

# Strategy 2018 - 2021

Opening Decision Making

Advancing Accountability

Defending the Right to Information

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# ACCESS INFO STRATEGY

## 1. Overview

### Access Info Europe: a human rights organisation

Access Info Europe is a human rights organisation specialising in promoting and protecting the fundamental right of access to information.

Access Info was founded on 26 June 2006 by European and international experts in access to information in order to meet the need in Europe for an organisation dedicated to promoting the right of access to information. Established as a not-for-profit, non-governmental association under Spain's Law on the Right of Association, the *Ley Orgánica 1/2002*, the registration was confirmed by decision of Spain's Ministry of Interior on 2 October 2006 (registration number 587828).

### Mandate

Access Info's mandate, as established by our statutes, is to promote and protect the right of access to information in Europe as a tool for defending human rights, for promoting public participation in decision making, and for holding governments and other public and private bodies accountable.

Hence, as set out in this strategy, we promote both the right to information in and of itself, and we defend and advance the right for its democratic value.

The Access Info Europe team also deploys its expertise to contribute to advancing the right of access to information in law and practice globally.

### Goal

Access Info's goal is that there be a strong right of access to information. What this means is a right that not only exists on paper, in international standards, constitutions, and laws, but also that the right can be exercised in practice so that people can obtain the information they need for defending human rights, for participation in decision making, and for holding power to account.

### Vision

Our vision is that there is full recognition of the public's right to information as a fundamental human right by all relevant national and international bodies.

Our vision is that the right of access to information is enshrined in a strong legal framework that includes user-friendly mechanisms for requesting information, limited exceptions, the obligation to create records, rules mandating comprehensive proactive publication of documents and data, and empowered and effective oversight bodies.

Our vision is that there exists in Europe an empowered and informed citizenry – including, in particular, civil society organisations, human rights defenders, and investigative journalists – that makes use of the right and is able to obtain information, with a focus on information needed for participation in and accountability of decision making. It is essential that those who exercise the right of access to information are also free to make the use of it, and that they have the capacity and know-how to engage in evidence-based advocacy.

## **Our theory of change:**

### ***The Right to Information as an Essential Democratic Tool***

*Access Info's theory of change is that by using the right of access to information to secure the information needed by those working to defend and advance human rights and strengthen democracy in Europe, we will strengthen and broaden support for this fundamental human right. Such support will, in turn, also help us to campaign for strengthening access to information laws and to address serious deficiencies with transparency in practice. Through a combination of success along with campaigns to address problems, we will strengthen the right of access to information as a democratic instrument.*

## **Objectives**

The primary objective of Access Info's strategy is **to make the fundamental right of access to information serve in practice to defend and advance human rights and to strengthen the quality of democracy** in Europe, including at the EU and national levels. We also aim to contribute to advancing this objective at the global level.

Ensuring that there is a functioning right of access to information is absolutely essential to protecting and promoting the mechanisms and institutions needed to deliver democracy: free media, protection of civic space, independent oversight bodies and judiciaries, functioning anti-corruption mechanisms, and genuine participation in decision making.

In order to do this, we need to **ensure that there is a strong legal framework for exercise of the right of access to information**, and that this right continues to evolve and advance so that it can most effectively contribute to the existence of functioning democratic societies in which human rights are upheld.

And in order to achieve these objectives, we need **to build, strengthen, and consolidate a supportive constituency that will promote and defend the right**, and thus contribute to developing a political culture of transparency, as well as a democratic enabling environment in which empowered civil society actors are able to make full use of this right.

These objectives can be captured in three strategic goals that form the backbone of our strategy and define the way in which Access Info engages:

1. **Defending Democracy:** *That the right of access to information works in practice to help defend and promote human rights and democracy, that decision making is open and that information needed for accountability is available;*
2. **Advancing the Right:** *To advance the right of access to information in international standards, and in national legal frameworks and their implementation;*
3. **Strengthening the RTI Constituency:** *To strengthen and broaden the constituency that defends the right of access to information.*

From these three objectives flows Access Info's strategic approach and the framework within which our campaigns and project activities are organised, as described further in Section 3 below.

## **Geographic Scope**

Access Info primary area of geographic focus is the European region (broadly the region of the 47 member states of the Council of Europe). In this region we work on projects designed to have an impact on levels of transparency of the European Union, of national governments, and in some instances of sub-national entities as well, particularly large cities.

Access Info has a strong focus on the EU, and we are widely recognised as the leading specialist right to information organisation working at the EU level. Increasingly, we are working on the EU-Member State nexus given that it is where much European decision making and legislative activity occurs, with an impact not just on Member States but on the wider region (and indeed globally).

The precise division of our work between the EU and national level depends on the funding that we secure. For this strategy, we are aiming for an indicative division of 40% of work at the EU level, 30% EU-Member State, and a further 30% of national level work.

