

SGI Sustainable Governance
Indicators 2009

Democracy

Access to information report



Indicator **Media freedom**

Question **To what extent are media organizations independent from government?**

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = Public and private media are independent. Independence is institutionally protected.*
- 8-6 = Government respects media independence, but regulation provides little protection.*
- 5-3 = Government indirectly influences media through staffing, financial or other means.*
- 2-1 = Major media outlets are frequently influenced by government pressure.*

Finland

value 10

Media independence is nowadays a matter of course in Finland. According to the Worldwide Press Freedom Index in 2005, Finland was ranked second in the world, next to Denmark. According to the same index in 2006, Finland was ranked in first place (along with Iceland, Ireland and the Netherlands). As comparison, Norway was ranked in sixth position, and Sweden ranked 14th.

Finland's national public broadcasting company, called Yleisradio, is owned by the Finnish state and is funded through private television broadcasting license fees and a television fee. Governed by a parliamentary council, Yleisradio operates five national television channels, a dozen national radio stations and some 25 regional radio stations. Freedom of speech is regarded an important political privilege, and these broadcast outlets are seen as an impartial means for the expression of differing opinions and citizen debates.

Netherlands

value 10

Article 7 of the constitution guarantees the freedom of expression and freedom of the press. The Commission for the Media supervises the media. However, since the media law (Article 134.2) prohibits governmental supervision of the content of radio and television broadcasting, this office is independent of the government.

The media law lays down a number of regulations on public and commercial broadcasting. These regulations concern advertising, the guarantee of media plurality, the prevention of concentration in the media market and some quality standards.

Public television and radio are joined under the roof of the Dutch Broadcasting Foundation (NOS).

The media law requires that the public broadcasting network adequately represent different cultural, social or religious aspects of Dutch society. In addition, since public broadcasting is forbidden from focusing on profit-making, it is financially dependent on the government. Last but not least, the media law regulates how programming time is to be distributed between the different genres, including those of information, culture, education and entertainment.

Freedom of expression and freedom of the press are guaranteed by Article 7 of the constitution. The Commission for the Media is charged with supervising the media, but is independent of the government as the media law (Article 134.2) prohibits governmental supervision of radio and television broadcasting content. The media law specifies regulations for public and commercial broadcasting with regard to advertising, guaranteeing media pluriformity, preventing media market concentrations and certain quality standards.

The media law requires the Dutch Broadcasting Foundation (NOS), which is responsible for public television and radio, to adequately represent a variety of cultural, social or religious interests. The media law also regulates the distribution of programming time across the different genres, including informational, cultural, educational and entertainment segments. Given that public broadcasting is prohibited from seeking profit, it is financially dependent on the government.

Annotation:

The Scientific Council for Government Policy, “Media Policy for the Digital Age,” Amsterdam University Press, <http://www.wrr.nl/english/content.jsp?objectid=3671> (accessed February 28, 2008).

Norway

value 10

TV and radio are predominantly state owned, while the newspapers are entirely in private hands. The dominant media house (NRK) is government owned, but organized in a way that ensures considerable autonomy. The government does not intervene in the organization’s daily practices or editorial decisions. However, since NRK is a non-commercial actor, it is largely financed by a tax imposed on all citizens having access to a television. The size of this tax is set by parliament, and the chairperson of the state channels is appointed by the government. Until 2007, the chairperson was always a former politician. However, in 2007 a professional media person without former political affiliations was chosen.

An institution called the “Kringkastingsrådet” plays an oversight role, monitoring, debating and expressing views about the management and activities of the state-funded broadcast media. It can also give advice on administrative and economic issues. The issues debated by the council can originate with the chairman of the state channels or from the public (including criticism and complaints). The opinions expressed by Kringkastingsrådet carry substantial weight, and recommendations

from this council are usually implemented. Eight council members are appointed by the parliament, and an additional six by the government. The government does not control the council. For instance, the current committee chairman is affiliated with one of the main opposition parties, the Conservative Party. Newspapers are free from any government interference. Freedom of the press is explicitly guaranteed in the constitution. This article was amended and strengthened in the recent overhaul of the constitution, which was completed in 2004.

Sweden

value 10

Media freedom in Sweden is highly developed. The Swedish constitution's Freedom of the Press Act, which dates back to 1766, and the Fundamental Law on Freedom of Expression guarantee freedom of the press. The autonomy and integrity of the media is viewed in Sweden as part of the foundation of democratic governance. Sweden's state-owned radio and TV channels have a long history as public-service corporations. They are formally controlled by the government through a foundation, which owns the television and radio companies. The foundation's board is politically appointed, but the companies' executives are not. Both state-owned radio and television are financed by means of a compulsory licensing fee for owners of televisions. Their programming is subject to the provisions of the Radio Act, internal programming guidelines and terms set out in the charter between Sveriges Television (the public television company, or SVT) and the state. This charter guarantees independence from all pressure groups, including political and commercial ones.

The past few decades have witnessed a massive challenge to state-owned media in the form of deregulation and competition. The state has deregulated the market for broadcast media and currently has a neutral regulatory framework for permits and concessions that does not favor the state-owned media system. The printed media, on the other hand, are essentially unregulated.

Switzerland

value 10

Public and private media corporations are free from government influence, a freedom protected by the Swiss constitution. Although the federal government chooses the chairperson and some board members of the quasi-public nonprofit radio and television organization (the Swiss Radio and Television Company), it is not able to exert any influence over the organization's daily reporting or journalistic work.

United States

value 10

Constitutional and other laws effectively protect the freedom of the media.

Government influence and the influence of actors associated with the government are virtually nonexistent. Newspapers and privately owned media are subject to remarkably little regulation of content. They can even publish leaked officially secret information without fear of legal sanctions.

Belgium

value 9

Article 25 of the Belgian constitution guarantees that public and private media remain independent from government influence. The actual situation, however, is significantly different when analyzing the country's press or its broadcast media.

While Belgian press is largely independent from government influence, some newspapers do show favorable leanings toward some political parties, but newspapers are no longer party-owned or party-controlled. The Belgian press over recent decades has experienced a gradual "depoliticization," or a weakening of political party affiliation. Thus the private print media coverage can be seen as pluralist and politically unconstrained.

The independence of the country's two main TV and radio broadcasters, Wallonia's RTBF and Flanders' VRT, is of a lesser degree. Executive committees as well as key management posts are politicized, with a precise proportion of representatives from different political parties. On the one hand, this ensures a plurality of opinion; yet on the other hand, it can also lead to political pressures in the newsroom. Yet both RTBF and VRT have made recent attempts to reduce the strength of such clientelistic practices. Journalists are generally free from direct political influence, which is demonstrated through a high number of "anti-system" statements as part of general media coverage. Leaders of the Vlaams Belang or the New Flemish Alliance (NV-A) appear regularly in newspapers and on TV and radio.

Well-structured, professional media organizations represent and defend journalists as a profession and act as a safeguard as well as do official regulatory bodies on both sides of the country's linguistic divide.

Annotation: International Constitutional Law Project (ICL), Belgian constitution (in English), http://www.servat.unibe.ch/icl/be00000_.html (accessed February 16, 2008).

Canada

value 9

The Canadian Charter of Rights and Freedoms entrenches the freedom of the press and other communications media as a fundamental freedom. Freedom of the media from the government is not a big issue in Canada. Privately owned media are entirely independent and are not subject to political intervention. The print media are not

subject to restrictions, except those regarding libel and hatred laws. Electronic media operate under the regulation of the Canadian Radio-television and Telecommunications Commission (CRTC). As an independent public authority that regulates and supervises all major aspects of the Canadian broadcasting system, the CRTC is basically an element within the regulatory regime that – to a certain extent – can shield the broadcasting system from governmental influence. In theory, the publicly owned electronic media – most notably the Canadian Broadcasting Corporation (CBC), which operates both television and radio stations – could be subject to political intervention. Nevertheless, in practice, there has been no major government intervention in the history of the CBC.

Czech Republic

value 9

The only formal restrictions on the free expression of opinions relate to the propagation of racism, fascism and communism. Political and social groups face no other restrictions on expressing or publishing their views. Public television is funded by a compulsory licensing fee. The law requires it to provide objective and balanced programming which reflects diverse political, social, religious and ethnic views. A council elected by parliament oversees public television. The council's membership must also reflect this same diversity and be free of direct political or commercial representation. The council's current composition appears to generally adhere to these requirements.

Direct political influence on the content of broadcasts has not been substantiated. Nevertheless, as MPs select the council's members by secret ballot, questions have been raised about whether this allows the largest parties to exert political influence. There have been conflicts within Czech TV, but the outcomes have generally left it with considerable independence from both government and outside control. Media sources espousing communist views have accused public television of bias, claiming that its political coverage does not provide equal representation to communist viewpoints as it does to the views of the other main parties. However, this seems to result more from the decisions of individual journalists in their coverage rather than from any government influence.

Germany

value 9

Freedom of opinion and the freedom of movement are very highly regarded in Germany, in political terms as well as being a part of the country's Basic Constitutional Law. This can be linked to the country's experience during the period of National Socialism, when the press was consolidated and controlled by the government. Today, Germany's media and press have taken on a kind of watchdog function. This role began in the early years of the Federal Republic, developing in

particular during the 1960s, thanks to the “Spiegel Affair,” into what it is today.

The public media corporations are obliged to be objective and apolitical. Different societal political groups are represented on the Broadcasting Council, which oversees television programs to ensure that they don’t promote particular societal or political groups. However, some experts believe that Germany’s press freedom has declined in recent years. A recent Federal Constitutional Court decision, following a Federal Criminal Police Office inspection of editorial offices belonging to the magazine “Cicero,” is thought to have contributed to this reduction. The German Journalists’ Union and the Reporters Without Borders group have charged repeatedly in recent years that journalists’ rights have been decreased.

Ireland

value 9

The Irish broadcasting and print media are widely acknowledged as being de facto independent of government influence, and Ireland ranks among the top four countries in Reporters without Borders’ 2006 annual press freedom index.

Irish broadcasting regulations divide the media into two components: public service broadcasting and the commercial sector. With regard to public service broadcasting, Irish Radio and Television (RTE) operates two complementary television channels and four radio stations. The provisions of the 1976 Broadcasting Authority (Amendment) Act legally oblige RTE to deliver information on news and current affairs in an impartial manner. RTE’s board, known as the RTE Authority, is comprised of nine government appointees. In the past, the government has clearly sought to influence RTE, for which it sets the licensing fee.

Complaints regarding impartiality in RTE’s coverage are addressed by the Broadcasting Complaints Commission, an independent statutory body established under the Broadcasting Act (2001). Commercial sector broadcasting, on the other hand, is regulated by the Broadcasting Commission of Ireland (BCI), an independent statutory body whose powers and responsibilities are laid out in a range of provisions contained in the Radio and Television Act (1988), the Broadcasting Act (2001) and the Broadcasting (Funding) Act (2003). The BCI was established in 2001 and is responsible both for issuing broadcasting licenses and monitoring to ensure that contractors live up to their statutory obligations (e.g., meeting the requirement that 20 percent of content is devoted to news and current affairs).

With regard to print media, 2006 saw the establishment of a (non-statutory) Irish Press Council and Press Ombudsman, which is meant to deal with complaints and encourage complainants not to resort to legal action. The relative novelty of this institution makes it difficult to evaluate its performance at this point in time.

