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ACCESS TO PUBLIC INFORMATION – WESTERN EUROPEAN EXPERIENCES AND THE CASE OF SEVERAL JURISDICTIONS FROM CENTRAL AND EASTERN EUROPE

Dacian Dragoş 1999-ben szerzett mesterdiplomát államigazgatásból, majd három évre rá a Babes Bolyai Egyetemen PhD-fokozatot közigazgatási jogból. Jelenleg a román Közigazgatási Minisztérium tanácsadója, a román közigazgatási törvénykönyv szerkesztőbizottságának elnöke és a Babes Bolyai Egyetem államigazgatási tanszékének egyetemi docense. A cikk hosszasan taglalja a közigazgatás átláthatóságát, kiváltképpen a közérdekű információkhoz való hozzájutást. Az európai tapasztalatok nagyon különbözőek e téren. A skála az évszázadok óta nyitott kormányzást folytató országoktól (pl.: Svédország) az olyan demokráciákig (pl.: Egyesült Királyság) terjed, ahol csak mostanában fogadták el és alkalmazzák a kormányzati szférát érintő, liberalizált információ-szolgáltatást. Ez a téma az új közép- és kelet-európai demokráciák esetében még inkább fontos, ahol a modern államigazgatási rendszer létrehozása során fő kihívásként jelent meg a nyitottság kérdése. A tanulmány bemutatja az információs rendszerek liberalizáltságát néhány európai uniós ország jogrendszerében és Romániában. Minden Közép-Európában újonnan létrejött demokrácia hasonló problémákkal került szembe, mégpedig a kormányzat átláthatóságának és nyitottságának hiányával. Sajnos a nyugati országok gyakorlata nem ad kész mintát az új demokráciáknak e téren, mivel ezen országokban a közérdekű információkhoz való hozzájutás irányításában sajátságos problémák merülnek fel. Mindamellett a nyugati társadalmakban hangsúlyosabb a civil szféra részvétele a közügyekben. A szerző végezetül egy információs biztosi poszt létrehozását javasolja, ami pozitív hatást gyakorolna a jogszabályok megismerése és értelmezése tekintetében, amivel hozzájárulna ahhoz, hogy megszűnjön az információnak „titokként” való besorolása.

ABSTRACT

The article dwells on the issue of transparency in public administration, particularly the free access to public information. The European experience in this matter is very different, ranging from countries with centuries of openness in government, like Sweden, to democracies which have adopted only recently freedom of information provisions (United Kingdom). The issue is even more important in new democracies from Central and Eastern Europe, where the transition to a modern public administration faces also challenges regarding openness. Taking into account all these realities, the study presents the state of the art of the freedom of information regime in several jurisdictions from European Union and in Romania.

KEYWORDS:

Openness, public information, transparency, citizens, public participation, accountability

INTRODUCTION

Free access to public information has always heated debate and generated controversy, probably more than other aspects of contemporary government and administration. The concept typically means having access to files, or to information in any form, in order to know what the government is up to (Birkinshaw, 2001).

The right of access to information generated within or held by the public sector has become one of the points of reference of the effort to increase public scrutiny over the public administration and to reinforce public officials' accountability. There are many powerful forces that are working against extensive access to information, mostly in those countries that need most such access. These forces can be static – opaque administrative practices, general inaptitude or the lack of sufficient human and material resources – or active – agents that resist openness due to private interests, or agents that use institutional scenarios to prevent public scrutiny over corruption and incompetence.

In this context, new democracies from Central and Eastern Europe face democratic problems relating to citizens' participation and thus their opportunities to have an influence over government. This aspect can be seen very clear in the reduced interest in voting activity and in the diminishing respect for public institutions.

In the region, the goal of providing citizens access to public information faced several unique issues and obstacles. Many expected freedom of information laws to be among the first priorities of the new governments of countries in transition after the 1989 changes. Although pressure to open archives and secret police records increased, there was little public pressure to adopt general sunshine laws relating to all categories of information (Brown, Angel and Derr, 2000). This is why the majority of these countries adopted such legislation only around year 2000. A major factor that slowed post-1989 development of laws and practices for government transparency was the preoccupation of many Central European and former Soviet countries with reviving their own national legal traditions. Adopting and integrating Western European or international practices and trends were of secondary interest. Because of this approach, in many ways, regulating public access to government-held information in these countries was certainly more difficult than in countries that are establishing entirely new systems of government. Even after a right of access to information is established, remain questions about the timing, accurateness and worth of the information disclosed, especially due to the fact that the experience of these nations had led to a genuine distrust of the citizens in their governments. In view of the history of government manipulation of information in this region, citizens often are suspicious of the value of the information they receive from the government. Ironically, at the same time, despite all the chaos, disruption, and corruption, public officials are traditionally considered to be responsibly exercising authority in the „public interest." This is the

overriding administrative tradition, in contrast to the tradition in the United States and other countries where colonial or other oppression led to an inherent distrust of governmental authority (Brown, Angel and Derr 2000).

Another aspect that has played a major role in expanding the transition period to a freedom of information regime is related to the fact that in the absence of any tradition of participatory democracy, citizens accepted their governments' policy of providing information only to individuals with particular technical expertise. Authorities are also often reluctant to disclose information that has not been „certified" as accurate, because when they release documents or information submitted by the public or other entities, they believe the public will view the information as coming from the government and therefore demand that the information be verified by the government before it is released to the public.

STATE OF THE FIELD IN REGULATING FREEDOM OF INFORMATION IN SELECTED JURISDICTIONS FROM THE EUROPEAN UNION

The article presents first of all the state of the art in Sweden, the oldest jurisdiction to have a freedom of information regime (18th century), France, due to its influence over time on Romanian legislation, jurisprudence and doctrine of administrative law, and United Kingdom, which is one of the last Western European democracies to adopt a Freedom of Information Act (2000 but entered completely into force in 2005). In the Central and East European countries, the tide of transparency is rising: 13 countries from this area have adopted Freedom of Information laws since 1989. Due to their leading position in reforming public administration while still facing communist legacy, the article analyzes the relevant legislation in Poland, Czech Republic and Hungary. Finally, Romania's legislation is presented, together with relevant court cases and other developments.

