

**Promotion of the Aarhus Convention in the whole of the Mediterranean:
Regional Training in Athens, Greece, 14-15 November 2023**

Application of Pillar 1: Access to Information, in Malta



Dr. Chloe Galea
Senior Officer Legal Affairs, ERA

Email: chloe.galea.1@era.org.mt

Website: era.org.mt

1. Access to environmental information in Malta
 2. Grounds for Refusal
 3. The Right to Appeal
-

The Freedom of Information Act (Chapter 469 of the Laws of Malta):

- General legislation regulating freedom of information in Malta.

The Freedom of Access to Information on the Environment Regulations (Subsidiary Legislation 549.39):

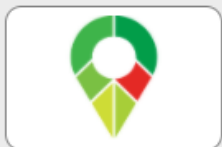
- This is the principle legislation which regulates access to and dissemination of **environmental information** in Malta;
 - Implements **articles 4 and 5** of the Aarhus Convention;
 - Implements **article 9(1)** of the Aarhus Convention.
-

Access to information in Malta (2)

- As per regulation 3 of the **Freedom of Access to Information on the Environment Regulations**:
 - (1) *Any applicant may, without having to state an interest, request the competent authority to provide him with **any environmental information** held by or for the competent authority or any other public authority.*
 - (2) *A record of all such requests shall be kept by the competent authority.*
 - The Competent Authority under these regulations is the Environment and Resources Authority (ERA).
 - Requests for information are received by **email** or through the **ERA website**.
-

[View More](#)

e-Tools



MEPS Geoportal



Customer Care



eWASP



Live Air Monitoring



ERIS

[< Back](#)

NEW CASE

☐ Remain Anonymous

0 / 4000

Access to information in Malta (3)

- Is the data requested “environmental information”?
 - Who holds the data?
 - A reply is to be given to the applicant within 30 days from receipt of the request, or extended for an additional 30 days if the volume and the complexity of the information is such that the original time frame cannot be complied with.
 - If the request is formulated in too general a manner, the competent authority may ask the applicant to specify the request.
 - In general, the competent authority will try make the environmental information available in the form or format requested.
-

- Regulation 7 of S.L. 549.39 lists the possible grounds for refusal of the requested information:

(1) The competent authority may, on its own behalf or on behalf of another public authority, refuse to provide the requested environmental information if:

*(a) the request is manifestly **unreasonable**;*

*(b) without prejudice to the provisions of regulation 4(3), the request is formulated in **too general** a manner;*

*(c) the request concerns **material in the course of completion or unfinished documents or data**, provided that in this case, the competent authority shall state the name of the authority preparing the material and the estimated time needed for completion;*

*(d) the request concerns **internal communications**, taking into account the public interest served by disclosure.*

- In line with Article 4(3) of the Aarhus Convention
-

Grounds for Refusal (2)

(2) The competent authority may also refuse to provide the requested environmental information if disclosure of the information would adversely affect:

- (a) *the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;*
- (b) *international relations, public security or national defence;*
- (c) *the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;*
- (d) *the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;*
- (e) *intellectual property rights;*
- (f) *the confidentiality of personal data and, or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;*
- (g) *the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;*
- (h) *the protection of the environment to which such information relates, such as the location of rare species.*

- In line with Article 4(4) of the Aarhus Convention
-

Grounds for Refusal (3)

- The Authority must **interpret the grounds for refusal restrictively**, and weigh out the public interest served by disclosure against the interest served by the refusal for every particular case (regulation 7(3) of S.L. 549.39).
 - If possible, the Authority may provide parts of the information or data requested and redact parts that cannot be disclosed.
 - Grounds for refusal must be included in the reply to the applicant.
-

The Right to Appeal

- Under the Freedom of Access to Information on the Environment Regulations, the applicant may appeal the Authority's decision not to disclose the environmental information requested.
 - This may be done by lodging an appeal with either:
 - **The Information and Data Protection Commissioner** (Regulation 12 of S.L. 549.39)
 - No cost to appeal to the Commissioner;
 - **The Environment and Planning Review Tribunal** (Regulation 11A of S.L. 549.39)
 - Expedited review (hearing within 6 working days) and fee is €200.
-



Thank you for your attention!

Email: chloe.galea.1@era.org.mt