



Development and Promotion of the Right to Information in National Frameworks

Policy Guidelines

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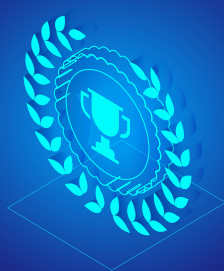




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ABBREVIATIONS

AI	Artificial Intelligence	IPP	of Intellectual Property Protection
API	Application Programming Interface	ISO/IEC	International Organization for Standardization International Electrotechnical Commission
CC	Creative Commons	ITIL	Information Technology Infrastructure Library
COBIT	Control Objectives for Information and Related Technology	NGO	Non-Governmental Organization
CSO	Civil Society Organization	ODI	Open Data Institute
FAIR	Findable, Accessible, Interoperable, Reusable	OECD	Organization for Economic Co-operation and Development
FOI	Freedom of Information	PSID	Public Sector Information and Data
GCIF	Government Common Interoperability Framework	RTI	Right to Information
GDP	Gross domestic product	SDG	Sustainable Development Goals
GPDI	Promotion of Governmental Public Domain Information	UNCAC	United Nations Convention Against Corruption
ICCPR	International Covenant on Civil and Political Rights	UNGA	UN General Assembly
IDUAI	International Day for Universal Access to Information	WSIS	World Summit on the Information Society

Introduction



While exercising their activities, governmental bodies produce, receive and hold Public Sector Information and Data (PSID). Put at the heart of the right to information (RTI), PSID disclosure and dissemination, can constitute a real catalyst for good governance practices implementation, but also a prerequisite to achieve the Sustainable Development Goals (SDGs).

It is in this context, that the 2022 UNESCO Guidelines are elaborated with the objective to make public officials, and development specialists aware of the importance of PSID access, and help them to better promote their release and dissemination. In this vein, these guidelines aim to consolidate the achievements of the 2004 UNESCO Guidelines for the Development and Promotion of Governmental Public Domain Information (GPDI), but also to introduce and reinforce new roles of PSID access in a very changing world, impelled by digital technologies frenetic use.

The 2022 UNESCO guidelines on can be used as a framework of principles, strategic and regulatory approaches, and models, by policy-makers and officials, interested in the institutionalization, the implementation and the assessment of PSID access process within the public bodies. They also

expose discussions on central issues such as RTI, privacy, proactive disclosure, and integration of FAIR data principles in PSID release. Such topics may certainly be of value for civil society, international organizations, academics, and professionals, attentive to the ways PSID access can reinforce transparency, impact public service delivery, and more generally be beneficial to the society.

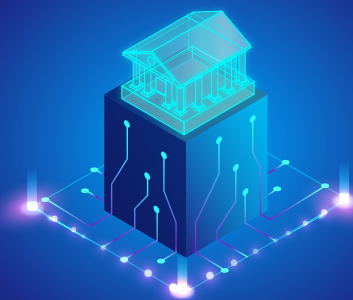
The development of the 2022 UNESCO guidelines, is based on a broad desk research studying how RTI recognition was strengthened the last two decades, especially trough the emergence of international Access to Information standards and frameworks. This study has also leveraged the multiple reviews commissioned by UNESCO to evaluate and reinforce the 2004 Guidelines' content, as well as the WSIS workshop¹ organized in April 2022, to rethink and discuss GPDI Policy Guidelines new version scope numerous. It has also drawn on relevant models elaborated and experiences led around the world, to make public sector information available openly, usefully and legally to citizens and to all interested development actors. This new version has been subject, throughout its development, to a continuous review process within dedicated group of reviewers composed of RTI experts.

¹ "WSIS Action Line C9: Rethinking UNESCO Policy Guidelines for the Development and Promotion of Governmental Public Domain Information". 20 April 2022. <https://www.itu.int/net4/wsis/forum/2022/Agenda/Session/279>

The first part of these guidelines describes specific stakes related to PSID Access. It starts by defining PSID and their typology, continues by positioning their access at the heart of RTI, and stresses its role in giving a new boost to GPDl promotion. PSID disclosure and dissemination multidimensional values, are then described from governance, social, cultural, economic perspectives. Ubiquitous and intelligent technologies' Impact on PSID is discussed at the end of this part.

The second part highlights main issues to consider while developing and promoting PSID access, and how to address them. The focus is put on components necessary to any normative framework for a broader, trustworthy and inclusive disclosure, namely its constitutional basis, strategic levers, legal foundations, and structures to support PSID requests and appeals. Other directives are also proposed to ensure a serene and sustainable PSID disclosure, such as balancing PSID access and privacy, proactive release, intellectual property protection, and request algorithms transparency. This part describes also how set-up and reinforce institutional capacities to oversee access to information, as well as practices and directives necessary to manage PSID resources.

Finally, a set of recommendations is proposed at the end of these guidelines.



1 Public Sector Information and Data Access Stakes

According to article 19 of the Universal Declaration of Human Rights², the right to freedom of opinion and expression “includes the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers”. Article 27 of the same Declaration provides for the “right freely to participate in the cultural life of the community [...] and to share in scientific advancement and its benefits”. Thus, one of the ultimate goals of any society striving for human development is the empowerment of all its citizens through the access to and the use of the relevant and updated information. Achieving this objective constitutes a paramount requirement considering the emergence of knowledge societies, where more and more information is being produced, particularly by governmental bodies.

Sector Information and Data (PSID) can be recorded and stored on different sort of physical medium, may it be digital or analogic. The notion of production includes active participation in the creation of data and information. It also refers to the collection of information or to the funding of information and data creation under specific contractual arrangements. In some cases, public authorities may produce information and data by outsourcing to private companies.

This definition stated, PSID can be:

- related to one or several sectoral domains, such as social, economic, political, business, legal, geographical, meteorological, seismic, scientific, transport, environmental, cultural, touristic, patent-related and educational areas;
- materialized as policy documents, national archives, records, and registers, minutes and records of meetings, ordinances and laws, judicial decisions, memos, e-mails, opinions, advices, circulars, orders, logbooks, contracts, reports, samples, models, scientific databases, statistical compilations, cultural surveys, results of research projects and official reports;
- available to use in multiple ways including through inspection, extraction, certified analog and/or electronic copies, and certified samples of documents.

1.1 Defining Public Sector Information and Data

1.1.1. General definitions and principles

While exercising a public task or a service of general interest, public authorities produce, or receive and hold official information and data. These Public

² United Nations General Assembly (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

1.1.2. Public Sector Information and Data Typology

Information produced by the public sector is not limited to “news” or “facts”, it can also be classified:

- **As administrative information or non-administrative information.** Administrative information includes administrative procedures, or explanations made by a public entity concerning its procedures, or other information related to governmental functions. Non-administrative information is related to the “external world”, and gathered or generated by public entities when performing their public functions (e.g. commercial, cultural, technical, medical, scientific, environmental, statistical, geographical, or touristic information).
- **As data generated by a governmental department’s core or support activities, or produced by a decision-making process,** encompassing all relevant facts used while formulating policies and the rationale behind administrative and quasi-judicial decisions.
- **As static slow or unchanging data, or dynamic data,** subject to frequent or real-time updates, such as sensor acquired data

in the environmental, meteorological, traffic or satellites fields, which should be made available immediately upon any collection or changes.

- **Information of public importance,** held by a public authority body, created or acquired in the process of execution of public duties defined in laws or other regulations, and related to everything whose disclosure is justified from the perspective of lawful interests of society.
- **Public sector and private-sector data,** generated or acquired during any joint activities between public and private-sector entities (e.g. public-private partnerships). For instance, data and information generated, processed, maintained or disseminated by the private sector, and funded by or for the public sector³.
- **According to its potential economic value for a specific market.** Public bodies may produce information which is either subsequently used or developed by the private sector with an added value, directly by the public sector, or through public-private partnerships.

³ OCDE « Enhancing Access to and Sharing of Data. Reconciling Risks and Benefits for Data Re-use across Societies” 26 Nov 2019

FIGURE 1. Public Sector Information and Data Typology



1.1.3. PSID Access Right

1.1.3.1. Access to Information as a fundamental right

The right of access to information (RTI) is a component of the fundamental right of freedom of expression as set forth by the Article 19 of the Universal Declaration of Human Rights (1948), and the subsequent International Covenant on Civil and Political Rights. RTI constitutes an essential guard to fight mismanagement and corruption, and a prerequisite to achieving sustainable development as a whole⁴. It not only permits individuals and groups to defend their rights, but also governmental decision-making processes to be more trackable and transparent, thus improving citizen trust in public policies and actions.

In this vein, and under RTI laws, any PSID set that is not otherwise made routinely available, can normally be accessed by citizens on request :

- as public domain information, openly, usefully and legally disseminated to citizens and to a broad range of development actors (businesses, academic institutions, NGOs, International Agencies).
- through institutional websites, social networks, or digital devices, and also via traditional communication ways and spaces: mails, hard copy, administrative offices and centers, etc.

RTI is an umbrella term, which is often used in the same way as terms such as Freedom of Information (FOI), that refers to the legal right to access information held by public bodies.

⁴ <https://www.article19.org/resources/access-to-information-is-critical-to-achieving-sdgs/>

1.1.3.2. Principles of the Right to Information

PSID can, in certain cases, be restricted to public access and use, because of Intellectual Property Protection (IPP), national security, privacy, and other considerations explicitly mentioned and defined in laws. However, once these exceptions well are defined, and since access to information is guaranteed by the human rights framework, PSID disclosure and availability should be aligned on the Access to Information Principles (**See. Box.1.**), and protected by consistent and implemented legal framework.

In this perspective, **RTI** laws should encompass clear provisions that ensure:

- a wide scope of applicability, including a broad definition of what constitutes PSID accessible under the law;
- the opportunity to override exemptions;
- the obligation for public authorities to provide information proactively in online and offline modes;
- the elaboration and implementation of time-bound, user-friendly and decentralized application procedures;
- the burden of proof placed on the public authority to justify non-disclosure;
- PSID access without obliging the requester to disclose reasons for seeking information;
- the setting-up of Independent institutions empowered by provisions for sanctions, to adjudicate violations of RTI laws.

