



Journalist Fellowship Paper

Bypassing secrecy: How investigative journalists use RTI requests across borders

By **Tarjei Leer-Salvesen**

June 2023
Trinity Term
Sponsor: Fritt Ord

Contents

Introduction	3
What exactly is RTI?	3
My own cross-border RTI experience	5
A gap in the literature	5
RTI and sources: the interplay	7
Exploiting the differences	8
Learning from experience	9
Case Study 1, EU: <i>Wasteland</i>	9
Case Study 2, LatAm: <i>Tierra de Resistentes</i>	12
Case Study 3, Europe: <i>Inside the Suspicion Machines</i>	13
Case Study 4, Schengen Region: <i>The Frontex Files</i>	15
How to use it	19
The Aarhus Convention	20
GDPR as tool for information	20
Conclusion	23

Introduction

In the opening pages of *A Hitchhiker's Guide to the Galaxy*, we meet Arthur Dent: a fictional character created by science fiction comedy writer, Douglas Adams.

Arthur wakes up one morning with a hangover to find bulldozers in his garden. They are about to demolish his home to make room for a new highway. He could (with some hardship) have filed an appeal, if only he'd gone to a neighbouring town to request information.

While drowning his sorrows at a local pub, Arthur (and all of mankind) hears a booming voice from the sky: a Vogon fleet has arrived to build an intergalactic highway, and earth will be demolished. All the information was publicly available, only a few lightyears away, the Vogons insist. Mankind has failed to file an appeal.

If Intergalactic Right To Information (RTI) laws existed, the *Hitchhiker's Guide* might have ended on page 37. For now, they do not exist. What we do have, however, is 136 countries with RTI laws, which means we *can* make international RTI requests.

Unfortunately, at the time of writing, no *Hitchhiker's Guide to Filing International RTI Requests* exists.

What exactly is RTI?

In 1766, 200 years before the U.S. Freedom of Information Act (FOIA) was enacted, a Finnish priest named Anders Chydenius from the small city of Alaveteli was probably the first to put into writing a principle that, today, is the backbone of one of the most important tools in modern journalism.



From left: Right to Information as Anders Chydenius' concept in 1766, versus an intergalactic RTI request being filed in 2066, as imagined by MidJourney

Chydenius was part of a group of liberal thinkers working on a text that became known as *Tryckfrihetsförordningen* (The Freedom of the Press Ordinance).¹ They linked the principle of free speech with the right to access public documents.

Freedom of speech and the quality of public debate, he reasoned, depends on the people's right to access basic knowledge about how the public sector makes its decisions and manages its budgets. Fast forward to 2023, as I've already mentioned, and a total of [136 countries](#) have adopted Right to Information (RTI) laws, all with variations in scope and proscribed routines.²

A society with strong liberal and democratic values will demonstrate transparency in government decision-making processes, and exercise restraint when it comes to monitoring its own citizens. When authorities are preoccupied with shielding their own processes from scrutiny but want to know everything their citizens are up to, it is a strong sign that a society is heading in an authoritarian direction.

Here, journalists have a watchdog role to play: on behalf of civil society, they must scrutinize those in power. And that's where these laws become key tools for investigative journalism. Contrary to popular belief, all information cannot be found online. Many important documents about government spending and decision-making processes are not actively published. If a journalist wants access to these, they must rely on sources, leaks... or RTI requests.

National RTI laws differ somewhat in scope. In some countries they cover not only traditional government and municipal institutions, but also state-owned companies. In some countries anyone can access information, while others have a rule that only a resident or a citizen of the country have such rights.

Many journalists traditionally learn to use their own national RTI law. But, in an increasingly interconnected world, you may be able to use RTI in other countries when your story crosses borders.

This project aims to show you how, by providing lessons and tools to help you launch your own cross-border investigations.

¹ Aulstad, J. G. (2018), p. 39. Innsynsrett. Fagbokforlaget. The book mentions Anders Nordencrantz and Johan Arkenholtz and two other central thinkers in the process behind *Tryckfrihetsförordningen*, but holds Anders Cydenius as the one formulating the principle of right to information.

² Centre for Law and Democracy, Global RTI Rating (<https://www.rti-rating.org/country-data>, Sept 4, 2022)

My own cross-border RTI experience

When I was doing research for [a documentary film](#) in 2006, my job was to investigate the role of a Norwegian company active on the U.S. Navy base on Guantanamo.³ The company was called Kvaerner, and it was owned by one of Norway's richest industrial tycoons.

He did not want to speak with us, nor did his executives. We tried an RTI request to the Norwegian Ministry of Foreign Affairs, and to the Ministry of Trade and Industry, but they did not have any documents to answer our question: “Did a Norwegian company help build the notorious Camp X-Ray?”

A Danish colleague suggested that we file a request from Norway to the U.S. Navy under the U.S. Freedom of Information Act (FOIA). It worked. Soon after, we had more than 1,000 pages of contract details and evidence – enough to run the story.