Luxembourg

value 9

The media’s independence is respected by the government. A generous press subsidy

allows small newspapers to survive. Luxembourg's small market supports six daily newspapers and five weekly magazines, with most of them depending on the press subsidy. Aimed at promoting a pluralistic media landscape, this aid paradoxically benefits the bigger newspapers in particular. Some also allege that the subsidies are an indirect way of influencing the media. Nevertheless, the rules for granting the subsidy are transparent and unanimously accepted. The aid has not sparked any significant controversy since 1992, with the funding of the newly created weekly "Gréngespoun," linked to an environment-focused party.

New Zealand

value 9

The media industry has existed as a free market since the dissolution of the Broadcasting Corporation of New Zealand in 1988. According to the 1986 Commerce Act, restrictions are allowed only with regard to preventing monopolies and safeguarding consumer rights and interests. The government does not interfere with media content, and it respects press freedom. The state-owned broadcasters are managed at arm's length through appointed boards. Privately owned radio stations provide alternative sources of information, but have no constitutional protections. The Press Council deals with complaints about the conduct of newspapers and magazines. In its 2005 report, the council criticized a provision of the Coroners Act of 2006, which restricts the opportunities to report about suicides in the media. The government has defended this restriction on the grounds that it prevents imitation.

Annotation: New Zealand Press Council, "Annual Report 2005," (Wellington: NZ Press Council n.d.),

<http://www.presscouncil.org.nz/articles/NZ%20Press%20Council%20%20AR%202005.pdf> (accessed 2 April 2008).

Portugal

value 9

Portugal's 1976 constitution stipulates that public and private media should be independent from governmental influence. Decree Law 34/97 of January 31, 1997 created the Public Institute for Social Communication (Instituto Publico de Comunicacao Social, or ICS), which regulated and oversaw the general policies regarding freedom of information consistent with the constitution until it was superseded by the Office for Social Communication (Gabinete para os Meios de Comunicacao Social, or GMCS) on June 1, 2007. The GMCS's creation is part of the larger project to reform the state that has been gradually implemented in late 2006 and 2007. A new law (27/2007) from July 30, 2007 deals with access to television and stresses the importance of media independence. The government appoints the board of the publicly owned media company, Rádio and Televisão de Portugal

(RTP). One positive sign that the government does not have undue influence on publicly owned media, however, is the fact that, although the incumbent government changed in 2005, the previously appointed board was kept in place. Furthermore, all appointments must be examined by the ERC, the media's regulatory body. The ERC is itself appointed by a qualified parliamentary majority, which also assures some degree of partisan plurality in its composition. Overall, some controversy about the independence of the publicly owned media, but it has significantly decreased since the 1980s and 1990s.

United Kingdom

value 9

The UK government does not interfere with media content choices and journalistic freedom. It has, however, tried to withhold, distort or spin information – as was the case in the course of the Iraq crisis – and it channels information by selecting journalists with access to unattributed background information.

All British television channels, public and private, are by law required to remain politically neutral. The print media is not similarly regulated, and most national titles tend to align themselves with political parties. As the only public service broadcaster in the United Kingdom, the BBC enjoys a relatively large degree of political independence as regards both rules and practice. Since 2007, the BBC has been overseen by the BBC Trust, which is independent from BBC management and whose members are appointed by the Queen on advice of the prime minister. Private media companies are also independent from government.

It should be noted that the Blair government actively sought to influence the media agenda. Most of these attempts were informal, making it difficult to establish their success. However, government criticism of the BBC, notably for its coverage of the Iraq war in recent years, resulted in resignations at top levels of the BBC and an increased sensitivity to issues of political interference.

Australia

value 8

The government respects the independence of the media, and there is little evidence of undue government influence on opinions expressed in media outlets. Sometimes broadcast and print journalists who are perceived to be supportive of the government are also perceived to have better access to interviews with incumbent ministers. Recent legislative changes to cope with terrorism, such as the 2003 Australia Security Intelligence Act, have created more potential for government interference with journalistic freedom. However, in practice, the principle of freedom of speech is deeply embedded in the country's legal and political culture. Although not entrenched in the constitution, freedom of speech on political matters has been implicitly recognized in a series of High Court judgments since 1992. A strongly

independent and activist press also resists any attempt at interference.

Nevertheless, specific regulations do appear to be influenced by the interests of large media operators regarded as favorably predisposed towards the government. For example, changes to media ownership laws in 2007 did not require any operator to divest itself of existing media assets, despite government claims that the reduction in constraints on cross-media ownership were offset by new requirements for diversity across all media types within each region. The independence of the publicly owned television and radio broadcaster ABC is also somewhat compromised, since it is accountable to a board of directors appointed by the federal government.

Austria

value 8

According to the charter of fundamental laws, the media are to be free of government influence. Nevertheless, the national public broadcasting corporation (ORF), which is the country's primary source for political information, remains highly politicized. By electing the majority of the members of ORF's supervisory board, the incumbent government has the opportunity to influence television and radio news. In 2001, when they were the governing parties, the Austrian People's Party (ÖVP) and the Freedom Party of Austria (FPÖ) seated a directorate with clear sympathies for them. Until it was replaced in 2006, this directorate was highly criticized for having a pro-government bias by opposition parties as well as by leading ORF journalists.

Regarding privately owned print media, government influence is very limited. There is no censorship, and a specific law defines the limits of media freedom due to conflicting principles (e.g., the protection of privacy).

Denmark

value 8

DR (Danmarks Radio) and TV2 are governed by independent boards appointed by the minister of culture, the People's Assembly and their respective employees. Although these circumstances might suggest the possibility of some degree of political influence, no members of the People's Assembly may be board members, and there are laws that seek to ensure that their programming is diverse and presents numerous viewpoints. Nevertheless, to a certain degree, the country has fallen in this category. Whereas Denmark used to receive a top score in the Worldwide Press Freedom Index published by Reporters without Borders, in 2006 Denmark dropped to 19th place. This drop is presumably linked to the violent reactions following a newspaper's 2005 publishing of 12 caricatures depicting the Prophet Mohammed. Reactions included a number of threats against journalists, which necessitated their receiving police protection. At no point did the government question the rights of the newspaper (Jyllands-Posten) to publish the caricatures, and it was ultimately the newspaper that apologized for any offense caused by the publication of the

caricatures. Slightly more problematic for the relationship between the press and the government was the case in which criminal charges were filed against two journalists and the editor in chief of the newspaper *Berlingske Tidende*, which published intelligence reports in 2004 questioning the existence of weapons of mass destruction in Iraq prior to the 2003 US-led invasion of that country. The government was upset by the newspaper's claim that Prime Minister Rasmussen had ignored the intelligence report because he was in favor of supporting and contributing to the invasion. According to Freedom House, this was the first time in Danish history that reporters were indicted for leaking state secrets. The fact that all three employees of the newspaper were acquitted attests to the independence of the Danish judiciary.

Spain

value 8

The government has by and large respected the independence of private media in the period under analysis, in the sense that the government has not taken advantage of loopholes or other regulatory means to unduly punish or favor any private outlet. With public media, particularly radio and certainly television, the Zapatero government has dramatically changed some of the institutional rules that in the last 30 years had cemented public media's chronic political dependence on government. The current government gave from the start very clear signs of respecting the professional expertise and supporting journalistic freedoms. In 2006, a new law (*Ley de la Radio y la Televisión de Titularidad Pública Estatal*) allowed the director of national public television to be appointed by the Congress of Deputies and accountable to MPs, and not to the government.

During the previous legislative term under the PP government, the media situation developed to such critical depths that public broadcaster RTVE was declared guilty by the courts for manipulation of the news. There was a lot of pressure from civic organizations and journalist associations to make state television more independent.

France

value 7

Freedom of the press also dates back to the French Revolution and the Declaration of Human and Civil Rights, drafted in 1789. It was not until 1984, through a Constitutional Court decision, that press freedom was actually given constitutional status. The media in France is free and independent. In reality, however, it appears that this general principle is limited. Politicians' direct and indirect influence or control over the media occurs in various ways. There is a discernable level of dependence resulting from the financial support and tax reductions offered by the French government to national newspapers and major news agencies, including the *Agence France-Presse*.

As in other European countries, the concentration of media corporations in Paris is conducive to the varying level of reciprocal dependence between politics and the media. While the direct effect of politics on the media was particularly evident

during the presidencies of the 1960s and 1970s, this has changed somewhat in recent times. The presidential election battle, which occurred at the time of writing in France, shows that President Nicolas Sarkozy can rely on the support of the main opinion-leading editorial houses to shape public opinion.

Iceland

value 7

In general, the government respects the independence of the media. However, the laws on electronic and printed media do not provide clear protection for media companies from government influence. In the last two decades there have been huge changes in the media market. The state and political parties controlled all the major media until about 20 years ago. Since then, privately owned media have gained momentum and are now major players in the media market. This change has resulted in a highly diversified media market for a small country like Iceland. The government still occasionally attempts to influence the media, but risks alienating public opinion as a result.

Japan

value 7

All media except the semi-public NHK are basically independent from the government. However, the editorials of the leading daily newspapers are usually not very critical. A major reason is that membership in press clubs and the fear of endangering access to exclusive private information keeps the leading dailies' reporting rather tame. Thus, exposure of scandals or personal attacks on government personnel are extremely rare. Relationships between the political, bureaucratic and media elites also mute critical coverage.

The television market boasts many broadcasters. The most politically relevant is the semi-public NHK, which enjoys considerable formal freedom, but is also subject to considerable informal influence, based on mechanisms similar to those noted above. In late 2006, controversy rose over a government attempt to order NHK's international program to focus on abductees in North Korea. Such orders are formally allowed under special circumstances, but this law has rarely, if ever, been invoked before. Usually, influence is achieved under the informal and nontransparent "administrative guidance" framework. After considerable opposition, the government changed its "order" into a "request." Still, the issue was seen as a trial balloon for exerting more political influence over broadcasters, and a new law was contemplated for 2007. This said, Japanese citizens are very heavy media users, and have substantial choice. While private TV channels do not concentrate on politics, there are alternatives to NHK's tame political analysis. Online news sources have further expanded these options.

Mexico

value 7

Mexican media organizations are mostly private, but often depend on the national or state governments for advertising revenue. In some states, the withholding of advertising funds has been used as a means of putting pressure on independent media. The end of the Institutional Revolutionary Party (PRI) regime meant a significant change in government's traditional influence over political media content. Professionalization among journalists and a public demand for unbiased information have also been forces leading to a less biased provision of political information. Many media outlets criticize the government and attempt to provide a broad range of information. It is probably safe to say that national newspapers and magazines and a larger number of local newspapers act with clear independence from the government. The relationship between government and the national electronic media may be better described as one of "accommodation." Media companies retain their independence, but may grant specific favors under specific circumstances. However, especially at the subnational level, governments often still restrict media freedom.

Slovakia

value 7

Article 26 of the constitution, the Press Act and the Act on Broadcasting and Retransmission guarantee media freedom. Since the end of communism, independent councils elected by parliament have supervised Slovak Television (STV) and Slovak Radio Broadcasting (SRo). The election of directors has been highly politicized, with the position of the director of the Radio Council remaining vacant for six months in 2005/06. During its time in office, the Dzurinda government refrained from openly intervening in the media. There is, however, some evidence of self-censorship occurring in both public and private media that can in part be attributed to the legal provisions on libel. Journalists can be easily accused of defamation and slander, which are treated as criminal offenses. The Dzurinda government made frequent use of this option. Since the 2006 change in government, the laws regulating STV and SRo have been amended to effectively lower the required quorum for electing general directors from a two-thirds majority to an absolute majority of all members of supervisory organs. The change in voting rules, which had been prepared by the Dzurinda government, was aimed at preventing future vacancies at the top of the public media, but is likely instead to compromise their independence.

