



Parliamentary Assembly  
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## STANDING COMMITTEE

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## TEXTS ADOPTED BY THE ASSEMBLY

**Provisional versions**

## Table of contents

### Recommendation

<a href="#">Recommendation 2270 (2024)</a>	The right to freedom of information: ensuring access to historical documents ( <a href="#">Doc. 15929</a> )
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### Resolutions

<a href="#">Resolution 2535 (2024)</a>	The right to freedom of information: ensuring access to historical documents ( <a href="#">Doc. 15929</a> )
<a href="#">Resolution 2536 (2024)</a>	Precarious and irregular work situations of migrant seasonal and domestic workers ( <a href="#">Doc. 15930</a> )

Recommendation  
2270





## Recommendation 2270 (2024)<sup>1</sup>

Provisional version

# The right to freedom of information: ensuring access to historical documents

Parliamentary Assembly

1. The Assembly refers to its [Resolution 2535 \(2024\)](#) “The right to freedom of information: ensuring access to historical documents” and invites the Committee of Ministers to:

1.1. adopt a recommendation to member States of the Council of Europe in order to advance access to historical documents specifically. The recommendation should focus on:

1.1.1. the general principles that underpin access to information and how they affect historical documents in law and practice;

1.1.2. the conditions of access to historical documents by historians, researchers, academics, NGOs, and the public at large;

1.1.3. request to access historical documents procedures and their overall accessibility in practice;

1.1.4. oversight and review mechanisms, and remedies available in case of lack of disclosure of historical documents by State authorities;

1.1.5. the need to support memory projects and initiatives;

1.1.6. the need for greater international collaboration in sharing historical information;

1.2. promote the signature and ratification of the Council of Europe Convention on Access to Official Documents (CETS No. 205) in order to advance access to documents held by public authorities more generally.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 March 2024 (see [Doc. 15929](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Klotilda Bushka).*





Resolutions  
2535 to 2536







## Resolution 2535 (2024)<sup>1</sup>

Provisional version

# The right to freedom of information: ensuring access to historical documents

Parliamentary Assembly

1. The Parliamentary Assembly highlights the importance of the principle of transparency, including access to historical information held by public authorities, to foster a common historical heritage and a collective memory of the past, to support reconciliation and rehabilitation processes, to facilitate research and academic activities, as well as to improve public confidence in State institutions, good governance and accountability.
2. The Assembly unequivocally recognises the right of access to information as a universal human right, particularly when it comes to State-held information. As a general rule, all information held by public authorities should be freely accessible.
3. Recalling its [Resolution 1954 \(2013\)](#) “National security and access to information”, the Assembly considers that only legitimate, well-defined limitations to the right of access to information may be held to be valid grounds for preventing public access to information. For example, genuine national security interests and appropriate protection of individuals’ privacy may be valid grounds for withholding information held by public authorities. Full disclosure must be the rule and limitations for legitimate reasons must be the exception. Exceptions shall be interpreted restrictively; they must be provided for by law, pursue a legitimate purpose and be necessary in a democratic society. Exceptions based on national security and privacy grounds may not be legitimate or necessary after a certain period of time and in any event cannot be applied indefinitely. The burden of demonstrating the legitimacy of withholding information rests on the relevant public authority.
4. Information about serious violations of human rights or humanitarian law and crimes committed by State agents should not be withheld on national security grounds in any circumstances, especially when such violations or crimes occurred in the past under previous authoritarian regimes. In such cases, the right to historical truth of society at large should always prevail.
5. The Assembly recalls that the right of access to State-held information is in constant evolution at the international level. This means that non-compliance with developing jurisprudence of the European Court of Human Rights, the United Nations Human Rights Committee and other human rights bodies may lead to findings of violation of the right to freedom of information and expression. In this respect, the Assembly notes that the Court has developed its case law to further recognise the right of access to State-held information as part of the right to freedom of expression, in particular the freedom to receive and impart information, guaranteed by Article 10 of the European Convention on Human Rights (ETS No. 5). This recognition is based on the circumstantial factors of each case, including the purpose of the request, the nature of the information sought, the role of the person requesting the information and whether the information is readily available to the State. NGOs, journalists, academic researchers and authors enjoy a high level of protection if they disseminate information of public interest.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 March 2024 (see [Doc. 15929](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Klotilda Bushka).*

See also [Recommendation 2270 \(2024\)](#).