What we did was not unique. Our Danish colleague had done it before, and he had learnt from others. But in the 17 years which have passed since we made that film, the number of countries with RTI legislation has doubled. There is also a growing phenomenon of cross-border collaboration between journalists. This enables far more extensive use of accessing public information across borders as an investigative technique.

A gap in the literature

There are already many great resources available for those wanting to learn about RTI requests: see [Anupama Dokeniya's 2013 guide](#) as a prime example, [Bauhr et al \(2019\)](#) on the role of RTI in curbing corruption, and [Žuffová \(2023\)](#) on the [pitfalls](#) journalists face.^{4,5,6} There's also great work on how journalists can collaborate internationally: see [Alfter \(2016\)](#) and his *Panama Papers* review.⁷

However, even with the help of two skilled university librarians in Oxford, I have not found a single peer-reviewed article that combines these two topics and investigates how RTI is used across borders as a method in investigative journalism.

³ «A little piece of Norway» / director: Erling Borgen. <https://www.imdb.com/title/tt0848359/>

⁴ Dokeniya, Anupama. 2013. Implementing Right to Information: Lessons from Experience. © World Bank, Washington, DC. <http://hdl.handle.net/10986/16520>

⁵ Bauhr, M., Czibik, A., de Fine Licht, J. & Fazekas, M. (2019). Lights on the shadows of public procurement: Transparency as an antidote to corruption. *Governance journal*. DOI: 10.1111/gove.12432

⁶ Mária Žuffová (2023) Fit for Purpose? Exploring the Role of Freedom of Information Laws and Their Application for Watchdog Journalism. *The International Journal of Press/Politics* 2023, Vol. 28 (1) 300–322

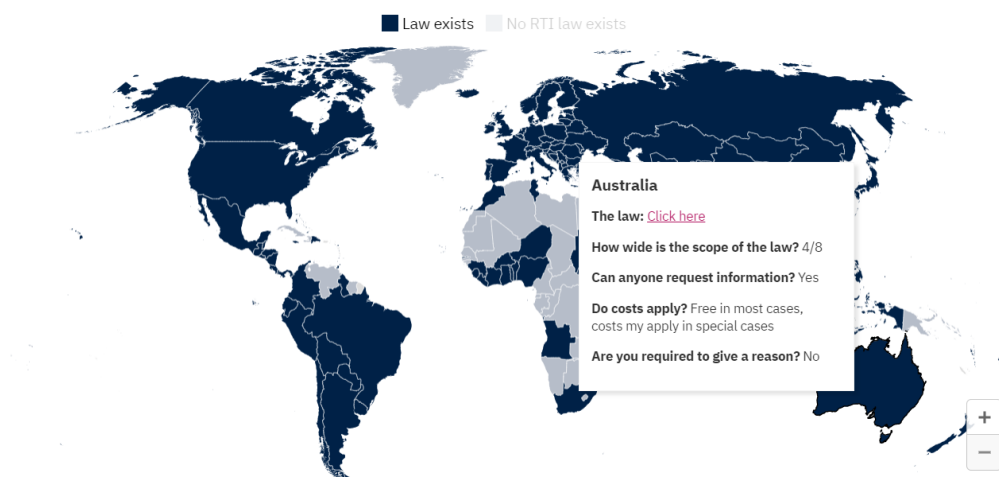
⁷ Alfter, Brigitte (2016). Cross-border collaborative journalism: Why journalists and scholars should talk about an emerging method. *Journal of Applied Journalism & Media Studies*, Volume 5, Issue 2, Jun 2016, p. 297 - 311 DOI: https://doi.org/10.1386/ajms.5.2.297_1

While a six-month journalism fellowship at the Reuters Institute is not enough time to completely fill such a knowledge gap, I hope this project can make a start.

Through interviews with some of those who practise cross-border RTI requests with a systematic approach, I aim to show some of the potential in this journalistic tool. I have also created interactive maps, available online, as an easy way to navigate the available legislation and highlight some collaborative opportunities.

Where can journalists access info through RTI?

This map lists all countries with existing Right to Information laws and provides links to RTI-Rating.org's translations of the laws. It includes a mark out of 8 to indicate the scope of the law, notes on fees, who can file RTI requests, and links to resources where needed. These are the author's simplifications, intended as a guide to journalists. Hover for an overview, or click to make the tool tip stick so that you can scroll.



For more information on all 61 indicators that RTI-rating.org use, visit: <https://www.rti-rating.org/methodology/>

Source: [Global RTI Rating by Access Info Europe at www.rti-rating.org \(accessed March 1st 2023\)](#).

Interactive RTI Map available at https://www.datawrapper.de/_A9hFg

Where can journalists use Aarhus Convention to access environmental information?

This map lists all signatories to the Aarhus Convention, which covers access to information, public participation in decision-making and access to justice in environmental matters. There are 47 signatories, including the European Union.



Source: United Nations Treaty Collection

Interactive Aarhus map available at https://www.datawrapper.de/_L21a0

RTI and sources: the interplay

Every journalist develops relationships with sources. These are people who share their insights and knowledge and become an important part of the journalist's truth-navigation system.

