

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

Khayra MIMOUN *

Laboratory of Law and Human Security
Hassiba Ben Bouali University - Chlef,
Algeria

k.mimoun@univ-chlef.dz

Leila HENNAOUI

Laboratory of Law and Human Security
Hassiba Ben Bouali University - Chlef,
Algeria

l.hennaoui@univ-chlef.dz

Date of submission: 18/11/2025 - Date of acceptance: 15/12/2025 - Date of publication: 28/12/2025

Abstract: The right to a healthy environment, despite being recognized in numerous national and international instruments, remains largely ineffective unless supported by procedural guarantees, foremost among them the Right of Access to Environmental Information. Access to such information enables individuals to understand environmental conditions, identify associated risks, and participate **meaningfully** in environmental decision-making. Although this procedural right is formally acknowledged in both international frameworks and Algerian legislation, its practical effectiveness remains constrained by a range of legal and institutional **limitations**. This study examines the concept of environmental information, outlines its legal enshrinement at the national and international levels, and analyses the principal challenges that restrict its implementation. The research adopts a descriptive and analytical methodology, supplemented by a comparative interpretive approach drawing on international procedural standards.

Keywords: Access to Environmental Information; Legal Enshrinement; Administrative Capacity; Secrecy Exceptions, Industrial and Commercial Confidentiality.

***Corresponding author: Khayra MIMOUN.**

Introduction:

The growing environmental awareness among individuals has made it clear that humanity's survival, sustainable development, and the full enjoyment of human rights depend fundamentally on a **sound and balanced environment**. This connection between the environment and human rights has crystallized a new substantive right: the right of every person to a healthy environment. Crucially, the **effective enjoyment** of this substantive right requires a set of procedural guarantees that ensure environmental transparency and public participation. The **Right of Access to Environmental Information** stands foremost among these procedural rights.

While this right is widely recognised as essential for public scrutiny of environmental decision-making, its effective realization is significantly hampered by multiple constraints. These constraints stem both from legal limits placed on disclosure and from practical deficiencies in the production, management, and dissemination of environmental information.

The significance of this research lies in examining the Right of Access to Environmental Information as a **tool** that enables individuals to exercise their right to a healthy environment and to participate meaningfully in protecting it.

Despite the growing legal and academic attention to this right, existing Algerian literature rarely analyses its normative evolution, its procedural architecture, or the limits shaped by international environmental law. Most studies treat the right descriptively, without situating Algerian practice within the broader structure of international procedural environmental rights. This creates a clear doctrinal gap that the present article seeks to fill. Algeria represents an especially important case for such analysis, given its historical exposure to environmental risks.

Against this background, the paper asks: **To what extent has the Right of Access to Environmental Information been legally enshrined, and what are the principal obstacles constraining its effectiveness?**

The paper aims to clarify the concept and legal enshrinement of environmental information at both the national and international levels and to analyse the main challenges that limit its effectiveness. We rely primarily on the **descriptive and analytical methodology**, and, **where relevant**, we apply a **comparative-interpretive approach** that uses international frameworks (notably Aarhus-derived principles) as interpretive tools to read and evaluate Algerian law.

The paper is organized in two main chapters: **Chapter One** addresses the **Foundational Dimensions** of the Right of Access to Environmental Information through necessary conceptual clarifications, and **Chapter Two** analyzes the **Legal Frameworks Founding and Governing Access to Environmental Information and Their Limitations**. This structure allows the study to progress sequentially from conceptual definitions to the international legal foundations and, finally, to a targeted assessment of domestic constraints and reform options.

TITLE 1 : Foundational Dimensions of the Right of Access to Environmental Information

The **Right of Access to Environmental Information** is the procedural cornerstone of environmental transparency and public accountability. This chapter lays the essential

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

conceptual foundation for the entire study, defining the nature of the right and detailing the operational mechanisms required for its practical exercise.

