

Press Release

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The public has the right to know what those they elected are doing

Strasbourg, 27.09.2010 - Voters have the right to know about the decisions taken by the politicians and administrations they have elected. The need for such transparency is recognised in principle in several European countries, but is not yet a reality throughout large parts of the continent, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing today his latest human rights [comment](#).

While the authorities collect more and more data on citizens, there is an unfortunate tendency to prevent the public from accessing government information. This secrecy is a threat against democracy and an urgent human rights concern.

Journalists who try to obtain copies of official documents from national and local authorities are facing obstacles and outright refusals in a number of countries. This prevents "public watchdogs" from playing their vital role as a safety valve against the abuse of power in both public and private enterprises.

One obvious problem is that authorities are not always accustomed to dealing with the media in an open manner. A recent survey in Sweden – a country sometimes presented as a model of transparency – showed that about half of the tested authorities had failed to meet reasonable standards of openness.

This problem has worsened as a consequence of the trend towards further privatisation of services previously organised by local authorities, such as schooling and care for the elderly. Public review of such activities has become more difficult.

There are also examples demonstrating that decision makers are hiding behind confidentiality when they feel uncomfortable about the possible public reaction when facts are made known. This may be one reason why European governments have been reluctant to come clean on the security co-operation with the US during the "war on terror".

Admittedly, there are situations where it is justified to keep certain information confidential, for instance in order to protect national security or the personal integrity of ordinary citizens. In order to avoid that such arguments are misused, there is a need for clear regulation on how decisions about confidentiality can be taken and how representatives of the public can challenge such decisions.

The Council of Europe provides valuable standards

Last year the Council of Europe adopted the first international legal instrument on access to official documents held by public authorities: national and local authorities, legislative and judicial bodies as well as natural or legal persons exercising administrative authority.

Several non-governmental organisations, such as Access Info, Open Society and Article 19 took an active part in the elaboration of the Convention. Now it is up to the member states of the Council of Europe to ratify this treaty and review their national legal framework to ensure that it properly regulates the right of access to information.

The European Court of Human Rights has already ruled several times on this issue and has consistently made clear that the public has a right to receive information of general interest. The conclusion is that the transparency of public authorities should be regarded as an important element of freedom of information - with a bearing on freedom of expression, as guaranteed by Article 10 of the European Convention on Human Rights.

Good models are available

The constitutions of several countries in Europe do indeed guarantee the fundamental right to information. Some good state practices also exist. In the United Kingdom, for example, the Freedom of Information Act requires public authorities to publish information and sets out procedural requirements to be followed when responding to individual requests.

To facilitate access to government data in the UK, a single online access point has been developed: Data.gov.uk. E-government has also become a reality in Estonia and Greece. Citizens can comment on government policies or draft laws by logging into a government Internet portal.

In Serbia, Sweden and several other countries there is an oversight body - such as an Information Commissioner - while some other countries entrust Parliamentary Ombudsmen with the supervision of the right to information. Other countries need to create such structures.

The transparency of international, national and local administrations is a basis for their legitimacy and public trust. This was illustrated recently by the reports about human rights violations of people who protested against the destruction of a part of the old Gorky Park in the city of Kharkiv in Ukraine.

In that case the authorities had reportedly decided to cut down trees without properly consulting and informing the community, as required by law. This provoked incidents with protesters, resulting in injuries and the detention of activists. This situation could have been avoided if the local people had been properly informed about the plans of the authorities and involved in the decision-making process.

Pluralist democracies can only thrive through transparency and openness.

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