In many cases these source-relations are concealed to the outside world. Journalists protect their sources when having promised them anonymity.

No journalist can be an expert in every beat they cover, which is why having good sources for discussion and guidance is invaluable.

While the journalist gains knowledge and insights from these relationships, what's in it for the sources? They gain a certain influence over the journalists' coverage.

Sometimes good sources also provide documents. This can be both beneficial and dangerous. On the one hand, the journalist gains evidence to back up the story. On the other, they must be cautious as the source may have filtered the information and picked only those documents that support the angle they prefer. In this way, the power of the source to sway coverage can grow.⁸

In this situation, the use of RTI laws as a journalistic tool is helpful. When journalists exercise RTI in their journalistic research, they are expanding their toolkit beyond traditional methods like interviews and observation. They are now using the law to access documents that cannot be found online.

Journalists who use RTI requests in their work will enrich the material upon which their stories are based, beyond what their sources have shared. It makes the journalist more independent.

⁸ Leer-Salvesen, Tarjei (2021) *Innsyn i praksis*. Cappelen Damm Akademisk, p. 5
https://utdanning.cappelendamm.no/_innsyn-i-praksis-tarjei-leer-salvesen-9788202670894

Exploiting the differences

The financial sector is expert in exploiting the differences in country's legal systems and tax policies to help customers move their activities to shell companies in so-called tax havens. This phenomenon has attracted a lot of attention from investigative journalists, and great journalistic achievements are associated with what we now know as the *Panama Papers*, *Paradise Papers*, *SwissLeaks*, *LuxLeaks* and other such collaborations.

Exposing tax havens – showing where money that could have gone into the public welfare systems has been funnelled – is at the core of our journalistic mission. But what if journalists could also learn from the financial sector? What if, instead of moving money from one jurisdiction to another for best results, we moved Right to Information request in the same way in order to bypass unnecessary secrecy? Or we can file the same request in many jurisdictions at the same time.

For example, we know that the U.S. is very transparent when it comes to public spending. Norway is very transparent on environmental issues, and even has a law requiring private companies to release detailed information when citizens and journalists asks. In my home region, among the Nordic countries, Finland is the place to go when you want documentation of political priorities at a government level. And Sweden is the place to go for transparency in the judicial sector.⁹

If a journalist is investigating a story that involves people or institutions in more than one country, it is easy to see the potential in exploiting these differences.

Consider the example of Norwegian journalist Inge Sellevåg, who discovered that the 'Globus II' military radar in the small Norwegian town of Vardø (close to the border with Russia) was the same one the U.S. was referring to as 'Have Stare'.¹⁰

According to Norwegian official sources, the purpose of the radar was to monitor "space trash". But once he had established that this was, in fact, a U.S.-financed piece of military equipment, he could exploit the fact that the United State is quite transparent when it comes to government spending documentation. Sellevåg found proof that this radar was actually financed by the U.S. as part of their Missile Defence Program. For Norwegian journalists this was big news: it meant the surrounding area was a likely target in case of armed conflict.

⁹ This is my summary of lessons from a lecture by Oluf Jørgensen called "Nordic Championship in Transparency" at 25th February, 2015, organised by Pressens offentlighetsutvalg. Jørgensen also writes about his findings in the report "Offentlighed i Norden" (Nordicom Information 3:2014)

¹⁰ Sellevåg, I. (1999), Forsvarets nye radar i Vardø. Methodology report submitted to SKUP awards for 1998.

Learning from experience

The map created for this project draws heavily upon the creative commons licensed work developed by Centre for Law and Democracy together with Access Info Europe. They call it RTI-rating.org, and it is an excellent tool for giving an overview of the differences in respective RTI laws. While RTI-rating gives all the countries points from a total of 61 different criteria, I have simplified the approach in my map, as I hope to inspire journalists to make use of these legal tools in their work. A journalist will typically start with questions such as: Can I make use of the law if I work from abroad, or do I need to find a partner in the country? Do costs apply or is it for free? Is the scope of the law wide enough to cover the information I am interested in? I added links in the map to the RTI-rating website, which has English language translations of the national RTI laws as well as more resources.

But all tools have limitations. The problem with this rating, in my opinion, is that it only analyses what the law says. Reality on the ground can be a whole different story.

For example, the second-best country in the RTI-rating is Mexico, which is also one of the most dangerous countries in the world to work as an investigative reporter. The number one country is Afghanistan. The country has never been a pioneer in Right to Information, but it is top of the list because a previous parliament passed a progressive law that has had little real-life implementation.

We should always be curious about what tools legislation can give us as journalists. But beyond the letter of the law, we must also take an interest in how the laws are implemented and what experiences our colleagues have with using them. Here are the stories of four great journalists and their experiences with different RTI laws.

Case Study 1, EU: *Wasteland*

Nico Schmidt is a freelance investigative journalist based in Berlin. He participates in a collaborative network of journalists called Investigate Europe, who have made it a practise to investigate the same issues in many countries at the same time and share the research within their network.

