



FINNISH FREEDOM OF INFORMATION IN THE INTERNATIONAL PERSPECTIVE

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Content

- What is Finnish FOI?
 - Comparison to FOI in the United Kingdom
- Problems of the FOI in Finland
- Current challenges of the changing environment
- Possible danger: "Empty archives –syndrome"



Three alternatives

Principle of Secrecy

- Access to information is not possible
 - Exemptions are defined in the law

Principle of Deliberation

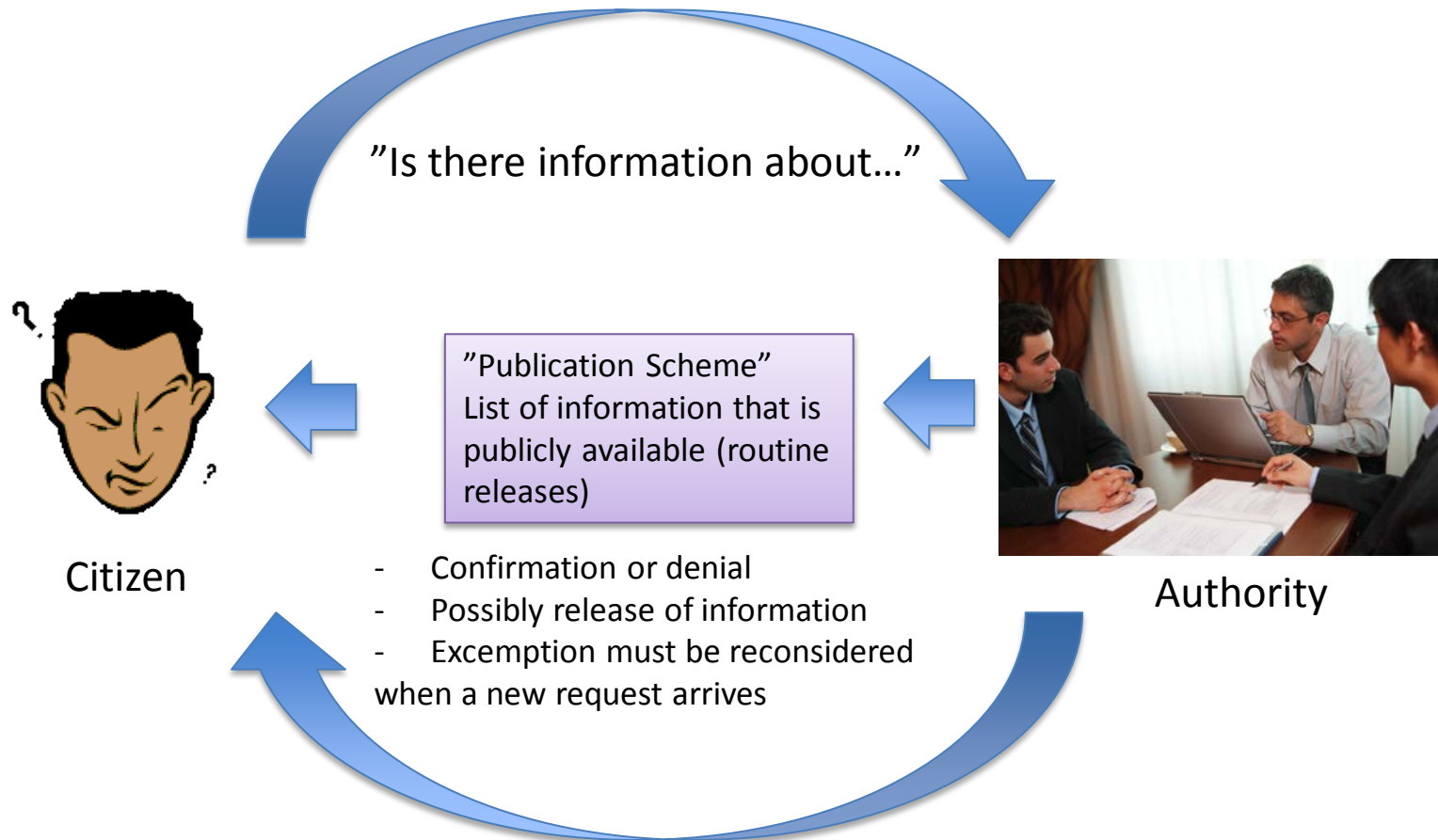
- Authorities can use their judgement to define what can be accessed