First Subtitle: *The Conceptual Foundations of the Right to Environmental Information*

This section begins by establishing the fundamental concept of environmental information, defining its core scope and the various material forms it can take. It then identifies the broad category of right-holders, demonstrating the universal and unconditional nature of this entitlement.

Sub-section One: Defining the Right to Environmental Information and Identifying its Right-Holder

The first part of this sub-section will clarify the meaning of environmental information by providing a comprehensive definition and specifying the data and elements it encompasses. The second part will determine who, according to both international and Algerian law, is entitled to hold and exercise this fundamental right.

1. Defining the Right to Environmental Information

Information constitutes a foundational element of public life and an essential condition for the functioning of democratic governance. In legal terms, information is commonly understood as the clear disclosure of governmental and administrative data, procedures, and mechanisms through various oversight and media channels. Such disclosure enables citizens, civil society, the press, and the judiciary to monitor the conduct of public affairs.¹

Environmental information, more specifically, refers to access to all essential data related to environmental matters in order to ensure meaningful participation in environmental protection.² It is widely defined as a structured and organized set of data and elements related to one or more components of the environment, arranged in a manner that allows environmental management and decision-making.³

Taken together, these definitions allow us to conceptualize the right of access to environmental information as the set of policies, laws, and administrative procedures that guarantee openness in environmental governance and allow individuals to obtain information relevant to environmental matters. This right enables the public to understand environmental conditions, participate in environmental decision-making, and contribute to environmental protection efforts.

2. Identifying the Right-Holder

The Preamble to the 1998 Aarhus Convention affirms that adequate environmental protection indispensable to human well-being and recognizes that every person has the right to

¹ Murad Kawashi, *The Right of Access to Information in International Law*, Algerian Journal of Law and Political Sciences, Faculty of Law, University of Tissemsilt, Vol. 8, No. 2, 2024, p. 417.

² Abdelkader Bouras & Farid Ben Bouabdellah, *Journal of Scientific Research in Environmental Legislation*, Ibn Khaldoun University, Tiaret, Issue 08, January 2017, p. 61.

³ Karim Berkat, *The Right to Environmental Information as a Fundamental Tool for Individual Participation in Environmental Protection*, Journal of Scientific Research in Environmental Legislation, Ibn Khaldoun University, Tiaret, Vol. 7, No. 1, 2017, p. 36.

live in an environment adequate to their health. The Convention also establishes procedural environmental rights, including access to information. Article 4 specifies that “the public” is the holder of the right to access to environmental information. The term “public” is defined broadly to include natural or legal persons, as well as associations, organizations, or groups formed by such persons, as determined by national law⁴.

Algerian law follows the same approach. Article 3 of Law 03-10 on Environmental Protection and Sustainable Development expressly provides that “every person has the right to be informed about the state of the environment.” thereby recognizing both natural and legal persons as right-holders.

Comparative legal practice confirms that the right of access to environmental information is recognized as belonging to every individual. It grants all persons the ability to request and obtain information held by public authorities concerning environmental governance.⁵ This includes the right to request, receive, review, and use environmental information in order to exercise other environmental rights and participate in environmental protection. As such, access to environmental information constitutes a procedural right that enables individuals to protect the environment and enjoy their substantive environmental rights.

The scope of environmental information accessible to the public includes:⁶

1. **Data on current and foreseeable environmental conditions**, including the nature and extent of environmental problems, and the environmental effects of existing or planned activities and projects.

2. **Environmental information in any material form**, including written, audio, visual, or electronically stored data, thereby enabling individuals to identify environmental risks, prevent harm, and contribute to environmental protection.

Sub-section two: Characteristics and Significance of the Right to Environmental Information

Moving beyond the definition, this sub-section explores the **distinctive legal qualities** that define the right, followed by an analysis of its **normative and practical significance**. This establishes the role of the right in enabling public scrutiny, fostering governmental accountability, and realizing the substantive right to a healthy environment.

1. Key Features of the Right

Several characteristics define the right of access to environmental information and distinguish it within the broader landscape of procedural environmental rights.

