



Global Data Barometer

**UNTANGLING
TRANSPARENCY:
RIGHT TO INFORMATION
DATA IN EUROPE**

December 2022

Contents

Executive Summary	3
Finding 1: Europe’s Weak Right to Information Protections.....	4
Finding 2: Lack of Rules on Data Collection.....	6
Finding 3: Nobody is in Charge!	8
Finding 4: Data about Implementation is not Available	10
Finding 5: Poor Data on Response Times and by Public Body.....	11
Finding 6: Data that is Available is not Fully Open	13
More Information about the Global Data Barometer	15



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Executive Summary

Once a country has an access to information law, it is essential that data is collected about how well that law is implemented, and that that data is made public. Without this measurement of transparency, it is impossible for a country to know how well it is complying with the right of access to information (RTI).

Having a legal framework for the right of access to information and levels of enjoyment of this right is one of the indicators under the Sustainable Development Goals, specifically indicator 16.10.2, which forms part of Goal 16 on Peace, Justice, and Strong Institutions. So evaluation of national access to information laws is part of the data that every country should report on as part of measuring its progress on the SDGs.

The Global Data Barometer (GDB) study evaluated whether countries have rules governing the collection of RTI implementation data and, separately, looked at levels of transparency of that data in 21 European countries: Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom. For this study, data was collected for the period May 2019 to May 2021.

Overall, the GDB study found that over half countries surveyed had no rules on collection of RTI implementation data, and even those rules that do exist, do not mandate comprehensive data collection.

In practice, in ten (10) countries no data on the implementation of RTI laws was available. Furthermore, in the eleven (11) countries where data was available, it was incomplete, providing the numbers of requests, but data on response times was often missing, and data was often not broken down by public body.

When it comes to the openness of data, of the eleven (11) countries which do make data available, only six (6) published it under an open licence, and only five (5) countries published the full data set in a machine-readable format.

The GDB research included both primary data collected through surveys, and secondary data from carefully reviewed external sources. For the RTI evaluation, the external sources included the [RTI Rating](#), a project coordinated by Access Info Europe and the Centre for Law and Democracy, which evaluates the quality of all access to information laws globally. This secondary data was used to create the RTI Legal Frameworks indicator, which was incorporated into the Political Integrity module.

Recommendations

This report contains a number of detailed recommendations, key amongst which are:

- » Every country should adopt comprehensive data collection rules, which mandate all public bodies to collect and publish detailed data on the numbers of requests, response times, the nature of the responses, and data on the appeals and its outcomes.
- » A central body should be mandated and empowered to oversee collection and publication of data on the implementation of access to information laws.

- » Irrespective of the current legal framework, every EU country should ensure that it collects and publishes data on the implementation of access to information laws. This should be done, inter alia, as part of reporting of progress on SDG Indicator 16.10.2.
- » The European Union should collect data from Member States about their access to information performance.
- » The data published should contain data on, at a minimum, numbers of requests, response times, reasons for refusals, number and outcomes of appeals, and should be disaggregated by public body.
- » RTI data should be published free of charge, in an open format, fully searchable and downloadable with an open licence permitting reuse.

Finding 1

Europe's Weak Right to Information Protections

The GDB used the RTI Rating as a source to make its RTI data in the global survey more complete. The RTI Rating measures the strength of legal frameworks for the right to access information held by public authorities in countries from all over the world.

