are rebuked or sanctioned for failing to disclose to the public information which is requested unless they can demonstrate that it is protected by a legitimate exception permitted by international standards.



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