First, the right operationalizes democratic governance. By enabling public access to environmental data, it reinforces the principles of transparency and participatory decision-making. Access to information allows citizens to understand how environmental decisions are made and to contribute meaningfully to their formulation and oversight.

⁴ Salah Sid Ali, *The Holder of the Right to the Environment*, Master’s Thesis in Environmental Law, Mohamed Lamane Debaghine University, Sétif 2, 2014/2015, pp. 108–109.

⁵ Karim Berkat, *Op. cit.*, p. 36.

⁶ Salah Sid Ali, *Op. cit.*, p. 108.

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

Second, the right applies universally without discrimination. Its scope extends to all —ordinary citizens, civil society organizations, private actors, and professional stakeholders—on the basis that environmental protection concerns society as a whole. The inclusive nature of the right reflects the collective interest in safeguarding environmental resources.

Third, effective implementation of this right requires dedicated administrative and regulatory mechanisms. Because environmental information is technical, diverse, and often dispersed across multiple authorities, its accessibility depends on institutional processes that ensure proper collection, organization, and dissemination.

2. The Normative and Practical Importance of the Right

The activation of the right to environmental information serves several essential functions in environmental governance.⁷

A core function of the right lies in enabling meaningful public participation in environmental decision-making. Access to information is a prerequisite for individuals and communities to take part in decisions that affect environmental quality, individuals cannot influence environmental policies or monitor state performance unless they are equipped with timely and accurate information, making access to information foundational for environmental democracy and public oversight⁸.

It also empowers individuals to fulfil their responsibility to protect the environment. By allowing the public to understand environmental risks, potential harms, and available mitigation measures, the right strengthens environmental awareness and fosters societal capacity to respond to environmental challenges and disasters.

The right further advances environmental transparency and helps establish mechanisms for combating environmental corruption. Research on the Aarhus regime shows that robust information disclosure reduces power asymmetries between authorities and the public, fosters accountability, and minimizes opportunities for opaque or unlawful environmental practices. It confirms that information transparency in environmental regulation limits discretionary decision-making and reinforces structural safeguards against regulatory capture.⁹

Moreover, access to environmental information enhances environmental accountability for harmful actions or decisions. It is an essential component of good governance, enabling oversight by the media, civil society organizations, and citizens, as well as by parliamentary bodies and anti-corruption institutions. In this sense, the right is directly connected to the principles of good governance.

Finally, environmental information plays a crucial preventive role in environmental protection. By informing the public, shaping environmental awareness, and influencing

⁷ Houda Amara, *The Right to Environmental Information in Algerian Legislation*, Journal of Law and Political Sciences, University of Khenchela, Vol. 9, No. 2, 2022, p. 911.

⁸ Svitlana Kravchenko, “Is Access to Environmental Information a Fundamental Human Right?”, *Review of European Community & International Environmental Law*, Vol. 19, No. 1, 2010, pp. 4–15.

⁹ Michael Mason, “Information Disclosure and Environmental Rights: The Aarhus Convention”, *Global Environmental Politics*, Vol. 10, No. 3, 2010, pp. 10–31.

behavioural change, access to information strengthens the preventive dimension of environmental law and policy.

Second Subtitle: Procedural Pathways for Access to Environmental Information

The effective realization of the right to environmental information depends not only on the existence of environmental data within public authorities, but also on the administrative and regulatory mechanisms that make this information accessible. Availability alone does not guarantee access. Rather, the right is operationalized through procedures that enable individuals to request and obtain environmental information in practice. This section outlines the core procedural mechanisms that govern access requests and administrative responses.

Sub-section One: Submitting a Request for Environmental Information

This sub-section focuses on the demand-driven side of the right. It first addresses the issue of **standing**, confirming the open and unconditional nature of the right to request information. It then details the **administrative obligations** that arise once a request is received, outlining the standard requirements for granting access and the narrowly defined, legally justified grounds for refusal.