The national level includes dedication of time in Spain, where Access Info was founded and has had a significant positive impact on both the legal framework and transparency in practice. Contingent on funding, we aim to continue a strong involvement in advancing the right to information in Spain, especially given that the country is reasonably representative of the challenges of promoting transparency in southern European countries, and hence permits us to develop and pilot approaches which we can then share with other RTI groups across Europe.

Access Info also engages globally, though a series of international processes, including in particular the Open Government Partnership, as well as by being an active member of the RTI community worldwide, and we aim to participate in relevant fora and events. At this juncture we are resisting taking up projects that are exclusively outside the European region, but the Board has discussed considering doing this should it be necessary to sustain funding levels going forward. In particular, we will consider projects with a global reach that will have a positive impact in the European region.

## **Transparency of Private Actors**

Given the current state of evolution of the right of access to information, the primary objective of the approach set out in this strategy is to achieve transparency of public bodies. That said, much of our work touches on securing transparency of private actors, such as lobbyists through lobby regulation, private businesses through openness of public contracts and spending data, media owners through our transparency of media ownership work, and the real beneficiaries behind companies through opening up company and beneficial ownership registers. We continue to explore how the fundamental right of access to information should apply to private bodies, particularly larger ones with a significant role in the public sphere, and whether that transparency should be mediated via public bodies or be an obligation that private bodies themselves have to comply with.

## **A Networked Approach**

Access Info is a specialist organisation with high levels of expertise and which maintains its agility and financial stability by having a dedicated core team of staff working with consultants, helped by interns and volunteers.

In order to have sufficient human resources to implement large-scale projects, as well as to bring in specific thematic and country expertise (as well as relevant language skills), almost all our activities are carried out in partnership with other organisations or institutions.

Through these partnerships we increase the likelihood that our work will have an impact and in parallel we strengthen the access to information expertise of our partners.

## **How Access Info Works**

For the right of access to information to be respected in practice in any country, it is essential that there exist a favourable political, bureaucratic, legal, and judicial context. Having access to information laws is not enough.

Our projects and campaign actions are therefore designed to create that enabling environment and to ensure that transparency as a permanent feature of the political agenda and a policy issue that public officials and legislators cannot ignore.

To this end Access Info undertakes a range of campaign activities that include

- **Public campaigns** that include public statements and media work, engaging in events, conferences, and debates through public fora and via social media;
- **Lobbying** public officials and parliamentarians
- **Participating in public consultations;**
- **Awareness raising**, either direct to CSOs, journalists, IGOs, information commissioners, etc., or to the public via media;
- **Trainings / Workshops:** for public officials, parliamentarians, judges, CSOs, journalists, etc.

These activities all build on and make use of our more legally-oriented work

- » **Evaluation of the legal framework:** using the tool of the RTI Rating and evaluation of other related laws;
- » **Using access to information laws to obtain information** (including that of value for others) and challenging refusals (after strategic selection of cases)
- » **Monitoring** of the ways that the legal framework is affecting exercise of the right of access to information in practice, including collecting evidence from the experiences of other users via portals (AsktheEU.org and others), via our RTI community networks, and via meta requests on exercise of the right.
- » **Evaluation** of administrative and judicial readiness to comply with the legal framework;
- » **Litigation** by Access Info, and collecting evidence through litigation (ours and that of others, taken to both courts and information commissioners / ombudsmen);
- » **Research and expert studies** by Access Info, our partners and other CSOs, academics and inter-governmental organisations.

The exact mix of activities in any project plan will depend on the specific needs and also on the availability of funding for different types of activity.

## 2. Context Analysis: Europe's Transparency Challenges

In the detailed **European RTI Context Analysis** that accompanies this strategy document, Access Info has identified the main transparency challenges that need addressing if we are to achieve these three goals. Summarising these challenges as they relate to each of our strategic objectives, they are:

### 1. Right not serving to deliver defence of democracy

- ❖ **Closed Decision Making:** Much information needed for participation in and scrutiny of decision making is simply not available. This includes basic documents such as minutes of meetings, evidence used in decision-making and justifications of decisions taken, and documents submitted by lobbyists. Access Info, working with civil society and investigative journalists, regularly has to challenge refusals to provide information needed in areas such as defending human rights, protecting civic space, ending secretive lobbying, or following anti-corruption policies. With partners (RTI groups, other CSOs, and journalists), we have identified key areas of governance across Europe – such as migration, social and economic policy, human rights protection, environmental and energy policy – where there is a pressing need for greater transparency to ensure that decisions are taken in the public interest. There are also rapidly changing ways in which decisions are being taken (including with the use of algorithms), where there is still far too little transparency and no established accountability mechanisms.
- ❖ **The EU-Member State Transparency Gap:** a specific European region problem is the way that both decision making and spending of public funds is done between Brussels and national capitals, often with a lack of clarity about precisely which decisions are taken where. Even national parliaments do not have sufficient oversight, let alone civil society, the media, and citizens. This problem is currently affecting an increasing number of areas of crucial importance such as protection of the rule of law, responding to migration, or oversight of spending of EU funds at the national level. Furthermore, there are EU region bodies and processes that fall out of the reach of the right of access to information, and there are inter-governmental organisations such as the Council of Europe which do not have a full access to information regime.
- ❖ **No Access to Accountability Info:** the information and data needed for accountability and the fight against corruption is still not open, with hugely insufficient proactive publication and information often hard to obtain upon request. The problem affects a range of information from basic data such as expenses spending or assets declarations to essential data sets such as company registers to sectors prone to corruption such as public procurement.
- ❖ **Using the right of access to information still requires skills and resources:** It is still not easy to make use of access to information laws in many jurisdictions. A mix of legal and practical challenges means that even professional users, such as civil society activists or investigative journalists, often turn to Access Info for help in drafting requests and appeals. For such users, court appeals can only be contemplated if pro bono legal support is available. Users need both initial training and ongoing support.