Box.1. Principles of the Right of Access to Information^{5, 6, 7}



1. Maximum Disclosure, making access to information applicable to all public bodies, to the widest extent possible, and restricted only in very limited circumstances. Decision makers should always proceed from a presumption in favor of disclosure, without asking individuals to demonstrate any particular interest in the information or explain the reasons for the request.



2. Duty to Publish (Proactive Disclosure), obliging public bodies to disseminate widely information and documents of significant public interest, even without prior requests. One benefit is that publishing information will often be more economical than responding to multiple requests for the same information.



3. Processes to Facilitate Access, stating that requests for Information should be processed rapidly and fairly, and independent review of refusals should be available. This requires that simple, clear procedures be established to guide how public bodies deal with requests and how citizens can access information. Specific provisions should also be elaborated to include persons with disabilities, the illiterate, and populations in precarious situations.



4. Costs, protecting Individuals from being deterred to make requests for information by excessive costs, even if this provision does have a cost implication on public bodies. Preferably, costs should only be charged where there is a request for large amounts of documents, or for complex requests. It is also recommended for fee structures and schedules to be set through consistent and global approach, rather than be each public body separately.



5. Right of Appeal, allowing to have recourse to an independent body to review decisions made by public authorities. This right is reflected in most international standards, and represents a real lever to a wider information disclosure, especially when revealing corruption or incompetence. The appeals process should provide an avenue for enquiry and complaints procedure to raise issues about public entity publication and access decisions.



6. Limited Scope of Exceptions, requiring that exceptions withholding information from citizens should be clear, well-founded in law, and narrowly defined and applied. In this perspective, the presumption in favor of disclosure means that the onus should be on the public body seeking to deny access to certain information to show that it may legitimately be withheld.



7. Promotion of Open Government, aiming at changing culture of secrecy within public bodies. Long term success of the right to information depends on public officials understanding that openness is not just an obligation, but a fundamental human right. Implementing this principle needs at a minimum, to train public officials, and to ensure oversight through annual reports providing relevant statistics on the functioning of the FOI laws.



8. Protection for Whistle-Blowers, who release information on wrongdoing against any legal, administrative or employment-related sanctions. Such protection also concerns individuals who, reasonably or mistakenly, but in good faith, disclose information in the exercise of any power or duty under freedom of information legislation. This protection provides an important information safety valve, and ensures key information disclosure.

5 ARTICLE 19. "International standards: Right to information". <https://www.article19.org/resources/international-standards-right-information/#:~:text=The%20Right%20of%20Access%3A%20International,for%20that%20right%20in%20practice>

6 ARTICLE 16. "International standards: Right to information". <https://www.article19.org/resources/international-standards-right-information/#:~:text=The%20Right%20of%20Access%3A%20International,for%20that%20right%20in%20practice>

7 County Governance Toolkit. "What are the principles of the right to access information". <https://countytoolkit.devolution.go.ke/what-are-principles-right-access-information>

1.1.3.3. Dedicated Implementation Process and Oversight

RTI laws, and the induced policies, need well defined implementation processes, able to give practical effects to their provisions, mainly through the designation of government bodies providing information to the public. Implementation is important to ensure that the benefits of the law, policy or regulation are realized.

On the other hand, a dedicated oversight is mandatory to assess and enforce RTI laws implementation process. It is performed through a designated specific body charged with the supervision, monitoring, evaluation of performance and review, in order to ensure compliance with laws, regulations and policies.

1.2 International Standards and Access to Information

1.2.1. International Standards

Over the last two decades, many governments have become under a legally binding duty to provide citizens with the access to official information, arising from either their domestic law requirements or their international obligations. Moreover, the links between the access to information, and the ability to access other guaranteed rights and entitlements (human rights, constitutional rights) are now very clear for all the beneficiaries⁸. Several international and regional conventions, can thus be mentioned to illustrate such developments, among other:

⁸ UN Human Rights Committee (HRC), General comment no. 34, Article 19, Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34 <https://www.refworld.org/docid/4ed34b562.html> [accessed 13 August 2022]

- The enactment in December 2005, of Article 10 of the United Nations Convention Against Corruption (UNCAC), obligating each State Party to take necessary measures to enhance transparency, including publishing relevant information and adopting procedures allowing people to obtain “information on the organization, functioning and decision-making processes of its public administration”⁹.
- The first binding international decision on the subject rendered on September 19, 2006 by the Inter-American Court of Human Rights in *Claude Reyes et al v. Chile*, in which the Court held that access to public information is a fundamental human right¹⁰.
- The Convention on Access to Official Documents (the Council of Europe), otherwise known as the Tromsø Convention, adopted on 18 June, 2009¹¹ and which entered into force on 1 December, 2020, after 10 ratifications. The Convention is the first legally binding international instrument to recognize a general right of access to official documents held by public authorities¹².
- The UN Human Rights Committee in General Comment, adopted in 2011, interpreted the scope and limits of the right to information, stating that Article 19 of the International Covenant on Civil and Political Rights (ICCPR) ensures the right

⁹ United Nations “United Nations Convention Against Corruption” (UNCAC) UN, New York, 2004. https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

¹⁰ Order of the Inter-American Court of Human Rights Case of *Claude-Reyes et al. v. Chile* Judgment of September 19, 2006 (Merits, Reparations and Costs). https://www.corteidh.or.cr/docs/casos/articulos/seriec_151_ing.pdf

¹¹ “Council of Europe Convention on Access to Official Documents (CETS No. 205)” Tromsø 18/06/2009. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=205>

¹² “The Council of Europe Convention on Access to Official Documents” (CETS No. 205). Tromsø Convention. 1 December 2020. <https://www.coe.int/en/web/access-to-official-documents>

to access information held by public bodies. It requires that states proactively disseminate information in the public interest and ensure that access is “easy, prompt, effective and practical”¹³.”

- The African Charter on Values and Principles of Public Service and Administration, adopted by the African Union (AU), on 31 January, 2011, whose Article 6 provides inter alia that public services and administrations shall establish effective communication systems and processes to inform the public about service delivery, to enhance access to information by users, as well as to receive their feedback and inputs¹⁴.
- The adoption of the Model Law on Access to Information for Africa by the African Commission on Human and Peoples’ Rights in 2013¹⁵. The Model Law seeks to provide guidance for governments in Africa in developing or amending their national access to information laws to ensure that they meet the required standards and are consistent with the principles outlined by the Commission in the Declaration of Principles on Freedom Expression in Africa, which was adopted in 2002 and was then applicable.
- The unanimous approval, in 2015, by the UN General Assembly of the 2030 Agenda for Sustainable Development, recognizing access to information held by governmental bodies as essential for public engagement across the

Sustainable Development Goals. Access to information, implementation monitoring and reporting were assigned to UNESCO under Goal 16¹⁶, and more precisely the Target 16.10, calling on States to “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”.

- The Guidelines on Access to Information and Elections in Africa, adopted by the African Commission on Human and Peoples’ Rights in 2017. The Guidelines were developed and adopted by the Commission to provide guidance to African Union Member States on access to information in the electoral process as a means of strengthening democratic governance in Africa¹⁷.
- On 15 October 2019, the 74th UN General Assembly (UNGA) proclaimed 28 September as the International Day for Universal Access to Information (IDUAI)¹⁸. This day was initially adopted by UNESCO’s General Conference in 2015, to raise awareness of the right to seek and receive information as part of the right to freedom of expression, and as key to sustainable development. Since 2016, UNESCO has celebrated IDUAI and highlighted how the right to access information is an enabler for the realization of all Sustainable Development Goals within the 2030 Agenda.

¹³ UN Human Rights Committee, General Comment No. 34 Article 19: Freedoms of opinion and expression, (2011) <http://www.refworld.org/pdfid/4ed34b562.pdf>

¹⁴ “African Charter on Values and Principles of Public Service and Administration” Adopted by the 16th Ordinary Session of the of Heads of State and Government of the AU Addis Ababa, Ethiopia - 31st January 2011. Entered into force on 23rd July 2016 <https://au.int/en/treaties/african-charter-values-and-principles-public-service-and-administration>

¹⁵ African Commission on Human and Peoples’ Rights “Model Law on Access to Information for Africa” ACHPR, 2013. <https://www.achpr.org/legalinstruments/detail?id=32>

¹⁶ UNESCO “From Promise to Practice: Access to Information for Sustainable Development” UNESCO 2020. https://en.unesco.org/sites/default/files/unesco_report_16102.pdf

¹⁷ African Commission on Human and Peoples’ Right “Guidelines on Access to Information and Elections in Africa” ACHPR. November 2017 https://www.achpr.org/public/Document/file/English/guidelines_on_access_to_information_and_elections_in_africa_eng.pdf

¹⁸ UNESCO “UN proclaims International Day for Universal Access to Information”. <https://en.unesco.org/news/proclaims-international-day-universal-access-information>

- The revision of the Declaration of Principles on Freedom of Expression in Africa, originally adopted by the African Commission on Human and Peoples' Rights in 2002, and its replacement with the Declaration of Principles on Freedom of Expression and Access to Information in Africa in 2019 to strengthen the normative framework for freedom of expression and access to information on the continent¹⁹.
- In October 2020, at its Annual Assembly, the Organization of American States (OAS) approved the Inter-American Model Law 2.0 on Access to Public Information²⁰, to include thematic areas that require updates or further development in the Model Inter-American Law on Access to Public Information adopted by the OAS General Assembly in 2010²¹. This policy framework incorporates best practices for promoting transparency and the right of access to information, such as the definitions and scope of this right, the nature and functions of the guarantor bodies, and the regime of exceptions.

1.2.2. UNESCO Guidelines for Governmental Public Domain Information Promotion

In 2004, UNESCO elaborated and published its Policy Guidelines²² to help and support developing and promoting the production, dissemination, preservation, and use of Governmental Public Domain Information (GPDI) within developing and least developed countries, with particular attention to information in digital form. GPDI is defined as information that is publicly accessible and the usage of which does not infringe any national security restrictions, nor any legal right, nor any obligation of confidentiality. The UNESCO Guidelines stressed that any information produced by public entities in all branches and at all levels, should supposed to be in the governmental public domain, unless another policy option (e.g. a legal right such as an Intellectual Property right or personal privacy) is adopted and clearly documented, preventing it from being freely accessible to all.