1. Standing to Request Environmental Information

Most national legal systems recognize the right of both natural and legal persons to submit requests for environmental information without the need to demonstrate a direct or personal interest. Public authorities cannot reject a request on the grounds that the applicant lacks a specific private interest;¹⁰ the right is inherently public in nature.

Algerian legislation follows this approach. Article 7 of Law 03-10 on Environmental Protection and Sustainable Development provides that “any natural or legal person may request from the competent authorities information relating to the state of the environment,” and that such information includes all data, in any material form, relating to environmental conditions, regulatory measures, or environmental protection actions. In effect, any individual or entity may file a request without prior justification or conditions.¹¹

At the international level, instruments that recognize environmental information rights adopt the same logic. Article 4 of the Aarhus Convention affirms that “any person,” without the need to state an interest or provide reasons, may request access to environmental information held by public authorities.¹² The right is therefore open, unconditional, and not limited to particular categories of applicants.

2. Administrative Obligations Upon Receiving a Request

Once an individual submits a request for environmental information, public authorities are legally obliged to respond. As a general rule, the administration must grant access unless

¹⁰ Yahia Ounas, *Legal Mechanisms for Environmental Protection in Algeria*, PhD Thesis in Public Law, Abou Bekr Belkaid University, Tlemcen, 2007, p. 163.

¹¹ Chahrazad N’ghiji & Sheikh Bousamaha, *The Right to Environmental Information as a Guarantee for Environmental Protection*, Al-Ustadh Al-Bahith Journal of Legal and Political Studies, University of M’sila, Vol. 7, No. 2, 2022, p. 1484.

¹² Hussein Bouthelja, *The Role of the Aarhus Convention in Environmental Protection*, Journal of Scientific Research in Environmental Legislation, Ibn Khaldoun University, Tiaret, Vol. 6, No. 1, 2019, p. 28.

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

one of the narrowly defined legal exceptions applies¹³. In this context, administrative authorities must respond to all requests for information, either by granting access or by communicating a legally justified refusal. So they have two basic options :

First, Granting the Request

In principle, public authorities are required to provide the requested environmental information and to facilitate access in a usable format. Comparative legislation frequently requires authorities to organize environmental information—whether in files, registers, or digital formats—in ways that allow applicants to consult and use the data effectively.¹⁴

Algerian Law 03-10 does not specify the detailed procedural steps for processing requests, leaving the operational modalities to subsequent regulations¹⁵. By contrast, the Aarhus Convention imposes clearer obligations on states. It requires authorities to make environmental information available within one month of receiving the request. In cases where the request concerns complex information that cannot reasonably be provided within that period, authorities may extend the deadline to two months, provided that the applicant is informed of the extension and its justification.¹⁶

Second, Refusing the Request

Although disclosure is the rule, environmental legislation permits refusal in narrowly circumscribed situations. These refusal grounds are typically exhaustive, strictly interpreted, and designed to prevent authorities from exercising broad discretion in limiting access.¹⁷

In general, a refusal may be issued only when¹⁸:

- **the request is excessively vague, overly general, or insufficiently specific**, making it impossible for the administration to identify the information sought; or
- **the requested information is still in preparation or not yet finalized**, meaning it has not reached a stable form suitable for public release.

These grounds reflect the balance inherent in environmental information regimes: while transparency is the principle, legitimate administrative constraints may justify limited, predefined exceptions.

Sub-section Two: Proactive Disclosure of Environmental Information

The right of access to environmental information does not depend exclusively on whether individuals choose to submit a request. Even when members of the public do not actively exercise this right, they remain entitled to know the environmental conditions that

¹³ Nacima Ben Mehara, *Environmental Communication and Its Role in Environmental Preservation*, Master's Thesis in Environmental Law, University of Algiers 1, 2012/2013, p.63.

¹⁴ Karim Berkat, *Op. cit.*, p. 43.

¹⁵ Yahia Ounas, *Civil Society and Environmental Protection: The Role of Associations, NGOs, and Unions*, Dar Al-Gharb for Publishing and Distribution, pp. 88-89.

¹⁶ See Article 04 of the Aarhus Convention.