1. UNITED KINGDOM

United Kingdom has experienced a long and exhaustive fight for freedom of information, quite paradoxically if we take into consideration the level of democracy in this country. The explanation lies in the well-established culture of secrecy of the British government and the legal tradition of non-regulating various domains. In order to illustrate plastically and eloquently the principle behind this conception, we can make a reference to a a well-known television series about everyday life in a bureaucracy in which a leading character, an official of high position, expresses his caste's view on the subject of freedom of information in United Kingdom: „Open Government, Freedom of Information?… in my view you can be Open or you can have *Government*. But you cannot have both" (Duggett 2003).

The UK Freedom of Information Act 2000 effective from January 1st 2005 is clearly part of a general strive for more transparency in Governmental procedures. The UK is one of the world's oldest democracies, but yet, amongst Anglo-Saxon countries, it has been one of the slowest countries to implement freedom of information-type legislation.

The Freedom of Information Act had a very long gestation period (five years), which the Government justified by the need for 'public authorities' to put their records and procedures in place so as to permit compliance. The intention was at first to phase-in the Act starting with central government departments in summer 2002, and continuing with other authorities following at certain intervals. It has to be mentioned the contradictory approaches that have governed this process: the Information Commissioner, who has the duty to enforce the Act, has affirmed that it would be quite pragmatic for central government to comply with the right of access from October 2002, with other authorities following at 6 monthly intervals, but the Lord Chancellor has announced later that the right of access will come into force for all public authorities at once, in January 2005. This solution was condemned as „totally unjustifiable" by a very active non-governmental organization in this field – the Campaign for Freedom of Information and also by most of the civil society activists. The organization accused that „Labour [party] has spent 25 years promising freedom of information – but are now showing how little those promises meant. Ministers promised that the public would have the right to know, but what they are giving us is their own right to say no" (Campaign for Freedom of Information 2001).

Section 45 of the 2000 Freedom of Information Act requires Lord Chancellor to issue a Code of practice in order to provide guidance to public authorities, in an attempt of ensuring that access to information is given in accordance with the Act. The Code was adopted in 2002 after consultation with the Information Commissioner and approval by each House of the Parliament. The Lord Chancellor has a discretionary power to revise the Code, but only following the same procedure.

The Code serves first as a mean to evaluate if a public authority has complied with the requirements concerning the duty to provide advice and assistance to applicants (sect.16 of the Act). It can enclose different provisions for different public authorities. Then, the Code contains guidance on transferring the requests from one public authority to another, consultation of the third parties likely to be adversely affected by disclosure, the duty of public bodies to provide for procedures of internal appeals regarding their activity in providing public information, prohibition for public authorities to contract out of the Act and a duty to reject the contractual terms that tend to restrict disclosure of the information otherwise disclosable, etc. The main feature of the Code remains though that it is not enforceable as such and public authorities will not be bound to follow it. Nevertheless, public authorities will take into account the Code when providing access to public information, because failure to do so can be considered error of law that requires at least an explanation (Macdonald and Jones, 2003:131). The Information Commissioner has the power to promote good practice in general and particularly regarding the Code, although his recommendations are not directly enforceable. It is worth mentioning that the Act has assigned the protection of freedom of information and of personal data to the very same specialized ombudsman, solution that in Europe has been featured already in 1992 Hungary Act.

3. SWEDEN

Sweden's decision to enter the European Union was good news for the cause of open government (Campaign for Freedom of Information, 1996). Having a tradition of 200

years of open government (from 1766) could make a major impact on the European institutions and to other member states towards more openness. The people of Sweden, on the other part, feared that European Union and other member states with their more secretive culture would endanger the openness of the Swedish government, forced to conform to the more secretive practices of European institutions.

The right of free access to information is proclaimed in the Swedish Constitution, and it guarantees every citizen with the freedom to ask and receive information from public authorities: „every Swedish citizen shall be entitled to have free access to official documents, in order to encourage the free exchange of opinion and the availability of comprehensive information". In Swedish doctrine, the principle of public access to information is expressed in various ways: anybody may read the documents of authorities: *access to official documents*; public employees are entitled to say what they know to outsiders: *freedom of expression for civil servants and others*; they have also special powers to disclose information to newspapers, radio and television: *communication freedom for civil servants and others*; the public and the mass media are entitled to attend trials: access to court hearings; the public and the mass media may attend when the chamber of the Parliament (the Riksdag), the municipal assembly, county council and other such entities meet: *access to meetings of decision-making assemblies* (Swedish Ministry of Justice, 2004: 6).

The first version of the Swedish Freedom of the Press Act was adopted in 1766 and it was influenced positively by favorable circumstances as having parliamentary rule with rivaling parties between 1718 and 1772. Among other things, the Act regulated the public nature of official documents and provided that such documents could be printed freely. The ideas formulated in the 1766 Act significantly influenced the later Instrument of Government of 1809 and the Freedom of the Press Act of 1810 and of 1812. The last mentioned legislation was in force until it was replaced by the presently valid statute, the Freedom of the Press Act of 1949. It has to be mentioned that the Freedom of the Press Act together with other three acts (the Act of Succession, the Fundamental Act of Freedom of Expression and the Instrument of Government) make up the Swedish Constitutional arrangement, in other words the Swedish Constitution.

Though openness constitutes the main rule, the need for secrecy in particular instances is also accepted. Presently, Chapter 2, Section 2 of the Freedom of the Press Act establishes the exemptions from the principle. All situations in which official documents, in accordance with these principles, are to be kept secret must be clearly defined in a specific act of law, which is currently the Secrecy Act no.100 of 1980, an extensive and detailed piece of regulation. It comprises 16 chapters covering, inter alia, scope of application, secrecy regarding the country's: security, monetary policy, public authority's control, and objective to prevent crime; secrecy regarding public economic order and individuals' private life; special secrecy provisions applicable to public authorities, and to courts; certain limitations to secrecy, provisions on registration and delivery of public documents, and liability in case of violation of professional secrecy. The Secrecy Act indicates all the instances when official documents are secret, with the exception of provisions concerning competence of courts to hold hearings in camera, which are regulated separately in the Code of Judicial Procedure and other acts governing judicial proceedings. The Government may not decide on

which documents are secret; this is an exclusive right of the Parliament (Riksdag). However, in a number of provisions of the Secrecy Act, the Government is given the right to make supplementary regulations, by the way of *Secrecy Ordinances*[i].

