

PUBLIC INFORMATION REGULATION

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We are a very small country
in a cold Nordic neighborhood!

Population 1.4 mil people
Area: 45.000 km²

Member of the European Union
and NATO as of 2004

Regained independence from
the USSR in 1991



Plan for the presentation

- ▣ Regulation of information flows
 - Philosophical intro
 - ICT and information flows
 - wikileaks
- ▣ Legal environment
 - ▣ Public information laws
 - ▣ Reuse of public info
 - ▣ Data protection laws

“Knowledge is power”



Sir Francis Bacon 1561-1626

Historical development trends

- ▣ State secrets acts
- ▣ Freedom of information laws
- ▣ Protection of individual
- ▣ Copyright and patent laws as protection of intellectual property

Three traditions of government-citizen interaction

- ▣ Anglo-american or liberal tradition
 - government as Leviathan: necessary evil
 - result: explicit distrust
- ▣ Continental tradition
 - government as fatherly figure
 - result: implicit trust
- ▣ Scandinavian tradition
 - government as partner
 - result: informed trust

Creation of FOI laws

OECD report “Citizens as Partners”:

- ▣ “in 1980 20% of OECD member countries had Freedom of Information laws,
- ▣ in 1990 40% of OECD member countries had FOI laws and
- ▣ in 2000 over 80% of OECD member countries or 24 out of 30 countries had FOI laws”
 - A uniform development?

Access to information

- ▣ Normative vs. functional
- ▣ What is public information?
- ▣ What kinds of information should be restricted or have limited access?
- ▣ Active information provision
- ▣ Who pays for the fun?

A goal:

- ▣ “to provide everyone and anyone with the access to the public information ... and to create possibilities for public control over the use of public power.”

Goal: II

- ▣ Transition to electronic interaction with(in) government
- ▣ New model of information management: instead of “just in case” (our regular administrative practice) - “on demand” (libraries)
- ▣ new impetus to participatory democracy

Main points:

- ▣ What is public information?
- ▣ Who is the “owner of information”?
- ▣ Demand for information as a procedure
- ▣ Limited access information
- ▣ Active information offering

Principles of access to info

- ▣ Owner of the info is obliged to grant access
- ▣ Access must be granted in speediest and most convenient way
- ▣ Private data should be protected
- ▣ Access should not cost anything extra (charging for carrier, not the information; 20 pages free of charge)
- ▣ Everybody has the right to dispute his/her access or lack of it

Public information

- ▣ “Public information is saved and documented information that has been received or created in execution of public power as directed by laws and other legal acts.”

Owners of public information

- ▣ State and local government
- ▣ Public legal persons
- ▣ Private legal persons, if:
 - they execute public tasks
 - receive public monies
 - it is natural monopoly (but limited for pricing information)

Demand of information

- ▣ A desire to design a humane process ..
- ▣ It registates a request only if it cannot be satisfied immediately
- ▣ It moves from official to official instead of a person running
- ▣ Answer immediately but not later than in 5 days (can be prolonged under specific circumstances)
- ▣ creates possibility of control and dispute

Limited access information

- ▣ All public power is public unless
 - openness ruins the possibility of work
 - puts something into danger
 - puts someone groundlessly into danger
 - There are international obligations to the contrary
- ▣ 5-year limit to restrictions

Main fears

- ▣ Increased work-load of officials
- ▣ Increased difficulty in obtaining information
- ▣ How much will it all cost!
- ▣ What will happen if all becomes public!
- ▣ People just don't understand!
- ▣ Journalists' interest is often unhealthy!
- ▣ Give us three years, we just can't make it!

Lessons learned

- ▣ Radical - not so!
- ▣ Necessary - yes, indeed!
- ▣ Controversial - only until implemented!
- ▣ Success comes from working together
- ▣ Training is necessary for all: civil servants, politicians, local government officials and journalists as well

Protection of data

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

- ▣ What is personal data?
 - ▣ Sensitive personal data: religious , philosophical or political beliefs, racial or ethnic origin, state of health, sexual orientation, data collected in criminal proceedings before the court session
 - ▣ Other personal data: details of family life, provision of social assistance of services, characteristics of a person, data on mental or physical suffering
- ▣ Why it should have a limited access?
- ▣ European regulations as standard setting ...
- ▣ Copyright treaties.

OECD principles

- ▣ Seven principles:
 - Notice – data subjects should be given notice when their data is being collected;
 - Purpose – data should only be used for the purpose stated and not for any other purposes;
 - Consent – data should not be disclosed without the data subject's consent;
 - Security – collected data should be kept secure from any potential abuses;
 - Disclosure – data subjects should be informed as to who is collecting their data;
 - Access – data subjects should be allowed to access their data and make corrections to any inaccurate data; and
 - Accountability – data subjects should have a method available to them to hold data collectors accountable for following the above principles.

EU Data protection Directive

- ▣ The **Data Protection Directive** (officially Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data)
- ▣ three categories of conditions for data processing:
 - Transparency
 - Legitimate purpose
 - Proportionality
 - Adequate, relevant, accurate
- ▣ Data Protection Authorities

ICT and administrative reform

- ▣ Introduction of the ICT in the public sector without a public sector reform:
Russian proverb: beer without vodka is like throwing money into the wind
- ▣ Procedural law of public administration
 - No action without legal basis (rule of law)
 - Demand of clarification for an action
 - Demand of consultative process

Transparency of proceedings

- ▣ Generic requirement that has actually very little to do with e-governance per se
- ▣ Most powerful agent of change
- ▣ Difficulty in implementation
 - Legal requirements
 - Step by step implementation

- ▣ Municipal planning process on-line
- ▣ Permit issuance on-line

Democracy administration

- ▣ ICT revolution influencing our understanding of democracy and setting up questions of how to react to the democracy renewal
- ▣ Different modes of democracy administration in Europe:
 - Traditional
 - CSC (civil society centered)
 - Institutional
 - Networked

ICT and procurement

- ▣ Various international initiatives
- ▣ Openness of what?
 - Info
 - Proceedings
 - Decisions (requirement of explanation)
- ▣ Romania and reverse bidding ... This is a real dracula!
 - Limitations of reverse bidding (political, substantial)

THANK YOU FOR YOUR
ATTENTION!

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