The Fico government openly criticizes the media for being hostile to the government. Its verbal attacks have raised some concerns about journalists being intimidated and government intervention in the media.

Annotation: The score lies outside the range of the expert scores. The qualitative assessments, as well as comparative considerations, suggest a lower score.

South Korea

value 7

Freedom of opinion and of the press are constitutionally guaranteed. These freedoms are also respected in practice, the major exception again concerning activities in favor of North Korea (real or construed). The National Security Law (NSL) is used from time to time to prosecute persons advocating positions that are seen as favoring the country's northern communist neighbor (and thus undermining the legitimacy of South Korea and its policies). The media's ability to gather information on government activities is also circumscribed by the system of press clubs attached to the various ministries. Media organizations that are too critical of government actions can be excluded from individual press clubs.

Although media independence was largely respected by President Roh Moo-hyun's government (replaced by Lee Myung-bak in early 2008), there were some unsuccessful government attempts to curb the power of the big newspapers, which were very critical of the government and openly supported the conservative opposition party.

In addition, Roh's administration adopted a new media policy in May 2007, closing reporters' facilities at the ministries and consolidating these instead into three briefing centers. The media strongly defied these measures, criticizing them as an anti-democratic measure limiting access to information on national governance. In fact, this measure aimed at changing journalists' longstanding reporting practices, but may wind up limiting reporters' access to government officials as well.

The Korea Broadcasting Commission (KBC) is the principal agency regulating the electronic media. It operates independently of the government. The KBC is tasked with guaranteeing broadcasting freedom, while at the same time implementing regulations preventing broadcasters from misusing their rights. However, the KBC suffers from many weaknesses and problems in terms of its legal status. In the past, it has played a controversial role in fining broadcasters for "indecent" programs or a failure to "respect the values of the family."

Greece

value 6

The freedoms of opinion and of the press have been constitutionally guaranteed since Greece's transition to democracy in 1974. However, successive Greek governments have exercised some influence over the public TV and radio corporation (ERT AE), which is owned and run by the state. The corporation's management is appointed by the incumbent government, including its president, the general director and the board of trustees. The result is that state-run TV and radio stations heavily reflect the priorities and opinions of the incumbent government. This is evident in the selection of news items, the time allocated to different pieces of news, and the focus on

government policy initiatives. Until the late 1980s, when the media sector was liberalized, domination of the media by the incumbent government was complete and comprehensive. Since then there has been some progress, with the publicly owned media regularly presenting the opinions and reactions of opposition parties. Nevertheless, today's protections against potential government influence remain insufficient.

Italy

value 6

The state of affairs in Italy's media structure is mixed. The government in office (or rather, the parliamentary majority) is generally able to influence somewhat the public television sector (which represents almost half of the media market), especially in terms of the selection of managers and news directors.

In this way, the government assures coverage generally more favorable to its aims. However, the main news programs tend to be careful in providing equal airtime for all parties, even smaller ones. As for private TV (which carries about the same weight as public TV), the main networks are owned by the leader of the center-right coalition and are much more directly influenced by center-right politics. Major newspapers show more independence from government and from other political parties. Reporters Without Borders ranked Italy in its 2006 Press Freedom Index in the fortieth position, one legacy of the previous Berlusconi government (2001-2006). This ranking is justified because of the dependency of not just executive personnel but also of journalists from public national broadcaster RAI on the goodwill of Berlusconi during his premiership. Acknowledging the central role television plays in communicating with and informing Italian society, nearly every government tries to install in key media positions executives who are in favor of the government's program. Thus RAI appears to be just another prize for the winning coalition in general elections.

The same is true for Mediaset under the former Berlusconi government. Under the second governing coalition of Romano Prodi (2006-2008), the media situation changed. One might stereotypically judge the RAI as government-dependent or friendly, while viewing Mediaset as independent from or hostile to the government. There are of course exceptions in both TV companies, and journalists that espouse contrary political views are often tolerated.

Hungary

value 5

The independence of the media from government is limited. The existing control mechanisms, most notably the National Radio and Television Board (ORTT), have not prevented the government from exercising control over the publicly funded electronic media. The prevailing political polarization has worked more broadly in

favor of a politicization of the media. Government control of the media has been helped by the fact that public TV and radio stations do not have stable revenues, but are dependent upon annual budgetary allocations.

The government has also tried to influence media reporting by instrumentalizing the privatization of print media and the licensing of broadcasters, by removing chief news editors, by distributing state subsidies on the basis of political affiliation, and by favoring loyal media outlets when releasing public information. Government influence over the public media has partly been balanced by the more pluralist private media.

Annotation: The score given here is lower than the range given by the expert scores in part due to comparative considerations, but also because the qualitative assessments of the experts reveal a substantial degree of government intervention in the media.

Turkey

value 5

Government influence over state-owned media (national television and radio) has always been problematic in Turkey. According to several constitutional articles, Turkish media should operate freely and independently, and such freedoms can only be restricted by law. However, financial ties between the government and media through company privatization, public procurement, concessions, privileges and royalties raise questions over media independence.

The Supreme Board of Radio and Television, mainly because of the procedure with which the Grand National Assembly selects its members, is far from complying with legal provisions in guaranteeing “impartial” and “fair” broadcasts. The government also appoints the general director of the Radio and Television Institute of Turkey, an institution which governs public broadcasts. Overall, the government’s tutelage over the administration of the public media is relatively secure.

The government has no direct control over privately owned media; harsh criticisms of the ruling party, its officials and policies appear daily in print and on the air. Government influence over private media is more indirect, and it is commonly asserted (although rarely proven) that this influence includes the awarding of government contracts or the conducting of extraordinarily detailed financial audits, among other measures.

Poland

value 4

The 1997 constitution guarantees the freedom of the press and of opinion. However, Polish governments have always tried to influence the media, and this attempted

influence increased under the PiS government. By changing the rules over the membership selection of the National Council of Radio and Television, the PiS government effectively limited the independence of public TV and radio stations. The government's 49 percent ownership share allowed it to directly interfere in the personnel policies of the newspaper Rzeczpospolita, one of the two top nationwide dailies. The paper's editor-in-chief was installed by Prime Minister Jarosław Kaczyński. In view of such government intervention, the NGO Reporters Without Borders has identified Poland in both 2005 and 2006 as a European Union member state that holds the least respect for press freedom. However, government influence on the public media is balanced by an independent private media, which claims a large market share.

Annotation: Reporters Without Borders, "Worldwide Press Freedom Index 2006," http://www.rsf.org/IMG/pdf/cm2006_eu-3.pdf (accessed June 16, 2007).

Indicator **Media pluralism**

Question **Does the structure of media ownership ensure a pluralism of opinion?**

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = Diversified ownership and an impartial public media ensure diverse opinion.*
- 8-6 = Private media is diverse, but sometimes biased. Public media compensates.*
- 5-3 = Print or electronic media is oligopolistic. Diversity of opinion is not well protected.*
- 2-1 = Print and electronic media is oligopolistic. Most programming is biased.*

Denmark

value 9

The public media (Danmarks Radio and TV2) are independent and have editorial freedom. When it comes to the private media, and particularly the newspapers, there has been a trend toward increased media concentration. Moreover, the newspapers with the largest circulations tend to be rather liberal-conservative in political orientation. Nevertheless, while more left-wing views tend to be underrepresented in the editorial pages, the main newspapers regularly include letters to the editor that do not represent the general political leanings of the newspaper.

If the newspapers were to not give voice to this wide range of views, there would most likely be a certain degree of public pressure to do so. Furthermore, the reporting in most newspapers tends to be fairly wide-ranging and diverse. Thus, in practice, there is a high degree of pluralism of opinions in the Danish press. Apart from a handful of papers with national distribution (e.g., Berlingske Tidende, Politiken, Jyllands-Posten, B.T., Ekstra Bladet and Information), there are also still a number of local newspapers.

Finland

value 9

Finland has a large variety of newspapers and magazines. In 2005, a total of 200 newspapers were published, 32 of which were dailies. In earlier times, many newspapers were financially and ideologically connected to political parties. This has now changed, and by 1998, independent newspapers represented 95 percent of total circulation. As a rule, newspapers are privately owned but publicly subsidized; the ownership structure is therefore diversified in nature. Although some of the main newspapers are owned by a single media concern, this does not push the contents in one or another political direction. Regional newspapers retain a strong position, thus

providing great variety of print media both at the national and the regional level.

In 2004, the parliament liberalized a media law that had placed restrictions on Internet publishers and service providers. The Finnish News Agency is an independent national news agent, providing real-time and comprehensive news service. The national broadcasting company, Yleisradio, operates several national and regional television and radio channels, and supplies a broad range of information online. Although state-owned and controlled by a parliamentary council, Yleisradio is generally viewed as unbiased. Yleisradio is complemented by several private broadcasting companies.

Germany

value 9

Germany does not have a capital city or single dominant media market comparable to Paris or London. The media industry in Germany is characterized by territorial diversity, with multiple media centers such as Hamburg and Munich.

There is a discernible concentration in ownership structures within the country, with a few private media groups taking dominant roles at the head of the market. The large public TV broadcasters ARD and ZDF, and the private stations RTL, Pro Sieben and SAT 1, together reach more than 90 percent of German television viewers. Various institutions such as the Interstate Treaty on Broadcasting and Telemedia and the German Commission on Concentration in the Media ensure that no media corporation can obtain a dominant, monopolistic position. Each individual media group remains below the threshold of a 30 percent market share.

In January 2006, the proposed merger of the Axel Springer and Pro Sieben media groups was prevented by the Federal Cartel Office and the Commission on Concentration in the Media. The merger of a powerful editorial house and a TV broadcaster would have led to an unacceptable concentration of power, and a reduction in Germany's media plurality. Large editorial houses such as Bertelsmann/Gruner and Jahr, together with the Bauer publishing house, Burda and Springer, own a high percentage of the most popular magazines.

Norway

value 9

The state broadcast channels control dominant shares of the country's TV and radio audiences. There are two private radio and TV channels. The government does not interfere with the daily activity of the private stations, but monitors to ensure they comply with their contractual obligations, which include broadcasting throughout the entire country.

The government regulates television or radio signal broadcasters. The stated goal of this regulation is to guarantee quality and national coverage. Cable TV is essentially

unregulated beyond the effect of general laws (e.g., pornography laws).

Newspapers operate entirely independently and express a plurality of views. Norway is the country with the highest per capita newspaper circulation in the world. The two largest newspapers (Verdens Gang and Aftenposten) are owned by the same private company, Schibsted, which is publicly listed. The owner does not currently exercise any significant influence on the views expressed in these newspapers (in contrast, Aftenposten had a clear right-wing affiliation up until 20 years ago).

The concentration of ownership has not, so far, been perceived as a threat to the plurality of media. However, private ownership is becoming increasingly oligopolistic across print and broadcast media. Although there is a tradition of nonintervention by owners in editorial matters, the print media as a body has at critical junctures become politically biased rather than balanced. Broadband Internet is widely used and accessible all over the country.