In this perspective, the 2004 version of the Guidelines focused on supporting governments' efforts aiming to:

- help guide the development of infrastructure and services for provision of governmental information to the public;
- assist in fostering the production, archiving and dissemination of GPDI, with an emphasis on ensuring multicultural, multilingual content; and
- promote access of all citizens, and especially disadvantaged communities, to information required for individual and social development.

¹⁹ African Commission on Human and Peoples' Right "Declaration of Principles on Freedom of Expression and Access to Information in Africa" ACHPR. Adopted by The African Commission on Human and Peoples' Rights at Its 65th Ordinary Session, held from 21 October to 10 November 2019 in Banjul, Gambia. https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf

²⁰ http://www.oas.org/en/sla/dil/docs/publication_Inter-American_Model_Law_2_0_on_Access_to_Public_Information.pdf

²¹ http://www.oas.org/en/sla/dil/docs/access_to_information_Text_edited_DDI.pdf

²² Uhilir P. F. "Policy Guidelines for the Development and Promotion of Governmental Public Domain Information." UNESCO, Paris, 2004

Since their publication, the UNESCO's GPDI Guidelines have contributed to confer a heightened importance to public information access around the world. Nevertheless, these Guidelines needed to be updated, given all the consequential changes, at different levels (political, social, technological), that happened around the world since 2004, and where access to information was a real catalyst.

It is in this perspective, that PSID is proposed to replace GPDI:

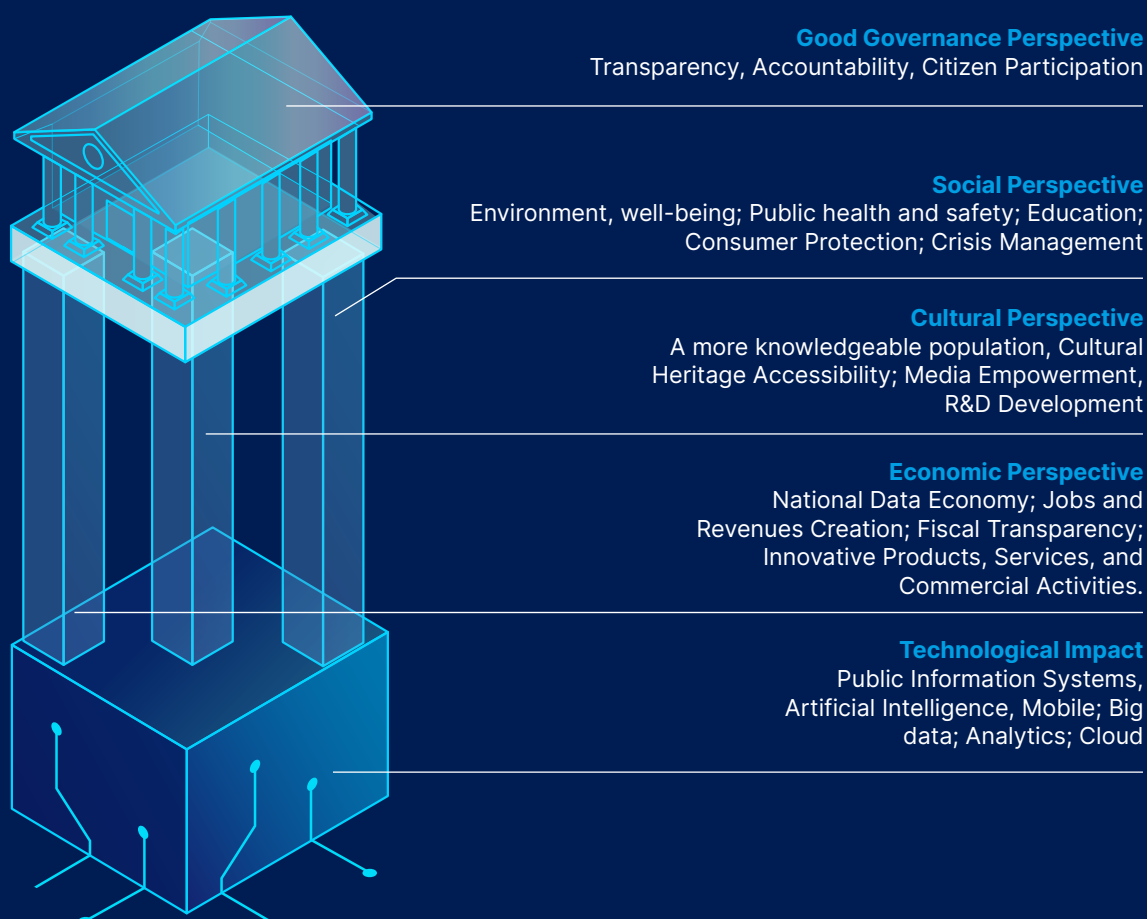
- to consolidate what has been achieved in GPDI development and promotion field, but also
- to introduce and/or reinforce other aspects related to the new role of access to PSID as a prevalent factor of good governance,

inclusion, fighting precarity, integrating the poorest population, and crisis management, in today's fast-changing world.

1.3 PSID Access multidimensional Role and Value

Governments have a critical role in leading the expansion of the access and use of public domain information. Policy makers should express their utmost willingness into consider the benefits of making PSID available. This requires an appreciation of the access to information implications for good governance, social capital development, and economic welfare.

FIGURE 2. Public Sector Information and Data Typology



1.3.1. Good Governance Perspective

The right to access government information is a *sine qua non* legal condition for transparency, accountability and citizen participation in policy making²³. Indeed, accessing relevant PSID, allows citizens and other stakeholders, mainly Civil Society Organizations (CSOs), media, academia, and watchdogs' organizations, to better understand governmental policies, assess efficiently public services, and promote democratic ideals, such equality, inclusion, and openness. With the help of RTI legal framework and PSID release, CSOs can also disseminate information on current legislations, public expenditures, policy implementations, achievements and drawbacks in the promotion of the rule of law, good governance, and respect for human rights, etc²⁴.

Moreover, in recent decades, public administrations have increasingly recognized that public services delivery requires the active contribution of multiple actors in the society²⁵. In this objective, a wide proactive PSID disclosure and dissemination can enhance citizens and CSOs capabilities, in terms of local knowledge to co-design, co-produce and deliver basic services efficiently, like health, education and welfare, etc.

Finally, PSID availability can hugely reinforce CSOs role, when representing and negotiating for citizens' interests vis-à-vis the Government during decision-making processes, particularly when

²³ OECD "Open Government in Latin America" OECD Public Governance Reviews, OECD Publishing, 2014, Paris. <https://dx.doi.org/10.1787/9789264223639-en>.

²⁴ Centre for Good Governance "The Right to Information Act, 2005 A Guide for Civil Society Organizations". CGG, under the Capacity Building for Access to Information Project. A GoI-UNDP Initiative. NIA. July 2006

²⁵ OECD "Innovating the Public Sector: from Ideas to Impact" 12-13 November 2014 OECD Conference Centre, Paris

it comes to advocating marginalized and vulnerable groups of population.

Thus, confirming its role as a key instrument towards transparency, accountability, participatory democracy and good governance, the right to access is becoming widely recognized around the world. This is proved by the drastic increase in the number of countries having enacted or adopted binding laws and policies, that ensure the right to access information held by public authorities. As of August 2021, 132 UN Member States have adopted constitutional, statutory and/or policy guarantees for public access to information, with at least 22 countries adopting such guarantees since the adoption of the 2030 Agenda in 2015²⁶.

FIGURE 3. Number of countries with Access to Information legal guarantees



²⁶ UNESCO "Access to Information laws". ©UNESCO 2022. <https://www.unesco.org/reports/access-to-information/2021/en/ati-adoption>

However, 2019 UNESCO research on the implementation of SDG 16.10²⁷ demonstrates that while there is progress in enacting right to information laws, governments still need to improve access to information laws, and better ensure their implementation.

1.3.2. Social Perspective

Firstly, PSID open and unrestricted dissemination enables citizens to make informed decisions about their daily life, their environment, and their future, thus enhancing public health and safety, and therefore, the general well-being. Conversely, and in the absence of information, people are at risk of experiencing a wide range of emotions in the face of a crisis, or more generally any unexpected situations, and the anxiety or fear thus generated can aggravate the situation²⁸.

An example is the COVID-19 crisis, also designated as a “data-driven pandemic”, as massive amounts of information and data were unlocked and shared at an unprecedented scale. During this crisis, prompt information disclosure was seen as a top priority enabling a collective response to the pandemic²⁹, helping researchers to bridge knowledge gaps and respond to the crisis in a timely manner. Information disclosure also helped also to improve the general public response capacity in the face of

27 UNESCO “Access to Information: A New Promise for Sustainable Development” UNESCO, 2019, Paris.

28 Zeng R, Zhu D. “A model and simulation of the emotional contagion of netizens in the process of rumor refutation.” *Sci Rep.* 2019;9(1):14164

29 Wang C, Horby PW, Hayden FG, Gao GF. “A novel coronavirus outbreak of global health concern.” *The Lancet.* 2020 Feb;395(10223):470–473. doi: 10.1016/S0140-6736(20)30185-9. doi: 10.1016/s0140-6736(20)30185-9

large amounts of disinformation, also designated by World Health Organization as “infodemic”³⁰, thus contributing to prevent confusion and risk-taking behaviors that could harm collective health, and lead to mistrust in health authorities. The same reasoning applies to concerns about environmental pollution, misuse of public funds, etc.

On the other hand, strong social equity monitoring systems are important for countries on the path to reducing inequalities in health, education, and more generally well-being, and achieving the human development related SDGs. Many of the data necessary to evaluate these SDGs’ indicators can come from PSID that are timely updated and disclosed.

The promotion of each State’s socio-educative capital is another reason for expanding the information commons through PSID disclosure, that can facilitate access to education and training and raise citizens’ qualification and skills levels. This can be achieved, for example, through the analysis of needs on the labor market, in order to elaborate targeted and relevant training programs. More specifically, these needs in the context of the unemployed labor force, will help identify those facing a higher risk of long-term unemployment, and consequently provide them with adequate support: targeted trainings, professional retraining, etc. Public authorities have a critical role to play in each of these capacity-building areas, including by provisioning as much government-produced information as possible in the public domain.