¹⁷ Karim Berkat, *Op. cit.*, p.44.

¹⁸ Nacima Ben Mehara, *Op. cit.*, p.65.

affect their well-being and the risks present in their surroundings.¹⁹ Public authorities that hold environmental information therefore carry a positive complementary obligation to disclose it proactively and regularly, irrespective of whether specific requests have been submitted. This principle is consistently recognised across international environmental law, where proactive disclosure is framed as a structural component of transparent and participatory environmental governance²⁰.

In practice, the categories of information that require automatic public dissemination typically relate to environmental matters with direct implications for public health, community safety, and the broader ecological context in which individuals reside.²¹ This includes, at a minimum, four core domains that Public authorities must make available:²²

- **Regular environmental assessments and monitoring reports**, prepared periodically by administrative bodies responsible for tracking environmental quality. These documents provide baseline knowledge on the state of the environment and help identify emerging risks. They enable the public, civil society organisations, and researchers to understand the condition of ecosystems and to track governmental performance over time²³.
- **Environmental programmes, plans, and policy frameworks**, through which the government outlines its strategic vision, regulatory priorities, and long-term objectives in environmental protection and natural-resource management. Their publication allows the public to assess policy orientation, resource allocation, and long-term planning priorities²⁴.
- **Legislative and regulatory instruments governing environmental protection**, including statutes, implementing regulations, and administrative guidelines that structure the management of environmental resources and determine the obligations imposed on public and private actors. Public access to these instruments ensures legal clarity and facilitates compliance by citizens, companies, and organisations²⁵.
- **Information on environmental risks and potential hazards**, including risks affecting public health or ecosystems, as well as the preventive and emergency-response measures adopted to manage such risks. Making such information public allows communities to understand and prepare for risks, promotes risk-aware decision-making, and reinforces accountability for environmental governance.²⁶

The duty of proactive disclosure is therefore a structural element of environmental governance. It recognises that access to environmental information is not merely a procedural

¹⁹ Nabila Merzaka, *Environmental Media as a Legal Mechanism for Environmental Protection*, *Sawt Al-Qanun* (Voice of Law Journal), Khemis Miliana, Vol. 09, No. 02, 2023, pp. 718-719.

²⁰ UNECE, *The Aarhus Convention: An Implementation Guide*, 2nd ed., United Nations Economic Commission for Europe, Geneva, 2014; , and Svitlana Kravchenko, "The Aarhus Convention and Innovations in Compliance with Multilateral Environmental Agreements," *Colorado Journal of International Environmental Law & Policy*, 18, no. 1 (2007): 1–30.

²¹ Mason (2010)

²² Karim Berkat, *Op. cit.*, p.p.46 -45.

²³ Mason (2010)

²⁴ UNECE (2014)

²⁵ Kravchenko (2007)

²⁶ Mason (2010).

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

entitlement exercised upon request, but a foundational condition for transparency, environmental awareness, and informed public participation.²⁷

TITLE 2 : *Constraints on Access to Environmental Information*

While the right of access is formally recognized, its practical application is subject to significant legal and structural limitations. This section critically analyzes these constraints, first detailing the **closed list of exceptions** recognized under international law (Aarhus Convention and human rights law) and then examining the primary **domestic limits and barriers** that undermine the effective realization of the right in the Algerian context.

Sub-section One: *International Limitations (Legal Limits, Restrictions, and Derogations)*

Having already established the Aarhus Convention as the central framework governing access to environmental information, this subsection examines the contours of its recognised limitations. The analysis proceeds by outlining the Convention's closed list of exceptions, the legal tests that constrain their application, the practical predominance of commercial confidentiality, and finally the distinct regime of human-rights derogations.

1. Ordinary Exceptions under the Aarhus Convention

The Convention defines a closed list of legitimate grounds on which authorities may refuse disclosure. Article 4(4) lists exhaustively the circumstances under which public authorities may withhold environmental information, including protection of national defence, public security, the course of justice, privacy and personal data, commercial and industrial confidentiality, intellectual property rights, internal decision-making processes, and the protection of the environment itself, such as the location of vulnerable species²⁸.