In this way they make in-depth reporting on common European issues possible with relatively small resources. Many of their projects will typically run for three to four months. The participants in the network write their own stories as they see fit for their home audiences, while they can all tap into a shared pool of research. One person takes responsibility for coordinating each investigation.

Schmidt has been part of the network for more than four years. When Investigate Europe decided to see how European countries dispose of their plastic waste, he took on special responsibility for the research phase. As with all such projects, he started with preliminary research into what rules and regulations apply in the countries of interest, and who the main commercial actors were in the markets. In this sense, an important part of research in most European investigations is finding out which commercial actors are lobbying on the issue in Brussels.

Schmidt told me RTI tools are always important for this, and that Investigate Europe use them a lot. Because their network includes journalists in countries across Europe, it's easy to have them file the same request in multiple jurisdictions. But in this case, Schmidt did much of the cross-border filing himself.

Investigate Europe quickly found a key piece of legislation that could assist in their stories: [The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal](#).¹¹ The purpose of the convention is to limit international movement of hazardous waste and prevent rich countries from dumping their waste problems on poor countries. The Basel Convention, and the way the EU has implemented it, provides for so-called “takeback” obligations.

“Much of the international trade with waste is illegal, and there are obviously not so many public documents to ask for. But I understood that whenever a shipment with waste arrives in a country that declines to receive it, they can activate these takeback obligations. When Germany receives a request to take a shipment of waste back from Asia, then there is a good paper trail we can follow,” Schmidt explained.

He filed requests for documents on all takeback requests filed in the past several years, from 15 different European countries.

The response was rather mixed. He said Scandinavian countries were very quick in their responses but added that they still have room for improvement. In Greece, he was not allowed to file a request since he does not live in the country. In that case he had to find a partner to help him out. Teaming up with a colleague in the country of interest can be a good thing, even when the law doesn't require it, as the structure of the bureaucratic landscape can be quite different from your home country. Schmidt said it took time to understand his way around the government offices in Spain and several countries in Eastern Europe.

Language can be a barrier, too. At first, he sent all his requests in English. After some weeks, he got a reply from Poland in Polish. When he translated the text, it was explaining that in Poland he would have to file his request in their language, and that requests in English would not be considered. After another couple of

¹¹ <https://www.basel.int/default.aspx> (accessed 10.06.2023)

weeks, he received a similar response from Croatia. This sort of trial and error is to be expected.

The costs associated with the requests were not a big problem for Investigate Europe in this investigation. But Schmidt had a warning: “In Germany, it can be up to €2,500 for one extensive request, while simple [requests] should be free of charge. I recommend two things. First, if you do this in Germany, ask them in advance what they think the cost will be. Second, consider splitting one big request into smaller ones to avoid these expenses.”

He also sent requests at an EU-level. “Use of RTI on EU level is always free, but those offices are understaffed. It may take some time to get answers.”

For this investigation EU institutions received requests from journalists to access documents on the waste negotiations and minutes from meetings.

What became of the project? The investigation ended up exposing how EU countries are failing in their efforts to achieve a circular economy. Multiple articles detail how a plastic waste crisis is unfolding across the continent and is also being exported outside of the region. The reporting team learnt a lot from the takeback records in different countries. One story detailed how waste from Germany was being sent to Asia, re-routed through Turkey, and finally ending up in Greece. Germany received takeback notices but refused to comply (an action recorded in even more documents). Eventually, Greece destroyed the German waste. You can read a number of joint articles from this collaboration on the [Investigate Europe](#) website.¹²

Lessons from Nico

- Collaborating with journalists in the country you seek RTI from can help you navigate unfamiliar bureaucracy.
- International legal conventions may yield helpful documentation routes: without familiarising himself with The Basel Convention, Schmidt may have missed out on takeback documentation.
- Check what language your RTI requests can/should be filed in to avoid delays.
- Breaking a big request into smaller requests can be cost-effective.
- When it comes to corporations, follow the lobbyists for clues.

¹² <https://www.investigate-europe.eu/themes/investigations/wasteland-plastic-recycling> (Accessed 10.08.2023)

Case Study 2, LatAm: *Tierra de Resistentes*

Dora Montero Carvajal is an editor at the Colombian investigative journalism network, *Consejo de Redaccion*. She was also part of the ‘*Tierra de Resistentes*’ investigation, a unique collaboration of journalists from Colombia, Brazil, Bolivia, Ecuador, Peru, Guatemala, and Mexico.

The project has been going for over four years, having started in late 2018, and has grown to involve 70 journalists from 25 media outlets in 12 countries. Together, they have undertaken in-depth investigations into the destruction of rainforests, mountains, and rivers in Latin America, and people attacked for their efforts to defend them. In the last decade, more than 500 people in the region have been murdered because of this struggle.

Consejo de Redaccion received funds from the German Ministry of Cooperation to work with Open Data. It also cooperated with *Deutsche Welle* and teamed up with media partners in other countries to file requests for as much government data as possible about environmental issues relating to the rivers, mountains and forests.