Principle of Right to Access

- Everyone has right to access information
 - Exemptions are defined in the law
 - E.g. Finland, Sweden

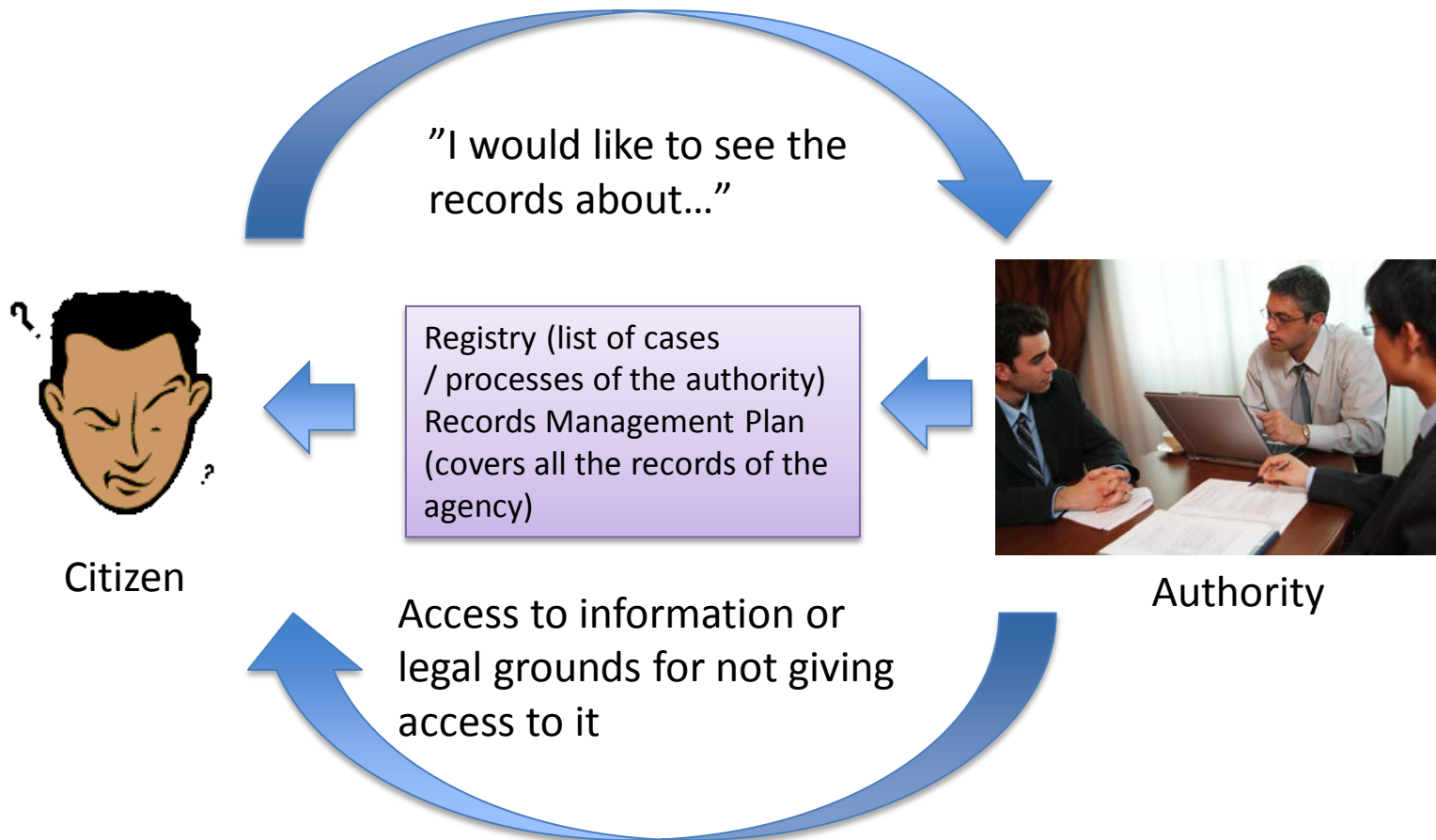


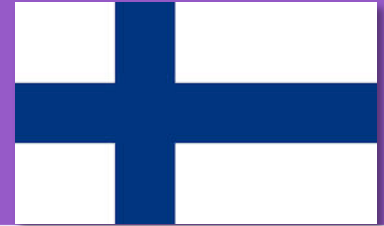
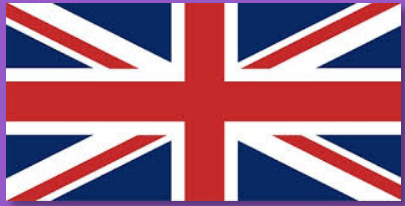
FOI in UK (2000): Right to ask for information





Finnish FOI (1999): Right to access any record in the public domain





- Every person has the right to make an information request
 - Must give name and address
 - Information must be identifiable
- Exemptions for
 - confirming / denying that the information exists
 - releasing the information
- "Qualified exemptions": must assess whether it is more in the public interest to disclose the information than to withhold it
 - Must be reconsidered when a new request arrives
- Response in 20 working days
- Requires work when information request arrives

- Every person has the right to information
 - No verification your identity
- Preparatory documents enter to public domain at the time of decision, if not earlier
- Exemptions defined in the law (e.g. national security)
- Access limited to non-official documents ("non-records"), e.g. private notes and internal discussions
- Persons who are party to a matter have an extended right of access to records not in the public domain
- Response in 14 days
- Access restrictions defined when the record is created



A result?

The World's Least Corrupt Nations, 2012

According to the annual survey by the Berlin-based organization Transparency International, Denmark, Finland, and New Zealand are perceived to be the world's least corrupt countries, and Somalia, North Korea, and Afghanistan are perceived to be the most corrupt. For a list of the most corrupt nations, see [World's Most Corrupt Countries](#). The index defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians. It