

Comparative Table of Exceptions

This table compares the main exceptions in nine of the ten laws surveyed, as well as in the UNDP and World Bank policies. The Bulgarian Access to Public Information Act has not been included in this table as it does not include a full regime of exceptions in the law, referring instead to other laws. To include it would, therefore, give the misleading impression that the law did not include many exceptions.

Each box in the table contains two different types of information. First, provides the test used to determine whether information falling within the scope of an exception may be withheld, which may be referred to as the 'harm test'. For example, in some cases information may be withheld only if it is "reasonably expected to harm" the protected interest, or it if is "likely to cause prejudice" to it. In some cases, no harm is required (i.e. the law establishes a class exception in relation to a whole category of information). In that case, the table indicates that there is "no harm test". Then, each box sets out the elements which make up the exception and which effectively define its scope in the relevant jurisdiction. Each box also provides a reference to the section, article or paragraph of the law/policy where the exception in question is found.

In some cases, the law in question does not contain the exception being considered, in which case this is stated in the table. In other cases, the exception effectively included within the scope of other exceptions. In this case, the table notes in the appropriate place that there is no separate exception.

The table does not include a small number of exceptions which are only found in one law and appear to have narrow, country-specific relevance (for example, the South African law excepts certain records of the Revenue Service). As the table shows, there is fairly broad agreement as to which social or personal interests are sufficiently important to overcome the presumption in favour of disclosure of information.

Exception	India	Japan	Mexico	Pakistan	South Africa	Sweden	Thailand	UNDP	United Kingdom	United States	World Bank
Future Publication	<u>Test:</u> - no harm test <u>Elements:</u> - likely to be published within 30 or already published (9(b) and (c))	No such exception	<u>Test:</u> - no harm test <u>Elements:</u> - already publicly available (42)	<u>Test:</u> - no harm test <u>Elements:</u> - published in the official Gazette or in book form and is on sale (12(2))	<u>Test:</u> - may defer access for a reasonable period <u>Elements:</u> - to be published within 90 days or further reasonable period, required by law to be published or has been prepared for submission to legislature (24(1))	<u>Test:</u> - no harm test <u>Elements:</u> - documents solely for the purpose of publication in a periodical published under the auspices of the authority (11(2))	no such exception	no such exception	<u>Test:</u> - reasonable to withhold until publication <u>Elements:</u> - intended for future publication (22)	no such exception	no such exception
National Security	<u>Test:</u> - prejudicially affect <u>Elements:</u> - sovereignty and integrity, security of the State, strategic scientific or economic interest (8(a))	<u>Test:</u> - pose a risk of harm <u>Elements:</u> - the security of the State (5(3))	<u>Test:</u> - could <u>Elements:</u> - compromise national security, public security or national defence (13(I))	<u>Test:</u> - no harm test <u>Elements:</u> - record relating to defence forces, defence installations or connected therewith or ancillary to defence and national security (8(e))	<u>Test:</u> - reasonably expected to cause prejudice to <u>Elements:</u> - the security of the Republic (41(1)(a))	<u>Test:</u> - necessary having regard to <u>Elements:</u> - security of the realm (2(1))	<u>Test:</u> - will jeopardise <u>Elements:</u> - national security (15(1))	no such exception	<u>Test (national security):</u> - required - Minister's certificate conclusive <u>Elements:</u> - safeguarding national security (24) - security bodies completely excluded (23) <u>Test (defence):</u> - likely to prejudice <u>Elements:</u> - defence of British Isles - effectiveness of forces (26)	<u>Test:</u> - classified in the interest of - classification specifically authorised and properly classified under an Executive Order <u>Elements:</u> - national defence <u>Test:</u> - classified FBI records <u>Elements:</u> - pertaining to foreign intelligence or international terrorism ((c)(3))	no such exception
International Relations	<u>Test:</u> - prejudicially affect <u>Elements:</u> - conduct of international relations (8(a))	<u>Test:</u> - risk of damage or disadvantage <u>Elements:</u> - trustful relations with another country or an international organisation negotiations with another country or an international organisation (5(3))	<u>Test:</u> - impair <u>Elements:</u> - ongoing negotiations or international relations, including information provided by other states or international organizations on a confidential basis (13(II))	<u>Test:</u> - likely to cause grave and significant damage <u>Elements:</u> - interests of Pakistan in the conduct of international relations (15(1))	<u>Test:</u> - reasonably expected to cause prejudice <u>Elements:</u> - the international relations of the Republic (41(1)(a))	<u>Test:</u> - necessary having regard to <u>Elements:</u> - relations with a foreign state or an international organization (2(1))	<u>Test:</u> - will jeopardise <u>Elements:</u> - international relations (15(1))	the policy provides for governments and the UNDP to treat documents as classified at the time the document is designed	<u>Test:</u> - likely to prejudice <u>Elements:</u> - relations with other States/IGOs - interests of UK abroad and promotion or protection of such interests - information supplied in confidence from State or IGO (27)	<u>Test:</u> - classified in the interest of - classification specifically authorised and properly classified under an Executive Order <u>Elements:</u> - foreign policy ((b)(1))	<u>Test:</u> - detrimental to <u>Elements:</u> - the interests of the Bank or a member country - a Bank/country relationship (56)
Public Economic Interests	<u>Test:</u> - Trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect <u>Elements:</u> - legitimate economic and commercial interests or the competitive position of a public authority (8(f))	<u>Test:</u> - risk causing a hindrance <u>Elements:</u> - the proper performance of affairs or business conducted by an organ of the State or a local public entity (5(6))	<u>Test:</u> - could harm <u>Elements:</u> - the country's financial, economic or monetary stability (13(III))	<u>Test:</u> - various <u>Elements:</u> - likely to cause grave and significant damage to the economy - likely to cause significant damage to the financial interests of the public body - likely to cause significant damage to the lawful commercial activities of the public body (18)	<u>Test:</u> - likely to materially jeopardise/cause harm <u>Elements:</u> - the economic interests or financial welfare of the State - the ability of the government to manage the economy (42(1)) - the commercial interests of the State (42(3)(b)) <u>Test:</u> - no harm test <u>Elements:</u> - trade secrets of the State (42(3)(a)) - a computer program owned by the State (42(3)(d))	<u>Test:</u> - necessary having regard to <u>Elements:</u> - central finance policy, monetary policy, or foreign exchange policy (2(2)) - the public economic interest (2(5))	<u>Test:</u> - will jeopardise <u>Elements:</u> - national economic or financial security (15(1))	no such exception	<u>Test:</u> - likely to, prejudice <u>Elements:</u> - economic interests of UK - financial interests of government (29)	<u>Test:</u> - no harm test <u>Elements:</u> - related to examination or operating reports of an agency responsible for financial institutions ((b)(8))	<u>Test:</u> - maintaining sound financial management practices <u>Elements:</u> - estimates of future borrowings - financial forecasts - data on individual investment decisions - credit assessments (54)

