

# GLOBAL INFORMATION SOCIETY WATCH 2009

*Focus on access to online information and knowledge  
– advancing human rights and democracy*



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)  
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

## **Global Information Society Watch 2009**

# Global Information Society Watch

## 2009

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*Dedicated to A.K. Mahan - an activist who valued  
intellectual rigour and concrete outcomes.*

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# SWITZERLAND

Wolf Ludwig



Switzerland offers strong technical infrastructure and its access indicators are steadily increasing, as the GISWatch 2008 country report has shown.<sup>1</sup> Access to infrastructure varies according to age, education and income. The question of access to content is more complex and sectors of society must be assessed in a differentiated way. This report focuses on the federal level. The situation and practices in the 26 cantons and in the communes may differ considerably.

## Access to public information

Like Germany, Switzerland is a latecomer and adopted a Federal Open Government Act (*Bundesgesetz über das Öffentlichkeitsprinzip in der Verwaltung* - BGÖ) only recently, in the summer of 2006.<sup>2</sup> With the introduction of this law, there was a shift in the Swiss administration from a former principle of confidentiality to one of public accessibility and transparency.

As the Federal Data Protection and Information Commissioner (FDPIC) notes:

Information and communication are two essential characteristics of current society. If in the past, our societies were dominated by the cult of secrecy and the reign of non-transparency, they are now becoming more open, while at the same time guaranteeing individuals the right to have their private lives respected. The principle of access to information and official documents, along with the right to data protection, are two democratic imperatives which are necessary for the functioning of an information society which is close to its citizens. Following the example of many European countries, a wave of transparency is also crossing Switzerland.<sup>3</sup>

The implementation of this access to information law, however, has had mixed results. In 2008, only 221 demands from individuals/citizens for information were registered. In 115 cases (68%) access was completely or partly provided, while 71 demands (32%) were refused. In the 30 months following the introduction of the law, only 565 requests were submitted. This is considered modest given a total population of 7.7 million people. The FDPIC notes that the figures do not necessarily represent all inquiries in all governmental authorities, as information requests from media are not included or distinguished. The cases statistically listed are supposed to be the "relevant" ones, which means that they are beyond routine requests and need special assessment or demand extraordinary efforts to be accomplished.

An FDPIC report mentions another factor that may contribute to the low level of information requests: many citizens, it is assumed, were not aware of the change in their rights when the new law was introduced in 2006 – the vast majority of the Swiss population, according to some observers. This assumption is backed by the experience of some departments that demands from the public increased where targeted information events on public access were organised.

According to an external evaluation on the implementation of the law, the quality of public service is considered high, whereas the duration of procedures has been criticised.<sup>4</sup> Usually citizens are not charged for access requests.<sup>5</sup>

Switzerland consists of four linguistic<sup>6</sup> and cultural areas. Equal opportunities, access and balance between the different parts of the country are considered a constitutional imperative. Therefore governmental information is usually available in the four national languages, some of it even in English. In 2006 the Swiss portal ch.ch became the national gateway to Switzerland. It is Switzerland's electronic business card and the main point of access to online information from the federal government, the cantons and local authorities. In the fourth year of its operation, the national portal became popular, with 5,250 visitors a day on average. The 160,000 visitors per month generate around 1.8 million page hits, according to official web statistics.<sup>7</sup>

## Uniform handling of electronic data and documents

An ongoing problem in the federal administration is the handling of electronic data and documents. An official report from 2006 noted that:

The heterogeneous practice in the individual units of the administration regarding management, organisation and technology is preventing systematic exploitation of the potential of electronic transactions. Although solutions have been successfully implemented in individual departments with success and great benefits, there has to date been a lack of will and appropriate management to place the federal administration's transactions on a... basis which eliminates data format incompatibilities. Consequently the Confederation is not only missing out on substantial potential for rationalisation but there is

1 [www.giswatch.org/gisw2008/country/Switzerland.html](http://www.giswatch.org/gisw2008/country/Switzerland.html)

2 [www.edoeb.admin.ch/dokumentation/00652/01116/01117/index.html?lang=en](http://www.edoeb.admin.ch/dokumentation/00652/01116/01117/index.html?lang=en)