6. The Assembly calls on member States to uphold the main principles that govern access to information, and to apply them in the context of historical documents. These are: maximum disclosure; proactive publication of information; strict guidance on exceptions; reasonable cost of accessing information.
7. Member States should actively develop policies that advance everyone's right to freedom of information. The public should be duly informed of any changes in the legal framework on access to information or in the archival system, especially those individuals and groups who may be affected by changes. Any changes in access to historical information law and policy should only be approved after extensive consultation with historians, researchers, NGOs and civil society organisations that rely on accessing such information.
8. A request for an explanation of the reasons for asking for specific information, or for an outline of research topics may be useful in identifying the relevant documents to be furnished. However, the provision of detailed reasons should not be a requirement for accessing information that is clearly in the public interest, such as historical documents. Access to historical documents should be granted regardless of the reasons for seeking such information.
9. Specifying reasons for requests for access to classified historical documents may also help the competent authorities in applying limitations of access restrictively, as required. Any denial of access to historical documents should be duly motivated, open to appeal before an independent national authority and ultimately subject to judicial review.
10. Access to historical documents for researchers, historians, NGOs and all those that obtain them with a view to disseminating them in the public interest should be expeditious and not overly burdensome or involve complicated bureaucratic procedures.
11. The Assembly calls on all member States of the Council of Europe which have not yet signed or ratified the Council of Europe Convention on Access to Official Documents (CETS No. 205, "Tromsø Convention") to do so as rapidly as possible. This includes those whose legislation already complies with the standards therein, as such ratification would strengthen international safeguards for the right of access to State-held information. The Assembly also supports the activities of the Council of Europe Access Info Group in securing signatures and ratifications of the Tromsø Convention through the promotion of best practices of member States regarding laws on access to information, including archives and historical documents. Recalling its [Resolution 1954 \(2013\)](#) "National security and access to information", the Assembly invites member States to consider introducing specific improvements to the Tromsø Convention in the spirit of the "Global Principles on National Security and the Right to Information" ("Tshwane Principles") and other international legal developments on the right of access to information.
12. The Assembly underlines the importance of open archives and public information for transparency, democracy, and the rule of law. It calls on member States to demonstrate the political will to allow the widest possible access to historical documents.
13. Historical documents and archives should be kept in their countries of origin. In cases where they are held in other countries due to State succession and border changes, they should be returned to mitigate the difficulties of physical distance which can hinder the establishment of historical truth. The Assembly calls on member States to negotiate the return of their archives in good faith. Meanwhile, governments and civil society should foster international collaboration in opening archives for public inspection, irrespective of their location.
14. The Assembly further underlines the importance of civil society groups working to preserve historical memory and urges member States to support, including financially, this work.
15. Individuals and civil society organisations working on researching and preserving historical memory must moreover be protected from harassment or persecution. In this respect, the Assembly strongly condemns the dissolution, in the Russian Federation, of "Memorial" and the persecution of numerous members engaged in documenting the crimes committed during the Soviet era and beyond.
16. The Assembly underlines the importance of co-operation with civil society and between States in order to achieve transparency and ensure that different perspectives are taken into account.
17. The Assembly finally urges member States to digitalise their archives and allow as many materials as possible to be accessible online.