Portugal

value 9

The media market in Portugal is characterized by a diversified ownership structure. An open public media guarantees a plurality of opinions. There is both public and private ownership of television and radio networks in Portugal. However, with the exception of a very few regional newspapers, the printed media are almost exclusively private. Although there has been increased ownership concentration, no single party, social interest or even media group has succeeded in dominating the media landscape.

There are four main media groups in addition to the public TV and radio networks (which had roughly 30 percent of the television market in 2007) and one independent newspaper. Although the major national newspapers (e.g., the right-of-center “Diario de Noticias” and the left-of-center “O Publico”) expound roughly identifiable political views, they still provide predominantly fair and balanced coverage of the different political positions. As far as private ownership is concerned, one of the three national networks is controlled by Impresa, a group that also owns both the largest weekly newspaper and magazine. The other private national television network is owned by Prisa, a Spanish group that also owns one of the main radio stations. A third group, Controlinveste, owns three of the main daily newspapers and a radio network. Finally, a fourth group (Cofina) controls the other main daily newspaper and the second-largest weekly magazine. All these groups are also taking positions in the increasingly large market of freely distributed daily newspapers.

On the other hand, it is difficult to objectively detect and document the political-partisan orientations assumed by each of these groups’ publications. As far as the press is concerned, the relatively small newspaper readership has prevented the press from blatantly catering to partisan audiences. With television and radio, increasing concern about the balanced coverage of the public networks has led the private networks to maintain relatively balanced coverage themselves. This does not mean

that it is impossible to detect pro- or anti-governmental biases in each publication or network, but the situation is quite different from that found, for example, in the Italian, British or even Spanish markets. In those markets, partisan political biases (or even open endorsements) are quite obvious in particular media outlets, sometimes in the press and at other times on television.

Switzerland

value 9

Most electronic media organizations in Switzerland are publicly owned. Private television stations play only a small role in the country's media landscape. However, a number of foreign radio and television stations can be received in Switzerland, contributing to the country's media plurality. The country has a high number of private newspapers, comprising a highly decentralized system of regional competition, but a recent tendency toward centralization has weakened the regional newspaper markets.

United States

value 9

Although the media market is overwhelmingly private, pluralism and diversity characterize the American media landscape. Only the over-the-air media are regulated by the Federal Communications Commission (FCC). The commission has a mandate to control ownership concentration and, to a certain extent, program diversity. Since the mid-1990s, ownership restrictions have been relaxed, which has led to increased consolidation in the radio market.

The question of ownership structure in the U.S. news media is complex. On one hand, a handful of enormous media conglomerates (e.g., News Corporation, Viacom, Time Warner) own a large proportion of the media outlets, and relaxed antitrust policies have allowed the extraordinary growth of these corporations. On the other hand, with local newspapers, television and radio stations, multiple national cable TV networks and free Internet access to the content of multiple newspapers and wire services, citizens in any given media market have access to at least several major alternative sources of national news. A typical citizen undoubtedly has more choices between separately owned news outlets than has ever been the case before.

Some of the recent concentration of the metropolitan newspaper market has been reversed by investors selling newspapers to private equity funds. Non-advertisement-revenue-based stations are the network of National Public Radio (NPR) and of the Public Broadcasting Service (PBS). Public funding has been decreasing steadily and must be replaced by contributions from listeners, viewers and sponsorship funds. The network of public stations makes programming available in all parts of the country. Shortcomings with respect to diversity of viewpoints reflect the tendency of all news outlets to appeal to audience tastes and interests and to represent the discourse that occurs among political elites in a two-party political system.

Ireland

value 8

The ownership structure of the Irish media is reasonably diversified and characterized by a considerable pluralism of opinions, and the Broadcasting Commission of Ireland (BCI) and the Competitions Authority provide regulatory control to guarantee that this pluralism is maintained.

RTE is the dominant player in the Irish media landscape with two principal TV channels and four national radio licenses, although it does face significant competition in both fields. As far as television is concerned, national competition is primarily provided by TV3 (owned by a consortium in which ITV plc is the major shareholder) and, more recently, by Channel 6 (a digital entertainment channel owned by Liberty Global).

In terms of radio broadcasting, RTE faces competition on a national level from Today FM and Newstalk 106. While these stations are currently separately owned (by EMAP and Communicorp, respectively), Communicorp has successfully completed a bid for several EMAP stations, including Today FM early in 2008.

In addition to competition from national stations, RTE faces competition from commercially owned local stations, which are estimated to draw approximately 56 percent of the national listenership. The radio market currently appears to be moving toward increased consolidation, with Communicorp seeking to dominate Dublin's local market. The BCI and the Competition Authority requested, however, that Communicorp sell Dublin's most prominent radio program (FM104) before it was allowed to take control of two other Dublin radio stations in late 2007.

With regard to the print media market, the largest presence is the Independent News and Media plc., which operates the best-selling daily (Irish Independent) and Sunday (Sunday Independent) newspapers as well as either owning or controlling large stakes in several other major newspapers and in multiple local publications. Nevertheless, there is still significant competition in this area, with the Irish Times Trust publishing the Irish Times, and Thomas Crosbie Holdings publishing the Irish Examiner, the Sunday Business Post and multiple local papers. Furthermore, several British-based newspapers publish Irish editions.

Netherlands

value 8

On the face of it, the Netherlands has a substantial and well-diversified array of media outlets. There is, however, an underlying concentration of media ownership structures. The newspaper market is dominated by three publishers – Telegraaf Media Groep (TMG), the Koninklijke Wegener en PCM Holding and TMC – which together hold an over-75-percent share of the market in roughly equal proportions.

The television market is likewise dominated by three networks: RTL Nederland (part

of the RTL Group), SBS Netherlands and the public broadcasting network NOS. These conglomerates have a combined market share of approximately 75 percent.

NOS is a strong player in the radio market as well, where it holds a market share of almost 30 percent. The biggest commercial players in radio are Sky Radio Ltd. and the Talpa Media Holding, which command a combined share of one-third of the market. The rest of the market is divided among smaller regional broadcasters.

News agencies also play an important role in providing diversity, but concentration processes are shrinking their number. Large news agencies, such as the Algemene Nederlands Persbureau (ANP), the Dutch national news agency, are increasingly becoming the editorial “back offices” of editorial “front offices,” which seem to be independent. As a result, it can be argued that players such as ANP are, due to no intent of their own, acquiring more power over information without being recognized as unintended information oligopolists.

Annotation: The Commissariaat voor de Media (Dutch Media Authority), “Concentratie en pluriformiteit van de nederlandse media 2005,”

<http://www.mediamonitor.nl/dsresource?objectid=320&type=org> (accessed February 28, 2008).

Sweden

value 8

The media sector can be divided into public and private parts. The public media entail two TV channels and radio stations, and there are two TV channels run by private consortia. Over the last 20 years, there has been a process of privatization that has led to is the emergence of a media oligopoly.

About 65 percent of Sweden’s daily newspapers are privately owned, about 15 percent are owned by foundations, and about 20 percent are owned by organizations. The privately owned media have traditionally had only a few owners, among which the Bonnier family is dominant. This family’s policy has been not to interfere in determining what should or should not be published, as they are aware of the potential – and sometimes loud – criticism of media concentration.

Another private owner with large media interests is the Stenbeck family and the investment company Investment AB Kinnevik, which particularly expanded their share of the media market in the 1990s. As already noted, there is also substantial state ownership in radio and television through state owned foundations.

There is very little media interference from both private owners and the state.

Australia

value 7

The mass media in Australia have traditionally been highly concentrated in two companies, the Fairfax Group, which publishes the main daily newspapers in Sydney and Melbourne, and News Corporation, which publishes the only national daily. These companies also have significant interests in television and radio, apart from the publicly funded ABC. Within each capital city, there are at most two significant newspaper publishers, three private free-to-air television operators, and two dominant radio broadcast operators excluding the public one. Prior to April 2007, restrictions on cross-media ownership were the prime policy instrument for promoting diversity. Extensive media regulation laws prohibited a single company from controlling more than one media source within a single market, as well as limiting foreign ownership of mass-media outlets.

In April 2007, restrictions on cross-media ownership were reduced, allowing ownership of two of the three major media types within each capital city. Offsetting this relaxation to some extent were new (but quite weak) requirements of diversity of ownership in all media forms combined, within any given regional market. Few effects of these legislative changes have been evident to date.

Despite the concentration of the media, mass media outlets display a range of political opinions and views. This is not only a consequence of the division between the commercial and publicly funded media and the cross-media and foreign ownership laws, but also of the fact that the major media companies are publicly listed, and their priority is to return value to their shareholders rather than to promote any political view.

Belgium

value 7

The media market has been drastically centralized. Ownership among a small number of financial groups has produced a situation nearing an oligopoly. The media group Corelio, as one example, publishes 10 newspapers with a market share of about 30 percent. While oligopolistic trends prevail, a wide range of opinions is de facto guaranteed in print.

The country's TV market was liberalized in the late 1980s. Within a few years, private broadcasters VTM in Flanders (owned by Flemish media enterprise VMMA, which also owns another TV channel and two radio channels) and RTL-TVi in Wallonia (owned by RTL) became the most-viewed stations in their respective linguistic communities.

While there are trends toward further market concentration, for a small country like Belgium there is still a wide variety of different media viewpoints. It is a concern, however, that there are only weak institutional guarantees against the predominance of some opinions over others. While the current situation is one of solid pluralism, this state of affairs remains institutionally vulnerable.

Canada

value 7

At the national level, Canada's media ownership structure ensures a plurality of opinions. There are at least four or five major private media companies, including Quebecor, Canwest, CTVglobemedia and Rogers, which complement the public services offered by the CBC. The CRTC's tendency to favor small and local media when it licenses new radio and television stations has had a positive impact on the overall level of media plurality. Things look slightly different at the provincial level, however, where a comparatively high level of ownership concentration undermines media plurality. This is partly due to the rather limited size of markets resulting from broad swaths of sparsely populated areas.

Czech Republic

value 7

Media ownership in the Czech Republic is relatively concentrated. Two public and two private stations compete in the television market. There is an ongoing political and public debate about the digitalization of TV broadcasting, which would presumably lead to further liberalization of the market. The strongest opponent of digitalization to date has been the major private station, TV Nova. A relatively small number of foreign companies own the majority of Czech print media sources. Three of the major papers are owned by different companies, while one – *Právo* – belongs to an employee-owned Czech company. These papers cover most of the political spectrum, and there is an independently published paper for communists as well. One foreign company controls all the regional dailies, which publish much of the same material supplemented by distinct local news. Most of the weeklies, which have much smaller circulations, are independent and not owned by large, foreign publishing companies. Foreign ownership is generally associated with a pro-business orientation, but it does not otherwise affect editorial content. In general, the foreign owners seem to have little interest in – or understanding of – Czech affairs. While providing financial stability, they tend to give journalists free reign to find the direction they want.

Although it is apparently freer of business influence, *Právo*'s heavy dependence on advertising revenue leads it to avoid criticizing major companies. Thus, despite the existence of pluralism in media ownership, the most important elements of the print media tend to be rather cautious. This is less true when it comes to the growing body of independent, Internet-based news providers, which includes daily publications pursuing investigative journalism and challenging the conventional interpretation of events. In 2005, 32 percent of the Czech population used the Internet, particularly the young and better-educated.