It is evident from this background that Sweden has a long and rather continuous tradition of a right of access to official documents. Summarising, the main provisions for freedom of information are comprised in the second chapter entitled „On the public nature of official documents" of an act primarily concerned with freedom of speech – *the 1949 Freedom of Press Act*[ii], as amended last time in 1998. The relevant legislation is completed with the *Secrecy Act no.100 of 1980*, where the exceptions from access to information are developed.

A limited number of empirical studies have been produced on the application of the provisions regarding freedom of information. The doctrine has argued that there are varying „openness climates" at different Swedish public authorities. Some of them make remarkable efforts to ensure that the legislation is sound applied, while others tend to obstruct or neglect obligations arising from the law. To an important extent such differences show up in the ability of the personnel to handle requests for information and in the way the information systems are designed and operated. It was argued also that starting from the observation that access legislation aims at creating four increasingly broad types of information availability (information on a certain administrative or judicial matter or activity, information on the activities in general of a public authority, information which constitutes useful knowledge in general and information which has a commercial value), there has been noticed a reluctance to connect the Freedom of Press Act with any particular category. However, the issue of commercialization has become an increasingly sensitive matter due to the possibilities of using digital data for business purposes. Thus, public authorities in Sweden sometimes refer to their obligations under the Freedom of Press Act to motivate activities which are of a businesslike nature. Such practices are controversial since the purpose of the Freedom of the Press Act is not to be found in supporting commercial activities of state and local government organs (Seipel, 1998).

Finally, in this context it is worth mentioning a fruitful initiative of the Swedish government entitled „Open Sweden", which was organized between 2000 and 2002, aimed at raising the knowledge and awareness about freedom of information principle and its application among Swedish population. Benefiting from a voluntary participation of the public authorities throughout the country, the initiative was a success and encouraged the culture of openness (OECD, 2001).

4. FRANCE

In France, the free access to information is regulated by the Law no. 78-753 of 17 July 1978, as amended by Law no.2000-321 of 12 April 2000. In order to manage the application of the law, a central Commission was established (*Commission d'acces aux documents administratifs* – CADA). Before the applicant that was refused access to documents can appeal to the courts, he/she has to ask for a recommendation or opinion from the Commission which is a pre-requisite for admissibility of the judicial review. The Commission publishes every year activity reports, the last one being the 2004 report.

The main feature of the French freedom of information regime is that it provides only access to documents, not to information contained in them, which means that a request for information that does not specify with sufficient accuracy the document sought after could be rejected under the law. This characteristic makes the Freedom of Information Act to be used more easily by public functionary because they know very well the administrative system and usually are interested in aspects relating to their own career (promotions, collective rights, etc). Nevertheless, the task of other persons is somehow eased by the registers put together by each public authority.

According to the reports made available by the Commission of Access to Administrative Documents between 2000 and 2004, several other features of the freedom of information regime can be noticed. Thus, from 1980 to 2004, the activity of the Commission has increased more than 10 times: in 1980 there were 470 requests addressed to the Commission, while in 2004 their number was 5467. As a proportion, typically around 85-90% of the requests are for recommendations, and only 10-15% for advice.

In 2000-2004, an average of (roughly) 70% of those seeking opinions from the Commission was individuals, 29% were private legal entities and 1% was public entities. As regards the recipient of requests for public documents, approximately 55% were addressed to central public entities or corporations while 45% targeted local authorities or local public corporations. The requests for advice come regularly from local and territorial level (70-80%) and mostly from communes (around 40%). This aspect is explained by the lack of knowledge of the law amongst local authorities. Another observation regards the fact that many of the recommendations are not made on new issues, but on old issues, already solved by the Commission, which demonstrates a lack of preoccupation from public authorities' part for the established „jurisprudence”of the Commission, and is owed to the non-binding effect of the recommendations.

Among the topics that were mostly targeted by requests in 2000-2004 stand out social issues (medical files, family allocations) with 13.2-17.9% of total requests and public function (made usually by public functionaries regarding their career) with 13-15% of the requests, followed by urban planning 11-13.9%, economy and finances 6.3-13%, environment 5.7-9.5%, public order 5.2-8.2%, etc. The explanation of the large number of recommendations on the economy and finances issues and the big fluctuations of the percentages from 6% in 2003 to 13% in 2004 is owed to a single company, which has asked for budgets of numerous local entities in order to set up a data basis for public interest and to make comparative research on that data. The requests were sometimes (424 times, actually) refused by local bodies, with the motivation that they are intended for commercial purposes, and the Commission was needed to intervene and to state that there is no reason for withholding documents from disclosure when they are intended for commercial purposes. On the other hand, the decreasing of requests aiming at environmental issues is owed to the implementation of the European Union directive on access to public information in environmental matters and to the compliance of public authorities with this regulation.

In 2000, the Commission noticed that a quarter of the requests for administrative documents were rejected by public authorities by effect of silence, that is without even bothering to answer them. The same treatment was applied to the advices enacted by the Commission (14-18% of the recommendations are treated with "si-

lence"). Due to the preservation of numerous special regimes, the exercise of the right to access appeared in some cases like an „obstacle race for citizens". Moreover, the tradition of secrecy was lively and persistent in certain sectors of public administration making the gap between the objective of the law and the administrative practice quite large. The criticism targeted also the fact that public entities typically reject access to documents in cases when it is quite evident that access should be granted, making the intervention of the Commission more often necessary than it should be. The Commission should intervene only in cases where the question of disclosure involves some degree of difficulty. Looking at the reports from 2000 to 2004, it can be noticed that favourable opinions have increased from 48.8% in 2000 to 56.3% in 2001, possibly following the 2000 amendments to the Freedom of Information Act, and then the percent decreased slowly but steadily again to 50.7% in 2002, 49.3% in 2003 and 47.9% in 2004. As regarding unfavourable opinions, the trend was similar: 7.8% in 2000, 9% in 2001, 8.7% in 2002, 8.4% in 2003 and 10.4% in 2004. The rest of the requests for opinion were inadmissible, wrongfully addressed or devoid of object. Among the justifications for favourable opinions it should be mentioned numerous cases when the applicant and the public authority disagree on the method for disclosure; thus, due to the lack of personnel and time, public authorities prefer on-the spot consultation of the documents instead of reproducing them for communication.

The Commission is bound to give its opinion within one month from the request, but rarely this time limit was respected; moreover, the actual time for giving opinions has registered an increasable trend, from average 34.3 days in 1991 to 42.2 days in 2000 and 46.1 days in 2004.