3 *Ibid.*

4 Neue Zürcher Zeitung (NZZ) (2009) Das Interesse der Geheimdienste an Facebook, NZZ, 29 June.

5 Federal Data Protection and Information Commissioner (FDPIC): [www.edoeb.admin.ch/dokumentation/index.html?lang=en](http://www.edoeb.admin.ch/dokumentation/index.html?lang=en)

6 German, French, Italian and Romansh.

7 Schweizer Portal ch.ch (2009) Schweizer Portal ch.ch weiter auf Erfolgskurs, 20 March.

[www.ch.ch/private/00987/00993/01160/index.html?lang=de&msg-id=25980](http://www.ch.ch/private/00987/00993/01160/index.html?lang=de&msg-id=25980)

also the danger that the digitisation of transactions will take place only under external pressure, with the resulting major restraints on design freedom.<sup>8</sup>

In harmony with the national e-government strategy, the report continues, “the administration’s ICT-based activity must be both economical and reflect citizen’s concerns, and should also promote good governance.” An action plan for the uniform handling of electronic data and documents within the federal administration was therefore adopted by the Federal Council in January 2008, including verifications of a Single Point of Orientation<sup>9</sup> (SPO) as defined in the BGÖ.<sup>10</sup>

### Problem: Open standards and open source

Despite the Confederation adopting a Federal Open Source Strategy<sup>11</sup> and emphasising open source software in its e-government strategy,<sup>12</sup> the reality is a different one.

In spring of this year, the federal administration signed a new three-year licence deal with Microsoft amounting to CHF 42 million (around USD 40.75 million) – without any public offering. Several open source service providers, as well as a parliamentary grouping, contested the deal. The members of parliament demanded “digital sustainability”, saying “the federal administration in Switzerland is still favouring proprietary software.”

Similar practices became public last May in the Canton of Berne.<sup>13</sup> Now the members of parliament intend to increase public pressure, pushing for open standards and software. The Swiss Internet User Group (SIUG) is also planning to launch a major campaign to promote open standards like open document format (ODF) and extensible business reporting language (XBRL), an open data standard for financial reporting, for internet documents.<sup>14</sup>

### Access to culture: Copyright restrictions

Legal frameworks and intellectual property laws are still imposing various limits to open content and access. The Creative Commons initiative, which offers a country-adapted version for Switzerland (developed in 2007), provides a range of possibilities for legally protecting content in a way that it becomes open content. It poses a significant challenge to traditional copyright protection.<sup>15</sup> However, the traditional cultural and media groups and national collecting societies,<sup>16</sup> amongst others, are doing their best to oppose and marginalise alternative licensing models.

A peculiar example of how traditional intellectual property rights hamper open access initiatives is the creation of Europeana, a European digital library, where about 90% of national library holdings cannot be transferred due to traditional intellectual property regimes. At the moment, Europeana provides approximately 5% of all digitised books in the European Union (EU), which are in the public domain already. For legal reasons the library project cannot offer works that are out of print – about 90% of Europe’s national library holdings. Viviane Reding, the EU Commissioner for Information Society and Media, urges better cooperation among member countries to make European intellectual property laws relevant to the digital age.<sup>17</sup>

### Access to scientific information

The University of Zurich was among the first to sign the Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities<sup>18</sup> launched in October 2003.<sup>19</sup> The Declaration became one of the milestones in the open access movement and today is still recognised as the standard for the future handling of scientific literature. The University of Zurich is now among the leading academic institutions in this field in Switzerland, besides the University of St. Gallen. Most of the major Swiss universities have signed the Berlin Declaration since. Unfortunately, there have been initiatives launched in neighbouring Germany, such as the Heidelberg Appeal,<sup>20</sup> encouraging scientists to abuse their author’s rights and to exclude their work from search engines like Google, thereby undermining open and public access.

But the open access movement is gaining more and more ground amongst scientists and researchers. An increasing number of universities maintain their own servers for managing and storing material and publications. And like the Alliance of German Science Organisations,<sup>21</sup> Swiss science institutions like the Swiss National Research Fund are considering regulations that all research funded by public allocations must be freely accessible to the public in return.