Hungary

value 7

The ownership structure of the Hungarian media favors a pluralism of opinions. The influence of the main public TV station, Magyar Televízió, has substantially declined and is balanced by two main nationwide commercial stations, TV2 and RTL Klub. Both are foreign-owned, were awarded by public tenders and are obliged to meet certain standards. Moreover, two TV channels have close links to political parties: Hír TV with the Hungarian Civic Alliance (Fidesz), the major opposition party, and ATV with the Alliance of Free Democrats (SzDSz), the smaller party in government. The radio sector is likewise characterized by a plurality of providers. The national newspapers, most of them foreign-owned, usually show a political bias, with a rough balance of left- and right-wing papers. Local newspapers are largely owned by small Hungarian ventures. Media pluralism thus is not endangered by the lack of a diversified ownership structure, but by the strong political polarization.

Japan

value 7

The Japanese media can be characterized as an oligopoly with a fairly large number of less popular alternatives at the fringes. In the print press, the leading dailies are Yomiuri, Asahi and Mainichi, followed by the business-oriented Nikkei and Sankei, all distributing several million copies per day. Regionally, there are contenders like Chunichi in Nagoya, the country's third-largest region. Among weeklies, some are associated with dailies, like Weekly Yomiuri, while others are independent. While basically oligopolistic, this structure offers enough diversity to give citizens considerable choice.

The leading television networks are Nippon TV, TV Asahi, Tokyo Broadcasting, TV Tokyo and Fuji TV. They are associated with the leading daily newspapers listed above, in the same order. Apart from these, the quasi-governmental service NHK broadcasts various channels. Media laws block ownership of more than 20 percent of a region's broadcast assets, restricting the dominance of any single network company. In 2006, policymakers began discussing a loosening of these restrictions, and an acceptance of holding companies, however. Newspapers and TV channels have launched online services rather reluctantly. The Internet also offers "citizen journalist" services such as JanJan, which can be critical of the government, but their success remains limited.

New Zealand

value 7

The national print press market is dominated by four Australian companies. One of these companies, John Fairfax Holdings, controls papers representing nearly half the

nation's daily circulation as of 2007, and the two main competitors control another 43 percent. This small ownership base may subtly constrain the range of opinions expressed. As for radio stations, the public Radio New Zealand is the only nationwide provider. However, there are about 150 commercial local radio stations.

In the television market, the public stations TV One and TV2 face two main private competitors: TV 3, owned by MediaWorks (which is itself majority-owned by the Australian Ironbridge Capital), and Prime Television, owned by News Corporation. Furthermore, there is one private supplier for pay television, Sky Network Television, which is closely linked with News Corporation. Internet-based communication, including live video streaming of parliamentary sessions, is expected to widen the scope of programming. The government has made a commitment to free-to-air satellite, digital television and radio broadcasting.

Poland

value 7

As 50 percent of all Poles regularly watch public station TVP (Telewizja Polska), Poland is a European country where public television claims the highest market share. However, the overall ownership structure of Polish media is quite diversified, with private electronic and print media often compensating for biases or deficiencies in public media. The influence of public television is balanced by a number of private stations; radio and print offer a pluralism of providers. The role of foreign capital has grown in private media. Media mogul Rupert Murdoch has invested in TV Puls, a television channel that offers programming on Catholic issues; Germany's Axel Springer owns a majority stake in television station Polsat; and German publishing house Bauer purchased media group Broker FM, which owns radio station RMF, the Polish radio market leader. German media companies also own several daily and weekly newspapers (Newsweek Polska and Fakt) in addition to women's magazines. Foreign owners have largely refrained from intervening in the internal structure, hiring policies or political direction of Polish media.

Slovakia

value 7

Media pluralism in Slovakia is facilitated by a diversified ownership structure. Slovak TV, with two channels, competes with three private television stations (TV Markíza, TV Joj, TA3) belonging to two different owners. On the radio market, public radio (Sro) has five channels that coexist with roughly ten national private radio stations and a number of local and regional stations. The market leaders are the private radio station Expres and Radio Slovensko, and the first channel of Slovak Radio, with each accounting for roughly one-fifth of all listeners.

Print media also show a diversified ownership structure. All of the main dailies, weeklies and journals are in the hands of foreign owners (i.e., Ringier, Daily Mail

and General Trust, Petit Press, Handelsblatt). Although the Anti-Monopoly Office is technically charged with monitoring the media market, the market is nontransparent due to legislative shortcomings. The shrinking number of newspapers and regional and local stations constitutes a further problem as the transparency and media coverage of local politics has decreased.

Spain

value 7

With regard to media ownership in Spain there is a tendency toward higher levels of concentration among a few giant media groups. However, there is enough diversification of media ownership to guarantee a pluralism of opinions, partly due to the strength of some regional media groups, such as Grupo Godó (owner of La Vanguardia), Vocento (Grupo Correo, owner of El Correo, ABC and Telecinco), Grupo Moll-Prensa Ibérica (owner of many regional newspapers) and Grupo Joly (the first media group in Andalusia).

For newspapers, the picture is dominated by the contradictory influence of the simultaneous growth of new outlets and media concentration, led by some of the existing major corporations. Among the main national TV channels the competition is fierce. Spanish Television, Antena 3 and Tele 5 use to change positions in audience ratings, with each roughly sharing between 20 and 23 percent of television viewers. In 2005, a new law enlarged the number of so-called generalist national channels to six, liberalized cable television and began the transition to digital television with 13 new channels, a number that will increase to 18 channels within two years. The radio market is dominated by three groups: PRISA (with the popular and influential station la SER); Radio Popular (with la COPE); and Uniprex (with Onda Cero). Public radio should also be added to this group. These stations as of 2007 shared 49.9 percent of the Spain's radio listeners..

United Kingdom

value 7

The UK print media is characterized by a strong concentration of ownership. Four companies dominate 87 percent of the national press market and a few corporations – often led by prominent individuals – control most of the large UK newspapers. Permitted to take strong political positions, the print media occasionally campaigns outright for certain issues. Its oligopolistic structure thus serves to impede media pluralism. For example, Murdoch-owned papers have been vocal in expressing euroskepticism. Nevertheless, (economic) competition is fierce and facilitates a pluralism of opinions.

The television market has three important players – the BBC, ITV and Channel 4. The public broadcasting system (BBC) competes with a highly concentrated private sector that has demonstrated little competition since the merger of the TV companies

Carlton and Granada. Pay TV, too, is dominated by only a few companies, namely BSkyB and the two cable companies, NTL and Telewest. A new free-of-charge competitor, Freeview, has emerged since 2002.

Annotation: The final score given for this indicator is higher than those provided by the experts in consideration of the fact that the United Kingdom has one of the most pluralistic media systems of all countries surveyed. Although ownership structures are rather oligopolistic, this should not obscure the fact that products from the same owner may express varied and strong differences. Particularly in comparison with all other OECD countries, the score of eight given here is plausible.

France

value 6

The media in France covers a broad spectrum. There are more than 1,800 radio stations and no fewer than six television channels with programs that reach approximately 75 percent of the French population. A particular feature of the French media system is its oligopolistic structure, a result of the presence of financially strong industrial groups such as the Dassault Group and Suez, which own many forms of media, including a newspaper. Experts are nonetheless quick to point out that there have not been any burdensome restrictions on France's pluralistic media. In contrast, experts have highlighted that more discernible restrictions are caused by the strong concentration of media in Paris and the bipolarity (government vs. opposition) created by the media and its reporting.

Luxembourg

value 6

Given the small size of the country it is rather difficult to provide a fair assessment of ownership structures and the resulting media pluralism. Most newspapers are very closely related to a political party, and the market is dominated by "d'Wort," a paper close to the Catholic Church and the allied Christian Social People's Party (CSV). "D'Wort" is stronger than all its competitors combined. A similar imbalance can be found in the broadcasting sector, with RTL as the dominant player. While both markets are strongly oligopolistic, the press and broadcast markets in combination give Luxembourg's media landscape a reasonable amount of competition and diversity.

Austria

value 5

Austria has a concentrated media system, with neither the electronic nor the print media sectors having a diversified ownership structure. While media pluralism characterized by a broad variety of opinions and interests does exist, this concentration has caused a certain uneasiness.

In print media, the market is dominated by the "Neue Kronen Zeitung," which was

read by 43.8 percent of all newspaper readers in 2006. The paper is partly owned by Mediaprint, which controls most daily papers and also holds a monopoly in the political magazines sector.

In electronic media, the state monopolies regarding radio and television broadcasting were lifted in 1998 and 2001, respectively. Despite its loss of its former terrestrial-broadcast monopoly, the national public broadcasting corporation (ORF) still dominates the market and, consequently, political information. This dominant position, however, is starting to be challenged, especially by German TV stations, since the liberalization of the electronic market has led to greater access to foreign programs.

Greece

value 5

Since 1989, all kinds of private media have grown, including national, regional and local television and radio channels. There are approximately 18 TV stations broadcasting nationally, along with a large and unverifiable number of regional and local TV and radio stations. Private TV broadcasters attract larger advertising revenues and audiences than do their public counterparts. The media landscape's dominant players are the two private channels, Ant1 (with a 19.4 percent audience share) and Mega (with an 18.5 percent audience share). Together, this pair dominated audience shares and advertisement revenues in 2005, with Mega attracting 30.3 percent of broadcast ad dollars, and Ant1 trailing closely at 29.7 percent.

Approximately 20 daily newspapers, all published in Athens, have nationwide circulation, but the readership of newspapers has been falling over the last twenty years. The newspaper market, as measured by circulation, is dominated by a handful of media businesses. These same businesses also own shares in TV and radio stations capable of broadcasting nationwide, as well as subsidiaries involved in calls for public tenders. The result is a quasi-oligopolistic situation which provides considerable opportunity for private interests to influence the government, including providing good or bad publicity for the incumbent government depending on the way it allocates public contracts to the media-affiliated companies.

The National Council for Radio and Television, which is in charge of safeguarding objectivity and quality in the media, does not have the human or technical resources to monitor the situation adequately, and does not have strong political support.

Iceland

value 5

Media ownership in Iceland can be divided into three groups, two owned by the private market and one by the government. The government runs one of the two largest television stations in Iceland, and two of the largest radio stations. The

biggest media organizations can be criticized for indirectly favoring certain opinions through their selection of staff and coverage. There is a tendency to hire staff that favors certain opinions, and some issues are not covered for reasons that seem to be political, or because they are inconvenient for the elite or media owners. Until 1986, television broadcasting was exclusively in private hands. Before 1983, there was no TV broadcasting allowed in July, and until 1987 no TV was broadcast on Thursdays. However, that has changed dramatically. Today the private media market is only lightly regulated.

Italy

value 5

The ownership structure in the TV sector inhibits pluralism. Together privately owned Mediaset and state-owned RAI control as much as 90 percent of the national TV market. This situation is why the TV market could be described as oligopolistic – or in this special case, duopolistic.

The existence of four or five major newspaper owners plus a number of other smaller holdings and of a quasi-duopolistic TV ownership structure (one state-owned public TV group, one major private outfit plus a few smaller operations) produces a situation that while not perfect, does allow for a wide range of opinions. If the TV sector experiences excessive influence from the government when the center-right is in office, it appears more balanced when the center-left is in power.

In any case, newspapers offer a more balanced scope of coverage (with perhaps a slight bias for the center-left). Associations (such as employers' association Confindustria) and nearly all political parties own media groups, which are mostly built around traditional newspapers. These media groups gradually are adopting new information channels such as radio and online, but because of the status quo in the TV sector, entering this key market is nearly impossible.