**Resolution 2536 (2024)<sup>1</sup>**

Provisional version

## **Precarious and irregular work situations of migrant seasonal and domestic workers**

Parliamentary Assembly

1. Precarious and irregular work situations of migrant seasonal and domestic workers (hereafter “migrant workers”) have increased over the years, facilitated by poverty or insufficient economic conditions in countries of origin on the one hand, by the increasing dependence of the European agricultural and domestic work sectors on an abundant foreign workforce on the other. Furthermore, migratory trends, bilateral agreements, historical, but also geographical and cultural factors have favoured migration movements. Finally, false promises of recruitment agencies and employers, such as higher remuneration, social security coverage or access to social services, may also have led migrant workers to accept offers for seasonal work.
2. Migrant workers’ situations are aggravated by cumulative factors, especially by the temporary nature of seasonal employment contracts, linguistic barriers, and lengthy and cumbersome procedures for obtaining work permits. Such factors often lead to recruitment of undocumented workers, who are in an irregular situation and more exposed to criminal organisations. The situation is worse for domestic migrant workers: labour inspections are difficult to carry out in the domestic work sector and employers are often reluctant to pay the employment-related taxes and social security contributions. This results in an increased vulnerability of migrant workers who have almost no access to social rights.
3. Female workers are particularly vulnerable in both domestic and seasonal work sectors, due to their high degree of dependence on employers. In the domestic work sector, many female migrant workers, especially those who are in an irregular situation, end up living in the house of their employers. This situation and the frequency of undeclared domestic work increase the risk of exploitation and sometimes, of sexual harassment and abuse.
4. These root causes have led to a high degree of precariousness and irregular working conditions among migrant workers, such as low or no remuneration, excessive workload, harassment, lack of social security coverage and social rights, degrading and isolated accommodations, lack of safety, obstacles to trade union membership, and limited access to justice, leading to situations of modern slavery.
5. This precariousness affects several types of migrant workers, including those from Eastern Europe. Some of them are victims of exploitation and human trafficking networks, via external factors or means, such as personal networks, recruitment agencies, pick-up spots, and online recruitment. Moreover, there is an increasing criminal use of social media and the internet for recruiting migrant workers, but also of intermediaries, leading to a higher degree of control over migrant workers regarding their working conditions, their transportation, or access to their bank accounts. More recently, the massive arrival of Ukrainian refugees in many European countries has increased the risks of labour exploitation and human trafficking.
6. The Covid-19 pandemic has demonstrated the paramount contribution of migrant workers to national economies, who were thus considered as “essential workers”. But as essential workers, they were more exposed to the virus than other workers, and more to get infected.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 March 2024 (see [Doc. 15930](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Diana Stoica; and [Doc. 15931](#), opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Pedro Cegonho).*



7. To tackle such intolerable situations, the Parliamentary Assembly underlines the importance of complying with the existing international legal framework aimed at tackling precariousness and irregular working conditions.
8. Primarily, the Assembly underlines the importance of the European Convention on Human Rights (ETS No. 5) which, in Article 4, prohibits slavery, servitude and forced or compulsory labour. It also recalls the case law of the European Court of Human Rights, which extended the scope of this provision to include protection against trafficking for labour exploitation (*Chowdury and Others v. Greece*, 30 March 2017) and “domestic slavery” (for example, *Siliadin v. France*, 26 July 2005).
9. Furthermore, it underscores the relevance of the European Convention on the Legal Status of Migrant Workers (ETS No. 93), aimed at defining common general conditions for the entry and stay of migrant domestic workers and ensuring a treatment not less favourable than that recognised to nationals.
10. The Assembly also recalls Recommendation CM/Rec(2022)21 of the Committee of Ministers on preventing and combating trafficking in human beings for the purpose of labour exploitation, which calls on member States to adopt national laws, policies, and strategies, following a human rights-based and victim-centred approach, and to strengthen the labour market regulation.
11. The Assembly underlines the importance of the Convention on Action against Trafficking in Human Beings (CETS No. 197) and the monitoring work and guidance of the Group of Experts on Action against Trafficking in Human Beings (GRETA), which is responsible for monitoring the implementation of the Convention and pays particular attention to human trafficking for the purpose of labour exploitation in this context.
12. The Assembly also underlines the importance of the European Social Charter (revised) (ETS No. 163) as well as the conclusions and decisions of the European Committee of Social Rights. The Charter proscribes forced labour, and two of its provisions (Articles 18 and 19) address in particular the situation of migrant workers, enshrining the rights to engage in a gainful occupation in host countries, to protection and assistance for migrant workers and their families and to a treatment not less favourable than that of nationals concerning *inter alia* remuneration and working conditions.
13. The Assembly recalls that restrictions on the rights laid down in the Charter can be placed only if they are “necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals”, and stresses that no other reason can be invoked to limit the enjoyment of the rights enshrined in the Charter.
14. The Assembly also recalls its Resolutions [1922 \(2013\)](#) “Trafficking of migrant workers for forced labour” and [2323 \(2020\)](#) “Concerted action against human trafficking and the smuggling of migrants”, which both consider human trafficking as the most severe form of exploitation.
15. The Assembly likewise recalls the importance of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of the United Nations.
16. The Assembly also highlights the relevant conventions of the International Labour Organization, namely: the Migration for Employment Convention (Revised) No. 97, which requires an equality of treatment between national and migrant workers in matters of employment, remuneration and other working conditions; the Migrant Workers (Supplementary Provisions) Convention No. 143, aimed at tackling illegal employment of migrants; and the Domestic Workers Convention No. 189, which recognises freedom of association of all domestic workers, and promotes the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of employment discriminations.
17. Regarding European Union’s texts, the Assembly takes note that while migrant seasonal workers coming from an EU member State are covered by Article 45 of the Treaty on the Functioning of the European Union on the freedom of movement for workers and by Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, third-country nationals are covered by Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.
18. The Assembly also takes note of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals which has been elaborated to prevent abuses and labour exploitation of third-country migrant workers, to grant protection measures as regards access to justice and to ensure the implementation of adequate and effective labour inspections.

