How mediation proceedings on the right of information promote effective access to justice

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Access to environmental information

• Article 10g of the Federal Act on the Protection of the Environment
  (Environmental Protection Act; EPA)

• Federal Act on Freedom of Information in the Administration
  (Freedom of Information Act, FoiA)

• Cantonal transparency laws
Freedom of Information Act (FoiA)

• Any person can apply for access to an official document

• Refusal, limitation or postponement:
  - request for mediation to the Federal Data Protection and Information Commissioner
  - has to be filed within 20 days
  - open to third parties
  - not requesting mediation = withdrawal of the application
Federal Data Protection and Information Commissioner (FDPIC)

• The Federal Data Protection and Information Commissioner is elected by the Federal Council

• Functions of the FDPIC:
  ➢ informs citizens on how to gain access to official documents
  ➢ advises administrative authorities on the implementation of the Freedom of Information Act
  ➢ acts as mediator in the event of a disagreement
Mediation procedure until 2017

• Written correspondence

• Oral proceedings were the exception

• Written recommendation

• Lengthy duration of the proceedings
Reform of the mediation procedure

- Mediation proceedings have to take place within 30 days of receiving the request for mediation
- Oral procedure
- Written recommendation
  - is limited to the recommendation
  - legal grounds are presented orally
- Challenges:
  - complex cases involving several parties
  - short preparation time
Benefitting the effective access to justice

• independent and impartial mediation body

• free of charge

• simple and expedited procedure

• increased chances of reaching an agreement
Thank you for your attention!!!