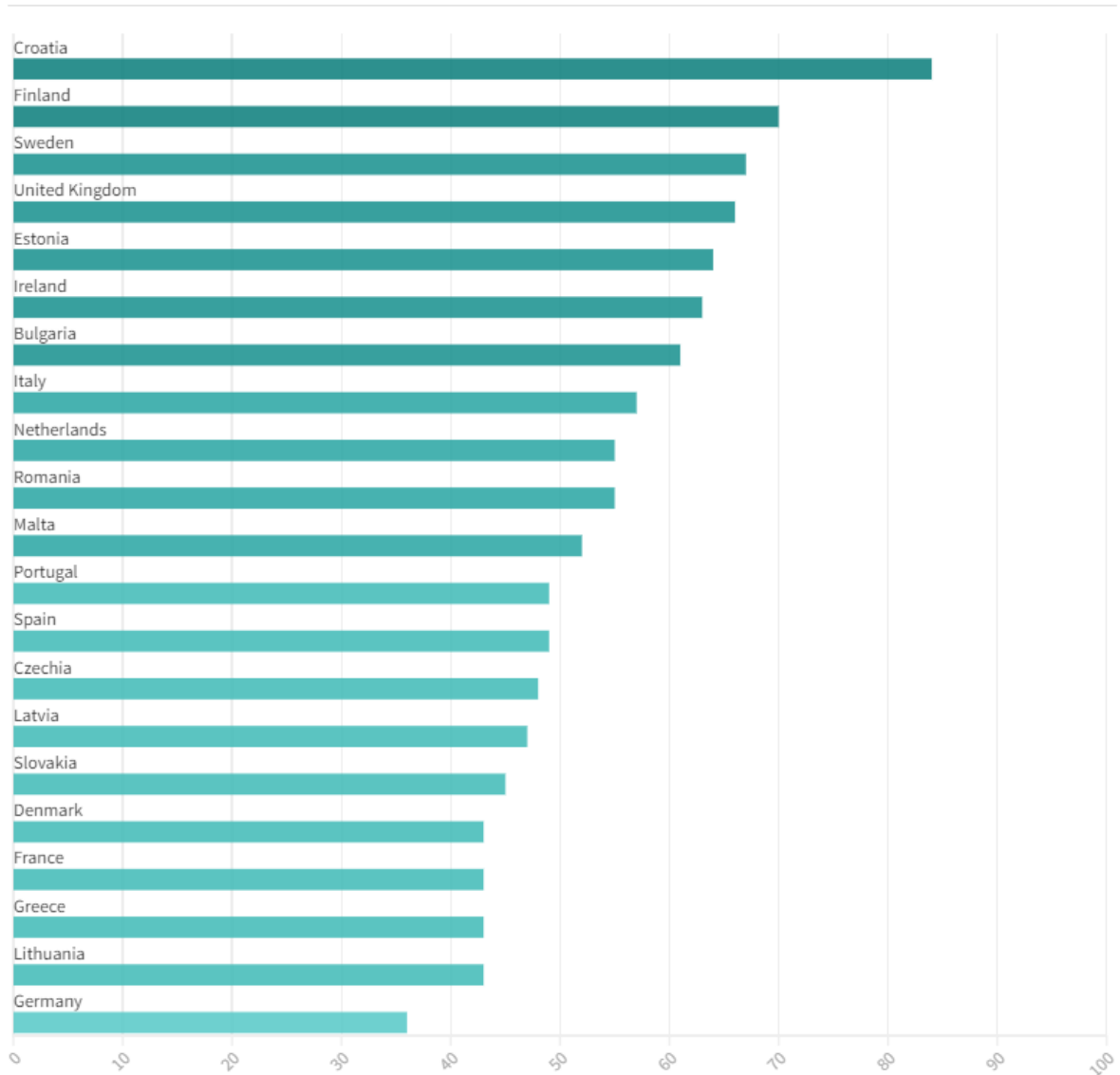
The RTI Rating is based on 61 indicators – each of which looks at a particular feature of a strong legal regime for RTI – divided into seven main categories – namely Right of Access, Scope, Requesting Procedure, Exceptions & Refusals, Appeals, Sanctions & Protections, and Promotional Measures. The RTI Rating analysis gives a score ranging from 0 to 150 points. The GDB has converted the score of each country to a percentage scale of 0 to 100.

As the scores show, many access to information laws in Europe still need to be significantly improved to guarantee an effective right of access to information for all. The weakest law in the RTI Rating, of the countries included in this report, is that of Germany (36% by its score in GDB), with shortcomings including that it only applies to executive branch of government (so not the legislative and judicial branches), with many aspects of the requesting process, including timelines and fees poorly defined. Furthermore, several exceptions are not legitimate under international standards such as the Council of Europe Convention on Access to Official Documents (Tromsø Convention), and the oversight body is insufficiently independent.

Lithuania, which also scores poorly (43%), has exceptions which are not subject to harm or public interest tests, and has no independent oversight body.

European Access to Information Laws

Table 1 - Score according to RTI Rating



The strongest law is found in Croatia (84%), followed by Finland (70%). The strengths of the Croatian law include that it applies to all branches of power and has a strong and independent oversight body.

Recommendations

All RTI laws should:

- » Guarantee access to information as a fundamental right.
- » Apply to all public entities, all three state powers (executive, judicial, and legislative), and to all entities carrying out public functions.
- » Apply to all information created, received or in possession of public entities, regardless of its format.
- » Guarantee that submitting access to information requests is easy, quick, and free.