30 WHO “Infodemic” definition: An infodemic is too much information including false or misleading information in digital and physical environments during a disease outbreak. https://www.who.int/health-topics/infodemic#tab=tab_1

Finally, the growth of consumer protection laws had the effect to ensure consumers and shareholders access to financial and market information, and to make it harder for agencies to monopolize and hide information to the detriment of the public. Such information disclosure, can also enhance and consolidate the citizens' digital experience, through data available on web-based networks and social media. This digital experience can later be matched with analytics systems of both:

- public administrations, such as regulation authorities, to identify the citizen-consumer complaints in a proactive manner;
- private sector, such as market operators, in order to identify and propose complementary, or even personalized, services and products.

1.3.3. Cultural Perspective

A more knowledgeable population

Broad and open availability of PSID provides all citizens with means to learn about their country, their fellow citizens, and their government through information that in many cases would not be available from any other source.

Moreover, information and data and more generally content produced by governmental bodies, are part of national discourse reflecting components for understanding the reality of everyday life, representing the society. Their open access will have a real strengthening effect in the formation of identity of individuals, communities, and countries.

On the other hand, by making accessible a much larger amount of PSID, the more economically developed societies contribute in larger proportions to the global pool of open information potentially beneficial to all developing countries. Thus, PSID disclosure contributes to make population more knowledgeable, aware of the challenges it may face locally, nationally and globally, and therefore well prepared to social interactions and openness to the outside world.

Documentary Heritage Accessibility

Libraries, museums, archives and other cultural institutions hold a significant amount of works, information, and data, that can be classified as PSID whose availability for copy and reuse can facilitate the spread of knowledge, and boost creative production. These institutions are also increasingly considering the potential brought by the involvement of volunteers (or crowdsourcing) in digitization projects, and particularly their contribution in collections' cataloguing and providing additional support in interpreting documents. Moreover, releasing digital cultural information, data and works in compliance with existing national legislation, can invigorate creative industries, and produce economic benefits, mainly by providing innovative tourism services that build upon the local and national cultural heritage³¹.

In this perspective, cultural institutions have the duty to be transparent about what PSID can be re-used, and the terms and conditions on which that re-use can take place.

³¹ Natale M.T., Piccinimo M."Digital Cultural Heritage and Tourism Recommendations for cultural institutions" Drafted by the MiBACT working group for the production of recommendations on the use of digital technologies for tourism. version 1.0, 2 October 2014

Media Empowerment

Given the rapid rise of the internet age and social media, there has been an increasing access to news and information on which media professionals can report, empower and inform the public and, where possible, use in decision-making. Therefore, journalism and media professionals need to acquire new skills in terms of responding on different platforms to instant delivery of information where inaccuracy can be easily generated³². This convergence of skills and increased competition, when everybody can become a publisher requires consequently an independent and comprehensive process of assessment, verification and analysis of collected information. One of the main objectives here is to prevent and also to fight all forms of so-called fake news, misinformation and disinformation, that can spread widely and rapidly, especially among fragile and/or unaware audience. RTI laws and PSID disclosure directives can support media to undertake this important role, as they can be used to access verified and reliable information, to diversify public sector information sources, and more importantly, to verify all the gathered information.

Research and Development

The scientific and technical research communities can benefit tremendously from PSID disclosure. Indeed, numerous factual databases as well as expert reports and studies, are collected by government entities or with government funding, and can be leveraged to:

- address rising societal challenges efficiently and in a holistic manner;
- promote interdisciplinary, inter-sector, inter-institutional, and international research;
- enhance the quality of “on the field” and empiric-based research activities and open scientific enquiries, and
- set-up an effective academic system, mainly by facilitating the education of new researchers.

On another hand, open science can accelerate progress by making research more efficient³³. This principle can be applied to the particular case of publicly funded scientific data³⁴ and the public domain status of openly available access and use of factual information. An increased and regulated open access to research data helps enhance quality, prevent unnecessary duplication of research, speed up scientific progress, combat scientific fraud, and it can overall favor economic growth and job creation³⁵.

1.3.4. Economic Perspective

PSID release can be a real booster for national data economy, creating more jobs and revenues³⁶, and strongly contributing to the achievement of the economic development SDGs (particularly SDGs: 8,9, 12)³⁷. Indeed, PSID can be a valuable resource

³³ National Academies of Sciences, Engineering, and Medicine. “Open Science by Design: Realizing a Vision for 21st Century Research”. Washington, DC: The National Academies Press. 2018. <https://doi.org/10.17226/25116>

³⁴ Directive (EU) 2019/1024 of The European Parliament and of The Council of 20 June 2019, on open data and the re-use of public sector information.

³⁵ *ibid* 31

³⁶ Negreiro M. “Re-use of public sector information. Briefing-EU Legislation in Progress.” European Parliamentary Research Service. July 2019. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628312/EPRS_BRI\(2018\)628312_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628312/EPRS_BRI(2018)628312_EN.pdf)

³⁷ SDGs: 8–Decent Work and Economic Growth; 9–Industry, Innovation and Infrastructure; 12–Responsible Consumption and Production

³² AFIC et al. “Right to Information in Africa Manual for Journalists” Africa Freedom of Information Centre (AFIC), The Federation of African Journalists (FAJ), Friedrich-Ebert-Stiftung (FES). 2017 <https://action-namibia.org/wp-content/uploads/2017/10/Right-to-Information-Manual-For-Journalists.pdf>

for reuse as open data³⁸, allowing the development of new innovative citizen-centric products and services, as well as innovative commercial activities. In 2019, an independent assessment of the Open Data Institute (ODI) work on data trusts³⁹, led in United Kingdom, described how sharing data can create value by enabling new innovations, raising productivity, and increasing competition. Generally speaking, benefits include an increase in the usage of the Open Data, an expansion of its application to new areas, new products and services, a better data quality, efficiency gains for both data publishers and users, improved user satisfaction and increased trust, as well as a better image of the Open Data providers⁴⁰.

Moreover, it is estimated that a broader adoption of open data ecosystems in the finance sector can have a positive impact with up to 5% of GDP growth in developing countries⁴¹, where data sharing can create 20 to 50 times more value for the wider economy than the value it creates for data stewards⁴². In this vein, recent research confirms that fiscal transparency, in particular during the budget execution phase, has a strong positive impact on attracting foreign direct investment inflows-and this is even more

true for non-OECD countries⁴³. In the United Kingdom, it is estimated that knowledge assets in the public sector could generate £5 billion financial, economic, and social benefits per year at least⁴⁴.

Finally, open data development will also allow for mixing public data assets with data produced by other public bodies, private sector, civil society and citizens, thus promoting transparency, participation, and social inclusion in service delivery⁴⁵.

1.3.5. Technological Impact on PSID

In addition to their traditional information systems in analog or digital forms, public agencies increasingly use the newest digital technologies, namely Artificial Intelligence (AI), mobile, Big data, analytics and cloud to boost operational efficiency and to enhance their response to their “customers” (citizens, enterprises, partners) needs. Ubiquitous connectivity, strong mobility, intuitive and user-friendly interfaces and new transactions channels, look beyond the classical governmental services available online and/or through mobile devices. These technologies raise bigger challenges of an open and equitable access for all citizens to the knowledge and benefits to be derived from the resulting important expansions of PSID.

38 Open Government Data (OGD), or Open Data, are datasets produced by public sectors, and made available in an open and machine-readable format that can be freely used, re-used and shared by anyone for any purpose. <https://www.oecd.org/gov/digital-government/open-government-data.htm>

39 <https://theodi.org/article/data-trusts-economics-report/>

40 OECD (2017), Government at a Glance 2017. Available at <http://www.oecd.org/gov/government-at-a-glance-22214399.html>

41 McKinsey (2021), Financial data unbound: the value of open data for individuals and institutions. <https://www.mckinsey.com/industries/financial-services/our-insights/financial-data-unbound-the-value-of-open-data-for-individuals-and-institutions>

42 OECD (2019), Enhancing Access to and Sharing of Data. https://www.oecd-ilibrary.org/science-and-technology/enhancing-access-to-and-sharing-of-data_276aaca8-en;sessionid=tiWLS6REUQH5Jw0sMA6T5unp.ip-10-240-5-57

43 Cicatiello, L. et al. (2021), “Assessing the impact of fiscal transparency on FDI inflows”, Socio-Economic Planning Sciences, Vol. 73, p. 100892, <http://dx.doi.org/10.1016/j.seps.2020.100892>.

44 HM Treasury (2018), “Getting smart about intellectual property and other intangibles in the public sector: Budget 2018” Crown copyright 2018

45 OECD “Policy Shaping and Policy Making: The Governance of Inclusive Growth” © OECD, 2015. <https://www.oecd.org/governance/ministerial/the-governance-of-inclusive-growth.pdf>

States should deal with this issue by considering the potential impact of unprecedented data transactions on democracy, human rights (which overlap with other ethical concerns) and the rule of law, as well as its influence on individual behavior and thought⁴⁶. Therefore, Governments need to update and enforce data protection regulations, to mitigate risks to human rights posed by AI, particularly machine learning, and more specifically against forms of “illegitimate interference”, including forms of persuasion and data intrusion that compromise democratic principles⁴⁷. Governments should also promote policies that create a diverse and pluralistic information environment, including the regulation of technology monopolies in the domain of AI⁴⁸. They can, in this objective, build upon the UNESCO AI and Ethics Recommendation⁴⁹ aiming, among other goals, to :

- provide a universal framework of values, principles and actions to guide States in the formulation of their legislation, policies or other instruments regarding AI, consistent with international law;
- protect, promote and respect human rights and fundamental freedoms, human dignity and equality, including gender equality; and
- promote equitable access to developments and knowledge in the field of AI and the sharing of benefits.

46 E. Danescu “Democracy, Freedom and Truth at a Time of Digital Disruption: An Equation with Three Unknowns?” Open Access Book “Fake News Is Bad News - Hoaxes, Half-truths and the Nature of Today’s Journalism’ IntecOpen. August 20th, 2021.

