



“Transparency from conception as an effective mean to Promote and Increase Transparency”

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Arguments for transparency, and in the name of transparency, are ubiquitous in the current public debate. Transparency is usually something that its proponent wishes to impose on someone else or on any organization, often a public organization. The presumed relationship is asymmetric, transparency is required in cases where the applicant is not expected to reciprocate. Advocating for transparency aligns with a wide range of ideological opinions and substantive strategic proposals. It is easy to refer to “transparency”, often in conjunction with “openness”, without it being clear whether these terms represent different concepts or are synonyms used to emphasize an idea. Transparency is hailed by all, but its effects are more uncertain than suggested by contemporary interpretation. [1].

The principle of proactive disclosure of information, i.e., making it available to the public before it is requested, is fundamental to achieving greater transparency and openness in public administration.

Proactive disclosure of information, also known as “direct publication”, allows those seeking information to have immediate access to public data and thus avoid the costs of making a request or carrying out administrative procedures.

Proactive disclosure refers to the publication or advance disclosure of information and data to meet the needs and interests of the public. It is one of the most important elements of an open government, and is essential for improving transparency and accountability and ensuring better informed



public debate. Open procurement is a key element of open government. To be truly accountable and transparent, public institutions must commit to proactively publishing information about public expenditures.

Proactive disclosure of procurement documents will also shed light on public spending decisions and promote greater trust in the management of public funds. The government can only be open if its activities are public and its decision-making process is transparent and understandable. Proactive disclosure should aim to anticipate the needs of the public.

Every society has the right to know how the government uses its resources, and should expect this information to be easily accessible online.

For public agencies, proactive disclosure of information can reduce the burden of processing access to information requests under freedom of information (access to information) laws.

In my opinion, proactive transparency (or proactive disclosure) revolves around four main factors: first, the need to inform the public about laws and decisions and the public's right to be informed, to know their rights and obligations. Second, the public's demand for the information necessary to hold governments accountable both during and between elections. The third is the demand for information to actively participate in decision-making. The fourth is providing the public with the information necessary to access government services, which has significantly developed over the last decade with the growth of electronic access to services or "*e-government*."

These pilot projects have led to a progressive development of proactive disclosure laws and practices. They have been further energized by the potential of large-scale internet disclosure. Likewise, the promotion of proactive disclosure has also resulted from the evolution of the right of access to information, enshrined in the laws on access to information, which include specific proactive provisions. Recently adopted legal frameworks, including proactive disclosure regimes, point to a new standard on the categories of information that should be available at the core of any national proactive disclosure regime.

National standards are supplemented and complemented by provisions from international bodies. These international provisions clearly show that, in addition to having numerous benefits for public agencies and members of the public, proactive disclosure is an obligation that forms part of the right of access to information. By comparing national and international provisions, it is possible to identify a set of minimum rules regarding categories of information for proactive disclosure.



Lessons learned from practical experience in implementing proactive disclosure regimes indicate that due attention should be given to how information will be structured, organized and edited, and when and where it will be disclosed.

Equally essential in establishing proactive disclosure regimes is the need to allocate the necessary resources to consider gradually implementing proactive disclosure programs, and to establish effective enforcement mechanisms to ensure compliance. These considerations lead to a number of recommendations, including that information should be organized and published in a way that it is available, searchable, relevant, understandable, free or low-cost and up-to-date. In establishing or improving a **proactive disclosure system**, public bodies must ensure that they are adequately funded, progressive, promoted (within government and among the public), closely monitored and properly enforced. [2].

In addition, I would also like to provide an overview of the provisions of Tunisia's Organic Law No 2016/22 on the right to access information in this regard.

In this sense, Tunisian legislation has devoted an entire chapter to regulate the obligation of public structures to publish information proactively. Under this law, the entities subject to the provisions of this Act are required to publish, update and periodically make available to the public, in a usable form, a number of information types (18 types of information) listed by law in a non-exhaustive list (Articles 6, 7 and 8 of the Act) [3].

Based on our practical experience in the Tunisian National Authority for Access to Information, we believe that a new dynamic is required from the relevant services involved in the different countries, including Tunisia, so that they can fulfill their tasks and handle information requests from citizens and interest groups in a timely and adequate manner.

Greater attention should also be given to the periodic updating of transparency programs and records of requests and responses, as the main sources of access to information and public documents.

In this context, information related to budget expenditure, public procurement procedures, or audits has a direct impact on the proactive transparency of public authorities and increases trust and accountability to citizens.

However, according to my personal observations, certain problems persist in this regard and remain a challenge to achieve proactive transparency that meets the required standards in this area and, most importantly, meets the



expectations of citizens across all categories, including the obligation of the different public structures in all areas to create a website, which is a sine qua non condition for the proactive publication of information by the bodies concerned.

On the other hand, and in the same context, the provision of information from all the sections contained in the transparency program, considering this instrument remains the main source of information for the public and stakeholders, which also indicates the level of accountability and responsibility of public authorities.

CONCLUSION

Transparency creates a conflict between the process and the underlying issues. Some actors will prioritize concrete outcomes of public policy (such as the structure and coverage of public healthcare systems), while others will prioritize the budgetary autonomy of regional governments. Still, others will fall somewhere in between, with their reactions influenced by both principles and opportunism. The central message of our article is that it is important to carefully examine the directions and types of transparency at both a general level and in the specific case of public spending. Transparency cannot provide answers to deep ideological and practical questions regarding the importance of the state as measured by the volume of public expenditures relative to the economy. However, effective transparency on public spending can improve the knowledge base on which informed perspectives can rely upon [4].

REFERENCES

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- [4]. "Transparency" Marc Dugain, GALLIMARD (25/04/2019)- p. 213.