

# Budapest Declaration

## on the Right of Access to Information

Participants in an expert meeting on the right of access to information held in Budapest from 12-14 December 2008 marked the 60<sup>th</sup> anniversary of the adoption of the Universal Declaration of Human Rights by welcoming the increasing recognition of access to information as a fundamental human right and adopted the following resolution:

*Learning from* experiences to date from the adoption of the Aarhus Convention, the jurisprudence of the Inter-American Court of Human Rights, the Principles of the Inter-American Juridical Committee, and the Council of Europe Convention on Access to Official Documents;

*Recognizing* the need, when international standards on the right of access to information are being developed, for full consultation with elected representatives, civil society and members of the general public who will be affected by the standards;

*Understanding* the challenges of promoting the right of access to information in countries with authoritarian traditions and secretive bureaucratic practices;

*Emphasizing* that the right of access to information is grounded in the idea that information held by public bodies should be available to everyone for wider public and private interests;

*Welcoming* the important promotional role played by the special international mechanisms on freedom of expression at the UN, OSCE, OAS and African Commission;

*Concerned* that the recently adopted Council of Europe Convention on Access to Official Documents falls below prevailing standards regarding this key right;

*Urging* States with right of access to information laws not to lower their standards on the basis of the Council of Europe treaty;

*Calling* on all States and intergovernmental actors to promote full compliance with the right of access to information in a manner that is consistent with best international standards;

Adopt the following Declaration on the right of access to information:

## **Lessons from promoting standards**

Following an evaluation of the process of developing standards to date, we identified a number of considerations that should underpin future action, including the need to:

- Build a political context in which there is a strong demand for and acceptance of access to information as a fundamental right;
- Identify and engage with countries that are ready to take a lead in promoting high standards;
- Build global consensus that access to information is a fundamental human right;
- Build wider collaborative networks between key actors working in different geographic regions and thematic sectors, such as the environmental movement, on the right of access to information;
- Root promotional activities on the right of access to information in issues of concern to local populations;
- Promote the positive role of access to information in relation to current challenges – such as climate change, the ‘war on terror’, corruption and the financial crisis.

## **Strategic Approaches**

Given the growing recognition that the right of access to information is a fundamental human right, more effort needs to be put into considering the legal and practical implications of this, for example in terms of the scope of the right, the regime of exceptions, how the right may be exercised by non-citizens, access in different languages, timelines and the right of appeal.

There is a need to continue to work to further expand the body of rules guaranteeing the right of access to information, including in all regions of the world, with a view to ensuring that everyone has the opportunity to exercise fully this right.

This body of rules should bind not only States but also inter-governmental organizations and other bodies undertaking public functions.

There is also a need to make better use of the growing body of binding rules, including international treaties and jurisprudence, to implement access to information in practice.

Effective systems for monitoring implementation of the right of access to information should be put in place at all levels.

There is a need to promote more international dialogue with a view to fostering best practices on the right of access to information, including by promoting an enabling culture of transparency.

## **Current Standards Issues**

More comparative research and standard-setting is needed, particularly on:

- systems to promote proper application of the public interest test to information relating to national security issues so as to ensure appropriate levels of access;

- application of the right to know to political parties and elected representatives;
- the extent of private bodies' obligation to provide access to information;
- accessing information from private bodies that hold it on behalf of public authorities or which have a legal obligation to provide it to public bodies;
- how the design of databases and the application of new information and communications technologies can facilitate access to information; and
- the obligation to create records that relate to the core functioning of public bodies, including data on compliance with their access to information obligations.

Effective measures should be put in place to promote compliance with timelines in right of access to information legislation, which should themselves be clear, pre-established and short.

The right of access to information incorporates extensive proactive publication obligations, which are enabled by but are not limited to new technologies. Public bodies should aim to proactively disclose all information they hold that may be of interest to the public, subject to narrowly tailored legitimate exceptions, including through the allocation of adequate human and financial resources.

Every public body should be required to nominate an official(s) with responsibility for ensuring that it meets its access to information obligations.

A right of appeal to an independent body with the power to make binding orders to disclose information should be established for all bodies which fall under the obligation to provide access to information. This appeal mechanism should be accessible in all cases, including for more challenging cases such as in relation to courts and national security information. In applying the public interest test, all bodies which fall under the obligation to provide access to information, independent oversight bodies and the courts should begin with the strong presumption that the public interest is best served by open government.

We call on relevant actors, including governments, elected representatives, public officials, information commissioners, judges and other legal professionals, international officials and organizations, civil society, academics, the media and others to play an active part in implementing this Declaration.

*Signed by:*

*\* participating experts: [to be put into alphabetical order]*

- Alexander A. Abdo, Legal Fellow, American Civil Liberties Union Foundation\*
- Jaime Aparicio, President of the Inter-American Juridical Committee \*
- Eduardo Bertoni, Former Special Rapporteur for Freedom of Expression, Inter-American Commission on Human Rights, Organization of American States
- Helen Darbishire, Executive Director, Access Info Europe
- Ádám Földes, Project Manager, Access Info Europe
- Miklos Haraszti, Representative on Freedom of the Media, Organization for Security and Cooperation in Europe (OSCE) \*

- Kristina Irion, Professor, Department of Public Policy, Central European University (CEU); Center for Media and Communication Studies (CMCS)
- Alexander Kashumov, Head of the Legal Team, Access to Information Programme (AIP), Bulgaria
- Kristina.Kotnik-Sumah, on behalf of the Information Commissioner of Slovenija
- Frank LaRue, UN Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression
- David E. McCraw, Attorney, USA
- Toby Mendel, Senior Director for Law, ARTICLE 19
- Peter Molnar, Senior Research Fellow, Center for Media and Communication Studies (CMCS), Central European University (CEU)
- Maria Morozova, Association des Etats Généraux des Etudiants de l'Europe (AEGEE)
- Darian Pavli, Legal Officer for Freedom of Expression and Information, Open Society Justice Initiative (OSJI), New York office, USA
- Laura Ranca, Program Coordinator, Center for Media and Communication Studies (CMCS), Central European University (CEU)

Note:

*\*à titre personnel*

The Declaration was drafted at the International Experts' Roundtable Workshop on “*Global Norms on Access to Environmental Information: A Point of Departure for Improving International Access to Information*”, in December 12-14, 2008, at the Central European University (CEU) in Budapest, Hungary. The workshop was co-organized by the Center for Media and Communication Studies (CMCS) and Access Info Europe, with the kind support of the OSCE Representative on Freedom of the Media. More details at: <http://www.cmcs.ceu.hu/foi/workshop>.