These exceptions operate as **ordinary** limitations. They are integral to the structure of the right and apply on a routine basis when authorities process requests for information. Importantly, the Convention requires that each exception be interpreted *restrictively*, and that authorities conduct a **public-interest balancing test**, disclosing the information whenever the public interest outweighs the protected interest, with the exception of emissions-related information, where disclosure is automatically presumed²⁹.

The Aarhus regime therefore provides the baseline map for legitimate limitations, and any assessment of restrictions must begin with its architecture.

2. Legal Tests Governing the Application of Exceptions

The mere presence of an exception in Article 4(4) does not suffice to justify non-disclosure. International practice and doctrinal interpretation have crystallised **three cumulative conditions** that any limitation must satisfy to be considered lawful:

²⁷ Aarti Gupta, "Transparency Under Scrutiny: Information Disclosure in Global Environmental Governance", *Global Environmental Politics*, Vol. 8, No. 2, 2008, pp. 1–7.

²⁸ UNECE, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention), 1998.

²⁹ UNECE, (2014)

First, the restriction must have a clear **legal basis** in the Convention or domestic law implementing it. Authorities must be able to point to a specific provision that authorises the refusal.

Second, the restriction must be subject to a **narrow interpretation**, consistent with the Convention's pro-transparency orientation. International commentary and judicial practice emphasise that exceptions should not be expanded through analogy or broad administrative discretion³⁰.

Third, the authority must apply a **public-interest test**, weighing the protected interest (e.g., commercial confidentiality) against competing public interests such as environmental protection, health, and accountability. For emissions-related information, jurisprudence confirms that the balancing test is automatically resolved in favour of disclosure³¹.

Together, these tests ensure that exceptions remain contained and cannot be invoked in an open-ended manner to restrict environmental information arbitrarily.

3. Commercial Confidentiality as the Key Operational Limitation

Although the Aarhus Convention contains several limitations, judicial and administrative practice show that only one—**commercial and industrial confidentiality**—functions as a genuinely operational exception in both national, regional and international settings. This exception is recognised in Article 4(4)(d), but its scope has been significantly narrowed by jurisprudence interpreting what qualifies as “information relating to emissions.”

The European Court of Justice has developed the most authoritative case law in this respect. In *Commission v Greenpeace Nederland*, the Court held that information concerning emissions must be disclosed even when it contains commercially sensitive material, because the Convention and its EU implementing regulations treat disclosure in such cases as inherently serving the public interest. The Court reaffirmed this position in *Bayer CropScience*, establishing an **irrebuttable presumption** that emissions-related information cannot be withheld on the basis of commercial confidentiality³².

This jurisprudence transforms commercial confidentiality from a broad exception into a **narrow and qualified limit**, operational only when the requested information does not concern actual or foreseeable emissions. Scholarly analysis similarly concludes that this is the only exception consistently invoked in practice, and that even here its effect is “significantly constrained” by the public-interest logic built into the Aarhus framework.³³

For this reason, commercial confidentiality warrants a dedicated analytical treatment within any study of limits to the right of access to environmental information.

³⁰ Ibid.

³¹ Buonsante, Vito., & Friel, Anne. (2017). What is information relating to emissions into the environment? European Journal of Risk Regulation, 8, 453–460.

³² European Court of Justice, *Commission v Greenpeace Nederland and Pesticide Action Network Europe*, Case C-673/13 P, Judgment of 23 Nov. 2016. European Court of Justice, *Bayer CropScience AG v College voor de toelating van gewasbeschermingsmiddelen en biociden*, Case C-442/14, Judgment of 23 Nov. 2016.

³³ Mason, (2010).