Thus, because of the exceptionally strong position of television in Italy as a main information source, the variety of private radio stations, newspapers and magazines still can't counterbalance the TV duopoly. There is media pluralism for the intellectual elite, a group which is able to choose its mix of information, but not for the general populace.

Mexico

value 5

The print media in Mexico is diverse and thus is an important source of pluralist political information. About 10 newspapers have national coverage, while more than 200 have a regional or local reach. All of the important newspapers are privately owned, with only a minority directly aligned with political parties. Broadcast media companies are also mostly private, but are significantly more concentrated in the hands of a few families, with an oligopolistic market structure. The two main

television companies, Televisa and Azteca, reach more than 95 percent of Mexico's television viewers. However, the most obvious use of oligopoly power is more commercial than political.

In 2006, the dominant media companies persuaded the National Congress to vote for a law that reinforced their existing commercial advantages. There was an implicit threat that political parties which did not support the law might have to face more hostile media coverage as a result – a particularly daunting prospect, as 2006 was a closely fought election year. The Supreme Court of Justice in the end rejected part of the new law.

South Korea

value 5

The print media is structured in an oligopolistic way. The three major newspapers – Chosun Ilbo, Donga Ilbo, and Joong Ang Ilbo – control around 70 percent of the market. All three newspapers are family owned, and tend to represent a strong conservative ideology. Staff editorial freedom is limited, while the role of these newspapers on public opinion formation is considerable. However, pluralism has increased with the rise of Internet media. Recently some Internet-based publications have successfully challenged the “traditional” big media, extending the subjects and contents covered by the media as a whole.

The three major TV stations – KBS, MBC, and SBS – are politically more balanced in their reporting. KBS is a public TV channel that is independent from the government but relies on government subsidies, as well as on advertisements, for funding. MBC and SBS receive no subsidies and are exclusively financed by advertisements. While they are politically more diverse than the print media, Korean TV stations' diversity nevertheless falls within a very narrow political and cultural mainstream. They are not particularly good at nurturing a more discursive political process by presenting and discussing many different opinions. Dissent and discussion of different opinions is often seen as negative and “disruptive to harmony.” Korean media programming also centers mainly on domestic issues, lacking substantial coverage of other countries and international events, which further limits the scope of the political discussion.

Foreign ownership of Korean media is not allowed, but foreign channels can be viewed over cable and satellite TV, and foreign newspapers are available.

Turkey

value 5

The ownership of private media is highly concentrated, as some 85 percent of all newspapers, magazines and important TV and radio stations are owned by four big companies. Ownership of so-called religious media, however, is more distributed. The strongest outlet in this sector is Fethullah Gulen, which owns a number of

television and radio stations as well as a newspaper. Other mainstream media groups are much smaller. There are a number of independent television stations, and some stations promote viewpoints that could be deemed nationalistic. Therefore, it is fair to say that all political viewpoints find some voice in the media, but there are no institutional guarantees to prevent the predominance of certain political opinions in media coverage.

Often media ownership is regarded as a convenient instrument in influencing political or public actors to the benefit of a holding company's primary economic interests. Dogan-Holding, which owns and operates three of the six largest newspapers in Turkey, controls at the same time the country's largest petrochemical conglomerate; Ciner-Holding, which publishes Sabah, one of Turkey's daily newspapers, is a big player in the energy sector.

Indicator Access to government information

Question To what extent can citizens obtain official government information?

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = Access to information is regulated and easy, with few restrictions and effective oversight.*
- 8-6 = Bureaucracy sometimes complicates access. Appeal process works well.*
- 5-3 = Bureaucracy and restrictions complicate access. Appeals are largely ineffective.*
- 2-1 = Many restrictions exist. Enforcement mechanisms are ineffective.*

Finland

value 10

In accordance with the Finnish constitution, every Finnish citizen has the right of access to public documents and recordings. This right implies access to documents and recordings in the possession of authorities, unless their publication has been legally restricted for compelling reasons. However, several special categories are exempt from release, including documents that relate to foreign affairs, criminal investigations, the police or security forces, or military intelligence. Such documents are usually kept secret for 25 years, unless otherwise provided by law.

The Act on the Openness of Government Activities (1999) stipulates that persons asking for information are not required to provide reasons for their request. Official responses to requests must be made within 14 days. If a request is denied, appeals can be made to a higher authority and then to an administrative court. The Office of the Chancellor of Justice and the Ombudsman of Parliament can also review the appeal. The Council of Europe's Group of States Against Corruption (GRECO) committee noted in 2004 that the policy of openness and electronic access is a key reason for low levels of corruption in Finland.

Netherlands

value 10

Article 110 of the constitution and the Government Information (Public Access) Act (WOB, or "Wet Openbaar Bestuur") guarantee access to government information. Under the WOB, any individual may demand information – either in writing or orally – related to an administrative matter if the information is contained in documents held by either public authorities or companies contracted to perform work for a public authority. The authority or company has two weeks to issue a response.

According to the act, advisory committee recommendations must also be made

public within four weeks. Moreover, the act demands so-called “active publicity,” meaning that the government must take the initiative in providing the public with information regarding the policies it pursues and their results and that this information be easily understandable for the average citizen.

Information must be withheld if releasing it could endanger the unity of the Crown, damage the security of the state, or if it relates to information on companies and manufacturing processes that were provided in confidence. Information can also be withheld “if its importance does not outweigh” the imperatives of international relations and the economic or financial interest of the state. Withholding is also allowed if the release of the information would endanger the investigation of criminal offenses, inspections by public authorities, personal privacy and the prevention of disproportionate advantage or disadvantage to a natural or legal person. In documents created for internal consultation, personal opinions shall not be disclosed except in anonymous form when it is “in the interests of effective democratic governance.”

According to experts, the WOB is only lightly used. There are approximately 1,000 requests each year, most of which are filed by newspapers. Appeals regarding the non-availability of certain pieces of information can be made internally and then forwarded to an administrative court with final say over the matter. The courts hear an estimated 150 cases regarding denied information requests each year.

The Personal Data Protection Act, which is overseen and enforced by the Data Protection Authority, allows individuals to obtain and correct personal information held about them by public and private bodies.

Annotation: Freedom Info Org, “The Netherlands,”

<http://www.freedominfo.org/countries/netherlands.htm> (accessed June 28, 2008)

Norway

value 10

Norway’s constitution was amended in October 2004 to include a specific right of access to documents, and the right to attend court proceedings and meetings.

The Freedom of Information Act of 1970 gives every person a broad right of access to official documents held by public authorities. Official documents are defined as information which is recorded and can be listened to, displayed or transferred and which is either created by the authority and dispatched or has been received by the authority.

All records are indexed at the time of creation or receipt and some ministries make the electronic indexes available on the Internet or through e-mail. Requests can be made in any form (even anonymously) and must be responded to immediately. Internal guidelines issued by the Ministry of Justice say that requests should be responded to within three days.

Documents can be exempted from release if they are made secret by another law or if they refer to national security, national defense or international relations, financial management, the minutes of the State Council, appointments or protections in the civil service, regulatory or control measures, test answers, annual fiscal budgets or long-term budgets, or photographs of persons entered in a personal data register. If access is denied, individuals can appeal to a higher authority and then to parliament's Ombudsman for Public Administration, or to a court. The Ombudsman's decisions are not binding but are generally followed. There have been very few court cases dealing with this issue.

The 1998 Security Act sets rules on classification of information. It creates four levels of classification and mandates that information cannot be classified for more than 30 years. The Act on Defense Secrets prohibits the disclosure of military secrets by government officials and also the collection (in the form of sketches, photographs and notes) and disclosure of secrets by others, including journalists. Articles 90 and 91 of the criminal code criminalize the disclosure of secrets, and provide for imprisonment of up to ten years).

Sweden

value 10

The principle of official transparency has a long history in Swedish law. Sweden enacted the world's first Freedom of Information Act in 1766, and it is now one of the four laws serving as the foundation of the Swedish constitution. According to the act's specific rules, public authorities must respond immediately to requests for official documents.

Requests can be made either orally or in writing and may be anonymous. Each authority is required to keep a register of all official documents, and most official indices are accessible to the public. For example, under this system, even ordinary citizens may go to the Prime Minister's Office and view copies of all of his or her official correspondence.

Denmark

value 9

Danes enjoy very good access to government information. This applies not only to accessibility via open and public sources (e.g., the Internet), but also to the possibilities that individual citizens have for obtaining both general and person-specific information from government entities.

Denmark's Act on Public Access to Documents in Administrative Files guarantees that all citizens enjoy a right of access to documents prepared by any public body in the process of handling given cases or matters. This right is also extended to individuals under 18 and foreigners legally residing in Denmark, and it is only restricted by issues of secrecy. However, in cases involving individuals, the involved

party has special rights of access to such information. There are well-defined rules defining this access, and it is also possible to file a complaint against a public institution, if a request for access is denied.

At the same time, there are a number of special laws that spell out exemptions from this principle of open access, and bureaucratic habits – or simple ignorance about the existence of the freedom of information act – occasionally impede access to requested information. In practice, there is a substantial burden on a person requesting information in that they must specify the particular documents they would like to have access to. Such a requirement naturally presupposes substantial prior knowledge of the particular case and the working procedures of the administration. In 2002, the Ministry of Justice formed a commission charged with drafting a new law, but this had still not taken place by the end of 2007.

New Zealand

value 9

The Official Information Act of 1982 (which has been reviewed several times), in combination with the 1987 Local Government Official Information and Meetings Act regulates access to government information. Both acts are founded on the principle that information must be made available unless there is good reason for withholding it. Information deemed sensitive in terms of international relations, national security or the national interest is excluded. Furthermore, some information can be kept confidential in order to protect individual privacy or commercial secrets.

The legislation is intended to promote ministerial accountability, respect for the law and good government, and public participation in the making and administration of laws and policies. There are statutory time limits for delivering information requested under the legislation. If information is withheld, the decision can be appealed to the Office of the Ombudsmen, which reports to Parliament. Following a number of precedent-setting decisions by the Office of the Ombudsmen in recent years, access to official information is now far reaching, including politically sensitive communication between political advisers and ministers, as soon as this communication is held by the ministry concerned. One consequence of these decisions, of course, is that ministers and public servants now anticipate the possible disclosure of communication.

Switzerland

value 9

Switzerland's government and administration operate under a very transparent information policy. The federal law on administrative transparency, which came into force in 2004, grants every citizen the right of access to official documents and to information on state authorities. Authorities must answer inquiries within 20 days. If a request is refused, a citizen can seek redress from the Federal Delegate for Data

Protection. However, this law's applicability is partially limited, as it does not apply to official documents concerning civil or criminal law processes, documents relating to foreign policy, or political party dossiers relating to administrative disputes.

United States

value 9

The United States has a strong Freedom of Information Act (FOIA). Exceptions to the requirements of disclosure are narrow and specific, and decisions to withhold are subject to effective appeals processes. As a result, government officials are often compelled to release information that they have sought to keep secret. By law, the executive branch audits classification practices so as to prevent the unlawful use of security exceptions to disclosure requirements. There are, however, intrinsic difficulties in implementing and enforcing such regimes, as citizens cannot demand the release of documents that they do not know to exist. Government officials dissemble about the existence of information and resist disclosure, imposing delays and legal costs on parties seeking information.