Analyzing the role of the CADA as a "pre-court filter" reveals that very few appeals to the courts are rejected for the reason that CADA was not asked for opinion, and related to the number of opinions that every year CADA gives (roughly 4000), there are few judicial reviews ended with condemnation of the public authorities. Around 44% of the opinions are confirmed by the courts (CADA Report 2004: 22).

5. HUNGARY

Rather than adopting a brand new constitution, as has been done in most countries of Central and Eastern Europe, or revitalizing an old one, as has been seen in the Baltic States, Hungary has chosen to continue its pre-transition constitution (1949) in force, although thoroughly amending it in 1990. Recognizing the shortcomings of this process, however, the political forces shaping the country have discussed drafting an entirely new constitution, with a goal of adoption soon after mid-decade, but this intention was never materialized. Article 61 of the Constitution establishes a right to access and distribute information of public interest and by a majority of two-thirds of the votes the legislative can pass the law on the public access to information of public interest and the law on the freedom of the press. Thus, Hungary adopted in 1992 the *Act on the Protection of Personal Data and the Publicity of Data of Public Interest*. The purpose of the Act is first and foremost to guarantee that everybody may dispose of his personal data himself, and secondly that everybody may have access to data of

public interest. Regarding this common regulation of data protection and freedom of information, the former Data Protection and Freedom of information Commissioner observed that Hungarians tend to be much more sensitive to violations of their privacy than to secrecy over data of public interest. In 2004, the *Commissioner received 30 submissions that had to do with the boundary separating privacy from the public sphere* (Commissioner's Report, 2004).

In Europe, Hungarian legislation stands alone in having opted for the rather common-sense solution to enact a single law to regulate freedom of information in conjunction with the protection of personal data. Again pioneering in Europe, the Hungarian Act has assigned the protection of freedom of information and of personal data to the very same specialized ombudsman, the *Data Protection and Freedom of Information Commissioner* (Majtényi 2004). This solution has been recently adopted also in the 2000 Freedom of Information Act in the United Kingdom.

The number of cases addressed by the Commissioner's office has been increasing steadily and sometimes dramatically: since 1995, when the office was set up, the number of investigations has multiplied to reach a thousand in a single year. The distribution of the requests among different seekers for information has remained though consistent. Most of them concern data protection, while only 10 percent freedom of information issues. In terms of complaints filed, the share of freedom of information cases is only 7 percent. On the other hand, matters regarding freedom of information are mostly high-profile cases receiving intense public attention and wide publicity. As such, "their significance far outstrips their share in the total number of cases investigated" (Commissioner's Report, 2004).

The Annual reports made available by the Data Protection and Freedom of Information Commissioner of Hungary for the period 2000-2004, show that the main category of applicants for advice and investigations at the Commissioner is private individuals with an average of 29.8% of the requests, closely followed by data controllers (public authorities) with 28.4%, in third place civic organizations (NGO's) with average 11.6% (in 2002 was the highest rate – 20% and in 2003 the lowest – 4%) and journalists with an average of 9% (3% in 2003 but raising to 16% in 2004). The interesting fact is that business organizations counted only for 3% of the requests in 2000, none in 2001, 5% in 2002, raised to 9% in 2003 and dropped back to 1% in 2004.

In a recent development towards modernizing means of access to public information, the Hungarian Parliament has passed the 2005 *Law on Electronic Freedom of Information*, which according to the Ministry of Informatics and Communication, makes Hungary „one of the most progressive countries in the world with regard to the publicity of public interest information" (E-Strategies On-Line, Issue 15, 26.10.2005). The law imposes the publication on-line of draft bills, laws, and – partially – the anonymous form of court decisions, while a search system that makes the published data searchable and retrievable is to be created simultaneously. Another important betterment regards the creation of the Electronic Collection of Effective Laws, which shall contain the effective text of all laws in force on a given calendar day in a unified structure. The law on electronic freedom of information has been programmed to enter into force in several steps: the Electronic Collection of Effective Laws is to become operational as of 1 January 2006, while public authorities' obligation to publish information on-line is scheduled for January 1st 2007 respectively January 1st 2008.

The jurisprudence has done its part in shaping the regime of freedom of information in Hungary. Thus, in one of the cases regarding the exception from disclosure on the bassi of personal data, the Metropolitan Appellate Court delivered its final judgment on appeal in the case against the Hungarian Official Gazette on March 2, 2006. The appellate court changed the verdict of the court of the first instance in favor of the Hungarian Civil Liberties Union (HCLU), granting thus certain information about the members of the editors committee of the Hungarian Official Gazette. The basis for this decision is a new provision of the Data Protection Act adopted in June 2005, which widened the legal possibilities of the public to access public officers' personal data that are related to the positions held by the officers. The inquiry was about the exact amount of allowances, including salary and other bonuses or premium given to the members of the editors committee since the year of 2002. This final judgment can set a precedent for future cases, because it is the first time that the court established the rule that in case of public data it is irrelevant when the data actually arose. According to the verdict the only relevant issue to be examined is whether at the time of the inquiry the data in question is still managed by the institution that was requested to release the data. The court pointed out in its reasoning that this is the adequate interpretation of the Data Protection Act's rules that follows the goal and intention of the Parliament expressed in 1992 by passing the law on the disclosure of data of public interest, admitting also that the amendment of the Data Protection act in June 2005 was motivated by the pressure from the advocates of freedom of information[iii].

Another landmark case involved the Hungarian Civil Liberties Union (HCLU) and Hungarian Constitutional Court. The Union requested the content of a motion against some paragraphs of the Criminal Code addressed by a member of the Parliament to the Constitutional Court. The Constitutional Court denied providing the information, so HCLU filed a Freedom of Information case at the Budapest Court. As the Budapest Court stated on February 1st, 2005, the Constitutional Court cannot be forced to release the information because the petition is not information at all. In other words, the opinion of the court is that a motion submitted by a member of an authority (Parliament) to another authority (Constitutional Court) is deemed to be personal data. This opinion is highly criticizable and cannot be sustained by the spirit of the freedom of information regime. In some other questions the Budapest Court accepted HCLU's arguments, and it became clear that the Freedom of Information Act applies to the Constitutional Court. But the main question, what is considered „Public Interest Data" remained unclear. As a consequence of this decision (and its endorsement by the Supreme Court in appeal, November 2005), HCLU worries that contracts and other documents of state agencies and other relevant pieces of information could be considered as not public. Hungarian courts and the practice of the Hungarian Data Protection Commissioner many times stated though in the past that these types of documents must be treated as Public Interest Data.