- » Oblige civil servants to assist requesters.
- » Guarantee that publicity is the rule and secrecy is the exception.
- » Ensure that all exceptions are only those permitted by Tromsø Convention and subject to both harm and public interest tests.
- » Require that all refusals to provide information be limited and reasoned.
- » Guarantee requesters the right to appeal, ideally to an independent oversight body as well as subsequently to the courts.
- » Guarantee the existence of an independent body to oversight and protect the right of access to information.
- » Require proactive publication of information, including data on the implementation of the access to information law.

Finding 2

Lack of Rules on Data Collection

When it comes to rules on collecting and publishing data on RTI implementation, it was found that a full half of European countries surveyed (11 of 21) do not have any such rules.

These countries are Denmark, Estonia, Finland, Germany, Greece, Latvia, Lithuania, Netherlands, Slovakia, Spain, and Sweden.

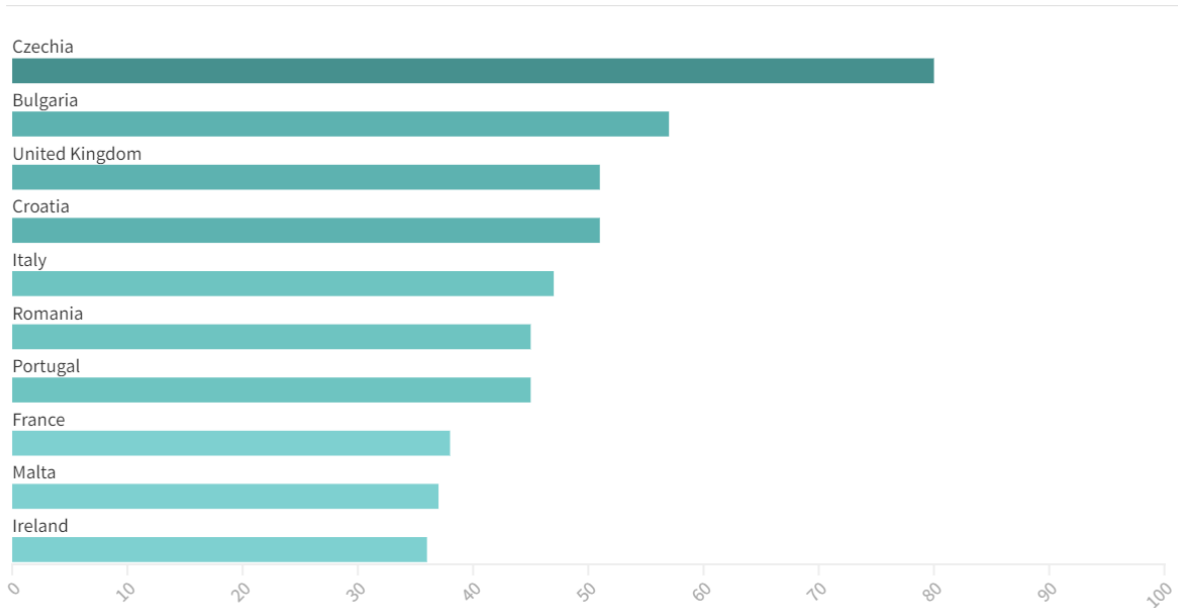
Specifically, the GDB study examined whether countries have rules requiring the collection and publication of data on the number of requests submitted, response times, the percentage of refusals and reasons for withholding information, and the number and outcome of appeals.

For the ten (10) countries which do have some data collection rules, they all received only partial scores, meaning that the law only requires that some data be collected, and/or that the data does not have to be published as open data, and/or that the regulation does not apply to the entire public sector. For example, in France, the independent oversight body, the Commission on Access to Administrative Documents, collects data on appeals and their outcomes, but there is no law requiring the collection of data on the number of requests in the country as a whole.

Table 2 shows the range, from just 36 in Ireland up to 80 in Czechia.

European Laws Requiring Collection/Publication of RTI Implementation Data

Table 2 - Scores



For the ten countries which do have a legal framework requiring the collection and publication of RTI implementation data, there is a significant variety in the specific legal requirements for which data should be collected.