In 2007, a controversy arose over the constitutionally questionable claim by the office of Vice President Dick Cheney that it is not part of the executive branch and, consequently, not subject to the auditing of its classification practices. Beginning shortly after the 9/11 attacks, the Bush administration ran a large-scale secret program of warrantless surveillance (i.e., without judicial supervision). The existence of this program was revealed only as the result of a leak by a government official to the New York Times.

Austria

value 8

According to the Austrian constitution and other laws at both the federal and state level, public authorities are obliged to provide citizens with information concerning all matters within their realm of responsibility. Access to information is only limited by secrecy provisions related to public security, defense, international relations and the economic or financial interests of the government. Inquiries must be answered within eight weeks, and citizens can appeal against a denied request.

Belgium

value 8

Access to government information is guaranteed per Article 32 of the Belgian constitution. A law passed in 1994 regulates in more detail a citizen's right of access to administrative documents held by federal public authorities. According to the law, government agencies must respond to a request within 30 days of its filing. No substantive information need be given if 1) the public interest, such as on issues of

national defense, is deemed more important, 2) an individual's rights are more important, 3) a document is vague, misleading or incomplete, or related to an opinion given on a confidential basis, or 4) the request is abusive or vague. Citizens can appeal requests that are denied.

Practically, the main hurdle for citizens in successfully retrieving information is identifying the correct source of information amid the institutional complexity of the Belgian federal system. Many citizens seeking information are unaware of which authority should be addressed. Another access limitation is that documents sometimes are available only either in Dutch or French, especially when related to community issues. However, the majority of documents produced by and for federal institutions is available in both languages, as well as in German.

Canada

value 8

The 1983 Access to Information Act (ATIA) recognizes the right of Canadian citizens and permanent residents to apply for and obtain records from government institutions. The act contains a guarantee that materials will be released within 30 days after the request has been made. Information can be restricted for several reasons, such as when the information: was obtained in confidence from a foreign government, international organization, provincial, municipal or regional government; is sensitive for reasons related to national defense, legal investigations or trade secrets; includes personal information protected by the Privacy Act; or is designated "cabinet confidences." However, Subsection 2(1) of the act states that decisions regarding the disclosure of government documents should be reviewed independently of the government. In addition to the federal act, each province has its own freedom of information and privacy act, which applies to provincial and municipal governments.

The position of an "access to information commissioner" was created in 1983 along with the ATIA. The commissioner acts effectively as an ombudsman, investigating complaints by those who feel they have been denied rights under the ATIA. The commissioner wins the majority of the cases against the federal government, which suggests that the federal government occasionally aims to delay the release of controversial information. While the commissioner must investigate complaints, can issue recommendations, and can file a case with the Supreme Court of Canada, he or she cannot enforce binding orders.

Czech Republic

value 8

The Czech constitution guarantees the right to information and requires public bodies to provide information to the public. A 1998 law on environmental matters and the 1999 Law on Free Access to Information spelled out further specification on access

to government information. However, a 2005 report by the U.N. Economic Commission for Europe identified a number of access-related deficiencies, including: conflicts between the laws on access to information and the Administrative Procedures Act; poor compliance with court orders for the release of information; slow and ineffective court reviews; and the failure of government officials to release information (UN ECE, 2005). In response to this report, amendments were made to the legislation in 2006. Courts can now order public bodies to release information rather than returning requests to them for further review, fees are now largely limited to direct costs, and exemptions are now only allowed so as to prevent the release of information deemed personal and trade secrets relating to publicly funded activities.

Problems have nevertheless persisted. For example, some public bodies have provided only partial answers to requests or used arguments of commercial secrecy or confidentiality to deny access to information. Others have stalled requests by requiring unnecessary information from those who have filed requests. Some regional and local authorities have claimed to be exempt from the law until being told by central authorities to comply. Until a January 2007 ruling by the Constitutional Court confirmed that they were also subject to the law, a number of publicly owned companies also resisted revealing information. The president's office similarly claimed exemption until a court ruled against its position in July 2007.

Annotation:UN Economic Commission for Europe, 2005: Implementation Report Czech Republic. ECE/MP.PP/2005/18/Add.6

<http://www.unece.org/env/documents/2005/pp/ece/ece.mp.pp.2005.18.add.6.e.pdf> (accessed on January 5, 2008).

Germany

value 8

In 2006, Germany's Freedom of Information Law came into force. This domestic law, implementing an EU regulation, obliges Germany's state authorities to provide citizens with official information and documents when asked. During the first year following the law's implementation, only 2200 requests for official information were made by journalists and citizens. There are certain exceptions contained in the legislation, especially in cases when information and data concerning persons is requested. Critics argue that the service's high fees hinder the process, dissuading many citizens from requesting information.

Hungary

value 8

Hungarian citizens enjoy far-reaching access to government information. Legal foundations for these rights were laid with the 1992 Act on the Protection of

Personal Data and the Free Access to Data of Public Interest. The 2004 Act on the General Rules of Administrative Procedures and the 2005 Act on Information Freedom have further modernized the provisions.

Public bodies are obliged to maintain Web pages with statutorily defined content, and to publish information on their activities regularly. They also must provide appropriate access to information of public interest. Requests for such data must be addressed by administrators within 15 days of receipt, and any refusal to supply such information must be communicated to the applicant within eight days, together with an explanation. Whenever a request for information is denied, the applicant can file for a review by the commissioner for data protection or file a court case. In practice, public bodies do not always meet their legal obligations as they sometimes fail to address requests within the deadlines set by law.

Ireland

value 8

Ireland's Freedom of Information (FOI) Act was passed in 1997 and enacted in 1998. The act entitles individuals to request any record held by a public body. The act includes a list of the bodies it covers and empowers the minister of finance to add additional public bodies to the list. The act does not, however, apply to the Garda Síochána (Ireland's national police service), the Health and Safety Authority, the Central Bank, the Financial Services Authority, the Irish Financial Services Regulatory Authority or the National Treasury Management Agency.

In her 2007 report, the information commissioner criticized the exclusion of the police force from the act's provisions, noting that Ireland was the only member of the Council of Europe whose police force is excluded from the provisions of the country's FOI legislation.

There are also a number of other restrictions on access to information. Requests may be declined: if they fail either "public interest" or "harm" criteria; if they relate to information or records involved in a deliberative process, investigations or audits; if their release may interfere with the performance of government functions or negotiations; or in cases where disclosure would prejudice law enforcement, security, defense or international affairs. The 2003 Freedom of Information (Amendment) Act heightened these restrictions somewhat by allowing civil servants to prevent access by issuing certificates as well as by weakening the public interest criterion.

With regard to appeal mechanisms for declined information requests, a public body's denial of a FOI request may be appealed to the Information Commissioner's Office, whose ultimate decision on the appeal is legally binding. There has been a general decline in the number of applications since the 2003 introduction of a fee structure. The number of decisions appealed as a percentage of applications made has remained steady at about 2 percent during the period under review. Between 2005 and 2007, decisions on approximately 75 percent of appeals affirmed original

decisions.

Italy

value 8

Membership to the European Community initially forced Italy to pass a law regarding the accessibility of government information. The Italian constitution also lists in article 97 some general provisions for good public administration.

Access to administrative documents is possible but limited to cases in which an individual can show that the request represents a general public interest. Requests can be written or verbal. Public bodies must respond within 30 days, but can delay the release of information if doing so would “prevent or severely impede the performance of administrative action.” Information relating to state secrets, fiscal procedures, policy development or the rights of third parties is excluded. Information relating to national defense, international relations, monetary policy, public order and crime prevention, personal privacy or professional secrets can be withheld but must be given when such information is necessary to defend an individual’s or the public’s legal interests. Non-disclosure must generally be justified in terms of “concrete damage” to the public interest, but laws also state that access may be denied if there is a threat of specific and identifiable damage to national security and defense or to international relations; if there is a danger of damaging monetary or foreign exchange policy; and if the information relates to the enforcement of laws or the privacy and confidentiality of individuals, legal persons, groups, enterprises or associations. Mechanisms for appeal include an ombudsman (Difensore civico), a committee (Commissione per l’accesso) and the right to appeal to the courts, typically a regional administrative court. The decision of the court can then be appealed to the Council of State.

Luxembourg

value 8

Luxembourg does not as yet have a freedom of information act, but does have a well-developed e-government strategy, by which the government attempts to make as much information as possible available over the Internet. Still, the type of information provided by individual parts of the government bureaucracy differs widely. A forerunner and role model in this respect is the government’s Press and Information Service. However, if specific information is needed, the most effective and efficient way is still to file a query with a member of the Chamber of Deputies. Every year, legislators put 600 to 700 such questions directly to ministers. Luxembourg has signed the United Nations’ Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, thus mandating open access to information in at least this one policy field.

Mexico

value 8

The right to access public information made a major leap forward in the last administration but still has a good way to go. One of the first acts of the Vicente Fox government in 2001 was to add this right to the country's constitution. Article 6 now protects the manifestation and expression of ideas from prosecution and grants the right of access to information to citizens. In 2002 the corresponding law was enacted, creating the Federal Institute of Access to Public Information (IFAI), with full operative autonomy. The law mandates that all executive offices have to provide full access to information.

The IFAI oversees the law's enforcement, and can issue a judgment when any office refuses any petition. The law established a "principle of maximum disclosure" that essentially reversed the state's traditional approach to the disclosure of official information. Despite these achievements, de facto access to information is still partly unsatisfactory. Most executive-branch officers in charge of information access still try to protect their institution by withholding information, according to an IFAI survey published in October 2007.

Poland

value 8

Article 61 of the 1997 constitution provides for a citizen's right to information. The details of the article were specified in a law over the access to public information, approved September 2001. This law gives Polish citizens the right to demand access to public information, data or assets that are either held by public bodies, private bodies that exercise public tasks, trade unions or political parties. The requests can be verbal or written and have to be addressed by the authorities within 14 days. The only exemptions are information deemed a state secret; confidential information which is protected by a specific law; or information that could infringe personal privacy or business secrets. If access is denied, citizens can appeal to the administration and, later on, in court. Since such rights are not widely known, citizens have so far made little use of them. If citizens do pursue information, requests to public bodies are often answered too late. The civil rights commissioner has called for greater transparency, arguing that a citizen's right to information should be given priority over protecting the privacy of public officials.

Portugal

value 8

Legislation ensuring access to information in Portugal is very advanced. Such access is defined as a constitutional right, and legislation allows all individuals access to a large range of administrative documents and guarantees them a quick response by the state. The 1993 Law of Access to Administrative Documents (LADA) allows any individual to demand, by means of a written request, access to administrative

documents held by state authorities, public institutions and local authorities in any form. Government bodies are required to respond in no more than 10 days after receipt of a request. However, the law does not apply to documents not drawn up for an administrative activity, such as those relating to meetings of the Council of Ministers (Portugal's cabinet) and secretaries of state, or personal notes and sketches. There is some difference between the law as written and the law in action, particularly when it comes to delays in the provision of documents. However, such delays – and even downright refusals – can be appealed to the Commission of Access to Administrative Documents. The commission handles several hundred such appeals each year. Its rulings are issued relatively quickly (e.g., there were 310 decisions issued in 2006) and complied with.

At a more general level, significant efforts have been made to make information about all levels and dimensions of state activity available by electronic means. In Brown University's e-government ranking, Portugal moved from 41st to seventh place in the list of best practices at this level in the world from 2006 to 2007. Efforts made by the tax authorities have been particularly successful, as they have managed to transfer many of the services previously provided only in person to an Internet Web site.