To start the process, Carvajal first spoke to journalists and editors at *Consejo de Redaccion*. They began by defining what countries to look at, then invited journalists from those countries to be part of the project. Up to that point, the project was still simply called “Open Data III”. The name *Tierra de Resistentes* came out of a three-day working session between the organisers and the journalists.

RTI requests were at the core of the working method they applied, although this was supported by field visits and interviews. “We structured the database column by column, and decided important topics through consensus, such as the definition of an environmental defender and the name of the project,” she said.

One person was not responsible for all RTI requests. “In each country, there was a partner responsible for the entire information search,” she explained. In this way the team avoided questions of citizenship and had no language or dialect barriers with the authorities in each country. Hundreds of requests were made in each country to gather the data that formed the foundation of the investigation. The team pooled findings into a [database](#) and published it on a collaborative website.¹³

It is a disturbing set of data to explore. Users can explore attacks by country, by type of attack, by gender, ethnicity, and what the person was kind of resource they were defending (land, air, water, forest, species).

The dataset increases in value since the reporters also made a huge effort to find out what the government did in each individual case. Users can see how many of the

¹³ <https://tierraderesistentes.com/en/datos/> (accessed 11.06.2023)

cases are still under investigation, where no investigation took place, where the attackers have been pardoned, and when a conviction took place. It is an excellent tool for discussions on impunity.

Carvajal was surprised that the collaboration on *Tierra de Resistentes* did not end when she thought it would, years ago. “We are still going strong, and that is the best experience of all. What we thought was just a one-time investigation has become a project with a life of its own. Year after year, we continue to make progress in uncovering new stories, updating databases, and more. The *Tierra* team keeps moving forward, and we are always aware of what is happening with the environment on the continent.”

Their dataset, however terrifying, is of great value to public debate and future decision-making. The findings have been published in 44 different media outlets in 16 countries, as well as being used in books and academic research papers.

Lessons from Carvajal

- Meet as a team to agree how you will define terminology, working method, data collection mechanisms – maybe even the name of your project.
- Be strategic about which countries should be involved.
- Creating a shared database of information unearthed can become a powerful tool for spotting trends and niche angles.
- Know that a collaborative investigation may remain “living”: the work doesn’t end till the story does.

Case Study 3, Europe: *Inside the Suspicion Machines*

On March 6th, 2023, *Wired* broke a story about government use of algorithms to prevent fraud in the social welfare systems. It was the result of a long-time collaboration with journalism organisation Lighthouse Reports, who conducted much of the research behind the reporting.

Lighthouse Reports is a collective of investigative journalists operating on a non-profit basis. It co-publishes with different newsrooms to spread the reach of their findings. In the case of *The Suspicion Machines*, they teamed up with newsrooms in countries such as the UK, Spain, and Germany, to mention a few.

A [methodology article](#) on their website describes how they uncovered a problematic algorithm being used by welfare authorities in Rotterdam, Netherlands – including

several uses of RTI requests.¹⁴ Their requests asked for the source code used to train the algorithm, the input variable list, the data scientist’s manual, control files, the privacy impact assessment and the model for risk assessment used for this tool, which the city had purchased from the private company Accenture.

What the journalists did not receive, due to privacy law, was the actual training data used. Instead, they requested a pseudo-anonymised training dataset in which the data from the real people has been anonymised.

Gabriel Geiger was a key reporter on the team behind the story. He had been at Lighthouse for two years and was in charge of much of the RTI-related research behind these articles. He filed more than 100 requests in a total of eight European countries for this story. He learned to use the RTI laws in the Netherlands, Sweden, Denmark, Germany, Spain, France, and Ireland. “We are not done with publishing everything yet. The first big story we broke was about the algorithm in use in Rotterdam. It proved to have a strong bias towards flagging young single mothers with immigrant background as potential fraudsters,” Geiger said.

A highly technical story will require a team with an in-depth understanding of the technologies, and that’s who the Lighthouse brought together in this case. What did the experts ask to see? “You need more than a string of code” said Geiger. He listed:

- The full machine learning file
- The full source code used to train the model
- Documents containing the full set of features used in the model
- Codebooks, data dictionaries or other documents that describe how the features are defined
- Technical documentation related to any code used to build the predictive model
- Handbooks or other manuals for how end-users should interpret and act upon algorithmic output
- Documents containing tests and/or evaluations of the model, algorithm and/or its behaviour
- Documents describing the training data for the model
- Training data
- Data Protection, Privacy and/or Human Rights Impacts Assessments

¹⁴ Justin-Casimir Braun, Eva Constantaras, Htet Aung, Gabriel Geiger, Dhruv Mehrotra, and Daniel Howden. Suspicion Machines Methodology. Lighthouse reports. <https://www.lighthousereports.com/suspicion-machines-methodology/> (accessed May 21, 2023)

The team received an impressive amount of documentation through these requests. But it took them two years before they could start reporting on the issues.

