In the European Court of Human Rights

Application No. 55390/21

BETWEEN:

Antoine DUSSEAUX

Applicant

v.

France

Respondent Government

THIRD-PARTY INTERVENTION

ARTICLE 19: Global Campaign for Free Expression

Submitted on 8 December 2022

INTRODUCTION

1. This third-party intervention is submitted by ARTICLE 19: Global Campaign for Free Expression (ARTICLE 19, or the Intervener). The Intervener welcomes the opportunity to intervene as a third-party in this case, by the leave of the President of the Court, which was granted on 17 November 2022, pursuant to Rule 44 (3) of the Rules of Court. This submission does not address the facts or merits of the applicant's case.

2. The present case is an opportunity for the Court to clarify the scope of the right to access to information, namely to what extent it covers the access to information on judicial proceedings - from case files, courts rulings and courts' agenda to transcripts from the proceedings. In order to assist the Court in its deliberations, these submissions address the following issues:

   (i) The importance of transparency of court proceedings and how the right of access to information plays a fundamental role in ensuring openness and transparency of the justice system;

   (ii) The overview of how transparency of courts' proceedings and the right of access to court documents is provided for in international and regional standards, national laws and practices from the Council of Europe Member States as well as comparative standards from other states; and

   (iii) The analysis of how the legality and necessity of interference with the right of access to court documents should be assessed, including in cases where the purpose of the request was their usage for commercial purposes.

SUBMISSIONS

i. The importance of accessing information related to judicial proceedings and judicial transparency

3. The right of access to information is a fundamental component of the right to freedom of expression, as enshrined in international human rights treaties, including Article 10 of the European Convention on Human Rights (the Convention).[1] The UN Human Rights Committee in General Comment 34 has specified that information includes "records held by public bodies" which include all branches of the State: executive, legislative and judicial.[2] For all these public bodies, States should ensure the possibility of making requests to which end they should "enact the necessary procedures" such as freedom of information laws, with "procedures should provide for the timely processing of requests for

[1] European Court of Human Rights (ECtHR), *Magyar Helsinki Bizottság v. Hungary*, App No. 18030/11, 8 November 2016 (GC), para 42.

[2] UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, para 7.

information."[3] General Comment 34 further adds that, in order to give effect to the right, States Parties should "proactively put information in the public domain" as well as "making every effort to ensure easy, prompt, effective and practical access to such information."[4]

4. In January 2022, a report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on access to information held by public bodies emphasised how "the obligation to provide access to information applies to the executive, legislative and judicial branches of government, and extends to all organs of the State, including all de facto entities and private entities carrying out elements of governmental functions."[5]

5. A State's obligation to ensure the right of access to information is also included in the UN Convention against Corruption (UNCAC) which qualifies access to information as a core element of fighting corruption.[6] It requires States to take measures to enhance the transparency of their public administration including adopting procedures facilitating public access to information "on the organization, functioning and decision-making processes" of its public administration; to "simplify administrative procedures in order to facilitate public access to the competent decision-making authorities" and "publishing information."[7] It further provides the right of the public to have "effective access to information" as well as "enhancing the transparency of the public to decision-making processes.".[8]

6. In Europe, the right to access to public documents has been specifically recognised through the adoption of the Council of Europe Convention on Access to Official Documents (Tromsø Convention).[9] Under the Tromsø Convention, "official documents" are defined as "all information recorded in any form, drawn up or received and held by public authorities;" while "public authorities" include "government and administration at national, regional and local level" as well as "legislative and judicial authorities as they perform administrative functions according to national law." [10] The Tromsø Convention further considers that the exercise of the right to access to official documents provides (i) a source of information for the public; (ii) helps the public to form an opinion on the state of society and on public authorities; (iii) fosters the integrity, efficiency, effectiveness and accountability of public authorities, so helping affirm their legitimacy.[11] It further stresses that all official documents are in principle public and can be withheld subject only to the protection of other rights and legitimate interests.