Finally, at the beginning of 2006, three non-governmental organizations – The Press Freedom Centre, the Hungarian Civil Liberties Union (HCLU) and Protect the Future, asked Government to revoke the T/18708 draft Act on protection of classified data submitted to the Parliament. The civil organizations also requested the Government to prepare a new draft law that complies with the standards of a democratic state. The

present draft law, if approved by the Parliament could raise concerns regarding the free access to public information. According to the Government, it was Hungary's accession to the European Union which raised the need for reviewing the Act on state and service secrets and adopting such amendments. State secrecy regime is traditionally the main barrier to freedom of information. The draft law if approved would enable governments to deprive citizens from having open social discourses on public affairs and would also deprive them from the option of forming alternative decisions that are different from the governmental positions.

A problem raised by the new draft law regards the criminal prosecution of journalists who disclose secret information. Thus, the lack of accuracy of the regulations that are applying now in Hungary allowed journalists who have been accused of violation of state secrets to escape penal repercussions. The new draft law together with the relevant sections of the Penal Code would though reinforce the threatened position of journalists. According to the Penal Code, journalists who disclose secret documents are subject to imprisonment, even in case it has not been undoubtedly revealed for the journalist that such documents are secret. According to the draft Secrecy Act these sections of the Penal Code would stay in force. The civil organizations have proposed that along with drafting a new law on state secrets, the relevant provisions of the Penal Code should be revisited and amended as well.

Another issue dealt with by the draft is the time-limit for secrecy, which is proposed to be reduced to 80 years instead of the present 90 years. Nevertheless, even the reduced time limitation is too extensive. Furthermore, in case of service secrets the draft law would expand the time limitation to 60 years from the present 20 years.

In the new draft law there are further limitations of the freedom of information. As opposed to the present regulations, under particular circumstances – regarding cases of less than 15 years of secrecy period – the new law would not even require to specify reasons for classifying information as „secret".

The draft law's definition of secret data does not stand for the standards of a democratic state, because it is too broad. Thus, sections which classify statistical data on public affairs and on public funds as secret data are completely unacceptable. The draft law enables also the government to classify all international affairs related data as secret data as well, without respect even to the relevant international conventions, which, considering security or public health related reasons, allow governments to classify information as *secret data* but also narrow down such authorization only to the necessary measures.

Presently, the Data Protection and Freedom of Information Act enables state authorities to keep those data secret that are related to their decision preparation, based on certain conditions. The new draft Secrecy Act has provisions on this issue as well, and they have the capacity of undermining the protection of freedom of information entrenched in the Data Protection Act.

Among the consequences that the new law would have, HCLU enumerates: the inability of citizens to check the adequacy of the measure taken by the government in case of a natural disaster, to gain information related to permitting nuclear power plants, or damage control measures, to gain information how a nearby mine affects the environment, to gain information on medication that is revoked from the market,

to be able to check the governmental measures related to bird flu, to have possibility to get familiar with the proposals on the government's strategies of economy, to gain information on data regarding the preparation of the budget, to gain information on what monetary help Hungary gave to other countries, to know on what information the government based its decision on subsidies, etc (www.tasz.hu).

6. CZECH REPUBLIC

In the Czech Republic, before 1999 the right of information was regulated briefly by the Constitution and the Charter of Rights and Freedoms ratified in 1991 (articles 17 and 35) , but were not rare the cases of this right being ignored and abridged. The need for a Freedom of Information Act was clearly acknowledged. Nevertheless, it wasn't until a specific case of withholding public information occurred that the legislators have taken into consideration adopting a law with respect to freedom of information issues. Thus, a conflict between the managing editor of the *Respekt* weekly with the Ministry of Agriculture was instrumental in developing the openness legislation in this country. The editor appealed to the Constitutional Court and asked for a decision whether Minister of Agriculture violated the law having rejected giving information about money allocated by the Ministry; the complaint was largely covered by the mass media and encouraged two members of Parliament to work on drafting the bill for the new law, which was proposed for adoption in 1997. It has to be noted here that by this time there had been already finished the first reading of the *Right of Environmental Information Act* (which was adopted later to be Law no.123/ 1998). The adoption of a separate law for access to information in environmental matters was considered rightfully by the two members of Parliament as being unnecessary, since all the important provisions regarding freedom of information in general were included in the bill that they were just presenting. Finally, the Freedom of Information Act passed in 1999 after several delays triggered by the parliamentary vacation and divergent opinions amid the Chamber of deputies and the Senate. The law has entered into force in January 1st 2000 and has 22 articles that set forth the basic conditions by which the information is provided. This date of entry into force did not impede though the public to obtain documents or information created before 2000. On contrary, due to the fact that Freedom of Information Act presents only implementing provisions in respect to the right of information provided by the Constitution and the Convention of Human Rights, the date of 1 January, 2000 did not mean any change in the information accessibility. Moreover, there was raised the question whether the general access to information was not introduced already by the effect of the International Treaty on Civil and Political Rights from March 23, 1976, namely with the respect to so called direct applicability of international obligations in the sphere of human rights: „in case the international treaty sets something different than the law, there will be applied the international treaty" – art.10 of the Constitution (Kužílek 2004).

The experiences with the application of the Free Access to Information Act enabled the conclusion that the Act basically serves the purpose for which it had been generated, because in the majority of cases the citizen gained the information requested. The

fears of misusing the law were not fulfilled, and the authorities were not swamped by the grumbler's requests more than before. Nevertheless, if the compulsory subjects are reluctant to grant information, they use a wide range of evasive tactics contradicting the spirit of the law and in many cases also its letter, like demanding of steep charges for seeking information hold by the authority; excessive using of the commercial secret institution for the witholding of information that either is not a commercial secret or can not be protected since it concerns the using of public means; excessive using of the personal data protection institution for the witholding of an information about an public activity of an individual; refusals of the request for granting information with the explanation that the office is not the compulsory subject under the Act; refusals of granting an segregable part of information whose other part constitutes the protected information; ignoring the law presuming that no sanction for his violating will be taken. In such cases not every refused applicant appeals to the court, but when they do, the jurisdiction mostly vindicates the applicants of information. In the cases of information with the up-to-date bearing the very lengthening of the process leads to the obstruction of the Act purpose (Open Society Fund Prague, 2002).