Which Data Must Be Collected

Table 3

COUNTRY	Data on number of requests submitted	Data on time to respond to requests	Data on reasons for refusals	Data on appeals and outcomes	Data by each public body
Bulgaria	Yes	No	Yes	Partially	Yes
Croatia	Partially	No	Partially	Partially	Yes
Czechia	Yes	Yes	Yes	Yes	Yes
France	Partially	No	Partially	Partially	Partially
Ireland	No	Yes	Yes	No	Partially
Italy	No	Yes	Partially	Yes	No
Malta	Yes	Yes	Yes	Yes	No
Portugal	Partially	Partially	No	No	No
Romania	Yes	Yes	Yes	Yes	No
United Kingdom	Yes	Partially	Partially	Yes	Yes

The widespread lack of rules requiring publication of comprehensive data on the implementation of access to information laws is highly problematic. The right of access to information is now established as a human right, an inherent part of the right to freedom of expression. All countries have a positive obligation to take measures to ensure the full enjoyment of this right. That positive obligation should include creating a legal requirement to capture the data needed to evaluate compliance with the right.

Furthermore, under the Sustainable Development Goals, all states are required to have and implement access to information laws. Specifically, indicator 16.10.2 evaluates this. It has already been found by UNESCO, which is the body responsible for this indicator, that many countries do not hold data on the implementation of their RTI laws. Given that having access to information is essential as an instrumental right to be able to obtain data about progress with the other SDGs, this is a particularly serious omission.

Recommendations

- » Every country should adopt comprehensive data collection rules, which should mandate all public bodies to collect data that, at a minimum, should include:
 - » Data on number of requests submitted
 - » Data on time to respond to requests
 - » Data on reasons for denying access to information
 - » Data on appeals and outcomes
- » The rules should require data to be released following open data standards.

Finding 3

Nobody is in Charge!

In the 21 EU countries included in the GDB study, all of which have access to information laws, only in seven (7) is there some level of oversight of the collection and publication of RTI implementation data. This is a particularly concerning finding which explains the poor quality of the data and low levels of publication found in this survey.

The countries which mandate oversight of data collection are Bulgaria, France, Ireland, Malta, and Portugal, with some level of data collection oversight in Croatia and the UK.

Agencies/Officials Mandated to Ensure Collection & Publication of RTI Data

Table 4

COUNTRY	Rules mandate oversight of RTI data collection & publication
BULGARIA	Yes
CROATIA	Partially
CZECHIA	No
DENMARK	No
ESTONIA	No
FINLAND	No
FRANCE	Yes
GERMANY	No
GREECE	No
IRELAND	Yes
ITALY	No
LATVIA	No
LITHUANIA	No
MALTA	Yes
NETHERLANDS	No
PORTUGAL	Yes
ROMANIA	No
SLOVAKIA	No
SPAIN	No
SWEDEN	No
UNITED KINGDOM	Partially

There are some caveats related to these findings:

- » In Bulgaria, the data must be collected and published by each body under the act, but is not gathered centrally.
- » In France, the data is only that about appeals to the Commission on Access to Administrative Documents.
- » In Malta, the data is not in practice collected (see Finding 4 below).

Recommendations

- » Every public body or other entity which has obligations under the national access to information law should be required to collect data on its implementation.
- » A central body should be in charge of collecting this data, be it either a central government department or the independent oversight body. The rules should require that the data be provided to this central body in a timely fashion and that it be made public in real time.

- » There should be sanctions in the law for the failure by a public body and/or the central body to collect and report full information.

Finding 4

Data about Implementation is not Available

Of the 21 European countries surveyed, only ten (10) publish RTI-related data online, and in one (1) country, Finland, this data is published but only as a result of the efforts of a civil society organisation (Open Knowledge Finland), and not as a result of government action.