---

[3] *Ibid.*, para 19.
[4] *Ibid.*, paras 18 and 19.
[5] OHCHR, Report of the Office of the UN High Commissioner for Human Rights, A/HRC/49/38, 10 January 2022, para 23.
[6] UN General Assembly, UN Convention Against Corruption, 31 October 2003, A/58/422.
[7] *Ibid.*, Article 10.
[8] *Ibid.*, Article 13.
[9] Council of Europe Convention on Access to Official Documents (CETS No. 205), 18 June 2019.
[10] *Ibid.*, Article 1.
[11] *Ibid.*, Preamble.

7. As noted by the Explanatory Memorandum to the Tromsø Convention, under a broad definition, 'official documents' cover "any information drafted or received and held by public authorities that is recorded on any sort of physical medium whatever be its form or format (written texts, information recorded on a sound or audiovisual tape, photographs, emails, information stored in electronic format such as electronic databases, etc.)."[12] The Convention further stresses that all official documents are in principle public and can be withheld subject only to the protection of other rights and legitimate interests.[13]

8. Similarly, this Court has also emphasised a paramount importance of the purpose of the person in requesting access to the information held by a public authority, noting that it enables their exercise of the freedom to "receive and impart information and ideas" to others. Thus, the Court has placed emphasis on whether the gathering of the information was a relevant preparatory step in activities creating a forum for, or constituting an essential element of, public debate[14] and that the manner in which public watchdogs carry out their activities have a significant impact on the proper functioning of a democratic society.[15]

9. In the European Union (EU), access to documents of all EU institutions, bodies and agencies is established as a right for all citizens and residents in the Treaty on the Functioning of the European Union (TFEU)[16] and with the mechanisms for requesting information developed in Regulation 1049/2001.[17] This right of access includes to the documents held by the Court of Justice of the European Union- the judicial branch. The underlying premise of these standards is the recognition that openness of public institutions "enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system."[18]

[12] Explanatory Report – CETS 205 – Access to Official Documents, para 11.

[13] Council of Europe Convention on Access to Official Documents, CETS No.205, Preamble.

[14] ECtHR, *Társaság a Szabadságjogokért v. Hungary*, App. No. 37374/05, 14 April 2009, paras 27-28; *Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung eines wirtschaftlich gesunden land- und forstwirt-schaftlichen Grundbesitzes v. Austria*, No. 39534/07, 28 November 2013, para 36.

[15] *Magyar Helsinki Bizottság v. Hungary*, *op. cit.*, para 167.

[16] Consolidated version of the Treaty on the Functioning of the European Union, Part One – Principles Title II - Provisions Having General Application, Article 15 (Ex Article 255 Tec). Article 15 enshrines "the right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium, subject to the principles and conditions to be defined in accordance with this paragraph.

[17] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. According to Article. 2(3), the aim of the Regulation is to give "fullest possible effect to the right of public access to documents", states that such right extends not only to documents drawn up by EU institutions (the Parliament, the Council and the Commission). Article 3 (a) of the Regulation defines documents as "any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility.

[18] *Ibid*., Preamble (2).

10. Other regional organisations, namely the Organization of American States[19] and the African Union,[20] have promoted the right to access of information, through "model laws," which serve as parameters for international best practices on the topic. In both systems, the scope of the access to information laws covers all branches of the governments, including the judicial branch, and all documents held by them.

ii. Transparency of the judiciary in international, regional and national laws

Transparency of the judiciary as a fundamental principle of open government

11. Open and transparent system of justice is a precondition for establishing and maintaining public trust in justice, which is a cornerstone of the legitimacy of the judiciary and a necessary condition for a democratic society.[21] International law has constantly affirmed that transparency is a fundamental element of the judicial process. The International Covenant on Civil and Political Rights (ICCPR) affirms the right to a fair and public hearing in Articles 14 and 15. The Human Rights Committee has emphasised the importance of impartiality and the right to the public and the media to participate to public hearing, whose exclusion might occur in limited and strictly defined by the law circumstances.[22].