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

4. Human-Rights Derogations as a Distinct Limitation Regime

The right of access to environmental information is embedded within broader human-rights frameworks, including the rights to information, participation, and effective remedies. Under the ICCPR, States may derogate from certain rights in times of public emergency, provided the measures are strictly required, temporary, and proportionate³⁴. Because access to environmental information is not a non-derogable right, it is theoretically subject to emergency derogation.³⁵

However, emergency derogations must be distinguished sharply from the **ordinary exceptions** in the Aarhus Convention. Derogations are exceptional, require notification, and operate only in situations threatening the life of the nation. By contrast, Aarhus exceptions are standing limits embedded within the structure of the right itself.

Practice confirms that these two regimes operate differently. Evidence from Ukraine during the period of martial law shows that environmental information remained largely accessible, with restrictions applied only to narrowly defined security-sensitive categories, reinforcing the principle that even in emergencies, environmental information enjoys substantial protection as a special category of public information.³⁶ This illustrates the practical resilience of the right, even when derogation mechanisms formally exist.

Sub-section two: Domestic Barriers to the Effectiveness of the Right to Environmental Information

Despite the existence of constitutional guarantees, Law 03-10 on the protection of the environment within sustainable development, and additional obligations embedded in municipal and provincial legislation, the practical exercise of the right to environmental information in Algeria remains constrained by several domestic obstacles. These limits fall into three broad categories: legal restrictions grounded in secrecy rules, structural deficiencies in the production and dissemination of environmental data, and administrative capacity weaknesses that reduce the operational effectiveness of the right.

1. Secrecy-Based Legal Limits

(a) Administrative secrecy

Algerian administrative law recognises a general principle of administrative secrecy, which restricts the disclosure of documents held by public authorities when they contain information classified as confidential or protected by law. Although citizens may theoretically access environmental data—including environmental assessments, permitting documents, impact studies, and project plans—this access is often curtailed by broad invocations of administrative confidentiality. Public officials may lawfully refuse disclosure where documents include protected personal data, internal deliberative material, or information considered sensitive under administrative secrecy rules.³⁷ The breadth of this principle, coupled with the

³⁴ United Nations, *International Covenant on Civil and Political Rights*, 1966.

³⁵ Leila Hennaoui, “International Law Regulation of Non-Derogable Human Rights During Internal Strife”, *RECHERCHES*, Vol. 15, No. 2, 2021, pp. 35–50.

³⁶ Anatolii Butsmak, “Limitations of the Right to Environmental Information”, *Scientific Herald of Uzhhorod National University*, Law Series, Issue 73, 2023.

³⁷ Nacima Ben Mehara, *Op. cit.*, p.77

absence of detailed statutory criteria defining its scope, allows public authorities significant discretion in withholding environmental information.

(b) Industrial and commercial confidentiality

Industrial and commercial secrecy constitutes an additional, and often more substantial, limitation. Under the regulatory framework governing classified installations, operators are permitted to withhold information they consider to constitute industrial secrets, including details related to manufacturing processes, raw materials, technological methods, or sensitive operational data. Municipal and provincial authorities may even redact portions of environmental files—including elements of impact studies and risk assessments—where they deem disclosure to involve the revelation of confidential industrial information.³⁸

The legal definition of “industrial secret” remains vague in the executive decree regulating classified installations, granting operators wide discretion to determine which information should be excluded from public access. This discretion may extend to the removal of data essential for understanding environmental impacts, thereby undermining transparency.³⁹ Nonetheless, the existence of industrial and commercial confidentiality as a category of protected information is not inherently inconsistent with transparency principles, provided its application is legally defined and justified by legitimate economic interests. In practice, however, its breadth in Algeria often results in significant curtailment of environmental information.

2. Obstacles Related to Environmental Information Sources and Data Availability

Even when no legal secrecy rule applies, access to environmental information is frequently hindered by deficiencies in data production, publication, and interpretation. Environmental journalists and civil society actors commonly struggle to obtain basic statistics, environmental indicators, and monitoring results. Relevant documents may be unavailable, incomplete, non-digitised, or published in formats that impede analysis.