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					<u>Test:</u> - reasonably be expected disadvantage <u>Elements:</u> - a public body in negotiations or commercial competition (42(3)(c))						
Law Enforcement	<u>Test:</u> - various <u>Elements:</u> - prejudicially affect order, detection and investigation of an offence - may lead to an incitement to commit an offence - prejudicially affect fair trial or adjudication of a pending case (8(b))	<u>Test:</u> - pose a risk of causing a hindrance <u>Elements:</u> - the prevention, suppression or investigation of crimes - the execution of sentencing other public security and public order maintenance matters (5(4))	<u>Test:</u> - could severely prejudice <u>Elements:</u> - prevention or prosecution of crimes, imparting of justice, collection of taxes, immigration control operations, or procedural strategies in judicial or ongoing administrative processes (13(V))	<u>Test:</u> - likely to <u>Elements:</u> - result in the commission of an offence - harm the detection, prevention, investigation or inquiry in a particular case - reveal the identity of a confidential source of information - facilitate an escape from legal custody (16)	<u>Test:</u> - reasonably be expected to prejudice <u>Elements:</u> - law enforcement - the investigation of a contravention of the law - the fairness of a trial (39(1)) <u>Test:</u> - reasonably be expected to impede <u>Elements:</u> - the prosecution of an alleged offender <u>Test:</u> - reasonably be expected to result in <u>Elements:</u> - a miscarriage of justice in the prosecution of an alleged offender - the intimidation of a witness - the identification of a confidential source of information - the facilitation of a contravention of the law	<u>Test:</u> - necessary having regard to <u>Elements:</u> - the interest of preventing or prosecuting crime (2(4))	<u>Test:</u> - will result in the decline in the efficiency of, or failure to achieve its objectives <u>Elements:</u> - law enforcement (15(2))	no such exception	<u>Test:</u> - likely to prejudice <u>Elements:</u> - prevention, detection of crime - administration of justice - apprehension or prosecution of offenders - prison security - immigration controls - collection of taxes (31)	<u>Test:</u> - various <u>Elements:</u> - for law enforcement purposes - reasonably expected to interfere with enforcement proceedings - deprive of right to fair trial - invasion of privacy - disclose confidential source - disclose investigative techniques ((b)(7))	No such exception
Court Records	- no separate exception	- courts are excluded from the ambit of the Act (2)	<u>Test:</u> - no harm test <u>Elements:</u> - judicial or administrative procedure files where there has been no rule (14(IV)) - liability proceedings against civil servants where there has been no ruling (14(V))	no separate exception	- courts are excluded from the ambit of the Act (12)	<u>Test:</u> - necessary having regard to <u>Elements:</u> - the inspection, control or other supervisory activities of a public authority (2(3)) <u>Test:</u> - no harm test <u>Elements:</u> - court ruling which has not been pronounced (7(2)(2))	no separate exception (courts are only covered in their administrative aspect)	no such exception	<u>Test:</u> - no harm test <u>Elements:</u> - court records, broadly defined (32)	- courts are excluded from the ambit of the Section (s. 551(1)(B))	No such exception
Decision-making and policy formulation	<u>Test:</u> - no harm test <u>Elements:</u> - Cabinet papers including records of deliberations of the Council Ministers, Secretaries and other officers (8(d)) - Minutes or records of advice including legal advice, opinions or recommendations	<u>Test:</u> - risk unjustly harming <u>Elements:</u> - the frank exchange of opinions - the neutrality of decision-making (5(5)) <u>Test:</u> - risk unjustly causing	<u>Test:</u> - no harm test <u>Elements:</u> - internal deliberative processes, until a final decision is reached (14(VI))	<u>Test:</u> - no harm test <u>Elements:</u> - notings on the file - minutes of meetings - intermediary opinions or recommendations (8(a)-(c))	<u>Test:</u> - no harm test <u>Elements:</u> - advice prepared for the purpose of policy formulation or decision-making - an account of a consultation or discussion that was held to assist in policy formulation or decision-making	<u>Test:</u> - no harm test <u>Elements:</u> - documents relating to matters which have not been finally settled (7) - preliminary drafts or memoranda which have not been accepted for filing (9-10) - letters and the like	<u>Test:</u> - no harm test <u>Elements:</u> - opinion or advice given within the State agency (not including a technical or factual report (15(3))	<u>Test:</u> - no harm test <u>Elements:</u> - Information relating to procurement processes that involves prequalification information submitted by prospective bidders, or	<u>Test:</u> - no harm test <u>Elements:</u> - formulation of policy - ministerial communications - advice of law officers - private ministerial offices (35(1)) <u>Test:</u> - in opinion of reasonably qualified person likely to	<u>Test:</u> - no harm test <u>Elements:</u> - related solely to internal personnel rules ((b)(2)) - inter- or intra-agency memos which would not be available to private parties in the course of litigation ((b)(5))	<u>Test:</u> - to preserve the integrity of the deliberative process and to safeguard the free and candid exchange of ideas <u>Elements:</u> - internal documents and memoranda - documents exchanged between the Bank and its