### 2. Weak access to information & lack of culture of transparency

- ❖ **Weak laws:** Europe's access to information laws vary significantly in quality, many are limited in scope, and lack the necessary protections for the right such as strong oversight bodies (information commissioners). Some specific problems which we have identified as having a particular impact on access to decision making and accountability information are:

- **Excessive Exceptions:** the challenge of over-broad exceptions, some of which still lack either a substantial harm test and/or a public interest test, that are over used, and applied without due justifications and with a failure to consider the public interest in disclosure;
- **Information not available on time:** a huge problem in practice is that time frames are breached and by the time information becomes available (often after appeals that challenge administrative silence or refusals, something which can take up to a couple of years) the information is no longer of value for participation or accountability. Strengthening the legal framework for the right, including stronger oversight and sanctions, could contribute to addressing this problem.
- **Obstacles to requesting:** Increasingly there are practical obstacles to even asking for information, including strict identity requirements which limits trans-national requests.
- **Formats of access:** Access to information laws fail to establish a sufficiently strong right to obtain information in open formats, resulting in information being released in non-machine-readable, scanned, PDF formats.
- ❖ **No rules on record creation:** There are minimal or no rules on record creation resulting in information not existing in practice;
- ❖ **Poorly defined balance with privacy:** The balance between the rights to privacy and access to information is poorly articulated in the legal framework, causing problems in practice when it comes to striking the right balance;
- ❖ **Measurement is missing:** Without hard data it is harder to make a compelling case for transparency. Greater measurement of transparency in practice, both in response to access to information requests and proactive transparency is essential.
- ❖ **Lack of training and resources:** The lack of resources and training undermines implementation of access to information laws, resulting in lack of support for requesters, abuse of exceptions, and delays in disclosing information.

### **3. Need to strengthen the RTI Movement**

The RTI movement across Europe is increasingly joined up in its activities, but nevertheless the following needs persist:

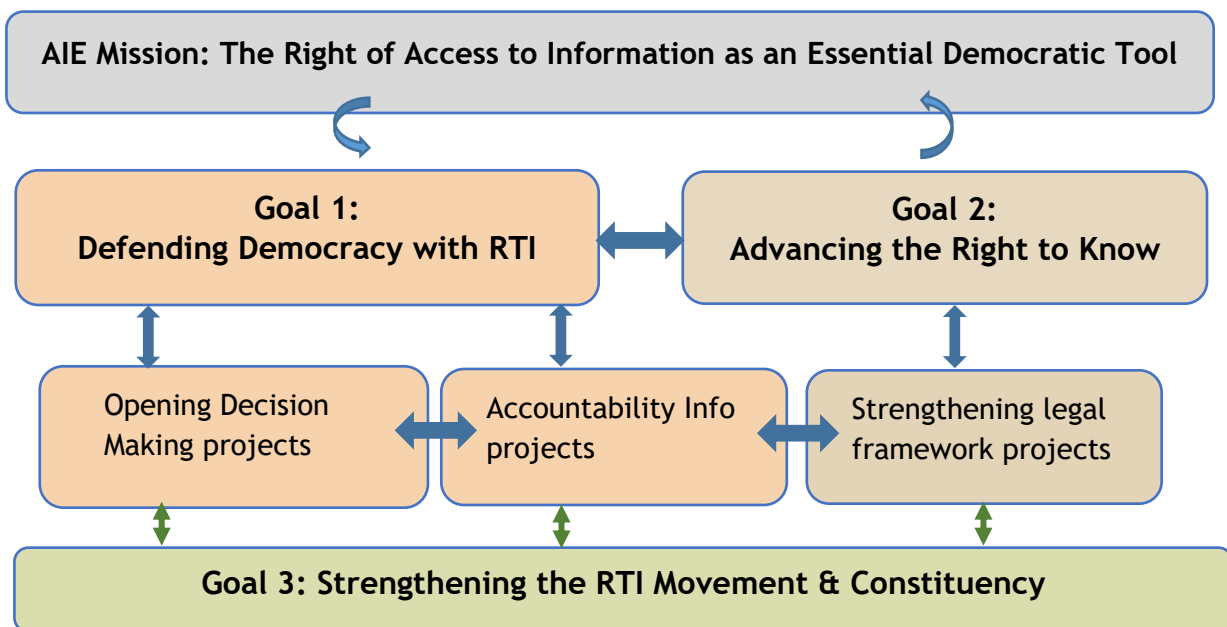
- ❖ **Collaboration for impact:** Strategic collaborations across the European region to tackle particular access to information problems in joined-up campaigns will increase our chances of having an impact. This requires long term coordination strategies and joint fund raising.
- ❖ **Information sharing:** Increased sharing of jurisprudence, best practices, and campaign strategies would increase the efficiency and effectiveness of both national and transnational access to information campaigns.
- ❖ **Use of international mechanisms:** Better use could be made of recourse to the European Court of Human Rights and the European Court of Justice, as well as pressing for the Council of Europe Convention on Access to Official Documents to come into force, and maximising the potential of the Open Government Partnership of which 22 out of 28 EU Member States are members.
- ❖ **Legal support:** To have an impact, the RTI movement needs to make increasing use of legal analysis, evaluation of jurisprudence, and strategic litigation, all of which can only be done on a scale that will have impact if there is access to a pool of lawyers, ideally committed to providing pro-bono legal support.