In October 2009, the third Open Access Days conference focused on open access-related activities in the German-speaking regions. The conference was organised by open-access.net and the University of Konstanz in cooperation with the German Helmholtz Association, the Max Planck Society, the German Initiative for Networked Information (DINI) and the Universities of Linz and Zurich.<sup>22</sup>

8 OFCOM (2008) Uniform handling of electronic data and documents within the federal administration. [www.bakom.admin.ch/themen/infosociety/01690/index.html?lang=en](http://www.bakom.admin.ch/themen/infosociety/01690/index.html?lang=en)

9 Similar to the “one-stop government” or “one-stop shop” idea.

10 Bundesgesetzes über das Öffentlichkeitsprinzip der Verwaltung BGÖ, December 2004. [www.admin.ch/ch/d/sr/c152\\_3.html](http://www.admin.ch/ch/d/sr/c152_3.html)

11 Federal Strategy Unit for IT (2008) Partial strategy: Open Source Software (OSS). [www.isb.admin.ch/themen/strategien/00745/00750/index.html?lang=en](http://www.isb.admin.ch/themen/strategien/00745/00750/index.html?lang=en)

12 Ibid.

13 Swiss Open Systems User Group (ch/open): [www.ch-open.ch](http://www.ch-open.ch)

14 Swiss Internet User Group (SIUG): [www.siug.ch](http://www.siug.ch)

15 Creative Commons Switzerland: [www.creativecommons.ch](http://www.creativecommons.ch)

16 Private bodies collecting royalty payments from various individuals and groups on behalf of copyright holders.

17 Golem (2009) Urheberrecht behindert Ausbau von EU-Digitalbibliothek, 29 August. [www.golem.de/0908/69425.html](http://www.golem.de/0908/69425.html)

18 open-access.net/de\_en/information\_on\_oa\_by/max\_planck\_society/berlin\_declaration

19 The university signed in December 2004.

20 The “Heidelberg Appeal” on the Freedom to Publish and the Protection of Copyright, March 2009: [www.textkritik.de/urheberrecht/index\\_engl.htm](http://www.textkritik.de/urheberrecht/index_engl.htm)

21 Alliance of German Science Organisations (2009) Declaration on Open Access and IP Rights. [www.wissenschaftsrat.de/texte/allianz\\_erklaerung\\_25-03-09.pdf](http://www.wissenschaftsrat.de/texte/allianz_erklaerung_25-03-09.pdf)

22 open-access.net/de\_en/activities/open\_access\_days/announcement



## The private media

The print media in Switzerland are privately owned. Since the crisis in this sector is continuing and editors see their business model at stake, there is no willingness to embrace an open access content model. A few days after publication, online articles are transferred to the Swiss Media Database where access and retrieval are charged for.

## Action steps

Despite the constraints and backlashes, the claims for open standards and open content are not an issue of isolated communities any longer. Access to content in the different spheres of society is more and more perceived as a basic right. And the spirit of the Berlin Declaration is vivid: “to promote the internet as a functional instrument for a global scientific knowledge base and human reflection, and to specify measures which research policy-makers, research institutions, funding agencies, libraries, archives and museums need to consider.”

Some of these measures should include:

- The obligatory use of open standards and open source for public administrations.
- Intellectual property laws allowing choices for content creators, including alternative licensing models like the Creative Commons.
- Binding rules that all content and research funded by public allocations must be freely accessible to the public in return. ■

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**GLOBAL INFORMATION SOCIETY WATCH (GISWatch) 2009** is the third in a series of yearly reports critically covering the state of the information society *from the perspectives of civil society organisations across the world.*

**GISWatch** has three interrelated goals:

- **Surveying** the state of the field of information and communications technology (ICT) policy at the local and global levels
- **Encouraging** critical debate
- **Strengthening** networking and advocacy for a just, inclusive information society.

Each year the report focuses on a particular theme. **GISWatch 2009** focuses on *access to online information and knowledge – advancing human rights and democracy.* It includes several thematic reports dealing with key issues in the field, as well as an institutional overview and a reflection on indicators that track access to information and knowledge. There is also an innovative section on visual mapping of global rights and political crises.

In addition, 48 country reports analyse the status of access to online information and knowledge in countries as diverse as the Democratic Republic of Congo, Mexico, Switzerland and Kazakhstan, while six regional overviews offer a bird's eye perspective on regional trends.

**GISWatch** is a joint initiative of the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos).

**GLOBAL INFORMATION SOCIETY WATCH**

2009 Report

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