is a composite index, drawing on 13 different expert and business surveys. The scores range from 100 (squeaky clean) to zero (highly corrupt). A score of 50 is the number Transparency International considers the borderline figure distinguishing countries that do and do not have a serious corruption problem. In the 2012 survey, two-thirds of countries scored below 50.

| Country rank | Country | 2012 CPI Score |
|--------------|-------------|----------------|
| 1. | Denmark | 90 |
| | Finland | 90 |
| | New Zealand | 90 |
| 4. | Sweden | 88 |
| 5. | Singapore | 87 |



But how well does it work in practice?

University of Jyväskylä made two tests in 2009—2010 by asking information from 67 Finnish authorities. Only 17 requests succeeded completely

| TIME TAKEN | SUCCESSFUL REQUEST | SOME INFORMATION RECEIVED | NO INFORMATION RECEIVED |
|-----------------------------|--------------------|---------------------------|-------------------------|
| No more than 5 working days | 6 authorities | 11 | 9 |
| No more than two weeks | 7 | 9 | 7 |
| More than two weeks | 4 | 10 | 4 |



Some of the excuses by authorities

| | |
|--|--|
| "We do not understand what you are looking for" | <i>Authorities must help to find the right information</i> |
| "The subject of the document has required it to be kept confidential" | <i>Document can be kept secret only by the law</i> |
| "Non-public parts of the document would be uncovered at the same time" | <i>Non-public and public parts must be separated the public part provided</i> |
| "Providing the information may be too expensive for you" | <i>Authorities are allowed to invoice only cost prices of the information provided</i> |
| "We are uncertain whether the document is public or not" | <i>An authority must define the public character of its documents</i> |