**A Note on Project Selection:** The needs identified across Europe, define the specific objectives that Access Info addresses in our project activities and campaigns. In selecting projects, we follow the logical structure set out below and also cross-check with a series of questions – resources, expertise, added value, possibility of replication, coherence and compatibility with other ongoing projects, etc., - which are set out in **Annex A**.

### 3. Advancing Access to Information as a Democratic Tool

In line with our strategic goals and in order to address the needs identified in Section 2, Access Info organises its campaign activities and then specific project lines according to the following framework:



#### Goal 1: Defending Democracy with the Right to Information

Our activities under this line of work are designed to make the right of access to information work in practice so as to ensure that information necessary to promote decision making in the public interest, to contribute to protecting open societies, to defend human rights, and to fight against corruption and abuse of power can be accessed, in particularly by civil society and journalists.

**Under this goal we have two main areas of campaign activity: opening decision making and accessing accountability information, and in each of these areas, Access Info both initiates its own projects, and works with civil society and journalists to help them obtain the information that they need to do their work.**

## 1.1 Opening Decision Making

**Objective:** *To secure an increase in timely public access to the information about decision making, in particular in order to increase participation*

### Specific Impacts:

- **Opening Decision Making:** Our goal is that Access Info contributes to opening public decision-making processes, in particular those that affect human rights, rule of law, civic space, that respond to current social concerns, and where lack of transparency in the past has led to lack of legitimacy for decisions and declining public trust.

Our goal is to do this by prioritising targeting either particular areas of decision making (for example, EU legislative processes, EU-Member State co-decision making, areas of public policy such as migration, health, social and economic policy, etc., and activities areas, such as lobbying) or types or classes of information (for example, minutes of meetings, justifications of decisions, documents submitted by lobbyists, etc.).

Here the desired impacts are defined by Access Info following analysis of needs and opportunities, and out of all our contacts with other civic actors, and we take the lead in the campaign work, although we may well work with other CSOs and journalists in taking the campaigns forward.

Our strategic aim is also that, through this work, Access Info successfully challenges the application of excessive exceptions, something that currently blocks access to decision-making information. That information commissioner decisions and jurisprudence is secured in support of transparency, and that this is used in the jurisdiction concerned as well as elsewhere. That high profile cases results in changes to policy and practice, and that these are eventually incorporated into laws or regulations so that changes achieved are less easily reversed. That both successful wins and particularly outrageous blackspots are brought to the public's attention, and that this contributes to building support for strengthening the right of access to information.

Based on the needs and opportunities analysis and building on previous work, priority areas for Access Info's work include:

- **Open European Union:** Our goal is that European Union decision making is sufficiently transparent that the public can follow its decision-making processes thereby increasing accountability to citizens and national parliaments, and permitting fact-based debate and greater participation. That information is available which makes transparent and therefore helps ensure control of the influence of lobbying and private interests. That there is, in particular, increased transparency of the Council of the European Union, and of the entire legislative process. That there is greater transparency of decision making from key EU bodies and agencies, including the Commission, the Court of Justice, and agencies, where this information relates to protection of human rights, rule of law, and democracy.
  - **Council Transparency:** That the Council of the EU publishes a significant proportion of documents related to legislative processes and discussions in working parties online; that the Council record-keeping rules reformed to require recording of Member State positions; that Council Legal Opinions are routinely available; that national parliamentarians have access to much of the material circulated in the

Council and to national government delegations in Brussels (“Permanent Representatives”), and that much of this documentation is public.

