



European Union



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER
South-East Asia Regional Office

Public Seminar on
“Right to Information, Human Rights – Thailand’s Present Scenario”
12 May 2021

CONCEPT NOTE

I: Introduction

OHCHR’s Regional Office for South-East Asia will hold an online public seminar supported by the Delegation of the European Union to Thailand on the promotion of the right to information on 12 May 2021 in Bangkok.

The right to information is an integral part of the right to freedom of opinion and expression, enshrined in international and regional human rights instruments, including the Universal Declaration of Human Rights (Article 19) and the International Covenant on Civil and Political Rights (also Article 19)¹. This normative framework has resulted over the years in widespread adoption of laws and policies that guarantee the general public’s right of access to data and national information held by the State.

Access to information is a key principle for democracy, as it allows the general public to meaningfully participate in political and public affairs. It serves as an important safeguard against corruption and furthers the core democratic principles of accountability and transparency. Access to information also empowers citizens in their ability to make informed decisions, including through voting, as well as to raise legitimate and critical issues of public interest and concern. It enables and promotes civic space - the ability for people to freely organize, associate, assemble and express their views to influence the political and social structures around them. An open and enabling civic space is a key requirement for a democratic, pluralistic society based upon the rule of law and requires respect and protection for fundamental freedoms and the right to information by the state.²

Thailand is amongst the countries that has incorporated the right to information in both law and practice. There has been a long history on ensuring the right to information in Thailand. This right

¹The Human Rights Committee stressed that article 19 (2) of the Covenant “embraces a right of access to information held by public bodies” and that “[s]uch information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production”. See at: International Covenant on Civil and Political Rights, General Comment No. 34, para. 18.

² <https://monitor.civicus.org/whatiscivicspace/>

was first recognised by the 1997 Constitution³ and later included in the 2007 Constitution⁴, stating that a person shall have the right to receive and to get access to public information, except in cases when certain enumerated interests and rights shall be protected. The recognition of the right to information in Thailand in law was through the adoption of the 1997 Official Information Act in July 1997. This Act went into effect in December 1997 and continues today.

The 2017 Constitution includes specific provisions on the right to information in section 41 and 59.⁵ The current Constitution added further to the right to information in that it recognised not only the right of an individual, but also community rights. Furthermore, under the 2017 Constitution, it is the State's duty to facilitate access to official data and information upon request of an individual or community. The 2017 Constitution also explicitly grants the right to receive information affecting the quality of the environment, health and sanitary conditions, the quality of life or any other important interest.

The 2018 Thai Enhancement and Conservation of National Environmental Quality Act stipulates that individuals have the right to obtain information and data “concerning the enhancement and conservation of environmental quality,” except when the information is classified.⁶ However, there have been reports that the implementation of the law has been widely seen as weak due to several identified limitations of the Act. In 2020, there have been growing concerns regarding the right to information raised by vulnerable groups including community-based activists, ethnic minorities and indigenous people in the context of large-scale development projects as well as in the context of COVID-19. Moreover, the concerns around the right to information have been amplified when on 23 March 2021, the Cabinet approved a draft amendment to the right to information Act. This amendment was proposed by the Office of the Permanent Secretary of the Prime Minister's Office under the plan of the National Reform Council. The amendment potentially could add additional conditions that may obstruct individual and community's access to information deemed as national security and/or matters linked to the monarchy.

On the issue of right to information, the UN Human Rights Mechanisms have made a number of important recommendations to Thailand. In 2015 in its concluding observations to Thailand's periodic report, the Committee on Economic, Social and Cultural Rights, the monitoring body for the International Covenant on Economic, Social and Cultural Rights (ICESCR), recommended that “the State party take all the steps necessary, including revising its legal and policy framework, to...adopt a human rights-based approach in its development projects, as well as establish participatory mechanisms in order to ensure that no decision is made that may affect access to resources without consulting the individuals and communities concerned, with a view to seeking

³ Section 58-59, and section 34 ensuring the rights to personal information <http://www.asianlii.org/th/legis/const/1997/1.html>

⁴ Rights to information and making complaint on this matter was stipulated in Chapter 3 ‘Rights and Liberties of Thai Citizen’ in section 56-57 of the 2007 Constitution.