A notable error also occurred. The synthetic data they requested arrived in an HTML file, inside of which was the actual training data used. In it, they found notes made by bureaucrats on the people applying for welfare support. One note was made about whether a female applicant had worn makeup for her appointment, another noted whether a man had combed his hair. They had been feeding the machine learning with personal comments on the physical appearance of unknowing citizens.

In the Netherlands, Lighthouse Reports teamed with a local Rotterdam newspaper, *Vers Beton*. This created a mixture of specialist technical skills with specialist local knowledge and contacts. Local journalists were able to ask sources using the welfare system to file Subject Access Requests under GDPR. They then shared that information about themselves from the system the journalists were investigating. Geiger said this exercise provided valuable insights for the team and was vital to giving a human face to the impact of the technology.

As a result of the investigation, Rotterdam has taken its algorithm out of use. Lighthouse will continue co-publishing stories on this topic throughout 2023.

Lessons from Geiger

- Specialist knowledge will help you to request the right information.
- The best data may come to you by mistake: always check to see if more information may be hidden in what you received (for example, in the source code).
- Teaming up with an outlet in the country the story emanates from allows you to understand how the story affects the people there.
- Human sources in a story can become data sources when they use GDPR to request data stored about themselves and share it with you. (See GDPR section below.)

Case Study 4, Schengen Region: *The Frontex Files*

Luisa Izusquiza does not identify as a journalist – she prefers the title “transparency activist”. Her specialities include human rights and information freedom, and she works for Open Knowledge Foundation. She also works closely with many journalists. Place her in the investigative department of any newsroom, and it would be difficult to tell her apart from any other skilled researcher.

Open Knowledge Foundation is the NGO that maintains [Fragdenstaat.de](https://www.fragdenstaat.de) (Ask the State), the portal that has become the easiest way for journalists to request public documents from authorities in Germany.

One organisation Izusquiza has been following for several years is Frontex, EU's Border and Coast Guard Agency. It is an EU agency with police authority and a mandate to protect the Schengen borders. Frontex is perhaps best known for its activities in the Mediterranean around boat refugees, for which member states contribute personnel as well as ships for monitoring.

Izusquiza had a background as a volunteer helping refugees in the big crisis in 2015. After hearing allegations of illegal pushbacks of boat refugees and human rights violations, she wanted to learn as much as possible about what was going on. Under EU Access to Information rules, it is possible to send requests directly to Frontex. But she felt this was not sufficient; she wanted more information. That's when I first met her.

Although not an EU member, Norway is a Schengen country and a participant in Frontex. Izusquiza approached me to learn about Norwegian tools for RTI, and then ordered documents from Norway. I learnt that she was filing requests to all Frontex member states and followed up to hear how the experience had been.

Izusquiza said she had heard that Sweden was known to be quite transparent compared with other countries and was not disappointed. It was where she received the most material back from her RTI requests. She also knew that neighbouring Denmark had a very strict immigration policy and are known to have a stricter RTI law – almost 100 places below Sweden on the RTI-rating charts. But Denmark proved to be a positive surprise in Izusquiza's research into Frontex.

The most important material was concerning an incident in March 2020, documenting a disagreement between a Danish ship participating in Frontex and the Hellenic Coast Guard off the island Kos, near Turkey. The Danish crew detected a small boat with 33 people whom they deemed to be in danger and in need of help. They took them on board: mostly young men, but also women and children including a 2-year-old. The Danish crew then received an order from the Hellenic Coast Guard: do not take the rescued passengers to Kos, but rather put them back into their small boat and tell them to return to Turkey. The Danish crew refused to comply, saying the boat was unsafe and it would be a violation of humanitarian law.

“They were the first nation that was outspoken in having refused to conduct a pushback. And they went to the press, and they reported on it. We filed requests

over that, and we got quite [a lot of interesting information](#).” Izusquiza said.¹⁵ The story was [widely publicised](#).¹⁶

The research she did together with others developed into a project called [The Frontex Files](#).¹⁷ By using RTI requests in multiple countries, they achieved much better insights into the discussions around Frontex’s operations than they would have if they relied solely on direct contact with the Border and Coast Guard Agency.

Among the lessons she learnt is that language is a barrier, but not in every country. “In some countries you can just use English and navigate with that. But in other countries, it’s just not possible. Sadly, I don’t speak Italian,” she said. But, with translation help, anyone can file an information request in Italy too. Try Portugal, and it becomes way more complicated. Izusquiza’s experience was that physical presence was necessary to have the requests processed. There was neither time nor budget for that, so the solution was to seek help from a local.

I ask about the issue of payments: did she frequently encounter fees for the information she requested? The answer was “no”: in her experience, the practice of requesting fees was not very common in the European countries she worked with, mostly EU member states. She did encounter the practice in Germany regularly.

How about residential address or citizenship, had this been a problem? Izusquiza said she did not experience any problems with this when using the national RTI laws. But she notes that, when requesting EU documents from an institution like the Commission, they do require the requester provide a residential address in the EU. When filing requests with Frontex itself, she was asked for a copy of her ID card. Under the EU’s RTI rules, institutions are obliged to answer residents of member countries, but not non-member countries.