- **Selection of Judges to Court of Justice:** That the process by which judges are selected to the Court of Justice of the European Union is open and accountable, and that the evaluation of judges against clearly established criteria is available to the public.
- **Transparency around reform of the Lobby Register:** That key documents – in this case the focus is on legal advice – related to the reform of the register are made available so that the public can know the analysis of the legal basis for the ongoing debate and decision making.

» **Closing the EU-Member State Transparency & Accountability Gap:** That it is possible to track decision making as it flows between the EU institutions and Member State governments. This includes both legislative and other processes in the Council but also the array of issues for which the Commission and other EU bodies and agencies engage and take decisions in coordination with national government bodies. That both policy development and spending of EU funds can be tracked from the EU to national level. That the European Parliament and national parliaments have sufficient information to play their oversight role. That the transparency paradigm shifts from post hoc accountability to sufficiently early access to the policy process to permit real participation, either directly at the EU level and/or towards national governments. That this work feeds into the appropriate regulation of the relationship between EU and Member States so that decision making does not slip through loopholes in the transparency and accountability framework.

- **Migration transparency:** Following our work on the EU-Turkey deal, and a series of ongoing requests at the EU level into the human rights impacts of the way in which Europe is responding to migration, Access Info Europe is involved in a project in which we are mapping the complex structure for both decision making and spending of public funds on migration. The goal is to identify how decisions are taken and how reporting is carried out, so that CSOs at the national level can request information that is of relevance to their work. Access Info will assist with eventual requests. The information gathered will feed into debate around decision making on the next EU Multi-Annual Financial Framework, both in the specific area of migration, and as related to the question of EU funds more generally. This project aims to contribute to closing the EU-MS accountability gap, and to permit CSOs to engage in and have more impact on future decision making.
- **European region processes and bodies outside the reach of access to information laws:** That European region intergovernmental bodies and processes currently outside the reach the right to information become more transparent through use of national access to information laws, and eventually have international standard access regimes.

» **CSOs and Journalists Empowered to Engage:** That key democratic actors, including civil society organisations, investigative journalists, academics, active citizens, and others obtain information needed to engage in public processes and debates.

That this is done by working with organisations and individuals to help them to obtain information. Such support can be either on a more ad hoc basis, or through structured projects.

Specific ongoing projects are itemised in the current Action Plan for 2018. These include working with the civil society organisation GONG, organising pro bono legal assistance for a case to European Court of Human Rights to access a contract between the Croatian government and a lobby firm; helping a Mexican journalist obtain information on the EU's evaluation of human rights in Mexico; helping a French journalist with an investigation into the role of the EU in Kosovo by submitting appeals; and helping academics and Hungarian civil society obtain information from the European Commission about its monitoring of assaults on the rule of law and civic space in Hungary.

Similarly, in Spain, the types of activities underway include working with Amnesty International on requests about housing, with Women's Link World Wide on information about detention of migrants, with health organisation *No es Sano*, on decision making on the pricing of medicines.

## **Tools**

There are also two tools which Access Info has developed, which help us advance this goal, in particular to help civil society, journalists and citizens exercise their right of access to information:

- = **AsktheEU.org**: That the process of requesting EU documents is facilitated for all users with the AsktheEU.org platform. That journalists and CSOs are able to make use of the "pro" functions to manage requests (hiding them where necessary to protect ongoing investigations). That increasing numbers of users from across Europe (including also active citizens) make use of their right of access to EU documents. That key users are trained in how to make best use of their right of access to information, making use of the AsktheEU.org Guide that Access Info has produced. That users are assisted with the request and appeal process – with a goal of users being provided with semi-automated appeals support – and that such assistance is accompanied by pro bono legal support if necessary.
- = **Legal Leaks Toolkit**: That journalists are empowered in use of access to information as a tool through the guidance of the Legal Leaks Toolkit accompanied by trainings and ongoing support (guidance on requests, legal advice). That this guidance is available to them in their native languages and adapted to national legal systems, expanding on the 13 language/country copies currently available. That journalists are inspired to make increasing use of requests submitted in other countries, to support transnational investigations.

## **1.2 Accessing Accountability Info**

**Objective:** *To secure access to core documents and datasets needed for democratic oversight, ensuring that this information is available either upon request and in a timely manner or – preferably and over time – through proactive*

### **Specific Impacts:**

- **Accountability info campaigns:** That specific classes of information needed to deliver accountability are made public.

For projects in which Access Info takes the lead, the priorities be defined based on

consultations with RTI groups, journalist, anti-corruption organisations, and others, and as per availability of funding. We will also liaise closely with other civil society groups and journalists as we take these projects forward.

As a result of current conversations, possible classes of information to target (contingent on funding) include documents such as assets and conflict of interest declarations, as well as pushing for increased transparency in areas of public activity such as public procurement processes, which in many countries account for a significant percentage of public spending.

In the meantime, Access Info is continuing with the Expenses Transparency campaign, with the goal that, in addition to obtaining the information, this serves as a model for the campaigning approach to open up other accountability info.