In the light of other doctrinarian assessments, the phenomenon of the access to information seems to be „nearly a detective discipline" (Kužílek 2004). The concrete implementation of the freedom of information provisions to specific situations, especially in villages, is suggesting that the level of unjustified withholding information at the Czech authorities, the unawareness of the legal situation and their secretiveness is still very high.

On 5 August 2002, the Czech cabinet rejected a Senate-sponsored amendment to the law on free access to information under which the public would have had easier access to information. Under the rejected amendment, the intent was to reduce substantially the costs individuals have to cover for information requested and also future prohibit the established practice of asking for fee deposits when accepting the application for information. Moreover, the personal data protection of public persons was proposed to be narrowly specified. Another proposal aimed at improving the practice of granting information about special subsidies, props and privileges from the public means. Finally, the regime of commercial secret protection would have been tightened so as the abusive practice of blocking information under the veil of commercial secret would be reduced. It was also suggested to establish an order against grumblers which would have enabled public authorities to quickly terminate requests of notorious applicants who do not even collect the requested information (http://www.privacy.org/pi/issues/foia/index.html).

In a recent development, the Czech legislative adopted the Act no.412/2005 on classified information, which sets forth a very elaborate system of protecting state secrets, confidential documents and sensitive information.

The Czech Republic has done its duty of implementing the 2003/98/EC Directive on re-use of public sector information. Apart from the transposition itself, the amendments to the 1999 Freedom of Information Act also respond to problems that occurred in relation to the application of the Act, especially by unifying and specifying the terminology of the existing regulation and regulating the manner of providing information in more detail. The amendment also responds to the development of other legislation, especially the establishment of self-governing units, and lays down clear procedures

for processing information requests relating to the independent or delegated powers of those units (Ministry of informatics web site).

7. POLAND

In Poland, before the new Constitution was enforced (October 17, 1997) Poles were able to claim the right to information under the Convention for Protection of Human Rights and Fundamental Freedoms of 1950. Then, article 61 of the Constitution established rights to collect, receive and disseminate information and specifically stated the right of access to government-held information[v]:

> (1) A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury. (2) The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings. (3) Limitations upon the rights referred to in Paragraphs (1) and (2), may be imposed by statute solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State. (4) The procedure for the provision of information, referred to in Paragraphs (1) and (2) above shall be specified by statute, and regarding the House of Representatives (Sejm) and the Senate by their rules of procedure.

In order to expand the constitutional provisions but also due to the pressure from European Union integration process, NGOs and media, Poland adopted rather late, on September 6, 2001 (binding from January 1, 2002) the Law on Access to Public Information, whose purpose is to guarantee to everyone the right to public information which includes the right to: 1) obtain public information, including obtaining information processed in the scope, in which it is particularly significant for the public interest, 2) examine official documents, 3) access to sessions of collective public authority agencies elected by ballot. There are exemptions for official or state secrets, confidential information, personal privacy and business secrets. Appeals are made to a court. Parliament is currently discussing amendments that would create an independent commission to enforce the Act (Banisar, 2004). Public bodies are required to publish information about their policies, legal organization and principles of operation, contents of administrative acts and decisions, public assets. The law requires that each public authority should create a Public Information Bulletin to allow access to information on-line. Law on Right to Information was prepared under the Project on Access to Public Sector Information initiated by Adam Smith Centre and then supported by the group of MP's in the Parliament, and under the Project on Openness of Decision Making, Interest Groups and Public Access to Information, supported by Union of Freedom Party (Sakowicz 2002).

Right to information derives also from Press Law and other statues and codes. In particularly, the role of the Press Law in enlargement of the openness is significant as it endorses the citizen's right to information and participation in public affairs (Kamin-

ski 2000). Under article 4 of the Press Law Act, provisions of which are applicable also to audio-visual media, all state institutions, economic entities and organisations have the obligation to disclose information concerning their activities to the press. Only when it is required by the interest of keeping state, official or other secret protected by law these subjects may refuse to provide information. In such a situation the refusing institution or person must specify in written and within three days what are the reasons justifying the refusal. However, the doctrine has emphasized that the right to information is primary the right of citizen, and rights of mass-media are only part of problem concerning regime of the right to information (Kaminski 2000).

Poland has signed the Aarhus Convention on Access to Information in June 1998 and ratified it in February 2002; as a consequence, the Act of 9 November 2000 on Access to Information on the Environment and Its Protection and on Environmental Impact Assessments implements the Convention[vi].

Due to pressure exercised by the conditions required in order to join NATO, by the time of the enactment of the Freedom of Information Act, the Polish legal regime had already been endowed with a Law on Protection of Classified Information, adopted in 1999. Other exceptions from access to public information are regulated by the Act on Protection of Personal Data; on the other hand, under this act, individuals can obtain and correct records that contain personal information about themselves from both public and private bodies. It is enforced by the Bureau of the Inspector General for the Protection of Personal Data.

The main line of criticism regarding Freedom of Information Act in Poland concerns the lack of a specific public authority (like the Information Commissioner or Ombudsman in Hungary or United Kingdom) responsible for ensuring that the provisions of the law are properly implemented. Other important weakness of the law is considered to be the whole construction of it, which may give impressions that secrecy is more important than access to information. This is the consequence of earlier adoption of law concerning limitations of the right to information on the basis defined in regulation on protection of secret information and about other secrets protected by law, for example privacy of individuals. As in other Central and Eastern European countries, implementation of an electronic version of the Bulletin on Public Sector Information constitutes a challenging task, due to the large number of public authorities required to provide information by use of this Bulletin (over 100 000 in Poland). Finally, it was argued that the procedure of judicial review is time consuming and may be a real obstacle for citizens. From 1989 to 1995 an average time of legal proceedings on criminal case increased three times and in economic matters more than twelve times (Sakovicz, 2002).