Source:
Ahvenainen-Räty:
Julkisuuslainsäädäntö
(1999)



Problems of Finnish FOI

- Authorities define what is public or not and negative interpretations may not be tested in the court
- When uncertain it is easier for an official to refuse than to give the information
- It is difficult to gain information about issues in preparation
 - Authorities are required to inform about "issues of public interest"
- Interpretation of the accessibility of the document may vary according on the authority and individual officials
- The cost of document may be high (often free)
- Requesters may not able to define what information they want / the scope of request may be too vast



Challenges:

1) Change of the public sector

- **Public agencies have been turned into state/municipal enterprises**
 - E.g. Palmia – municipal enterprise owned by the City of Helsinki which provides catering, property maintenance, cleaning and security services
 - Destia – infrastructure and construction service company owned by the state (former Road and Waterway Construction Administration)
- **Privatization of state / municipal enterprises**
 - Often in the fields of energy or telecommunication
 - "Imatran voima" → 1998 Fortum
 - "Posti- ja telelaitos" (Post-Telecom Finland) is today
 - Itella (postal services) and
 - TeliaSonera (telecommunication and mobile networks)

Less public activity
means less public
records



2) Cut-downs in the public sector administration

Less public activity
means less public
records

- Number of state civil servants has diminished
 - 1988: 215 000 state employees
 - 2012: 83 000
 - Reasons: increased efficiency, privatization, turning universities into private sector actors, cut-downs
- "Consultant democracy" – outsourced tasks are taken care by private sector consultants
 - Information can be classified to protect "private economic interests"



3) Change of culture

Less record, less
transparency?
Less control of records
professionals?

- Creation and preservation of records is susceptible to changes in the recordkeeping culture and methods of working
 - Content of archives has impoverished since the advent of email (anecdotal evidence)
 - E.g. SMS was used in communication during the Finland's EU presidency (2006) between ministers for foreign affairs
 - Ubiquitous working and web 2.0 – work is not done only in the office and by the tools defined by the employer (e.g. Google Docs)



What about the empty archives - syndrome?

- Records are always created for some audience – consciously or non-consciously. How does openness affect records?
- Examples from the US:
 - Senator Bob Packwoods personal diaries were declared as public documents which “chilled a long a tradition of diary production”(Blouin & Rosenberg: Processing the past)
 - George W. Bush did not use email at all during his presidency
- Inga-Britt Ahlenius (former head of the Swedish National Audit Office)
 - “the Swedish FOI principle if anything leads to fewer opportunities for scrutiny. What is written is public, most of what is of the greatest interest is not written down and hence not available for scrutiny.”

Eriksson, F., & Östberg, K. (2009). The problematic freedom of information principle: the Swedish experience. In A. Flinn & H. Jones (Eds.), *Freedom of Information. Open Access, Empty Archives?* (pp. 113–124). London and New York: Routledge



Ahlenius reminisces...

“For me, my participation in the team of experts that audited the [EU] Commission on the instructions of the European Parliament was a real eye-opener in this respect. The Commission relaxed the embargo on freedom of access to documents and **we were supplied with boxes of large steel-reinforced files. Using them we were able to track the major programmes that we were auditing since the files contained EVERYTHING.**

Everything was documented - besides more formal records there were notes of telephone conversations, notes of internal meetings, deliberations, discussions, EVERYTHING. From these records it was not difficult to follow a matter from beginning to end, including errors and irregularities of various kinds - and in this way the closed Commission itself supplied all the material that made it possible for us to submit a report that led to its immediate fall.

I have amused myself by asking a number of [Swedish] senior corporate managers whether they have ever written to the government on a matter that was important to them. The answer was no - important issues are discussed orally, by telephone or in some other way.”



Thank you!
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