- » **Expenses Data Published Proactively:** Our goal is to secure the proactive publication of the travel expenses of senior officials and elected representatives in sufficient level of detail to serve as a basic integrity instrument.
  - **European Commissioners Travel Expenses:** That this data be published retroactively as well as going forward, and that proactive publication is secured from other EU bodies and agencies.
  - **Expenses National:** That in the travel and other expenses of high level officials and parliamentarians are made public through detailed proactive publication, inspired by Access Info's EU expenses transparency work and through standard setting, joint campaigns, and, where necessary, litigation such information is consistently available. Access Info is working on securing expenses data in Spain and we are in touch with partners in other countries about possible campaigns.
  - **Standards for Expenses Publication:** That partners, information commissioners, governments, the OGP and IGOs engage in standard-setting on expenses transparency (including that there is take up globally as this campaign is being followed outside Europe as well).
- **CSOs and Journalists Secure Accountability Info:** That civil society organisations and journalists obtain the information needed to hold the exercise of power and the spending of public funds to account. That there is progress from ad hoc access using access to information laws to structured and legally obligated proactive publication of key documents and datasets. That, as a matter of priority, information needed for exposing corruption, control of lobbying, monitoring of state capture, and oversight of public spending is disclosed.
  - » **Pan-European campaigns for accountability info:** We are currently in discussion with partners about some large-scale projects to obtain access to specific datasets. These include public procurement information, transparency in areas prone to corruption, and information needed by civil society for monitoring progress against the SDGs. Specific projects will be depending on obtaining funding.
  - » **Support on specific cases:** That civil society and journalists are helped to obtain and/or to challenge refusals to provide specific pieces of information. Some current illustrative activities include:
    - **MEPs General Expenditure Allowance:** That expenditure data from previous years is made public and that the system is reformed to ensure greater transparency in the future. Access Info is helping the journalists in the MEPs

project with pro bono legal support.

- **Support to CSOs in the ALTER-EU network on Lobby Transparency, Revolving Door, Corporate Capture, etc.:** Access Info Europe regularly provides support to journalists in the ALTER-EU network for their research and investigations designed to hold the EU accountable for policy development and spending of public funds.
- **RTI and safety of investigative journalists:** Access Info Europe is working with the Organized Crime and Corruption Reporting Project in response to the killing of journalist Jan Kuciak, who was carrying out an investigation with access to information requests. The goal is that journalists are better protected in their use of the tool of access to information and hence better able to carrying anti-corruption investigations.

## Tools

Both AsktheEU.org and the Legal Leaks Toolkit are used in accountability work.

## Goal 2: Advancing the Right to Information

**Objective:** *That the right of access to information is recognised as a fundamental right and that in each country in Europe and the EU has a strong legal framework for access to information.*

### Specific Impacts:

- **Strong legal frameworks:** That the current weaknesses in the legal framework for access to information in many European countries are addressed, bringing laws up to or above the minimum standard of the Council of Europe Convention on Access to Official Documents. That European RTI laws have a broad scope, limited exceptions, and establish strong oversight mechanisms. That Regulation 1049/2001 is reformed to address current shortcomings (all exceptions subject to the public interest test, the Regulation applies to all EU bodies and agencies, that there are strengthened mechanisms for processing requests) and that the oversight role of the European Ombudsman is strengthened, including with binding decisions. That the Spanish access to information laws is strengthened through reform and that the right of access to information is recognised in Spain. That Access Info, working with partners, contributes to similar positive impacts in other countries across Europe.
- **Procedural Obstacles Eliminated:** That procedural obstacles to submitting requests are removed. In particular, that there are no identification systems which limit who may request information. That either anonymous requests are permitted or that the identity of requesters is safeguarded, permitting use by investigative journalists, human rights organisations, whistleblowers, and other users seeking potentially sensitive information. That the EU takes a lead on this, with a satisfactory resolution of the postal addresses issue, and that other requirements currently placed on those submitting requests with EU bodies are abolished.
- **Excessive Exceptions Removed:** That over-broad and badly-framed exceptions are eliminated and that all exceptions are subject to a substantial harm test and a public

interest test. That positive jurisprudence is secured to advance this goal. That empirical evidence gathered from Access Info's opening decision making transparency and accountability info work under Goal 1 supports efforts by ourselves and our partners to reform the legal framework.