47 *ibid* 44.

48 EESC. Artificial Intelligence – The Consequences of Artificial Intelligence on the Digital Single Market, Production, Consumption, Employment and Society, European Economic and Social Committee: Brussels; 2017. <https://www.eesc.europa.eu/en/our-work/opinions-inf>

49 UNESCO “Recommendation on the Ethics of Artificial Intelligence”. Adopted by UNESCO’s General Conference at its 41st session, on 24 November 2021: <https://unesdoc.unesco.org/ark:/48223/pf0000381137>



2 How to Develop and Promote Public Access to PSID

2.1 Normative Frameworks of Access to Information

2.1.1. Constitutional Basis for PSID Disclosure and Dissemination

RTI is increasingly perceived as one of the defining aspects of any rule of law society, and a central condition to the exercise of procedural political and human rights. Moreover, transparency is vital to government agencies' oversight, and therefore, represents an additional justification of the right to information. On another hand, PSID held by public authorities can be considered, as the property of citizens, and as such, these lasts are meant, in a constitutional way, to enjoy free access to it, except when their interests are threatened.

All these justifications can explain why since the 1990s and around the world, numerous new or amended constitutions have enshrined RTI, thus enhancing PSID release and dissemination. Governments should reinforce this dynamic, through continuous measures, aiming at:

- providing for and/or reinforcing this right in their constitutions, or at least making it be inferred from the constitutional right of expression freedom,
- giving effect to RTI as constitutional right, by supporting it through adequate enabling legal system (laws, provisions, decrees, etc.),

- making sure that this constitutional right is not or cannot be countermanded by other laws,
- confirming the supremacy RTI as constitutional right in case of conflicting with other laws,
- enforcing and expanding individual guarantees to request and obtain governmental information, through if necessary the supports of courts and appeal bodies.

2.1.2. Trust as a basis for Strategic Approach to disclose PSID

Over the years, more and more countries have put in place a range of adequate PSID disclosure strategies and policies. Nevertheless, a range of barriers have caused progress in governmental data release and use to be relatively slow, particularly, privacy risks, complexity or incompleteness of legislative framework applied to data, and lack of a coordinated approach to data sharing initiatives.

To enable better use and sharing of data and information, governments should be mindful of citizens and users' expectations and preferences, and consequently, engage adequate strategies and action plans to release and disseminate their PSID assets in serene and secure ways.

These strategies should be based on increasing trust, through a greater participation of citizens in the realization of the benefits that better use of

PSID can offer. These strategies should be based on an increasing trust, by implementing and applying risk management practices to maintain confidence in how data is handled, making citizen confident in the way their data remains secure, accessible and used for positive purposes, and ensuring greater participation of citizens in the realization of the benefits that better use of PSID can offer.

Furthermore, a clearer operating environment should be set-up to retain data and information custodians trust, by giving them permission for the safe release of data/information, and adequate support to share and release data/information, especially when such disclosure incurs substantial costs not covered by operational budgets.

In this vein, governments should promote release of large volumes of data and information in formats and under conditions that permit their leveraging and reuse. This requires to engage all the measures necessary to protect both public interest and personal data, and also to profit from economic benefits induced by such open data dissemination and use.

2.1.3. Legal Foundations for Access as a Guiding Principle

2.1.3.1 A broader PSID Availability Scope

The right of citizens to access governmental information should be guaranteed through the national Constitution, legally founded and operationalized by an RTI Act precisiting how this right can be exercised. In this perspective, RTI laws should apply to government documents and information, accordingly to the Access to Information Principles

(See. Box.1.), making them available to anyone, whether or not they are citizens from the country in question, and whether or not they formulate the reason behind the need to access to this information.

Thus, PSID availability scope should be considered in a broad framework, mainly in terms of application of free of charge openness and legal access and re-use, to all public information and documents collected or produced:

- by public institutions at national level, but also at local level. Indeed, municipalities, their elected representatives and civil servants, represent the first interface between citizens and the State, and thus have a crucial role in fostering and sustaining trust-building and participatory decision-making through the dissemination of their PSID,
- within the exercise of a public task, a service of general interest, or decision-making processes, encompassing all relevant facts relied on while formulating policies or the reasons for administrative and judicial actions or decisions,
- through public funds, and/or as part of partnerships with the private sector, especially in social domains (e.g. public-private partnership projects in domains such public health services, water supplies, sanitation, disasters and pandemics management, etc.), with NGOs or intergovernmental organizations.

2.1.3.2 A broader Recognized PSID Formats Spectrum

Governments should recognize and integrate the legal value and the authenticity of any format holding public information **(See Section 1.1.1. General definitions**

and principles), and of any the medium (paper, or electronic form or as a sound, visual or audiovisual recording, etc.), as well as all means, ways and media to collect and disseminate PSID, be they:

- traditional analogue media as paper, radio, public announcements, local community centers, libraries, etc.,
- country's significant traditional modes of communication, or
- digital devices and technologies for the storage, processing and/or exchange of public information in structured or semi-structured formats, using online and offline modes, via social networks, voice messages, or SMS, or through formal or private emails.

Concurrently, it is very important to provide information on the internet and in a digital format, but without keeping this access restricted to electronic formats, as a very vast majority of people in developing countries are not connected yet. In this perspective, a change to electronic dissemination, particularly as the sole mean of disseminating the information product, should not impose undue acquisition or training costs on users.

Finally, using personal email for public purposes would deprive RTI laws of its essential content. Therefore, specific articles of law should be drafted to address issues related to:

- the use of private communication services (private email, instant messages apps, social networks, etc.) for conducting government business, thus circumventing public scrutiny and disclosure; and
- the eventual actions to take if such use comes to light, and how to assess the necessity to maintain the concerned records and make them available for public disclosure as per the prevailing statutes in the country.

2.1.3.3 An Inclusive PSID Disclosure and Dissemination

Specific legal provisions should ensure that access strategies to PSID involve all fragile populations, namely the elderly, racial and ethnic minorities, people with disabilities, rural populations and apply a gender lens. Opportunities should also be provided for digitally low-skilled or illiterate persons, and those of low socio-economic status. PSID open access and use would empower these disadvantaged populations to exercise their rights and to hold governments to account.

In this objective, public Information must especially be accessible to women in developing countries, particularly in rural areas, where a large percentage doesn't even have basic smartphones to access the Internet. PSID must also be produced and disseminated in appropriate formats, meeting, among others, the special needs of people with physical disabilities.

Furthermore, all forms of linguistic segregation should be avoided in providing access to public information. It is necessary to legally allow public bodies to use technologies facilitating information access and exploitation, especially innovative Machine Translation tools and online dictionaries. Such tools can contribute to linguistic integration, and make all languages usable for the production and consumption of both local and national public information.

Finally, improperly restrictive practices such as avoiding the dissemination and use of public information should be prevented, in compliance with the legal statutory in place, particularly practices to establish or permit others to establish on the government behalf:

- exclusive, restricted, or other distribution arrangements that hinder the availability of PSID dissemination products on a timely and equitable basis.
- restrictions or regulations, including the charging of fees or royalties, on the reuse, resale, or re-dissemination of public information products by the public.
- charges for information dissemination products at a level higher than what is sufficient to recover the cost of dissemination (i.e. the marginal cost of fulfilling a user request).

2.1.4. Supporting PSID Requests and Appeals

2.1.4.1. Supporting Citizens' Requests

All public bodies should have a responsibility in providing PSID to the public that must be consistent with their legislative and regulatory missions. They should fulfil this responsibility primarily by providing a clear classification of governmental information to disseminate, even if no categorization system can be perfect. All governmental bodies should also provide information describing their organization, activities, programs, meetings, systems of records, and other information holdings, and how the public may obtain access to their information resources.

Secondly, public authority that has been requested to give access to an item of information should not control the particular interest the requestor has in accessing it. Thus, people should not be asked to prove why they need the information, or to give reasons for accessing or seeking information. This is particularly relevant in cases where citizens face complex or heavy administrative processes.

Moreover, if the information is not directly accessible through a digital means, the public authority allowing or denying access should be required to take its decision in a specified period, and the reasons for denying access should be sufficiently detailed, so that the requestor can determine the basis for an appeal of the decision.

Finally, appropriate assessment instruments should be set-up to measure progress made in the fulfilment by the state of its duty to guarantee PSID access, mainly to which level:

- The public is entitled to request access to PSID;
- governmental bodies respond to such requests in a timely fashion; and
- PSID is put into the public domain proactively.

2.1.4.2. Supporting Citizens' Appeals

Appeals normally involve requests to reconsider failures by duty-bearers to provide information. Ideally, an independent and impartial review body, that can be also an independent information commissioner or ombudsman⁵⁰ needs to be established in order to handle appeals of decisions denying access to the information. The process by which this body powers are asked to intervene has to be clearly stated and must be performed on a reasonably expeditious basis and be sufficiently transparent.

Ombudsmen are usually invested of weaker investigation powers, but they have the advantage of setting-up less conflictual relations between the public body and the PSID requester, relying more on resolution through persuasion and dialogue, potentially leading to greater compliance⁵¹.

Finally, it is to Governments to define whether decisions and/or recommendations emitted by these bridged powers are binding or not. Governments

⁵⁰ Operational at the federal level in Canada, Hungary, Sweden, Australia, Spain and New Zealand. Udombana, N. J., & Quadri, K. M. (2020). Institutional Framework on the Right to Information in Selected Jurisdictions. *Beijing Law Review*, 11, 244-261. <https://doi.org/10.4236/blr.2020.111017>

⁵¹ Udombana, N. J., & Quadri, K. M. (2020). Institutional Framework on the Right to Information in Selected Jurisdictions. *Beijing Law Review*, 11, 244-261. <https://doi.org/10.4236/blr.2020.111017>

have also to establish adequate mechanisms for a final review of access denials. Appeals to a court should normally be a last resort once institutional appeal processes are exhausted.