19. Beyond these texts, the Assembly underlines the necessity to also address the social aspects of precarious seasonal work, based on the initial motion for a resolution entitled “Precarious status of cross-border and seasonal workers in Europe” ([Doc. 15274](#)).

20. The Assembly therefore calls on member States to comply with the existing international treaties, norms and recommendations, to improve their laws, starting by migration and labour laws, and to effectively implement these texts in order to address precariousness and improve the social aspects of seasonal and domestic work in Europe.

21. The Assembly thus asks member States to:

21.1. consider signing and ratifying the European Convention on the Legal Status of Migrant Workers;

21.2. fully comply with the provisions of the Convention on Action against Trafficking in Human Beings and implement the relevant recommendations issued by GRETA and the Committee of the Parties to the Convention;

21.3. effectively implement the European Social Charter, especially the provisions on the enhancement of working and living conditions for migrant workers, and those aimed at eliminating all legal and *de facto* discrimination in access to public and private housing;

21.4. extend the Charter’s legal scope to cover everyone *de facto* residing in the Council of Europe member States, irrespective of their status and place of origin, as requested in [Resolution 2504 \(2023\)](#) and [Recommendation 2255 \(2023\)](#) “Health and social protection of undocumented workers or those in an irregular situation”.

22. The Assembly welcomes the determination of member States to strengthen social justice, democratic stability and commitment to the protection of social rights as reaffirmed in the Reykjavik Declaration. It notes that a High-Level Conference on the European Social Charter is being convened on 3-4 July 2024 in Vilnius (Lithuania), which is a unique opportunity for member States to step up their ambition on safeguarding and enhancing social rights. In this context, the Assembly calls on member States to join forces to achieve substantive improvements in the implementation of social rights, to add new provisions to the European Social Charter to enhance the protection of workers in atypical forms of employment, and to remove the limitation on the personal scope of application of the Charter.

23. The Assembly welcomes the report on “Protection of the labour and human rights of migrant workers” of the United Nations Special Rapporteur on the human rights of migrants, Mr Felipe González Morales, and calls on member States to closely consider its recommendations.

24. As regards improving legislation and practices, the Assembly asks member States to:

24.1. define and criminalise “forced labour” and “precarious and irregular working conditions” in legislation; establish anti-trafficking legislation and mechanisms to prevent and tackle the illegal practices of criminal organisations, and better detect undeclared work;

24.2. adopt structural policies to protect migrant workers’ and their families’ rights concerning wages, workload, social security coverage, working and living conditions, safety measures at workplace, and social services, including by giving migrant workers the possibility to change employers in order to escape from exploitative situations;

24.3. establish legal and practical measures for effective labour inspections, including for domestic work; increase financial and human resources dedicated to inspectorates and better train inspectors;

24.4. carry out regularisation programmes for undocumented workers; promote simple and inexpensive procedures; and support undocumented migrants’ organisations, among other measures and best practices as recommended in [Resolution 2504 \(2023\)](#) and [Recommendation 2255 \(2023\)](#);

24.5. facilitate family reunion by lifting obstacles, such as unduly restrictive residency or income requirements;

24.6. put in place awareness-raising campaigns regarding migrant workers’ labour and social rights and the risks of human trafficking for labour exploitation, including in the mother tongue of migrant workers; provide them with referral mechanisms and ensure a confidential treatment of their claims;

24.7. collect data and information with a view to sharing, among them, best practices for the prevention of precarious working and living conditions.

25. The Assembly notes that access to justice and appropriate sanctions are crucial to guarantee legal assistance and protection for migrant workers, including: granting a temporary residence permit in the context of legal proceedings; the rights to a remedy before an independent body, to obtain adequate compensation, and not to be subject to retaliation. Third parties should be able to file complaints against exploitative employers, particularly in situations of modern slavery or bans on the right to unionise. Moreover, the competent public authorities should do more to prevent illegal recruitment and, failing that, ensure the effective implementation of sanctions against exploitative employers or their intermediaries. Finally, provisions should be put in place in order to make back payments to migrant workers, to establish State compensation funds and to freeze the assets of exploitative employers.