



Organization of
American States
More rights for more people

Department
of International
Law
Secretariat for Legal Affairs

WEBINAR
“THE RIGHT OF ACCESS TO PUBLIC INFORMATION
IN THE AMERICAS: MEASURES AND INITIATIVES
TO FACE COVID-19”

MAY 18, 2020

SUMMARY OF CONCLUSIONS

I. ACTIVE TRANSPARENCY AS AN ESSENTIAL COMPONENT OF ACTIONS UNDERTAKEN BY THE GOVERNMENTS TO FACE THE PANDEMIC.

DR. GABRIEL DELPIAZZO
EXECUTIVE COUNCIL CHAIRMAN,
UNIT FOR ACCESS TO PUBLIC INFORMATION, URUGUAY

- The state of emergency may justify the attribution of extraordinary powers to the State, enabling it to take the necessary measures to alleviate the crisis, but this calls for greater control, more guarantees and an intensification of the duties of transparency as a counterpart. Therefore, transparency must emerge during a state of emergency as a guarantee of good governance and protection of the right of access to public information and other rights.
- The proposed Inter-American Model Law on Access to Information 2.0 broadens the concept of active transparency, placing the emphasis where it should be, on citizens and their needs for access to information, and above all, on the most vulnerable sectors. In this sense, the Model Law 2.0 takes a qualitative leap by establishing that public bodies, when designing their publication schemes, incorporate objectives such as attending to the most relevant needs of useful knowledge, minimizing the need for individuals to request information by proactively disseminating it and promoting equal opportunities for all sectors of the population.
- The pandemic has revealed five main challenges in terms of active transparency as a guarantee: i) respect for the privacy of personal data related to health, which, being sensitive, must always be protected in a way that preserves the identity of the person; ii) when disclosing information, care must be taken not to incur unnecessary stigmatization of the person; iii) reject the temptation to misinform or over inform, or give partial or potentially confusing information to the population, disseminating instead clear, concise, timely and true information; iv) timely disclose relevant and reliable information as a vaccine against *fake news* and information gaps that sometimes, when authorities are silent, fill the void in social networks; and v) not to confuse active transparency with official propaganda because the first focuses on what the citizen needs to know, while the latter is based on what the government wants to say.

II. MEASURES TAKEN AND BEST PRACTICES.

DR. EDUARDO LUNA CERVANTES
DIRECTOR GENERAL OF TRANSPARENCY, ACCESS TO PUBLIC INFORMATION
AND PROTECTION OF PERSONAL DATA,
MINISTRY OF JUSTICE AND HUMAN RIGHTS, PERU

- In the context of a pandemic in which public administrations have reduced their activities to a minimum and some fundamental rights have been restricted, the right of access to public information should not be subject to suspension.
- In the event that there are factual impediments to providing the service in person, the authorities that have the ability to work remotely and have virtual channels in place for receiving requests for access to information, must process and satisfy them remotely to the extent possible.
- The abundance of information about the pandemic forces the State to redouble its efforts for active transparency to offer the population updated, detailed and complete information, including information on direct subsidies that the State provides to citizens. The challenge is that in much of the region, the health infrastructure delivers fragmented information, their computer systems do not always intercommunicate, and sometimes the information is collected manually. All these factors complicate the work of the State, so a strengthening of health services and the implementation of the digital transformation of the State could undoubtedly yield a better result if a similar situation arose in the future.

III. LOOKING AHEAD: ACCESS TO PUBLIC INFORMATION AND THE SEQUELS OF THE PANDEMIC.

DR. ADRIÁN ALCALÁ,
SECRETARY OF ACCESS TO PUBLIC INFORMATION
NATIONAL INSTITUTE FOR TRANSPARENCY, ACCESS TO INFORMATION
AND PROTECTION OF PERSONAL DATA (INAI), MEXICO

In the context of an emergency or pandemic, it is important that relevant public information is made available to the public in open data format and translated into indigenous languages or those that reflect the cultural diversity of each country to ensure that it reaches all those who need it, in addition to allowing everyone to process it to build useful public knowledge.

The use of mobile applications and active transparency initiatives put information in the hands of citizens and allow for citizen control of public management, especially as related to those resources destined to alleviate the consequences of the pandemic.

INAI has compiled and categorized all the requests for information related to COVID 19 to create a microsite on the Internet, as an effort of active transparency, and in coordination with health authorities and other obligated subjects, it seeks to respond and proactively disseminate those which address to topics of greater interest and the most frequent queries made by the general population.

IV. FINAL COMMENTS AND GENERAL INSIGHTS ON THE RIGHT OF ACCESS TO PUBLIC INFORMATION

DR. ANTONIA URREJOLA
COMMISSIONER
FIRST VICE-PRESIDENT
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (CIDH)

- This pandemic has highlighted the importance of the right of access to information as a counterweight to guarantee a human rights approach to public policies, as well as the scope of social inequalities and the interconnection between inequality, social exclusion and violations of human rights.
- It is dangerous to fall into the false tradeoff between granting access to public information and protecting sensitive personal data, since the exercise of the former does not irretrievably impinge on privacy rights; on the contrary, when justified by a greater good, the reduction of privacy and the increased restrictions on freedom of expression can promote invisibility and hinder the reporting of abuse.
- IACHR Resolution 1/2020 "Pandemic and Human Rights" contains more than 80 recommendations, including that the guarantor bodies and reporting entities i) prioritize requests for information related to the pandemic, ii) proactively inform groups in situation of vulnerability of the impacts of the emergency, and iii) when generating and disseminating information, authorities must act responsibly and base their actions and information on the best scientific basis available at the time.