2.2 Right Balance to Unlock Public Sector Information and Data Potential

2.2.1. Balancing Access to Information and Privacy

There may be interests that justify the withholding of certain governmental information, such as protecting individuals' privacy, safeguarding a country's intelligence and national security secrets, avoiding prejudicing a criminal investigation, and/or protecting a commercial confidence or private proprietary information. It should be noted that:

- Provisions that restrict access to protected information are frequently enforced by the use of criminal penalties.
- There is a strong connection between the right to access to information and the right to privacy⁵². They should be considered as complementary rights⁵³, but also as conflicting ones^{54,55}.

⁵² UDHR, art 12; ICCPR, art 17; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990, art 14; Convention on the Rights of the Child (CRC), art 16; American Convention of Human Rights (ACHR), art 11.2, European Convention on Human Rights (ECHR), art 8; African Charter on Human and Peoples' Rights; Arab Charter on Human Rights arts 16 and 8.

⁵³ UNESCO "Guidelines for Judicial Actors on Privacy and Data Protection" UNESCO, 2022.

⁵⁴ Ayoubi L. "Mapping the Evolving Interface of Access to Information and Privacy: Issue Brief" UNESCO 2021

⁵⁵ The case of public interest is very expressive at this level. Indeed, on the one hand, public interest can prevent the disclosure of information when doing so would be against this interest. On the other hand, public interest can override other grounds for refusal of an access to information request, for instance on the basis of protection of privacy.

The case of public interest is very expressive at this level. Indeed, on the one hand, public interest can prevent the disclosure of information when doing so would be against this interest. On the other hand, public interest can override other grounds for refusal of an access to information request, for instance on the basis of protection of privacy.

To address efficiently such contradictory situations, exceptions to the principle of availability should be carefully balanced, and public information withholding mitigated, whenever it is necessary and legally possible. Thus, while some exceptions preventing citizens from accessing public information are mandatory by law, due to the level of confidentiality of the targeted information, other discretionary exemptions to disclosure should be specifically justified and interpreted as narrowly as possible in order to avoid adding unnecessary secrecy over governmental information.

Moreover, any classification regime, based on legal procedures and principles, especially when it comes to national security restrictions, must also include a declassification schedule that establishes a timetable for placing previously restricted information in the public domain.

Therefore, if a government has already adopted personal data protection legislation, this legislation and the RTI law should be mutually consistent, with the possibility, if any inconsistencies are identified, to ensure an overriding option of the RTI law over the other laws and policies.

On another hand, the use of Data sanitization techniques, such as data anonymization⁵⁶, should be recommended in order to enlarge the scope of PSID access for a maximum public information

⁵⁶ IAP definition: "Anonymization: The process in which individually identifiable data is altered in such a way that it no longer can be related back to a given individual". <https://iapp.org/resources/glossary/#abstract>

disclosure without violating any laws or decrees requiring data privacy.

2.2.2. PSID Proactive Release Policies

The proactive disclosure consists in making information public at the initiative of the public body, without a request being filed. It results in proactive transparency confirming the public's right to be informed, but also the government's will to inform the public of laws and decisions⁵⁷.

In this perspective, Governments should lead rigorous, objective, and balanced analysis, to assess if there is a potential harm or risk, on the state, on the state, society or particular persons, in proactively disclosing or at least on-request releasing, a specific set of PSID. Such assessment should be "harm test" oriented, and generally comprising the following three phases⁵⁸, that check:

- I whether there is a foreseeable harm to the government, society or particular citizens, legal persons or other organizations in proactively disclosing or at least on-request releasing the information; and then
- II if there may be such a harm, whether it can be clearly articulated and supported by facts—not just speculation or general fears; and finally
- III if parts (I) and (II) are met, whether there nonetheless is an overriding benefit to society, or "public-good test", as a whole, in the targeted information proactive disclosure, or at least its "on-request" release.

⁵⁷ Darbshire H. "Proactive Transparency: The future of the right to information?" World Bank. Access to Information Program. Governance Working paper series. 2010

⁵⁸ Pearlman M.W. "Proactive Disclosure of Government Information. Principles and Practice". Copyright © 2017-2022 National Freedom of Information Coalition. <https://www.nfoic.org/proactive-disclosure-of-government-information/>

Governments should also establish effective mechanisms for individuals and groups enabling them to request information that have not been proactively disclosed, and in case there is a relatively large number of individuals requesting a specific information, have it proactively disclosed.

2.2.3. Respecting Intellectual Property Protection

The application of any obligation induced by PSID disclosure, is dependent of its compliance to international arrangements and treaties on intellectual property rights protection⁵⁹. Thus, it should neither affect the existence or ownership of intellectual property rights, nor limit in any way their exercise. However, public bodies have the duty to:

- exercise their copyright and intellectual property rights related to the management of data and information, in a way that facilitates re-use and interoperability;
- provide potential beneficiaries (groups and individuals) with all necessary indications, giving them more certainty about their rights and responsibilities, when accessing to PSID.

In this sense, it should be noted that Creative Commons⁶⁰ (CC) can give all public bodies a standardized way to grant the public permission to use their PSID, under copyright law. Once granted and applied, these licenses can hugely promote citizen engagement, stimulate economic growth and increase the transparency of government resources and services⁶¹.

⁵⁹ Among others: the WIPO Copyright Treaty (WCT), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention).

⁶⁰ Creative Commons licenses give everyone from individual creators to large institutions a standardized way to grant the public permission to use their creative work under copyright law. <https://creativecommons.org/about/cclicenses/>

⁶¹ Three of the largest sources of Australian government data sets—the Australian Bureau of Statistics, Geoscience

2.2.4. Transparency of Information Request Processing Algorithms

Focus is increasingly put on the transparency of algorithms incorporated into public systems, and used to make decisions, in vital domains as transport, health and policing⁶². The rationale for such trends is that algorithms become more and more autonomous and invisible, able to introduce inadvertent biases, favor a political orientation or reinforce undesirable practices⁶³.

Therefore, in order to anchor and consolidate values of impartiality, and accountability when it comes to disclose and disseminate PSID, governments should implement legal and technical measures to ensure the transparency of algorithms used to process information requests. Such measures are related to the setting-up of relevant mechanisms, practices, and instruments, guaranteeing timely responses to critical questions concerning these algorithms: how were they developed, or acquired, by whom, and for what purpose/s? How do they actually work (logic to proceed and data to train)?

Government should also take adequate measures to ensure a full recognition of these algorithms, and particularly through the accessibility to their proprietary code or training data, that can be potentially prevented by Intellectual property rights. Tools and models such UNESCO Digital Transformation & AI Competency Framework **(See Box.2. below)**, should be leveraged in this perspective.

Australia and data.gov.au—are available by default under a CC Attribution license. Together these sites provide free access to all of Australia's census data, official geoscientific information and knowledge, and other miscellaneous government data.

⁶² Fink, K. "Opening the government's black boxes: freedom of information and algorithmic accountability." *Information Communication and Society*, v. 21, n. 10, p. 1453-1471, 2018.

⁶³ Janssen M., KUK G. "The challenges and limits of big data algorithms in technocratic governance". *Government Information Quarterly*, v. 33, n. 3, p. 371-377, 2016.

Box 2. Digital Transformation & AI Competency Framework⁶⁴

UNESCO has developed a “Digital Transformation & AI Competency Framework” that identifies three core competency areas for civil servants for digital governance and transformation:



1. Digital Planning and Design

combination of skills and attitudes allowing civil servants to understand the complexity of today's problems, anticipate unexpected events and recognize strategic opportunities to use digital solutions to develop strategies and vision. This category of competencies also includes the understanding of digital leadership and the ability to lay the foundations for digital teams to work effectively;



2. Data use and governance

combination of skills and attitudes allowing civil servants to understand the fundamental role and value of data and its inherent risks but also the ability to use, analyse and share it taking into consideration ethical, privacy and security concerns. This category of competencies is fundamental for civil servants to be able to address today's challenges and meet citizens' growing expectations while at the same time use data effectively and responsibly.



3. Management and Execution for Digital

combination of skills and attitudes allowing civil servants to understand new and innovative practices on project management and collaboration. This involves the ability to apply a new set of working methods, approaches, and tools to use data and technology to address complex problems and to engage citizens by fostering new modalities for civic participation.

⁶⁴ The Competency Framework was developed through a multi-stakeholder leadership model, that assessed human capacity needs for digital transformation in the public sector, paying particular attention to the Global South perspective. This process included 4 regional consultations in Southeast Asia, Africa, Latin America and the Caribbean. Complemented by a series of interviews with regional policymakers and the collection and assessment of good practices globally, the Working Group launched a “Digital Transformation & AI Competency Framework” for public sector duty bearers on 18 September 2022 at a side event of the 77th Session of the UN General Assembly (UNGA 77).

2.3 Institutional Capacities to Oversee Access to Information

2.3.1. Oversight and Appeals Bodies

2.3.1.1. Why an Oversight body?

PSID access and dissemination process are expected to be enhanced, but also disrupted, by legislations changes, citizens' needs, the public administrations organization, and the rapid evolution of technologies. Moreover, public bodies function often independently from each other. They manage their own data and processes, and consequently

often have different predispositions to collaborate to make their informational assets available.

In this context, an oversight body is needed to ensure consistency and harmonization between legal instruments, heterogenous technical components, different administration processes and public services. This structure is mandatory to guarantee the adequate governance to such transverse initiatives involving multiple departments.

In this regard, UNESCO's survey on SDG indicator 16.10.2⁶⁵ confirms oversight and appeal bodies as essential components of Access to Information laws

⁶⁵ UNESCO “Access to Information: A New Promise for Sustainable Development” UNESCO, 2019, Paris.

enforcement, due to their statutes as specialized focused entities. This report highlights also oversight body's important role in leading proactive disclosure practices, and balancing access to information and privacy human rights⁶⁶.