- **Balance Struck with Privacy:** That the balance between the rights to privacy and access to information is clearly and adequately set out in the legal framework. That, where necessary, the legislator defines the balance for particular datasets (beneficial ownership registers is an important test case here). That requests and litigation result in good practice examples and positive jurisprudence in support of law reform. That expert lawyers and academics, information commissioners and data protection agencies engage in and advance with the policy and legal debate, hence contributing to eventual law reform, both at the EU and national levels. That eventual reform of Regulation 1049/2001 contributes to Europe-wide expert debate and sets a high standard.
- **Information and data can be used and reused:** That documents and data are available in open, reusable, formats.
- **Record Creation Obligations Secured:** That the legal framework in each country and at the EU level establishes obligations on record creation. That at a minimum that are specific requirements on record creation related to key decision-making information such as minutes of meetings and justifications of decisions taken. That the future EU Administrative Law instrument (likely to be debated during the next legislative term) contains a strong record-creation obligation. That legal and academic experts to develop standards that can be promoted at the national level, and that the global RTI movement should engages with this long term campaign as part of preserving the democratic value of the right of access to information.
- **Proactive Standards Integrated into Law:** That the access to information and/or other laws clearly establish which information should be made public, and that this encompasses key decision-making and accountability information. That the standards for which information should be public and in what level of detail, are developed, defined, and agreed by the RTI community and are promoted. That information commissioners, academic experts, IGOs, the OGP, and others take up and promote proactive transparency standards. That in due course these reforms result in greater levels of proactive publication.
- **Measurement of RTI in Law and Practice:** That there is increased availability of data on the legal framework for the right to information (access to information and other laws) as well as of levels of transparency in practice, including both proactive and reactive disclosure of information. That this data – collected by Access Info and others – is available in comparative formats that ensure its value on advocacy for reform of law and practice.
- **Obligation to Ensure Sufficient Resources for Implementation:** That the legal framework for the right of access to information includes requirements that sufficient resources be dedicated to implementing the right. This should include resources for staffing inside public bodies, for training of relevant actors (public officials, judges, etc.), for delivering on proactive publication obligations, for a strong oversight mechanism (information commissioner), and for public education campaigns. That this has a measurable impact on respect for the right of access to information in practice, as



evidenced by, for example, faster responses to requests, more information being released, greater use by members of the public.

Current areas of focus, with project-specific impacts, are detailed in the action plan

## Tools

- = **RTI Rating:** That there exists a reputable measure of the quality of access to information laws around the world, which can be used in advocacy and law reform work. That this tool develops to encompass an evaluation of the complete legal framework country by country, incorporating proactive publication provisions, and also other laws that interact with the right of access to information (for example, official secrets laws, rules on archives, rules on record keeping, reuse of public sector information laws, etc.)

## Goal 3: Strengthening the RTI Movement & Constituency

**Objective:** *That there exists strong right to information movement and a broad constituency that defends the right of access to information*

For the right of access to information to have an impact on defending European democratic space, it is essential that civil society actors are coordinated and empowered.

To defend the right of access to information also requires the support of a broad constituency that Access Info needs to work on building.

Both these goals are something that we do, consciously, as part of all project activities, as well as with time specifically set aside in our time planning.

We note that in Section 4 on “How We Generate Change”, we list the various target communities for our constituency building. This includes three groups that we have called: partners, allies, and acquaintances.

### Specific impacts:

#### ➤ **The RTI Movement**

- **Collaborative projects for impact:** That RTI organisations collaborate together in order to have increased impact. In particular, Access Info aims to secure that RTI groups work together on priority challenges, such as addressing the EU-MS transparency gap or contributing to defending civic space (Hungary, Poland, etc.) and fighting corruption.
- **Strategic support:** That Access Info provides strategic guidance on institutional matters as well as substantive issues, which helps RTI organisations in countries such as Austria, Cyprus, Greece, and Italy to develop and increase their impacts.
- **Information sharing:** That Access Info successfully contributes to building knowledge-networks across the RTI Community, particularly in the European region, but also globally, stimulating exchange of comparative information and strategies.

- **Civil society organisations and journalists:** That the support that Access Info provides to CSOs and journalists not only secures information needed by for their work, but also contributes to growing the constituency that will be supportive when it comes to defending



the right of access to information, something that is core to our theory of change, and hence is essential part of our strategic approach. In working with human rights, media freedom, and other organisations, Access Info will inevitably get involved in related areas, such as defending civic space, strengthening the legal framework to protect whistleblowers, challenging restrictions on media freedom, and campaigning to protect human rights, etc. As part of an interconnected infrastructure across Europe, we engage with campaigns in defences of fundamental rights, contributing our specific right to information expertise.