In 1999 and 2000, the Polish Ombudsman which is entitled to hear complaints in civil rights cases, when responding to number of cases brought before its office, assumed the initiative to examine also the regulations of municipal deliberative and executive bodies from the perspective of implementation of right to access public information. The subject of Ombudsman investigation regarded: disclosure of protocols from board meetings, local law (resolutions) concerning public procurement and financial performance of executive boards, and most of cases brought before Ombudsman refer to no reply or delay in revealing information, lack of reliability of local officials and violation of constitutional right to information. In his evaluation, the

Ombudsman indicated that (Sakowicz 2002): territorial self-government units usually do not regulate in their statutes the implementation of right to information. By contrast, municipal authorities very often refer to law which allow them to act under the veil of secrecy: in one case, a citizen was forbidden to record on tape municipal council session. Witholding the information usually occurs when it regards financial aspects of municipal companies or access to protocols from sessions or committees meeting. It should be noted also that not only citizens but also councillors including members of board of control commissions are treated in the same restrictive manner.

8. ROMANIA

The state of the art in Romania provides for a set of regulations, adopted in recent years regarding a framework law on free access to public information (Law no.544/2001) but also on classified information (Law no.182/2002), transparency in decision making (Law no.52/2003), and, finally regarding transparency in public office, in commercial transactions and in debts to the state (Law no.161/2003). One can notice that, although the free access to public information is a question of openness and transparency, the Romanian legislation provides for two separate set of laws regarding those two. The law adopted in 2001 has proven to be incomplete, and the discretionary power that is given to public authorities is not used properly. On the other hand, shortly after the enactment of the Law on access to public information was enacted another law, on classified information, that gives to the head of the public institution the right to decide if some information is confidential. The critical issue here is that there is no control over this illegal decision, and the petitioner has no alternative but to go to the courts against the lack of disclosure.

In Romania, there are few scientific research conducted on the issue of freedom of information (or there are not easily available), although it has passed five years from the enactment of the Law on free access to public information. Such research was not done before the adoption of these regulations, therefore there are reasons to believe that the solutions included in the legislation were not pre-tested. There is just a partial survey on the implementation of the Law on free access to public information, realized by a NGO - Pro Democracy Association, with financial support from US AID, and annual reports from Ministry of Information Technology.

In 2003 the Pro Democracy Association published a report (PDA 2004) after monitoring for a year the way in which Romanian authorities were applying the law. The project targeted central authorities as well as local authorities. One of the findings was that the number of the requests for public information was still quite low, because of the lack of knowledge among citizens and companies about the very existence of the law. To this situation a major contribution have had also public authorities which, working against the efforts of some NGO's to popularize the law and its benefits, demonstrated lack of capacity and willingness to apply it properly.

On the other hand, knowing well the shortcomings of the law helped some public authorities to avoid disclosing public information. Thus, the law does not provide for the amount of money which could be charged as cost for reproducing the public infor-

mation requested. Consequently, public authorities charged in some cases large amounts of money in order to discourage applicants.

Surprisingly, the central authorities were in a greater extent assaulted with requests for public information than the local ones. The monitoring activity regarded three aspects: a) the stage of setting up a special office charged with receiving and coordinating the implementation of the law at the each public authority level; b) the way in which public information is provided ex officio by publishing it on the internet or at the public authorities' premises; c) the way in which public authorities were responding to requests for public information.

The general conclusion of the study was that the mentality of public employees and public officials, the lack of institutional management and the weak knowledge of the regulations regarding this matter are impeding the proper implementation of the 2001 law. The law was just starting to achieve its goal of opening up the public administration to the citizens.

The average time necessary for responding to a request for public information was 12 days, and it can be considered too long when taking into account the provision of the law which imposes responding in 10 days and only in exceptional circumstances in 30 days and the complexity of the request, which was very low. From 90.7% (average) public authorities who have registered the request for public information, only 58.4% on average have responded to it. Another conclusion of the study was that elected deliberative public authorities (local councils) have responded in a smaller number then appointed authorities (ministries, for instance) or executive authorities (mayors).

It is not sufficient to respond to a request for public information, but also to respond by providing the information requested. In this respect, from 957 requests, only 400 have received a complete answer, which is a 42% percentage.

Although there are not many non-governmental organisations active in the field of freedom of information, those who are active make a lot of difference and impact positively the implementation process of the law. Thus, in 2003 upon a complaint of the Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH), a Bucharest court fined Prosecutor-General of Romania for refusing to disclose how many people his office has allowed to be wiretapped. The problem in this case is that the fine is too little for the evolution of the Romanian currency, and there is no instrument to adapt these fines to the rate of inflation other than by law. Eloquently enough, in the case presented the fine was only 500 lei ($.015) per day until the information is released. In its request, APADOR-CH asked from General Prosecutor Office statistical information on requests for secret surveillance measures filed with GPO between 1990 and 2002 and on outcomes of such surveillance. GPO denied information on grounds it is classified as state secret. Consequently, APADOR-CH appealed the denial before the courts, and both the court of first instance and the appeal court found in favor of APADOR-CH and ordered the defendant to release the information. It was the first time the Romanian authorities published information on secret surveillance of persons (*Romanian Helsinki Committee (APADOR-CH) v. General Prosecutor Office*, decision no.291/17.04.2003).

In a similar case, APADOR-CH asked Romanian Intelligence Service (RIS) for statistical information on request for secret surveillance measures against members of

political parties, of civic associations and journalists filed with General Prosecutor Office, as well as on revenues and expenditures of RIS's commercial companies. RIS denied information on grounds it is classified as state secret. APADOR-CH challenged the denial before the courts, but the complaint was dismissed on the ground that all information related to RIS's activities is state secret; consequently, only information on RIS's commercial companies was released (*Romanian Helsinki Committee (APADOR-CH) v. Romanian Intelligence Service*, decision no.506/16.06.2003).

Another court action brought by non-governmental organizations regarded an internal document of the central government. In July 2004, the Romanian media reported the existence of a secret government decision imposing on all executive agencies to obtain the Prime Minister's approval as a pre-requisite for concluding advertising contracts. Shortly afterwards, two non-governmental organizations (Justice Initiative and Center for Independent Journalism), who were researching the abuse of government advertising as a tool for restraining media freedom in Romania, filed a freedom of information request regarding the existence and content of the decision. In response to the silence of the Prime Minister's office, a complaint was lodged with the Administrative section of a Court. In 2004, the Court ordered the government to provide the requested information. The newly elected government, though, which took office in early 2005, has quickly put an end to the quarrel and agreed to settle the case by providing all available information.