2.3.1.2. Missions

The targeted oversight body should be in charge of:

- **Steering tasks** including management of nationwide implementation of any framework or initiative aiming at disclosing and disseminating PSID, as well as all arrangements of related policies at the national and local levels. Referred to as an integrating and coordinating authority, this body has to support public agencies in setting up appropriate organizational structures and administrative procedures that facilitate compliance with RTI law, and obligations induced by PSID dissemination. To achieve the objectives the oversight body should preferably be:
 - Based on strong legal foundations that are necessary for existence and legitimacy.
 - Placed within a national champion, when it comes to leading RTI implementation, public information disclosure initiatives or reform administration⁶⁷.
- **Application responsibilities** that include hearing of appeals, investigation of complaints, issuance of eventual binding

⁶⁶ UN "The Age of Digital Interdependence." Report of the UN Secretary-General's High-level Panel on Digital Cooperation, 2018, Page 31. <https://www.un.org/en/pdfs/DigitalCooperation-report-for%20web.pdf>

⁶⁷ In several countries with the highest RTI scores, the nodal responsibility rests with an agency responsible for public administration. Lemieux V. L. and Trapnell S. E. "Public Access to Information for Development A Guide to the Effective Implementation of Right to Information Laws". 2016 International Bank for Reconstruction and Development/The World Bank.

resolutions, and recommendations for appropriate sanctions when noncompliance is proved. Indeed, delays and cost, added to a deficiency of trust in legal capacity and administrative procedures, may lead to a reject to pursue appeals through the courts. Therefore, the existence of such enforcement body can open another possibility of appeal outside the public administration or the courts. Its main objective consists in resolving disputes between public administration holding PSID and requesters for official decision review or for a decision to be made.

- **Auditing missions**, responding to the recurrent needs of periodic independent controls and compliance reviews of the access to public information policies and laws and their effective implementation. Thus, the oversight body should be able to conduct impartial and objective diagnostic on information regimes, to detect challenges and bottlenecks that induce deep inconsistencies between the prevailing information management practices and the information access laws.

2.3.1.3. Oversight Models

It is important to consider the most effective placement of the oversight body in terms of where real authority rests in the country context. Thus, the oversight body can be:

- took in charge by an independent body that eventually performs other functions, such an Ombudsman or Mediator, an Information Commissioner, or a dedicated commission or institution;⁶⁸

⁶⁸ OECD "Chapter1. Oversight bodies for access to information". <https://www.oecd-ilibrary.org/sites/66afaf07-en/index.html?itemId=/content/component/66afaf07-en>

- centralized within a public body such as the justice ministry, the department responsible for public administration, or a public agency or commission responsible of Data Protection and Privacy, or in charge of human rights; or
- decentralized across two or more agencies or governmental departments.

There are also opportunities for external actors to reinforce the importance of monitoring and capabilities. It is the case of:

- Regional instruments⁶⁹, by functioning as legal watchdogs, providing targeted guidance to countries about strengths and weaknesses in their RTI systems, and encouraging governments to adopt specific practices to improve the RTI implementation process
- CSOs⁷⁰, by engaging in monitoring of implementation processes at the local level to encourage governments to better understand how RTI is functioning in practice, sometimes by conducting compliance testing on the rates and quality of information request processing.

Finally, three guidelines are essential to set-up a comprehensive and effective oversight body:

⁶⁹ Among others: The African Commission on Human and Peoples' Rights; The Office of the Special Rapporteur for Freedom of Expression, under the Inter-American Commission on Human Rights; The Inter-American Court of Human Rights; The European Court of Human Rights; The ASEAN Intergovernmental Commission on Human Rights.

⁷⁰ e.g. Local organizations such as the Africa Freedom of Information Centre have contributed in shadow reporting to put pressure on states.

- **Oversight body capacities' strengthening:**

It is important to guarantee the necessary powers and capabilities to the oversight body, in order to ensure that citizens have access to public information in a proper timeframe, and that no one is left behind. Therefore, and regardless of the institutional arrangements, the oversight body should be given adequate financial resources, and detain sufficient authority within government, so that it can fully play its key role while maintaining its independence and impartiality.

- **Public Agencies involvement:** The oversight body should be backed by a network of nodal structures (e.g. Chief information officer, mediator) deployed in each major government agency and department, to supervise the implementation of PSID disclosure policy within this public body. While developing and monitoring internal organizational information policies and procedures, each nodal structure will ensure that the information policies, principles, standards, guidelines, rules, and regulations prescribed by the overarching national policy are implemented appropriately.

- **Local public bodies involvement:** The national government should take the lead in organizing access and dissemination of public information at the national level, but the role and importance of contribution and participation of sub-national or local public authorities must not be underestimated in this field. Decisions made by institutions at the local level, in the nearest surroundings of citizens, have a tangible impact on their daily life.

2.3.2. Capacity building and Reinforcement

Legal frameworks are necessary but should not be considered as sufficient conditions for accessing information. The institutional framework needs to be conducive, the ecosystem supportive, and the stakeholders engaged in all steps of the process. Both the demand and the supply sides need to be considered. Therefore, it is essential to reinforce institutional capacities that are referring to practices' formalization, capacity building and Financial Resources, which are necessary for an effective implementation of a PSID dissemination process.

2.3.2.1. Practices Definition and Implementation

RTI system backbone is formed by practices related to information request processing, records management, and proactive disclosure. Any discretionary applications for these practices should be prevented, mainly through their definition and elaboration, as internal procedures, directives and organizational arrangements, based on RTI laws' obligations, and particularly on targeted PSID disclosure and dissemination policy.

These formalized practices should be implemented and generalized to all public bodies, thus ensuring will ensure the regulatory compliance of the basic functions of collecting, managing and communicating public information, from RTI law and PSID access perspectives.

2.3.2.2. Capacity Building

Effective PSID disclosure and dissemination, needs a real awareness from public administrations and civil society on the importance of these data release, a solid knowledge and capabilities on how to implement the related legal frameworks, particularly when it comes to ensure the necessary balance between RTI laws and privacy, and technical skills that are essential to leverage disclosed data sets to create innovative products and services .

Thus, to ensure that public sector bodies are ready to disclose their data, they should:

- Engage a compulsory training about RTI laws and in particular PSID dissemination, to enable the personnel in charge of releasing public information, as well as civil society actors, attaining a high level of judicial and technical abilities necessary to disclose information in response to public requests.
- Incorporate PSID dissemination dedicated training into local or central public bodies education programs, as a major mean to comply with legal obligations for information disclosure.
- Organize trainings for the institutions with the most demanded data sets (including local administrations) to improve their knowledge about PSID, Open Data and their benefits⁷¹.
- Plan and perform awareness campaigns on the importance of PSID disclosure and dissemination, the related legal framework and existing procedures, such how to identify required PSID, and to make requests, or go to appeal.

⁷¹ Lithuanian National Audit Office "Whether Disclosure of the Public Sector Data is Ensured". Executive summary of the public audit report. 29 November 2016, No. VA-P-900-1-25

2.3.2.3. Financial Resources

Effective functioning of RTI systems, and consequently PSID disclosure policies, require sustainable financial resources to identify, process, classify and disseminate requested public domain information. Indeed, any breakdown in the supply of adequate resources dedicated to public information circulation, especially in agencies that receive large volumes of requests, can rapidly harm both social engagement and economic growth.

Therefore, governments should establish an institutional incentive system to:

- encourage public bodies to assign greater priority for RTI and PSID disclosure funding within the existing budget. This approach calls for the inclusion of RTI in regular, strategic decision making and an institutional incentive system to encourage public bodies to do so⁷².
- determine an annual budget for implementing all the priority elements necessary to PSID disclosure and dissemination management, and allocate it as appropriate.
- Elaborate and achieve innovative monetization^{73,74} strategies specific to public domain information, with the aim to drain direct or indirect monetary benefits in terms of new products, services and/or processes improvements, in both public and private sectors. In this vein, some cities are

⁷² Lemieux V. L. and Trapnell S. E. "Public Access to Information for Development A Guide to the Effective Implementation of Right to Information Laws". 2016 International Bank for Reconstruction and Development/The World Bank.

⁷³ Gartner "Data Monetization refers to the process of using data to obtain quantifiable economic benefit." <https://www.gartner.com/en/information-technology/glossary/data-monetization>

⁷⁴ McKinsey "Fueling growth through data monetization." December 1, 2017 <https://www.mckinsey.com/business-functions/quantumblack/our-insights/fueling-growth-through-data-monetization>

already looking into monetizing data from connected assets as a way to supplement revenue from taxes⁷⁵.

2.4 PSID Resources Management

The success of any implementation framework for PSID disclosure is based on how public information assets are assessed, managed, and exploited to meet the needs and interests of users both internal and external to government. Achieving this objective requires the integration of strong principles to manage data velocity and complexity, a professional planning of information resource management, a proactive management of IT Impact on PSID Dissemination, and the reinforcement of trust-building practices.

2.4.1. Integrating FAIR Data Principles

PSID sharing can promote transparency, encourage collaboration and participation, and drive better decision-making, especially in response to emergencies such as outbreaks of infectious diseases or disaster crisis. Nevertheless, the continuously growing amount of data, added to the will to exploit it in the best possible way, induce several other issues to tackle, mostly related to the data governance, reuse, aggregation, combination and exchange across different sectors. In this perspective, and to deal more efficiently with data increase in volume, complexity, and creation speed of data, governments will surely benefit from adopting and applying well-established guidelines, such as FAIR (Findable, Accessible, Interoperable, Reusable) Data Principles (**See Box.3. below**).

⁷⁵ The North Texas Innovation Alliance is researching how member cities and counties can monetize data to boost revenue. Source : GCN "Can cities monetize their data?" November 10, 2021 <https://gcn.com/data-analytics/2021/11/can-cities-monetize-their-data/316288/>

Box.3. FAIR Data Principles⁷⁶

FAIR Data Principles were published in 2016 as an integral part of the work within open science. They describe some of the most central guidelines for good data management and open access to research data, by mainly improving its machine-actionability, i.e., the capacity of data to be:



findable, by being described with thorough relevant, and sufficiently detailed metadata⁷⁷, and given a unique and persistent identifier which makes it easier to cite the data correctly



interoperable, by using a formal, accessible, shared, and broadly applicable language and accepted standards for knowledge (data and metadata) representation.



accessible, in other terms understandable to both humans and machines, and stored in a trusted repository. In case of sensitive personal data, a confidentiality assessment needs to be made before the material release.



reusable, by describing data with sufficient and relevant metadata, that both data and metadata can be replicated and/or combined in different settings, with a clear usage license and accessible data usage license

⁷⁶ Wilkinson M.D. & al. "The FAIR Guiding Principles for scientific data management and stewardship" Scientific Data. 15 March 2016. <https://www.nature.com/articles/sdata201618>

⁷⁷ Metadata are structured information about the collected data material. This information describes the material on various levels, for example where and by whom it was created; on which occasions and with which methods the data were collected; what a variable means and which values it can take. <https://snd.gu.se/en/manage-data/prepare-and-share/FAIR-data-principles>

Adopting FAIR Data Principles can help public bodies to promote PSID digital assets reuse and interoperable exchange, and to facilitate their discovery, and consequently increase the opportunities of possible data requests and disclosure. These principles provide also a real data management framework for PSID assets.