12. The Special Rapporteur on the Independence of Judges and Lawyers Gabriela Knaul has stressed that "it is paramount that States undertake efforts to enact specific legislation establishing a comprehensive system of judicial accountability that is effective, objective and transparent with a view to strengthening the rule of law and improving the administration of justice."[23] She added that "external institutional accountability, in turn, should encompass activities whereby the public, through the media, civil society, human rights commissions and parliament, can scrutinize the functioning of the judiciary and prosecution services. Such activities can include: institutional dialogues with parliament and other State institutions, such as human rights commissions; all hearings being public; the availability and transparency of information about courts and the judiciary; and the creation of a judiciary website and the use of social media and television programmes to explain important judicial decisions and laws. A system of justice that is independent should not retreat behind closed doors."[24]

13. The importance of transparency of the judiciary has been confirmed in other international standards. In the Istanbul Declaration on Transparency in the Judicial Process (Istanbul Declaration), which has been endorsed by the UN Economic and

---

[19] OAS, Model Inter-American Law on Access to Information, AG/RES. 2607 (XL-O/10), Article 1.

[20] African Commission on Human and Peoples' Rights, Model Law on Access to Information for Africa, 2013, Article 1.

21 European Network of Councils for the Judiciary (ENCJ), Public confidence and the image of justice, 2018.

[22] UN Human Rights Committee (HRC), General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial, 23 August 2007, CCPR/C/GC/32, p.3.

[23] UN Special Rapporteur on the Independence of Judges and Lawyers Gabriela Knaul, Report to the General Assembly A/HRC/26/32, p. 50.

[24] *Ibid.*, p. 73.

Social Council in 2019,[25] Principle 6 says that the justice system should be "integrated into society" which requires that it "opens up and learns to make itself known." It explicitly requires that

> [S]ubject to judicial supervision, the public, the media and court users should have reliable access to all information pertaining to judicial proceedings, both pending and concluded. Such access could be provided on a court website or through appropriate and accessible records. Such information should include reasoned judgments, pleadings, motions and evidence. Affidavits or like evidentiary documents that have not yet been admitted in evidence may be excluded. Access to court documents should not be limited to case-related material, but should also include court-related administrative information such as statistics on the caseload and case clearance rates, as well as budget-related data, e.g. collection of court fees and the use of budgetary allocations.[26]

14. Principle 8 of the Istanbul Declaration also stresses out that

> [W]ithout reliable access to laws, jurisprudence and other primary legal sources, judges, lawyers, litigants including governments are left without clear guidance on how the law should operate in any particular case or situation. The publication of judgments allows the public, the press, civil society organisations, lawyers, judges and legal scholars to scrutinise the actions of judges. Submitting judgments to public scrutiny through publication also regularises the application of the law, and makes judicial decisions more predictable and consistent, thus improving the quality of justice." It concludes how "it is desirable to create publicly available databases that store the texts of court decisions and statutes, as well as scholarly articles from law reviews and legal journals.[27]

15. The importance of transparency of the judiciary have been also affirmed in the Magna Carta of European Judges, which summarises and codifies the Opinions adopted by the Consultative Council of European Judges (CCJE), an advisory body of the Council of Europe on issues relating to the independence, impartiality and competence of judges.[28] Principle 14 states that "justice shall be transparent and information shall be published on the operation of the judicial system."[29]

16. Further, the Open Government Partnership (OGP), a multilateral initiative that aims to secure concrete commitments from national and sub-national governments to promote open government, has included "open justice" as an essential part of open government.[30] OGP recommends that States should ensure, facilitate and promote the right of access to information by, *inter alia*, strengthening the legal framework governing access to information by adopting

[25] UN Economic and Social Council, Resolution 2019/22 on Enhancing Transparency in the Judicial Process.
[26] The Istanbul Declaration on Transparency in the Judicial Process, Principle 6.
[27] *Ibid.,* Principle 8.
[28] Council of Europe, Consultative Council of European Judges (CCJE), Magna Charta of Judges (Fundamental Principles).
[29] *Ibid.*, Principle 14.
[30] See OGP, Open Justice Fact Sheet, which defines "open parliament" as one that encourages transparency, participation and accountability throughout the judicial process. Issues of judicial fairness and independence must also be addressed through increased transparency and accountability.

or improving it with effective implementation, legal capability by improving access to information to legal resources as well as publishing accessible and standardised court data, including case information and operational measurements.[31]

National standards on the right of access to information held by the judicial branch in the Council of Europe Member States

17. National parliaments, courts and other institutions in Europe have issued important decisions and developed good practices in relation to access to court documents. They have recognised that transparency of the judiciary is fundamental to increase efficiency and effectiveness with the ultimate aim of strengthening the rule of law. The legal foundations requiring transparency of court procedures are based on the right of access to information which ensure the public has access to court files. In light of this, when states undertake transparency reforms of the judiciary, it is also a way to increase its legitimacy.