These difficulties are often exacerbated by administrative unfamiliarity with publication standards and dissemination protocols. Public authorities may release documents that are poorly structured, contain ambiguous technical content, or lack the contextual information necessary for proper interpretation. As a result, even when environmental information is formally disclosed, it may remain practically inaccessible or unusable, limiting its contribution to informed public participation and environmental accountability.⁴⁰

3. Administrative and Institutional Capacity Constraints

The effectiveness of the right to environmental information is further reduced by structural and institutional limitations within public administration. Data related to environmental quality, industrial emissions, environmental risks, and compliance monitoring are often dispersed across multiple ministries, agencies, and local bodies. This fragmentation, combined with limited technical expertise and insufficient inter-institutional coordination, contributes to delays in responding to information requests and to inconsistent application of disclosure obligations.

³⁸ Houda Amara, *Op. cit.*, p.913

³⁹ Nabila Merzaka, *Op. cit.*, p.726 .

⁴⁰ Nacima Ben Mehara, *Op. cit.*, p.89.

The Legal Foundations and Limitations of the Right to Environmental Information in International and Algerian Law

Local authorities—municipalities and wilayas—are formally tasked with informing the public about environmental matters, but many lack adequate resources, technical tools, or trained personnel to fulfil these obligations effectively. In some instances, environmental information is neither systematically collected nor regularly updated, constraining the ability of citizens to obtain reliable data and limiting the practical enforceability of the right.⁴¹

Conclusion:

The analysis shows that the Right of Access to Environmental Information it is a recognised entitlement enables individuals to continuously monitor administrative decisions concerning the environment, thereby facilitating their **effective participation** in environmental decision-making, reinforcing transparency, elevating environmental awareness, and ultimately realizing the substantive right to a healthy environment.

Legislative instruments at both national and international levels have advanced formal recognition of the right and outlined procedural mechanisms for its implementation. Yet the practical realisation of the right remains constrained. In Algeria, broad secrecy rules (administrative, industrial, and commercial), fragmented statutory provisions, and deficiencies in data management produce a persistent gap between formal recognition and effective access.

This article clarifies the hierarchical structure of international frameworks governing access to environmental information—ranging from foundational declarations to treaty-based obligations and specialised procedural regimes such as the Aarhus Convention—before contrasting them with the fragmented and partially operationalised provisions found in Algerian constitutional, statutory, and local-government legislation. This layered analysis demonstrates that while Algerian law aligns with several international principles at the level of recognition, , it lacks the coherent procedural architecture and institutional capacities necessary for effective enforcement.

The central conclusion of this study is therefore the presence of a persistent implementation gap: Algerian legislation recognises the right, but institutional, procedural, and interpretive shortcomings limit its practical effect.

Recommendations: On the basis of these findings we recommend:

- 1. Clarify the procedural regime.** Legislators should consider **either a focused implementing regulation for Law 03-10 or a targeted statute (or statutory annex)** that clearly defines: scope, minimum categories of public information, timeframes for responses, procedures for proactive disclosure, and administrative sanctions for non-compliance.
- 2. Remove legal and practical barriers.** Narrow, codify, and subject confidentiality exemptions to strict legal tests (legality, necessity, proportionality, and public-interest balancing).

⁴¹ This point reflects a standard finding in comparative environmental-law literature regarding domestic barriers such as institutional fragmentation and limited administrative capacity. See UNECE, Aarhus Convention Implementation Guide (2014); UNEP, Access to Environmental Information in Africa (2018); OECD, Environmental Performance Reviews (various countries).

3. **Build administrative capacity.** Invest in human resources, technical systems, and inter-agency coordination to collect, standardise, and disseminate environmental data.
4. **Digitalisation and transparency.** Develop accessible electronic platforms for systematic and timely disclosure of environmental information, with clear metadata and user-friendly presentation.

Looking forward, harmonising Algerian practice with international procedural standards — including clearer statutory mechanisms, robust administrative capacity, and digital disclosure platforms — would significantly narrow the recognition-implementation gap, strengthen public participation, and improve environmental governance and accountability.