- **Pro Bono Lawyers:** That Access Info has built and has access to a strong network of pro bono lawyers around Europe. That these lawyers have a clear understanding of the needs of the RTI community (both the substantive issues) and also the tight deadlines we have to work to when appealing requests, and are on standby to provide legal assistance in right to information cases. That we have a strong and effective collaboration with The Good Lobby, so that we have the support of a clearing house to put Access Info and our civil society partners in touch with lawyers who can provide support on legal and related services.
- **Academia:** That Access Info strengthens knowledge exchange with academics working on access to information and related issues. That we contribute to agenda setting for academic research, and that this in turn contributes the advance of research on and thinking about the right of information in law and practice. That the latest academic research on RTI is available to and reaches other actors, including civil society, information commissioners, political think tanks, judges, etc.
- **Information Commissioners:** That information commissioners and ombudsmen are engaged in work with Access Info and other RTI CSOs in defining standards and advancing the right of access to information, both in their country and internationally.
- **Open Government Partnership:** That the Open Government Partnership, which now has the majority of EU Member States and many neighbourhood countries participating, is a forum through which standards on RTI are discussed, defined, and promoted. That the OGP supports and helps take forward measurement of the levels of transparency in practice.
- **Inter-Governmental Organisations:** Access Info actively cultivates our relationship with relevant international human rights mechanisms that hold the potential to advance and defend both the right of access to information. Our intended impacts include:
  - » That the **Office of the OSCE Representative on Freedom of the Media** continues to engage in evaluating and raising concerns about the legal framework for the right of access to information in its participating states (something it has done in Spain, Hungary, Montenegro, and other countries in the recent period), and that this has a positive impact on draft laws. That the OSCE RFOM continues to support the Legal Leaks Toolkit as a vehicle for training journalists on the right of access to information.
  - » That the **Council of Europe** promotes ratification of the Council of Europe Convention on Access to Official Documents so that the valuable instrument enters into force and that the monitoring body overseeing the Convention is set up.
  - » That the **Council of Europe Commissioner for Human Rights**, Dunja Mijatović, (former OSCE RFOM), steps in to defend the right of access to information when it is threatened.

- » That **UNESCO** engages in measurement of levels of transparency, making use of the RTI Rating and supporting further monitoring, as part of its obligations to report on SDG goal 16.10.2.

## Annex A: Project Selection: 10 Questions

A series of ten questions designed to support decision making on project selection.

These questions are supplementary to the evaluation of potential projects against our strategic goals.

### **1) Does the project/activity fit with our mandate and strategic goals?**

Access Info Europe's mandate requires that we undertake access to information work so as to defend the right itself and also, importantly, to ensure that the right serves to help in protecting human rights, promoting participation, and increasing accountability. We prioritise which have an impact on more than one of our strategic goals: defending democracy, advancing the right of access to information, and strengthening our constituency.

### **2) Are we clear on the needs and opportunities?**

Evaluation of the potential of the project to have an impact on the needs identified in our context analysis document. Assessment sets the stage for identifying the needs and for prioritising which needs constitute either obstacles to enjoyment of the right of access to information and/or are important to address in the context of strengthening the democratic instrument of transparency laws and increasing access to relevant information.

### **3) Can we identify the desired impact?**

It is important that we are clear about the impact that we aim to have. This impact could be either a final result (such as obtaining certain information, securing a change in law, getting a standard adopted), or could be an intermediate impact (raising awareness about a problem, contributing to the debate, securing support of parliamentarians or an Information Commissioner, mobilising others to campaign, and so on).

### **4) Do we have vision for how to get from need to impact?**

Having a vision or road map of how to get from the problem to the desired impact is essential. To be effective we should first verify whether we have a clear vision of what the problem is, and what action needs to be taken and by whom in order to address it. The tactics that we plan to deploy could be a range of those set out in our "How we generate change" document.

### **5) Do we have the resources?**

The project selection should take into account financial and human resources. Working on funded projects is a key criterion, as to have impact with any project requires project although other activities may be so important that we undertake them, including with a vision of piloting projects for which we can later seek funds. The resources evaluation should also take into consideration whether we can count on our networks, including partners (preferably with funding for their work) as well as other resources such as pro bono lawyers.

### **6) Do we have the expertise and tools?**

It is crucial to evaluate our skills and expertise – whether we feel confident that we have the knowledge and capacity to work on this particular challenge and to carry the project through to impact. We should also evaluate if we have available the tools needed to do this, conducting an analysis against the set of tools identified through our strategy process.

### **7) Will the issue garner the support of our constituency?**

The potential support of one or more sectors of our constituency is an important criterion: if an issue is likely to mobilise at least the moral support of greater numbers of our associates and allies, we are more likely to have achieve on the broader objectives of keeping transparency on the political agenda and contributing to cultural change.

**8) Is Access Info adding value?**

Will Access Info's engagement on an issue add value to what other organisations are already doing, either by bringing our specialist access to information perspective and/or by bolstering the work of others. An important supplementary criterion here is whether Access Info will be likely to receive credit proportionate to our input on the issue.

**9) Coherence: does this fit with what we have done / are doing?**

An assessment of coherence with other projects we are/have been working on, either because it builds on previous work or is complementary to other activities underway. The possibility of continuity over time is also important, as change is likely to occur through sustained effort. Projects we are interlinked and mutually reinforcing will also increase the chance of impact.

**10) Is there potential for replication?**

Does this project provide potential for replication, either by Access Info in other jurisdictions – so that in that sense we are doing a pilot project – or by other organisations who can replicate the approach. Projects which are scalable across Europe (and even globally) are more likely to have a long term positive impact on the right of access to information and how it is guaranteed in law and respected in practice.