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	made by any officer of a public authority during the decision making process prior to the executive decision or policy formulation (8(e))	<u>Elements:</u> - confusion among the people (5(5)) - advantage or disadvantage to specific individuals (5(5))			(44(1)(a)) <u>Test:</u> - reasonably be expected to frustrate <u>Elements:</u> - candid communication of advice - a consultation or discussion (44(1)(b)(i)) - the success of a policy (44(1)(b)(ii))	intended solely for communication (11)		proposals or price quotations (15(e)) - Internal notes, memoranda, and correspondence among UNDP staff, including documentation relating to internal deliberative processes (15(b))	prejudice or inhibit <u>Elements:</u> - collective responsibility of Ministers - free provision of advice - frank exchange of views - effective conduct of public affairs (36(2))		members related to internal decision-making processes (52, 53)
Health and Safety	<u>Test:</u> - prejudicially affect <u>Elements:</u> - public safety (8(b))	No such exception	<u>Test:</u> - could put at risk <u>Elements:</u> - the life, security or health of any person	<u>Test:</u> - likely to <u>Elements:</u> - harm the security of any property or system (16(e))	<u>Test:</u> - reasonably be expected to <u>Elements:</u> - endanger the life or safety of an individual (38(a)) <u>Test:</u> - likely to prejudice or impair <u>Elements:</u> - the security of a building, structure or system; a means of transport; or any other property - methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme; the safety of the public; or the security of property (38(b))	no separate exception	<u>Test:</u> - will endanger <u>Elements:</u> - life or safety of any person (15(4))	no separate exception	<u>Test:</u> - likely to endanger <u>Elements:</u> - health or safety of any individual (38)	<u>Test:</u> - reasonably be expected to endanger <u>Elements:</u> - compiled for law enforcement – life of physical safety of an individual ((b)(7)(F))	no such exception
Personal Information	<u>Test:</u> - unwarranted invasion of <u>Elements:</u> - privacy (9(d))	<u>Test:</u> - no harm test <u>Elements:</u> - information concerning an individual where it is possible to identify a specific individual <u>Test:</u> - risk of harm to an individual's rights and interests <u>Elements:</u> - information concerning an individual where it is not possible to identify a specific individual (5(1))	<u>Test:</u> - no harm test <u>Elements:</u> - information provided by private individuals which they have indicated is confidential - personal information that requires consent before being released (18 and 19)	<u>Test:</u> - no harm test <u>Elements:</u> - disclosure would involve the invasion of the privacy of an identifiable individual (17)	<u>Test:</u> - unreasonable disclosure <u>Elements:</u> - personal information about a third party (34)	<u>Test:</u> - necessary having regard to <u>Elements:</u> - the protection of the personal integrity of private subjects (2(6))	<u>Test:</u> - unreasonably encroach upon the right of privacy <u>Elements:</u> - a medical report or personal information (15(5))	<u>Test:</u> - no harm test <u>Elements:</u> - Personal, health or employment-related information about staff (15(d))	<u>Test:</u> - no harm test <u>Elements:</u> - personal data of applicant - contravene principles of data protection or s.10 of DPA 1998 - exempt under Part IV of DPA 1998 (40)	<u>Test:</u> - clearly unwarranted <u>Elements:</u> - personnel and medical files – personal privacy ((b)(6))	<u>Test:</u> - maintain appropriate safeguards to protect <u>Elements:</u> - the personal privacy of staff members - the confidentiality of personal information about staff members (55)
Information provided in confidence	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - information concerning a corporation or a business which was offered on condition that it not be made	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - provided on an express or implied condition that it would shall not be disclosed to a third person (8(f))	<u>Test:</u> - actionable breach of confidence <u>Elements:</u> - owed to a third party in terms of an agreement (37(1)(a)) <u>Test:</u>	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - information provided by a third party which is intended to be kept confidential (15(6))	<u>Test:</u> - would cause financial or other harm <u>Elements:</u> - Proprietary information, intellectual property in the	<u>Test:</u> - actionable breach of confidence <u>Elements:</u> - obtained from third party (41)	no separate exception (see Commercial Interests)	<u>Test:</u> - no harm test <u>Elements:</u> - documents or information provided to the Bank on the explicit or implicit understanding that they are confidential