18. The Intervener's research shows that 25 out of 47 Council of Europe member states have access to information laws that apply to the judicial branch.[32] For instance:

- The Act on Access to Information of Public Character (FOIA) of Slovenia covers also access to information on court proceedings. The Act defines "public information" as information originating from the field of work of the bodies and occurring in the form of a document, a case, a dossier, a register, a record or a documentary material […] drawn up by the body, by the body in cooperation with other body, or acquired from other persons."[33] The Slovenian judiciary has a centralised website which provides electronic access to all courts and tribunals. Third parties can access court documents with some limitations; for example, for criminal proceedings, requesters must demonstrate a legitimate interest to obtain a copy of the court files.

- The German Federal Act Governing Access to Information held by the Federal Government has a specific section dedicated to access to court rulings.[34] Section 4 provides very limited scope for restrictions to access only "insofar as and for as long as premature disclosure of the information would obstruct the success of the ruling or impending official measures. Routine results of the taking and hearing of evidence and expert opinions or statements from third parties shall not be deemed to relate directly to the preparation of rulings….".

- The Civil Procedure Rules (CPR 5.4C) of England and Wales state that non-parties may obtain copies (without the court's permission) of a statement of a case and/or a judgment or order made in public, whether at a hearing or

[31] See Justice in OGP – Recommendations.
[32] Data from the RTI Rating, available at www.rti-rating.org.
[33] Slovenia, Act on Access to Information of Public Character (2004), Article 4.
[34] Germany, Federal Act Governing Access to Information held by the Federal Government (2013), Section 4.

without a hearing. Under CPR 5.4C, a third party may obtain a copy of 'any other document' filed by a party but must seek permission from the court. The term 'any other document' is not defined in the CPR.[35]

In *Cape Intermediate Holdings Ltd v Dring (Asbestos Victims Support Group)*[36] the UK Supreme has clarified the right of non-parties (i.e. persons who are not active litigants in a case) to access court documents as well as ruled on the proper balance to be struck between the application of the principle of open justice and policy considerations concerning the proper and efficient administration of justice. It confirmed courts have far-reaching jurisdiction to allow non-parties access to court documents, but it will only allow such access where doing so furthers the principle of open justice. Requesters have to explain why they are seeking access and how granting them access will advance the open justice principle. The court will then carry out a fact-specific balancing exercise, weighing up the open justice principle, which is the court's default position, against any risk of harm that disclosure may cause to the judicial process or the legitimate interests of others.[37]

It should be noted that in the UK, some documents that can be accessed without seeking permission from the court such as details of the claim number, the parties and the legal representatives. Additionally, "once proceedings are served and an acknowledgement of service is filed by the defendant(s), non-parties (including the press) will be able to access and obtain copies of the statements of the case (the documents setting out the details of the claim, defence, any counterclaim and reply) and judgments or orders made in public (with or without a hearing)."[38] If a case goes to trial, third-parties can also access witness statements.[39] Further, "non-parties are also able to access other documents on the court file with the permission of the court. These include documents attached to a statement of the case or witness statement, which may contain confidential information, expert reports and skeleton arguments. In addition, where there has been a hearing in public, the public can request copies of any documents put before the judge and referred to during the hearing. This is not limited to the documents which the judge has been asked to read or has said they have read."[40] Access can also be given to documents that are no longer on the court file, for example, because they were returned after a hearing.[41]

19. Some Council of Europe member states have also adopted legislation specifically dedicated to the right of access to court files, as a *lex specialis* to the access to information laws. For example, in 2007, Finland adopted the Act on the Publicity of Court proceedings in General Courts that enshrines the principles of publicity of

[35] UK, Civil Procedure Rules, Part 5: Court Documents.
[36] United Kingdom, *Cape Intermediate Holdings Ltd -v- Dring* [2019] UKSC 38
[37] *Ibid.*
38 *See Public access to court documents and hearings in the English civil courts, Quickguides, 8 December 2021.*
39 *Ibid.*
[40] *Ibid.*
[41] United Kingdom, Commercial Court, *Blue v Ashley* [2017] EWHC 1553 (Comm).

the court proceedings and documents.[42] Court proceedings are defined as "oral and written proceedings and deliberations by the court."[43] It is important to note that in Finland, requesters do not need to specify the purpose of the request.

