



Study on Access to Justice in Information Cases

***Report to 12th Meeting of the Task Force
on Access to Justice***

Geneva 28 Februari-1 March 2019

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A2J in Information Cases

Art 4(1), 4(2), 4(5-8) and 9(1)

- **Selection of 12 Parties to the Convention; European Union, Germany, Georgia, Ireland, Kazakhstan, Montenegro, Portugal, the Republic of Moldova, Slovakia, Sweden, Serbia and Switzerland**
- **(Very) simple questionnaire...**
- **Invitation to National Focal Points to approach administration, courts and tribunals, ENGOs, other stakeholders...**



Logistics of the study

- **Thematic focus on 11th Task Force meeting in 27-28 February 2018**
- **Spring: Concluding the Questionnaire...**
- **Summer: Letters to National Focal Points...**
- **Fall: Completion of the Questionnaire...**
- **Responses from each country vary in complexity and number of respondents: 1 (EU, DE, MD, ME and CH), 2 (GE, KZ and PT), 3 (IE, RS and SK), 4 (SE)...**



Unproblematic issues

- **“Standing” (not covering appealability)...**
- **Formal time frames for decision-making...**
- **Decisions in writing with reasons...**
- **No costs in the administrative phase of the appeal...**
- **Formal administrative and criminal sanctions for serious maladministration...**
- **Only anecdotal evidence of harassments and defamation claims...**



Main barriers

- **Length of the procedure; especially in judicial review proceedings in court, no suspensive effect...**
- **Weak enforcement; “administrative silence”, “ping-pong” between courts and administration, separate enforcement processes...**
- **(To a certain extent) costs; court fees, experts and lawyers, Loser Pays Principle (LPP)...**



Good and interesting examples

- **Environmental “tribunals”; expedience, costs, enforcement...**
- **Courts and tribunals are empowered with sanctions for disobedience...**
- **“Negative silence rules”...**
- **Mediation...**
- **“Civil liability” (?)...**



Article 9(1) 2nd sentence

(...) *has access to a review procedure before a **court of law** or another **independent and impartial body established by law**.*

In the circumstances where a Party provides for such a **review by a court of law**, it shall ensure that such a person *also has access to an **expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law**.*

Final decisions under this paragraph 1 shall be **binding on the public authority** holding the information (...).



The Continuation...

- **12th Task Force meeting in Geneva on 28 February-1 March 2019...**
- **Remit to National Focal Points and ENGOs for wider distribution (8 April)...**
- **Reprocessing by the chair and the secretariat during the spring of 2019...**
- **...with the aim to present the report to the 23rd meeting of Working Group of the Parties on 26-28 June 2019...**



....and finally...

THANK YOU FOR LISTENING..!



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