In another case (*M.S. v. RADET*, decision no.765/13.10.2003), a member of APADOR-CH asked RADET (Bucharest heating company) information on their budget and financial sources in 2002, as well as on budget for investments in heating network and construction/renovation of offices. RADET denied information, arguing it is not using public money. M.S. challenged the denial before the courts. The first instance court found in favor of M.S, ordering release of information but dismissed her claim for compensation of moral damages. The appeal court dismissed M.S.'s appeal, on the ground that moral damages must be proven, in order to be awarded.

Furthermore, in *M.S. v. National Health Care Fund* (decision no.484/28.10.2002), National Health Care Fund (NHCF) was asked for information on amounts of money collected in 2001 at national level, criteria for allocation of their budget and expenditures in 2001. NHCF denied information on grounds it is released *ex officio*. M.S. appealed the denial before de court. The first instance court found in favor of M.S, ordering release of information but dismissed her claim for compensation of moral damages. The appeal court dismissed M.S.'s complaint, endorsing the defendant's argument that information was released.

Recent developments in Romanian legislation regarding free access to public information are connected with implementation in the national legislation of the Directive no.98/2003/EC on the re-use of public sector information. The civil society (APADOR-CH) has protested against the way Romanian Government understands to transpose into domestic legislation the aforementioned Directive (now a draft bill), namely without correlating it with the general law on access to public information (Law no. 544/2001). Due to this lack of correlation, the draft bill induces the idea of having to pay a fee for public information. It was noted that the Directive represents a set of minimum rules, as its first article indicates and as it is clearly stipulated by art. 8 of the

preamble: *„Member States' policies can go beyond the minimum standards established in this Directive, thus allowing for more extensive re-use"*. The new law on reuse of public sector information should thus reaffirm the principles of Law no. 544/2001, so access to public information must remain free and unconditioned by any fee or proof of „legitimate interest". It should also make distinction between *obtaining* public information, still regulated by Law 544/2001, and *re-using* public sector information, a subsequent and distinct phase.

Finally, it has to be mentioned the case that has kept in Romania the journals' front page for years and it is not yet resolved. The story of Bechtel contract for building a major highway is one charged with corruption, external political influence and secrecy. It all started with the Social Democrat Government that held office between 2000 and 2004 granting without a public tender the controversial American construction company Bechtel with the so called „Transylvanian Highway" project worth of 2.2 Billion Euros. The manner of granting the contract triggered negative reactions from the European Union, which Romania aspires to access to in 2007. After coming into office in 2004, the Government led by Mr. Tariceanu contested the contract, and, after warning the company that the contract could be annulled, obtained the promise of renegotiations to ensure its compliancy with the European legislation. Another factor of pressure upon Bechtel was the fact that the new administration repeatedly expressed its intention to support another infrastructure project; the Pan-European Corridor IV, which crosses Romania in the west and if realized would have put in the shadow the necessity of the Transylvanian Highway project. One of the contract's clauses contested by the authorities stipulated that the government was bound to make a down payment of 250 million euros which Bechtel would justify at the end of the project in 2012, in the conditions that the Romanian legislation states that a company involved in a public works contract should only receive advances for the year in question, and should present an annual expenses statement. The renegotiation was concluded in December 2005 with the amendments proposed by the Government. Nevertheless, the contract remained as closed to the public as before renegotiation, being classified in part by Government Decision as „state secret". This fact triggered more protests from mass media and some members of Parliament, because the part kept secret contains exactly the most important part of the contract: the price and methods of payment, obligations of the constructing company, etc. As a result of these efforts, the Government, upon obtaining the permission of the Bechtel Company, agreed in 2006 to make available other parts of the contract, but not its entirety. Allegedly, the parts left out are those parts protected by the exemption from Freedom of Information Act regarding commercial secret, though it has to be noted that there is no public body in Romania to verify this assertion, and the trust in the Government and the construction company is very low among the public after the whole evolution of this case. On the other part, elements of the offer to construct a highway cannot be considered as „commercial" or „trade" secret, because the prices of the materials can easily be found out on the constructions market. It would have been the case if the company would have revealed some new techniques, inventions, etc, to public authorities. In this context, presently there are still reservations about the correctness of this contract, and the reluctance of the authorities to allow public's access to its entire content did nothing to help overcoming the mistrust.

SEVERAL COMPARATIVE CONSIDERATIONS

All Central and European new democracies are confronted with similar problems regarding lack of transparency and openness in government, regardless of the accuracy of the laws adopted on this issue. Unfortunately, the experience of western countries is not always helping these new democracies to follow a better example, due to their own problems in managing access to public information. Nevertheless, the problem is posing in a different manner in West because of the better participation of the civil society in public affairs.

Among the matters affected most by the secrecy, stand out *public contracts* and the *decision-making process*. Public employees and public officials are mostly the subjects targeted by requests for public information, and data regarding their performance in office or affecting this performance should be always disclosed, as opposed to considering it personal data.

It has also to be mentioned a solution that in my opinion should be extended to all jurisdictions, that is setting up an Information Commissioner (present now only in United Kingdom and Hungary), which can influence positively the implementation of the freedom of information laws and their interpretation, but also, more important, should be able to confirm or infirm the public authorities' classification of information as secret.

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i Swedish Code of Statutes reprinted in 1998, p.1333.
ii Available at: http://www.riksdagen.se.htm.
iii The court cases are available at http://www.tasz.hu/index.php?op=contentlist2&catalog_id=2490, accessed 05/05/2006.
iv Article 17(1): The freedom of expression and the right to information are guaranteed. (2) Everyone has the right to express his views in speech, in writing, in the press, in pictures, or in any other form, as well as freely to seek, receive, and disseminate ideas and information irrespective of the frontiers of the state. (3) Censorship is not permitted. (4) The freedom of expression and the right to seek and disseminate information maybe limited by law in the case of measures that are necessary in a democratic society for protecting the rights and freedoms of others, the security of the state, public security, public health, or morals. (5) State bodies and territorial self-governing bodies are obliged, in an appropriate manner, to provide information with respect to their activities. Conditions therefore and the implementation thereof shall be provided for by law. Article 35 (1) Everyone has the right to a favorable environment. (2) Everyone has the right to timely and complete information about the state of the environment and natural resources. (3) No one may, in exercising her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent designated by law (http://wtd.vlada.cz/eng/aktuality.htm).
v http://www.uni-wuerzburg.de/law/pl00000_.html
vi http://www.mos.gov.pl/mos/akty-p/dostep_eng.html