In this perspective, specific organizational arrangements and technological choices should be considered by any governments, to fully leverage FAIR principles, and to meet opportunities, offered by the re-use of public data, mainly:

- to anchor the "open by design and by default"⁷⁸ paradigm, as a foundational principle for the creation of all digital assets of Government information to disseminate, in full compliance with legal exemptions and public data withholding necessary for the protection of public interest objectives, public security, privacy and personal data.

⁷⁸ Article 16 of the new EU directive explicitly encourages EU Member States to "promote the creation of data based on the principles of 'open by design and by default'". Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1024&rid=1>

- A greater and specific focus should be put on promoting Open Access⁷⁹, as an effective approach to increase visibility, usage and impact for research work, and to enhance the knowledge flow, around the world by using digital collaborative tools.
- to implement an “on-the-demand side” oriented approach to facilitate discoverability and availability of PSID records as well as of their associated metadata, through the application of the adequate granularity level that is required for easier reuse and interoperability. It should be necessary, in this perspective, to appropriately leverage all dissemination channels in government at all levels: libraries, private-sector entities, and digital media (National one-stop-shop, Institutional websites, Mobile, Social Network, etc.) in the easiest and most cost-effective manner.
- to ensure immediate availability of dynamic data⁸⁰ after collection and/or modification of the dataset, via specific well-documented software components and interfaces, such as Application Programming Interface (API), that enable users and beneficiaries to reuse such data to develop new digital services.

⁷⁹ IFLA “IFLA Statement on open access – clarifying IFLA’s position and strategy”. International Federation of Library Associations and Institutions. Endorsed by IFLA Governing Board, 18 April 2011 <https://cdn.ifla.org/wp-content/uploads/files/assets/hq/news/documents/ifla-statement-on-open-access.pdf>

⁸⁰ Documents in a digital form, subject to frequent or real-time updates, in particular because of their volatility or rapid obsolescence (<https://www.lawinsider.com/dictionary/dynamic-data>). Traffic, weather, environmental, climate, satellite and field sensor generated data, are typically considered as dynamic data

- To develop, adopt and/or maintain the Government Common Interoperability Framework (GCIF) as a reference framework for public bodies, listing compliance rules for the use of norms, standards or references, to develop public information systems, in particular to share heterogeneous and sectorial PSID and to favorize its reuse and appropriation by all stakeholders. GCIF should focus on standardization at different levels (such as metadata schemata, data representation formats and licensing conditions of open data)⁸¹, as an essential lever to enable broad disclosed PSID integration and interoperability.

2.4.2. Records Management and Planning

Information Resource Management is a broad term in IT that refers to the management of records or information or data sets as a resource. It involves data identification as an asset, its categorization, and ensures various types of information system active management.

When it comes to RTI, adopting legislation mostly presupposes that the records are well managed. Indeed, effective records management enables authorities to enforce wider government agenda to increase openness, transparency, trust and accountability in the public sector. To achieve these objectives, disclosed PSID needs to be accurate, complete, timely, ready for retention, relevant, credible, and easily accessible.

⁸¹ The European Commission & The European Multi-Stakeholder Platform “Rolling Plan provides an overview of the needs for ICT standardization” 2022. <https://joinup.ec.europa.eu/collection/rolling-plan-ict-standardisation/public-sector-information-open-data-and-big-data-rp2020n>

Therefore, governments should put in place effective national and institutional frameworks including adequate capacity to manage technical activities of recording, preserving, and making accessible PSID resources.

In this objective, governments should be backed by a flexible action plan, based on an integrated life-cycle approach in monitoring disclosed PSID resources, from the planning stage, to production, organization, dissemination, use, preservation and, in appropriate circumstances, purging. Records management and archival functions should also be incorporated in the design, development, and implementation of public information systems.

On another hand, governments, but also IT and archival professionals, as well as international and donor agencies, should cooperate and provide full support to efforts of national and archival institutions to better manage official records irrespective of media.

Governments should also establish, adopt and/or develop standards and guidelines defining functional requirements for digital records management, that are mandatory to ensure their integrity and trustworthiness. Compliance with such standards will permit to governments to demonstrate proof of the authenticity and reliability of their information and data records, when required to do so in relation to RTI laws, arbitration of disputes or legal proceedings.

2.4.3. Measures to Build Trust in Public Sector Information and Data

Cybersecurity Imperative

An unprecedented open release of public information is nowadays coupled to a high-volume exchange of extremely sensitive and/or personal data across government agencies and citizens. At the same time, digital phenomena such as cloud computing, mobility, social media, big data, and artificial intelligence give rise to several complex security challenges as well as countless concerns for citizen privacy⁸², with potential threats ranging from hacking or misinformation and disinformation to cyber-terrorism.

Therefore, it is important to elaborate and apply an adequate legal framework and implement appropriate safeguards, to ensure the long-term preservation of the public domain information to disseminate, but also and mostly to manage risks and vulnerabilities related to digital security, confidentiality and privacy issues that are induced by architecting for openness and adopting new technologies. Specific certifications of security management system, as ISO/IEC 27001⁸³, are also strongly recommended.

⁸² B. Bounabat "From e-government to digital Government" Invited paper. Electronic Journal of Information Technology (eTI) Issue 10. Copyright (c) 2017

⁸³ ISO/IEC 27001. « INFORMATION SECURITY MANAGEMENT ». <https://www.iso.org/isoiec-27001-information-security.html>

Traceability and Accountability

Governments should reinforce traceability practices as an essential component of PSID disclosure development and promotion. Indeed, traceability permits the gathering of trustful data for forecasting citizens' PSID requests, following their related processing workflows, and quickly identifying and resolving the root causes of possible issue. Without adequate and reliable records of requests and/or appeals received and how they are processed, it would be difficult to measure, and report progress on access to information. In this perspective, a special attention should be given to:

- record-keeping as part of PSID requests management system, that plays an important role in fostering accountability and good governance; and
- reporting as an essential tool for traceability and accountability, as well as for gathering evidence and data in mapping any gaps and needs as a precondition for performing targeted improvements.

2.4.4. Information System Governance in a PSID Context

IT governance is defined as the set of processes that ensure the effective and efficient use of IT in enabling an organization to achieve its goals⁸⁴. It aims also at deriving improved value from investment in information and technology by ensuring its alignment with overall strategic objectives, and helping to manage IT risks effectively. Public bodies are increasingly

setting-up their IT governance programs, which are often based on frameworks created by industry experts and used by thousands of organizations, such as Control Objectives for Information and Related Technology⁸⁵ (COBIT) focusing on process management and Information Technology Infrastructure Library⁸⁶ (ITIL) focusing on service management, including implementation guides with fewer speedbumps.

While implementing their IT governance programs, public bodies should integrate PSID development and dissemination dimension, as a major strategic "business objective" to consider in the earlier phase of any IT development action plan. This will permit to governmental Information Systems not only to deal adequately with confidentiality issues, financial accountability requirements, data retention and disaster recovery, but also to ensure the strategic alignment of IT infrastructure with the aim of guaranteeing access to public sector information, and more generally implementing RTI efficiently.

⁸⁴ <https://www.gartner.com/en/information-technology/glossary/it-governance>

⁸⁵ COBIT: <https://www.isaca.org/resources/cobit>

⁸⁶ ITIL: <https://www.itgovernance.co.uk/itil>



3 Recommendations for Member States

- 1** Provide for and /or reinforce RTI as constitutional right, and make sure that it is not and cannot be countermanded by other laws
 - 2** Ensure that access strategies to PSID are inclusive, involving all groups with most difficulties to access to information: the elderly, racial and ethnic minorities, linguistic minorities, people with disabilities, rural populations, digitally low-skilled or illiterate persons, and those of low socio-economic status.
 - 3** Consider PSID availability and openness in a broad framework, to all public information and documents collected or produced by public institutions at national level, and local level, through public funds, and/or as part of partnerships with the private sector, NGOs or intergovernmental organizations.
 - 4** Recognize and integrate the legal value and the authenticity of any format holding public information, and of any the medium, as well as all means, ways and media to collect and disseminate PSID.
 - 5** Set-up appropriate assessment instruments to measure progress made in the fulfilment of the state of its duty to guarantee PSID access.
 - 6** Ensure all necessary support for PSID requests, and define clearly appeal process in case of failures to provide information, principally aspects related to the review bodies and the binding degree of their decisions.
 - 7** Mitigate carefully public information withholding, by ensuring mutual consistency between RTI laws and data privacy legislation, establishing a clear timetable for unlocking restricted information, and leveraging Data sanitization techniques, to enlarge accessible PSID scope.
 - 8** Encourage and support PSID Proactive Release, mainly by conducting “harm test” based assessment that check if there is a foreseeable clearly proven damage in disclosing a governmental information
 - 9** Exercise copyright and intellectual property rights related to the management of data and information, in a way that facilitates re-use and interoperability
 - 10** Set-up an oversight and appeals body for PSID disclosure, empowered with necessary legitimacy and strong leadership to achieve its missions of steering, hearing of appeals, investigating complaints, issuing eventual binding resolutions, and controls and compliance auditing.
 - 11** Reinforce institutional capacities necessary to conduct PSID disclosure policy, mainly PSID disclosure practices formalization, customized training and awareness campaign about RTI and PSID dissemination, at the benefit of both public and administrations, and establishment of institutional incentive system to drain financial resources, specifically through PSID monetization strategies.
- Implement appropriate practices for PSID Resources governance, integrating the application of FAIR principles to manage data velocity and complexity, efficient records’ management and planning, measures and practices to build trust in released data, and PSID disclosure impact on IT development action plan.



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