Comparative standards on the right of access to information held by the judicial branch

20. The importance of the principles of open justice and judicial transparency have been acknowledged in many other jurisdictions. The courts have held that the public access principle is engaged by aspects of the court process beyond mere access to the court to hear oral evidence.

21. A wide range of information generated in relation to court proceedings has been held to be subject to the public access principle and, consequently, liable to be disclosed to a third party - subject to any relevant countervailing interests. The material subject to the principle has included access to search warrants and information filed in support of the application for a warrant, regardless of whether such evidence was later relied on in any trial;[44] "broad access to the court records, exhibits and documents filed by the parties, as well as to the court sittings;"[45] an application to seal search warrant application materials, in advance of any trial;[46] access to video recordings (including one showing the death of a woman in custody), parts of which had been shown at a preliminary inquiry in relation to proceedings which had been discontinued prior to trial;[47] broadcast of video footage of a confession by a defendant who had later been acquitted at a trial at which the confession had been ruled inadmissible;[48] access to any written statements or documents admitted into evidence for the purposes of a committal hearing or trial (for a period of 20 days after the committal hearing or trial);[49] access to papers filed under seal in connection with a pre-trial motion by defendants to exclude certain evidence at trial;[50] and access to a sealed report filed with the district court in connection with an investigation into corruption allegations.[51]

22. Statements of principle have reflected the broad reach of the public access principle in relation to court proceedings. For instance:

- The Supreme Court of New Zealand located the rationale for its broad approach to the scope of the public access principle in the context of modern values and social attitudes. It stated that "public access to court files, both in respect of current and completed cases, must be considered in the context of

[42] Finland, Act on the Publicity of Court proceedings in General Courts (2007), Section 1.
[43] *Ibid.* Section 3.
[44] Supreme Court of Canada, *Attorney-General (Nova Scotia) v MacIntyre* [1982] 1 SCR 175.
[45] Supreme Court of Canada, *Lac d'Amiante du Québec Ltée v 2858-0702 Québec Inc*. [2001] 2 SCR 743.
[46] Supreme Court of Canada, *Toronto Star Newspapers Ltd v Ontario* [2005] 2 SCR 188.
[47] Court of Appeal for Ontario, *R v Canadian Broadcasting Corporation*, 2010 ONCA 726, A17-A19.
[48] Supreme Court of New Zealand, *Rogers v TVNZ* [2007] NZSC 91.
[49] the Criminal Proceedings (Access to Court Documents) Rules 2009 (New Zealand), rules 8 and 9.
[50] Court of Appeals for the 2nd Circuit, US, In re New York Times 828 F.2d 110 (1987) A33.
[51] Court of Appeals, 2nd Circuit, US, *U.S. v Amodeo* 71 F.3d 1044 (1995) A34.

contemporary values and expectations in relation to freedom to seek, receive and impart information, open justice, access to official information, protection of privacy interests, and the orderly and fair administration of justice."[52]

- Similarly, the South African Constitutional Court stated that "from the right to open justice flows the media's right to gain access to, observe and report on, the administration of justice and the right to have access to papers and written arguments which are an integral part of court proceedings subject to such limitations as may be warranted on a case-by-case basis in order to ensure a fair trial."[53]

- In Canada, the application of the right to freedom of expression has been held to govern "all discretionary judicial orders limiting the openness of judicial proceedings."[54] The courts' jurisprudence has created and applied "the principle of open court" which creates a presumption of openness unless restricted by explicit court order or in specific and identified type or proceedings, the public has access to any and all information revealed by or about parties and witnesses in court proceedings. Documents subject to a sealing order (these are rare) cannot be inspected by the public, including members of the media.[55] In most cases, this principle outweighs the right of an individual to privacy. The adoption of the Model Policy for Access to Court records by the Canadian Judicial Council in 2015 has also considered how accessing court documents can be enhanced by new information technologies as a way to realise "open courts." For these reasons, Canada has been considered a pioneer in facilitating remote access to court records to a wider public and for putting "openness" as its core principle.[56]

iii. Legality and necessity of restrictions on the right of access to court documents

23. Based on foregoing, the Intervener submits that the principles of the right of access to information, open government and open justice support the contention that this Court should recognise a principle of public access to information related to judicial proceedings. This requires that the court should generally grant access to court documents, on the request of any individual (in particular, a journalist). Courts, as public authorities, should have a positive obligation to provide access to information, including case files, court rulings, court's agenda and minutes.