Izusquiza also used the Aarhus Convention on Environmental Information to interrogate the work of Frontex. Instead of borrowing vehicles from member states, Frontex acquired its own cars. Citing a need for details information on emissions, Izusquiza and her colleagues requested details about these cars, and got it.

Not every lesson in this story is happy. Open Knowledge Foundation sometimes engages in strategic litigation to force more government transparency. They often succeed but did not in the case of Frontex. Izusquiza and her colleague Arne

¹⁵ <https://fragdenstaat.de/en/blog/2020/11/18/frontex-pushbacks-denmark-march/> (accessed 10.06.2023)

¹⁶ <https://www.dr.dk/nyheder/indland/saadan-foregaar-bevogtningen-af-eus-yderste-graenser-dansk-patroljebaad-beordret-til> and <https://www.politico.eu/article/danish-frontex-boat-refused-order-to-push-back-rescued-migrants-report/> (accessed 10.06.2023)

¹⁷ <https://frontexfiles.eu/en.html> (accessed 10.06.2023)

Semsrott took Frontex to court to argue that information such as names, flags and types of vessels used in Frontex's Operation Triton should be made public. They lost the case in EU General Court and had [to pay € 24,000](#) to cover Frontex's legal costs.¹⁸ The bill was cut to €10,000, which the NGO paid with donations from supporters.

Lessons from Izusquiza

- It may be better to send RTI requests to agencies connected to a source, rather than going directly to the source.
- A physical presence may be necessary to navigate RTI in tricky countries.
- When requesting information in the EU, you may require a residential address in a member country. You may also be required to provide a copy of your ID.
- The Aarhus Convention (see Aarhus section below), may get you access to the information you need via a side door.
- You can engage in strategic litigation to argue that information being withheld should be shared. But it isn't always successful, and it can be costly.

¹⁸ <https://www.statewatch.org/news/2020/december/frontex-billion-euro-border-agency-sues-transparency-activists/> (Accessed 10.06.2023)

How to use it

In most countries, filing a Right to Information request is done by contacting a public office in writing, stating who you are, giving a reference to the country's version of FOIA and requesting access to one or more documents concerning a particular topic within a mentioned time span.

The office in question will look in their files and see what they find. They will then ask a lot of questions, such as: Can this information be released in its current form, or must all or parts of the material be classified? May the person who is requesting have the information? In some countries, the requester must be a resident or a citizen of that country. Do costs apply? That varies a lot. In some countries, the requester will be asked to show why they need the information.

The journalist has a few questions to ponder as well. Bureaucratic institutions produce huge troves of documents. Finding the right ones can be hard, especially on a deadline. Some questions to ask:

- If a public office has the information I need, where will I find it?
- How long will the process take?
- Is there a public intermediary?

Here, I refer to the growing number of online tools to help people with their RTI requests, such as [WhatDoTheyKnow](#) (UK), [FragDenStaat](#) (Germany), [eInnsyn](#) (Norway), [Muckrock](#) (U.S.) or [AskTheEU](#) (EU bodies). When a journalist uses a web portal like this, the request will be forwarded to the right public office. The portal will record the requests and the communications back and forth, so that everyone can learn from the processes and access the same documents.

Journalists who know what they are after, and from whom, may prefer to contact the public archive directly, leaving less online trace for their editorial competitors. But some portals – FragDenStaat and AskTheEU, for example – have developed functionality that allows journalists to hide their information request from other users until their stories have been published.

In many countries, RTIs require a response time within two to three weeks. Norway and Sweden are perhaps the speediest, with a requirement to reply within one to three working days. The general principle in all these laws, is that a denial to provide the requested documents must come with a legal reference.

Other questions to ask: Will the process involve expenses in the form of fees? Is it possible to use the RTI laws in the country of interest without being a citizen or resident there? Does the law have a broad enough scope to cover the part of the public administration of interest?

The Aarhus Convention

I've already mentioned that there are tools in the information request arsenal beyond RTI Laws. The Aarhus Convention is one of these. This UN Convention was written in 1998 and has three main pillars. It gives the public the right to environmental information, the right to participate in decision-making on environmental issues, and the right to environmental justice.

It has currently been ratified by 38 UN member countries but has a total of 47 parties and the ratification number is expected to increase. The EU has ratified the Aarhus Convention, and members states will adopt national legislations accordingly.

To some extent, this convention provides access to information from the private sector, and it has an appendix containing a lengthy list of industrial and other activities affecting the environment about which the public has a right to know.

When Norway implemented the convention, a new [Environmental Information Act](#) was adopted.¹⁹ This law applies to both the public and to the private sector, and gives the right to access all environmental information. The EU took a similar approach, and also passed a directive on environmental information, with members states following to adopt national legislation.

These laws and the Convention are also relevant sources to draw upon when discussing access to information under Article 10 of the European Convention on Human Rights. Freedom of Expression and the Right to Access Information are two sides of the same legal principle and enables the Right of Participation.