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		public and the condition was rational (5(2)(b))			- reasonably be expected to prejudice <u>Elements:</u> - the future supply of information in the public interest from the same source (37(1)(b))			form of trade secrets, or similar information that has been disclosed to UNDP under conditions of confidentiality (15(a))			(51)
Legal Privilege	No separate exception	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - information considered secret in legal proceedings	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - privileged from production in legal proceedings (40)	no separate exception	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - Privileged information including disciplinary and investigatory information (15(c))	<u>Test:</u> - no harm test <u>Elements:</u> - covered by professional legal privilege (42)	no separate exception (see Statutory Prohibitions)	no such exception
Commercial Interests	<u>Test:</u> - Trade or commercial secrets protected by law or information <u>Elements:</u> - would cause unfair gain or loss to any person	<u>Test:</u> - risk of harm <u>Elements:</u> - the rights, competitive standing, or other legitimate interests of a corporation or an individual carrying on a business (5(2)(a))	<u>Test:</u> - no harm test <u>Elements:</u> - commercial, industrial, tax, bank, and fiduciary secrets	<u>Test:</u> - no harm test <u>Elements:</u> - record of the banking companies and financial institutions relating to the accounts of their customers (8(d))	<u>Test:</u> - no harm test <u>Elements:</u> - trade secrets of a third party (36(1)(a)) <u>Test:</u> - likely to cause harm/prejudice <u>Elements:</u> - the commercial or financial interests of a third party (36(1)(b)) - a third party in contractual or other negotiations (36(1)(c)(i)) - a third party in commercial competition (36(1)(c)(ii))	<u>Test:</u> - necessary having regard to <u>Elements:</u> - the protection of the of economic conditions of private subjects (2(6))	no separate exception	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - trade secret (43(1)) <u>Test:</u> - likely to prejudice <u>Elements:</u> - commercial interests of any person (43(2))	<u>Test:</u> - privileged or confidential <u>Elements:</u> - trade secrets commercial or financial information ((b)(4))	no such exception
Statutory Prohibitions	Law takes precedence over other laws (14)	no such exception	<u>Test:</u> - no harm test <u>Elements:</u> - anything expressly considered confidential by another law	<u>Test:</u> - no harm test <u>Elements:</u> - record declared as classified by the Federal Government (8(f)) - any other record which the Federal Government may, in public interest, exclude (8(i))	<u>Test:</u> - no harm test <u>Elements:</u> - Act applies to the exclusion of any provision of other legislation that prohibits or restricts disclosure (5)	other laws are not permitted to extend the extent of secrecy	<u>Test:</u> - no harm test <u>Elements:</u> - information protected by other laws in exempt (15(6))	no separate exception	<u>Test:</u> - no harm test <u>Elements:</u> - prohibited under any other law - incompatible with any European Community obligation - contempt of court (44)	<u>Test:</u> - leaves no discretion or established criteria for withholding <u>Elements:</u> - specifically exempted from disclosure by statute ((b)(3))	no such provision