24. Once the public access principle has been found to apply to a particular court-related piece of information, a balancing exercise arises, weighing-up of the principles of open justice and the right to seek and receive information against competing interests provided in Article 10 para 2 of the Convention. The

[52] Supreme Court of New Zealand*, Mafart v TVNZ* [2006] NZSC 33.
[53] Constitutional Court of South Africa, *Independent News v Minister of Intelligence*, [2008] ZACC 6.
[54] Supreme Court of Canada, *Re Vancouver Sun* [2004] 2 SCR 332.
[55] Supreme Court of Canada, Access to Court Documents, Photographs and Recordings.
[56] European Parliament, National Practices with Regard to Accessibility of Court Documents (2013), p. 29.

Intervener submits that the need for any limitation on the public access principle (i) needs to be demonstrated clearly, (ii) must be strictly necessary to advance another (specified) interest (prescribed by law) and (iii) must be no greater than necessary for that purpose (in duration or scope).

25. The Intervener notes that the public access principle should be applied in the present case. By granting access to requested information, the respondent State will promote transparency of the administration of justice, promote confidence in the fair administration of justice and ensure accountability by allowing the public to scrutinise judges' role in the administration of justice, which is a cornerstone of every democratic society.

26. The Intervener also notes that there seem to be no proper countervailing reason that could warrant refusal of the request to access information. The reason for the refusal to permit access to the requested documents in the present case lay in the (supposed) non-applicability of the open justice principle and right to freedom of expression under Article 10 of the European Convention, as the purpose of the request for information was their exploitation for commercial purposes. However, the Intervener points out that as a part of fundamental human right to freedom of expression, the right of access to information shall be afforded to everyone without any discrimination. International human rights standards clearly provide for the right to file even anonymous request.[57] The identity of the requester should not be assessed against the decision of whether public bodies should release that information. Similarly, the purpose of the request for access to information should be absolutely irrelevant; public bodies should not consider why the requester needs that information and what they are going to use it for. In this case, public authorities should refrain from assessing the request based on the fact the requester runs the online platform "Doctrine.fr" accessible under subscription and therefore, the request's purpose is the commercial exploitation of that information.

27. The Intervener further observes that there are various reasons why individual may wish to access information held on court files and related to judicial proceedings, including for research and reporting purposes. We observe that Doctrine.fr platform enables such purposes. It allows legal professionals to get better preparation and easily access information to work on cases, predict future judgments and challenge courts to bring them to rule new and to advance principles in every area of the law. The role of this online database is to make public information available and the use of the access to information requests is a fundamental mean to exercise its functions. It can be even concluded that in the absence of similar database/online resources being provided by courts and public institutions directly, the applicant in the present case is supplying a public function. He collects court documents and makes them available to the public, thus facilitating dissemination of that information. We also note the information

[57] UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, para 18.

requested by the applicant was not “ready and available” and could only be accessed via access to information requests to the public bodies concerned.

28. Taken singly or together these factors are of compelling force. Access to the information sought is amply justified. By contrast, there is no countervailing factor against which could justify refusal of access. The information requested in the present case was a matter of public interest about which the public was entitled to be informed. Without access to the documents requested, there is an unwarranted restriction on the flow of information.

CONCLUSIONS

29. Access to court documents and to information held by the judicial branch of the government represents one of most important manifestations of the right of access to information. It relates to the administration of justice, a pillar of every democratic society. It also lies at the foundations of open government and the principle of open justice. Therefore, the Intervener invites the Court to carefully consider the interference in the case with the right of freedom of expression enshrined in Article 10 of the Convention, when access to court documents is denied to the applicant by domestic authorities.

Barbora Bukovska
Senior Director for Law and Policy
ARTICLE 19