⁵ Section 41. A person and community shall have the right to: (1) be informed and have access to public data or information in possession of a State agency as provided by law; (2) present a petition to a State agency and be informed of the result of its consideration in due time; (3) take legal action against a State agency as a result of an act or omission of a government official, official or employee of the State agency. Also, section 59 stating The State shall disclose any public data or information in the possession of a State agency, which is not related to the security of the State or government confidentiality as provided by law, and shall ensure that the public can conveniently access such data or information.

https://www.constitutionalcourt.or.th/occ_en/download/article_20170410173022.pdf

⁶ <http://www.ratchakittha.soc.go.th/DATA/PDF/2561/A/027/29.PDF>

their free, prior and informed consent.”⁷ Later in 2016 in its concluding observations to Thailand’s periodic report, the Committee on the Rights of Persons with Disabilities, the monitoring body for the Convention on the Rights of Persons with Disabilities (CRPD), recommended that “the State party develop and use accessible communication formats,..., for mass media and public information ensure the accessibility of government websites, and take with concrete and effective measures to control and monitor accessibility and apply sanctions for non-compliance. It also recommended that the State party officially recognize Thai Sign Language in legislation to ensure its full and effective application in the State party and increase training and certification initiatives to ensure the availability of professional Thai Sign Language interpreters.”

II: Objective

There is an overall need to strengthen and expand the knowledge of and support for the promotion of the right to information in Thailand. The objective of this event is to increase awareness regarding the importance and value of the right to information. This event will host a discussion with experts and academics on the subject, strengthening awareness and understanding of how this principle is applied in the context of international law, sustainable development as well as health emergencies.

III: Details

Objective	To introduce the importance and value of the right to information and its link with human rights in democratic societies; to consider the present situation of the right to information in Thailand by learning from experts; and hearing actual stories from different communities in Thailand in attempting to access information as part of promotion and protection of their human rights. Also, to discuss the existing national legal framework as it applies to international standards to ensure the right to information in Thailand.
Methodology	A public seminar which includes opening speeches from the Representative of OHCHR’s Regional Office for South-East Asia; Representative of the European Union to Thailand, prominent Thai expert on right to information followed by a round table discussion on “Right to Information, Human Rights – Thailand’s Present Scenario” by prominent academics and human rights defenders. The seminar will be a virtual. The virtual seminar will be also broadcast on social media channels including through online media agencies.
Participants	Government officials, National Human Rights Commission of Thailand, representatives of local, national, and regional human rights human rights organisations, CSOs, academics, UN agencies, diplomatic missions, and the general public.
Venue	The seminar will be broadcast from the UN ESCAP building in Bangkok and participants will be able to attend virtually the seminar.
Date and time	12 May 2021, from 13.30-16.00hrs.

⁷ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fTHA%2fCO%2f1-2&Lang=en



European Union



UNITED NATIONS
HUMAN RIGHTS

OFFICE OF THE HIGH COMMISSIONER

South-East Asia Regional Office

Online Public Seminar on

“Right to Information, Human Rights – Thailand’s Present Scenario”

Organised by OHCHR’s Regional Office for South-East Asia supported by the European Union to Thailand

Wednesday 12 May 2021, from 13.30-16.00hrs.

13.30– 14.00	<p>Welcoming and Opening Remarks</p> <ul style="list-style-type: none"> • Giuseppe Busini, the Deputy head of Delegation of the European Union • Katia Chirizzi, Deputy Representative of the Regional Office for South East Asia of the Office of the High Commissioner for Human Rights (OHCHR)
14.00-14.20	<p>Keynote speech “Two Decades of Thailand’s Recognition of Right to Information and Implication on Democratic Development” by</p> <p>Assoc. Prof. Dr. Mark Tamthai, Lecture at the Phayap University</p>
14.25-16.00	<p>Round Table Discussion “Right to Information, Human Rights – Thailand’s Present Scenario”</p> <ul style="list-style-type: none"> • Saowalak Thongkuay, the Committee on the Rights of Persons with Disabilities • Dr. Seree Nonthasoot, the Committee on the Economic, Social and Cultural Rights • Sunai Phasuk, the senior researcher on Thailand, Human Rights Watch • Mueda Nawanat, OHCHR’s Regional Office’s indigenous senior fellow <p>Moderator: Chanatip Tatiyakaroonwong, OHCHR</p>
16.00	Closing of the event

*Simultaneous interpretation will be provided throughout the program