Using a combination of these legal arguments will help journalists obtain information on environmental issues from both the public and private sector. In my own country, Norway, there are plenty of examples of how this legislation is used in reporting on the energy sector, on fish farming, in the construction sector and on nuclear decommissioning, to mention a few of the use cases.

GDPR as tool for information

When EU's General Data Protection Regulation (GDPR) came into force in 2018, it was a boost for the awareness on digital privacy. For newsrooms, it also meant long hours in meetings with IT, legal and marketing departments, and late nights for anyone with a subscriber database requiring GDPR compliance updates.

GDPR, and the nations who adopt it, require a legal basis for registering any information about an individual. That individual must give informed consent to

¹⁹ <https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/> (Accessed 09.06.2023)

their information being stored, and they have a legal right to ask to see what information is registered at any times, to correct wrong information and to have their personal information deleted.

You can, of course, not delete your own police records, but you can exercise the right with a newspaper subscription database, or with tech giants like Google and Facebook.

What does any of this have to do with RTI? In my opinion, it may be the most powerful tool at our disposal.

Journalists are in contact with sources from all parts of society. These sources may not be aware of their rights to information, but the journalist should be. We can combine the power of a Subject Access Requests (SAR) with the reach provided by the newsrooms to uncover how information is stored in the personnel files of private companies, at the local football club, or even deep in the archive safe of a religious sect.

Many countries had privacy laws before GDPR, but 2018 created increased awareness and the potential for fines in the billions-of-euro class (a move by the EU to discipline the tech giants), which has prompted better compliance.

One good example of the use of Subject Access Requests occurred in Ireland. In March 2023, OpenDemocracy.net released [a story](#) about a retired councillor turned environmental activist, Cormac McAleer, whose activities had been monitored without consent by a mining company he was critical of, Dalradian Gold.²⁰ Cormac McAleer filed a SAR and found evidence that the mining company had been tracking his activities extensively on social media, including his personal Facebook account, as well as his physical appearances at events.

GDPR is not only about the commercial sector; you can even use it to file requests for information from churches. When I was working for a regional newspaper in Norway, we investigated the practises of Jehovah's Witnesses. This sect, which has branches all over the world, has "Judicial Committees": an all-male panel of three Elders that works as a sort of a parallel judicial system.

Several women had come to our newspaper with stories about how they were prevented from reporting serious cases, including sexual violence to the police. Instead, they had to meet with these all-male panels of Elders and have their cases settled without a proper investigation. Unless the accused confessed to his crime,

²⁰ Greene, T. (2023, March 7), Gold mining firm accused of 'espionage' against UK activist. OpenDemocracy. Available on <https://www.opendemocracy.net/en/dalradian-gold-mine-monitored-social-media-of-environmental-campaigner-for-years/> (Accessed May 30, 2023)

the burden was on the victim to produce two witnesses. Our editor found the story both important and interesting but pointed out that we had little hard evidence. The women had no material evidence of the decisions handed down by these Judicial Committees.

We helped them to file SARs under GDPR, demanding access to all information held about them in the congregation's safes. The Jehovah's Witnesses complied and released the information. With their [stories](#) backed up by written evidence of the tribunals taking place, we could [publish our articles](#).²¹

²¹ <https://www.fvn.no/norgeogverden/i/P3QWGX/a-parallel-court-system-jehovahs-witnesses-judicial-committees> and https://spesial.fvn.no/i/jP502e/index_desktop.html (both accessed 09.06.2023)

Conclusion

There are now 136 countries with RTI legislations. While not all of these are immediately accessible for foreign journalists to use, the rise of cross-border collaborations makes it easier to partner up with a colleague who is a resident of the country of interest, thereby expanding the scope of what documents may be available as sources for a journalistic investigation.

In the interactive map accompanying this paper, you can see what countries of interest might be able to provide documentation fortify your investigation. Each country listing will also link out to RTI-rating's translated versions of all the national RTI-laws. It is well worth your time to read the law fully before starting to use it.

Journalists will sometimes find that the real-life implementation of a law is not always what they expected when reading the text. This is a good cue for you to get in contact with a colleague based in the country of interest. Use tools provided by organisations like the [Global Investigative Journalism Network](#) to find a journalist you can partner with.²²

International conventions such as the Aarhus Convention can also be used to expand the information request toolkit beyond the public sector and into the private sector. And remember that your sources can use GDPR's Subject Access Requests to add further evidence to their stories.

There you have my Hitchhiker's Guide to collaborating on cross-border RTIs. It is not complete, but along with the work that has already been done by Access Info and Centre for Law and Democracy with the RTI-rating site, I hope this may inspire more journalists to try cross-border RTI tools in exciting new investigations, hopefully in collaboration with new partners.

Remember the lessons that Finnish priest Anders Chydenius tried to teach us more than 250 years ago: Freedom of Speech and the quality of public debate depends on the people's right to access basic knowledge about how decisions are made, and resources spent. It is time we exploit the full potential of this.

²² <https://gijn.org/member/>