Slovakia

value 8

The constitution provides for a general right of access to information and a specific right of access to environmental information. In May 2000, the Act on Free Access to Information was approved, guaranteeing the right of any person or organization to demand information held by state agencies, municipalities and private organizations making public decisions. The body must respond no later than 10 days after receipt of the request and must keep a registry of requests.

Subsequent legal changes have been ambivalent. On the one hand, an amendment to the act on administrative proceedings, effective as of November 2004, has further strengthened a citizen's right of access to information. All authorities must post details of their decisions on the Internet or an accessible notice board. The amendment requires authorities to inform the public about everything that could constitute a "subject of public interest." Citizens have the right to appeal to higher administrative levels and appeals can be reviewed by a court. On the other hand, a new Act on Protecting Classified Information, which went into effect in May 2004, gave public bodies greater scope in classifying information. In practice, the provisions work rather well. Thanks to the activities of NGOs, the legal requirements are widely respected. Occasional violations of the law are publicized, and there is a "competition" for the most outrageous case of not providing requested information. Usually this "reward" goes to local self-governments. A number of court cases show that the mechanisms for appeal work as well.

Australia

value 7

The Freedom of Information Act of 1982 gives all Australians the right of access to information held by the federal government and its authorities. Agencies are required to publish information about their operations and powers insofar as they affect the public. They must provide access to documents that are not specifically exempted. However, Parliament can decide that specific documents should be kept confidential in order to protect essential public interests or private or business affairs.

If a request for information is denied, the agency responsible must identify the documents withheld, give written reasons for the decision and provide a notification explaining the right to appeal. If appeals to the agency are fruitless, they may then be taken to an independent tribunal or Commonwealth ombudsman, and finally to the Federal Court. There is a moderate application fee for requests and a slightly higher additional fee for an internal review of a decision.

There has been criticism of delays in gaining access to documentation, of the large number of exemptions available to government, and of the costs and time involved in appealing decisions. In 2006, the High Court of Australia set a precedent which allowed public requests for information to be denied on the basis of very broad claims of potential harm, upholding then-federal Treasurer Peter Costello's assertion that he could legally withhold information about the application of tax laws because disclosure might undermine the "confidentiality of decision-making" of government officials. In a minority opinion opposing the finding, Chief Justice Murray Gleeson and Justice Michael Kirby argued that "by allowing claims of official confidentiality to trump the rights of applicants, the government could effectively bar all public access to information held by the executive."

Annotation: Australian Government, Attorney-General's Department, Freedom of Information, http://www.ag.gov.au/www/agd/agd.nsf/page/Freedom_of_Information (accessed December 3, 2007).

freedominfo.org, "Australia: High Court Sides with Bureaucrats, Rolling Back Right to Information," <http://www.freedominfo.org/news/20060907.htm> (accessed December 3, 2007).

France

value 7

In France, during the 1970s, European and U.S. models led to the development of legal provisions relating to public access to government information. French regulations do not reach as far as do laws in the United States, however. Although a general reference is provided in the Statute of 1978, there have been recurrent cases in which authorities have relied on confidentiality clauses to prevent access to documents.

Newly formed institutions such as CNIL (Commission nationale de l'informatique et des libertés) and CADA (Commission d'accès aux documents administratifs) help to ensure that citizens can obtain information from authorities; in reality it is predominantly academics that exercise this right. Despite the development of these organizations, waiting times for documents are still very lengthy (as much as 18 months) and often documents are restricted by authorities and held as "secret" without credible explanation. Nevertheless, the development of new technology, such as e-government and e-administration, has increased the possibility and outlets for citizens to obtain important information.

Iceland

value 7

The Information Act was adopted in 1996 and went into effect in 1997. Under this regulation, citizens' right to access official information is guaranteed, with few restrictions. Memoranda, working documents and materials relating to ministerial meetings and meetings of the Council of State or the cabinet are exempted from the act's provisions. That has led to accusations that documents are mislabeled specifically in order to keep them inaccessible.

The act does not apply to correspondence prepared for court proceedings, job applications, registrations, enforcement proceedings, property attachments, injunctions, sales in execution, moratoriums on debts, compositions, liquidations, divisions of estates at death and other official divisions, or investigation and prosecution documents used in criminal cases.

Information regarding security, state defense, and international commercial activities is similarly exempted. Sensitive financial and personal information as described in the Personal Data Act is not accessible unless by permission of the person involved. Access to restricted information is available once the law is passed or after a period of 30 years for general information, or 80 years for information relating to individuals. The denial of a request for information can be appealed to the Information Committee, whose members are appointed by the prime minister. No other government or judicial body can overrule the decisions of the Information Committee.

In comparison to other Nordic countries, which have a very long tradition of free access to government information, Iceland's Information Act came into force only in 1997. Even following the act's passage, journalists have sometimes been denied access to information.

Japan

value 7

A freedom of information act was passed by Japan's Diet in 1999 and has been in effect since 2001. Public bodies (now including quasi-public corporations) must

respond to requests for information within 30 days. The number of requests has climbed considerably since the law's passage, reaching nearly 100,000 in 2004. However, various areas of exemptions remain, including information on national security, confidential business matters, and information on specific individuals. Some 70 percent of requests for information on individual persons are said to have been denied, and this holds for public officials in particular. The head of each specific agency has considerable discretion in such cases, without the possibility of an internal appeal. Citizens can appeal denials to an Information Disclosure Review Board, headed by a retired Tokyo High Court presiding judge, or to district court.

Another problem is high fees, although these were halved in April 2006. Costs depend on the number and size of files supplied, with single pages costing 10 to 20 yen, so costs in complex cases can easily escalate. The whole process is subject to administrative review, with yearly evaluations of the law's enforcement status performed.

South Korea

value 7

The Act on Disclosure of Information by Public Agencies went into effect in January 1998, and was revised in 2004. This act contains legal regulations enabling ordinary citizens to access government information and to request information held by public agencies. The act does not apply to information collected or created by agencies that handle issues of national security.

There are eight categories of discretionary exemptions: secrets as defined in other acts; information that could harm national security, defense, unification or diplomatic relations; information that would substantially harm individuals, property or public safety; information on the prevention and investigation of crime; information on audits, inspections, or similar activities that would substantially hamper the performance of government bodies; personal information about an individual; trade secrets that would substantially harm commercial or public interests; and information that would harm individuals if disclosed, such as details about real estate speculation or hoarding of goods.

However, this type of information can be released once the passage of time has reduced its sensitivity. Unfortunately, in practice the government has often been reluctant to publish information. The country's Supreme Court ruled in October 2004 that the military could not withhold information on the 1979 coup and the 1980 democratic uprising.

The Ministry of Government Administration is in charge of oversight and planning for the disclosure of information act, and can inspect and review the activities of state agencies. Reviews have found problems with frequent improper denials of requests, the failure of government agencies to publish lists of available documents, and a general disregard and lack of enforcement of the law.

United Kingdom

value 7

The Freedom of Information (FOI) Act, which went into effect in 2005, created a statutory right of access to recorded information held across the public sector. There are, however, limits to the FOI when: openness is deemed to cause more harm to the public interest than good; the cost of compliance exceeds an appropriate limit; information is available by other means or related to security matters; the United Kingdom's international relations or its economic and financial interests are at stake. If access is denied, the authority must justify why a certain exemption applies. In such a case, appeals can be made to the Information Commissioner's Office, which can issue information and enforcement notices enforceable in court (i.e., complainants cannot take direct legal action).

There are some indications that the government is rather restrictive in its handling of information provision, and that civil servants accustomed to a secretive tradition inhibit FOI implementation by dragging their feet. Internet-based information on government activities is good and serves to facilitate open government.

Greece

value 6

Under Greece's constitution, each citizen is entitled to free access to information. This freedom of information is regulated by law, with some exemptions and restrictions. However, in practice the very dense and often contradictory nature of Greek legislation, the inefficient daily functioning of the Greek public services, and legal exemptions and restrictions limit citizens' access to information. Some restrictions, as in cases where free access may violate the right to privacy, can be absolute. Others, as in the case of classified information pertaining to defense or national security matters, are relative.

The right to privacy of individual persons (e.g., political officials) has been used by authorities to block access to information which should otherwise have been part of the public domain. Parliamentary committees, the courts and the state Ombudsman all provide mechanisms for appeal and oversight. However, the high cost of lawyers' fees, the slow pace of Greece's state apparatus, and the very slow speed with which justice is administered probably render these mechanisms ineffective.

Turkey

value 6

A law governing a citizen's right to information has been in effect since 2004. It grants citizens, legal bodies and foreigners the right to access government information, with the principle of reciprocity spared. Government bureaucracy is obliged to respond to requests in 15 working days. If information is withheld for any

reason, appeals can be made to a Review Board in charge of information access.

The Board's decisions can be subject to appeal at the administrative court level. Non-performance may be sanctioned per the country's penalty law. As of June 2005, government ministries were in compliance with the new law. However, the list of exemptions to the law is both extensive and vaguely defined. Many public records fall out of the scope of the law, such as state secrets (or confidential state information), information on intelligence and issues of national interest or individual privacy. Most public offices over which the law is applied maintain a group which deals with requests for information.

Additionally, general methods in addressing access to government information have yet to be settled. The judiciary is in general unfamiliar with the law and its ramifications, the definition of state secrets is still in flux, and the Review Board still needs to establish and publish basic guidelines to assist in the law's interpretation.

There are two large hurdles to the proper functioning of the law. One, the Review Board lacks a Web site; and two, the Turkish penalty law effectively sanctions state officers for the divulgence of "state secrets," yet there is no guidance on what exactly determines a state secret. The total number of applicants requesting information from public institutions by the end of 2006 practically doubled, totaling 864,616.

Spain

value 5

Citizen access to government information is outlined in the 1978 constitution; however, bureaucratic procedures and ineffective oversight mechanisms make access to government information extremely difficult and despite legal developments after 1978, accessibility is still inadequate. A 1990 EU Access to Environmental Information Directive set the framework for compliance with the constitutional provision, and in 1992 a law on the rules and procedures of public administration finally established some general guidelines.

These rules are quite restrictive, however. Information on procedures, registers and records held at any public agency, and information on requirements and on the identification of personnel in charge of procedures are subject to a number of general categories and can be overruled, or subject to yet another set of circumstances assessed by civil servants. Agencies must respond to requests for information within three months, and denials can be appealed. A number of laws and decrees, many in direct response to European Commission directives, have both reinforced the rights and enlarged the range of issues and activities on which citizens may obtain official information from public agencies. Yet their actual results appear largely unsatisfactory.

Firstly, the 1992 law that established the requirement that state administration provide an answer to all citizen requests is systematically broken: a report showed that 61percent of citizens' requests submitted in 2005 received no reply. Secondly, the legally specified period for a state response is too long (two months) to be

practical. Thirdly, there are no efficient procedures to manage applications, and administration behavior to requests is unsystematic, if they reply at all. The 2006 Spanish ombudsman's report reflects hundreds of cases of different organs and levels of the state administration that have not replied to the ombudsman's requests for information. In 2005, the European Commission initiated a process of legal action against Spain for failing to implement the 2003 EU directive on access to environmental information.

This report is part of the Sustainable Governance Indicators 2009 project, which assesses and compares the reform capacities of the OECD member states.

More on the SGI 2009 at www.sgi-network.org

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