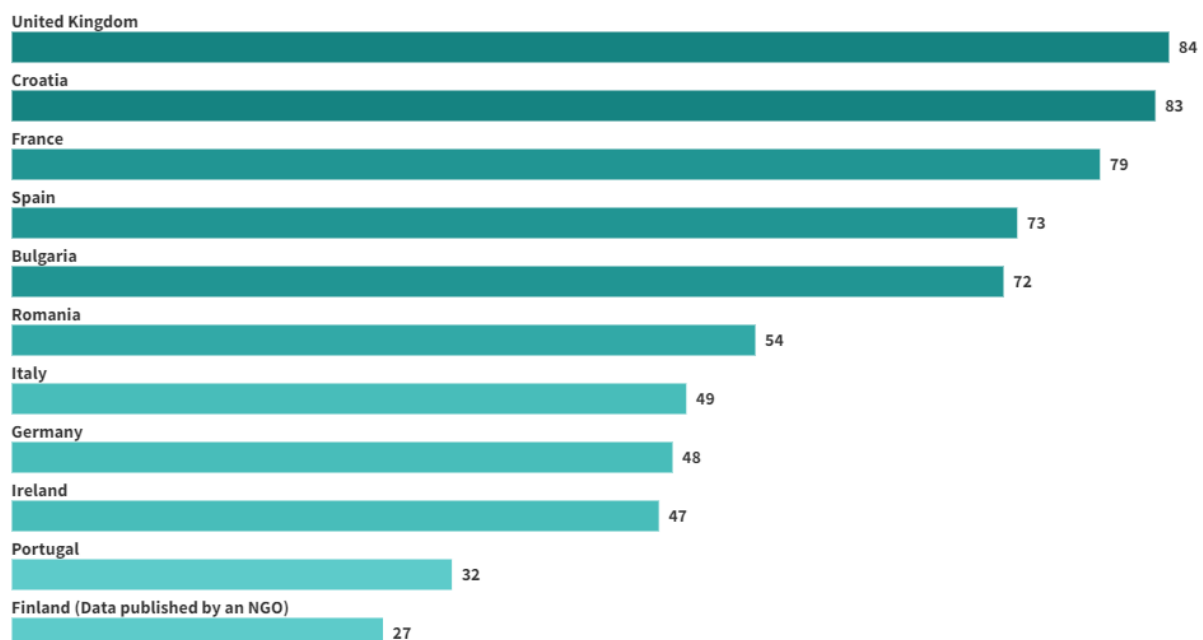
No country received a full score for publishing all relevant data, although some, such as the UK and Croatia, had reasonably comprehensive data publication, scoring 84 and 83 respectively.

Of the ten countries where there is a requirement for data collection, two countries are failing to publish this data in practice, namely Czechia and Malta.

For the 11 countries with no requirement to publish any data, it was positive to find at least some data available in two countries, Germany and Spain, along with the data available in Finland but, as noted, not as a result of government action.

How much RTI Data is Available

Table 5



It is a matter of serious concern that data on the right of access to information is not available in many EU countries. A lack of data makes it impossible for governments to evaluate whether or not they are complying with this obligation. It also makes it impossible to have an evidence-based debate about how to improve the implementation of the access to information law or how to improve the legal

framework should that be necessary. For instance, if the data reveals frequent violations of the timeframes or overuse of exceptions, either by a particular body or across the board, remedial action can be taken, ranging from better training, to putting better systems in place, to imposing sanctions on repeat offenders.

Recommendations

- » Irrespective of the current legal framework, every EU country should ensure that it collects and publishes data on the implementation of access to information laws. This should be done, inter alia, as part of reporting of progress on SDG Indicator 16.10.2.
- » The European Union should collect data from Member States about their access to information performance.
- » For the four countries in this survey which have ratified the Tromsø Convention on Access to Official Documents but do not currently collect data, namely Estonia, Finland, Lithuania, and Sweden, this should be a particular priority given that they have to report to the Tromsø Group of Experts which is overseeing the Convention.

Finding 5

Poor Data on Response Times and by Public Body

Of the data that is available in practice, it was found that countries do publish data on overall numbers of requests (9 out of 11 countries, with two publishing data partially). When it comes to data on response times, only five (5) countries publish this data in full, another one (1) partially and then five (5) countries do not publish this data: France, Germany, Ireland, Portugal and Spain. Data is not broken down by public body in five (5) countries, namely Bulgaria, Ireland, Portugal, Romania, and Spain, with only partial disaggregation of the data by public body in Italy.

Although not included in the GDB study, a row for EU Institutions have been added at the bottom of the table below, which shows that data on the implementation of the EU's access to documents rules is not fully available across all institutions, agencies and bodies.

Content of RTI Data Sets Available

Table 6

COUNTRY	Data includes number of requests submitted and processed.	Data on response times.	Data on reasons for refusals.	Data on appeals and outcomes.	Data by public body.
Bulgaria	Yes	Yes	Yes	Yes	No
Croatia	Yes	Partially	Yes	Partially	Yes
Finland	Yes	Yes	Yes	Partially	Yes
France	Partially	No	Partially	No	Yes
Germany	Yes	No	No	Yes	Yes
Ireland	Yes	No	No	Yes	No
Italy	Partially	Yes	Partially	Partially	Partially
Portugal	Yes	No	No	Partially	No
Romania	Yes	Yes	Yes	Yes	No
Spain	Yes	No	Partially	Yes	No
United Kingdom	Yes	Yes	Yes	Partially	Yes
EU Bodies	Partially	Partially	Partially	Partially	Partially

Even for countries with a legal obligation to collect data and those which are doing so, major shortcomings in the data were found. In particular, not having data on response times, on reasons for refusals or on the outcomes of appeals, makes it impossible to track what is really happening with the implementation of the law. It is simply not enough to know how many requests have been processed as this does not give the full picture on what is happening to those requests.

Similarly, not having the data by public body does not permit any identification of where problems are occurring. Most data that is collected from official sources, along with data from civil society monitoring, shows that there are huge variations in the way in which different public bodies handle requests, both between different central government bodies, and between the central, regional, and local government levels. Some public bodies might be more efficient and faster while for others there might be administrative silence. Some might be very good at proactively publishing all requested data while others might have a tendency to issue unnecessary refusals on grounds of an exception, such as safeguarding decision-making processes or protection of personal data.

Only by having disaggregated data can the correct action be taken to ensure that there is a consistent and high standard of implementation of access to information laws.

Recommendations

- » Every country should ensure that it gathers and publishes detailed data on the implementation of access to information laws, including with data being disaggregated by:
 - » Numbers of requests
 - » Response times

- » Reasons for refusals
- » Appeals and outcomes
- » Data on appeals should cover both internal appeals (where relevant), appeals to an independent oversight body (if it exists) and/or court appeals. Data on court challenges related to access to information is still very hard to come by, which means that governments do not have the full picture of issues with the implementation of their access to information laws.
- » All this data should be disaggregated by public body and by other entities which have obligations under the access to information law.

Finding 6

Data that is Available is not Fully Open

A positive finding from the research was that where the data on access to information is available, it is available for free in all eleven (11) countries, and is timely and updated in ten (10) countries, with only Italy not having the data fully updated.

In only six (6) of the eleven (11) countries is the data available with a fully open licence, and in only five (5) countries is a machine-readable data set available as a whole. These constraints limit the value of the data. Similarly, the lack of machine-readable data in six (6) countries limits its usability.

When it comes to historical data, this was fully available in seven (7) countries, partially available in three (3), whereas in Finland, being a recent civil society organisation initiative, only recent data is available.

How Open is the RTI Data

Table 7

COUNTRY	Dataset is available free of charge.	Data is openly licensed.	There are accessible and open official tools available to help users explore data.	Data is timely and updated.	Historical data is available that allows users to track change over time.	Data is provided in machine-readable format(s)	The machine-readable dataset is available as a whole
Bulgaria	Yes	Yes	No	Yes	Yes	Partially	No
Croatia	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Finland	Yes	Partially	Yes	Yes	No	Yes	Yes
France	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Germany	Yes	No	No	Yes	Yes	No	No
Ireland	Yes	Partially	No	Yes	Yes	No	No
Italy	Yes	Yes	Partially	Partially	Partially	Partially	No
Portugal	Yes	No	No	Yes	Yes	No	No
Romania	Yes	Partially	No	Yes	Partially	Partially	No
Spain	Yes	Yes	No	Yes	Partially	Yes	Yes
United Kingdom	Yes	Yes	Partially	Yes	Yes	Yes	Yes

A lack of open data places severe limitations on the value of that data to society. It is positive that where RTI data exists, it is free of charge and that in most cases it is up-to-date, but that is not sufficient. Given the importance of the right of access to information in a democratic, rule of law, system, it is imperative that data on respect for this right is fully open and reusable.

Recommendations

- » Every EU country should collect and publish RTI data free of charge.
- » All countries should ensure that RTI data is published in as close to real time as possible.
- » Historical data should be made available to permit comparisons of RTI performance over time.
- » RTI data should be in open formats, openly licenced, machine readable, and the entire dataset should be downloadable in machine-readable format.
- » Online search facilities should be powerful, enabling search by multiple fields, with the results of searches full exportable.

More Information about the Global Data Barometer

To know more about the results of the Global Data Barometer, which surveyed 109 countries across the globe, you can visit the [GDB website](#).

All data is also available as open data and can be downloaded and reused from the [GDB website](#).

Disclaimer

The Global Data Barometer gathered 107,389 data points in the survey from all 109 countries and cannot guarantee that every value is error-free. Some responses might remain open to question due to different interpretation of guidance across researchers and reviewers, false negatives when sources went undiscovered, or false positives when a source has been interpreted over-generously.

Feedback can be provided to the Global Data Barometer at [feedback\[at\]globaldatabarometer.org](mailto:feedback@globaldatabarometer.org). The Access Info team can also be contacted at [info\[at\]access-info.org](mailto:info@access-info.org).