

# **Abuse of right to access information**

## **Abstract**

This thesis comprehensively focuses on the issue of abuse of the right to access information in context of the Czech legal framework. It first provides a theoretical framework in the area of the right to access information and the abuse of rights. The thesis begins by introducing the right to access information itself, describing its nature as a fundamental political right, its historical context, and its legal foundation at both the international and national levels. Subsequently, the theoretical concept of abuse of rights and the principle of the prohibition of such abuse is presented. Following this, the issue of abuse of the right to access information is discussed. This thesis defines what is understood by abuse of the right to access information and why it is necessary to have effective means to counteract it. A review of the most significant case law in this area is provided, including decisions from the Supreme Administrative Court, the Constitutional Court, and others. The review shows how courts have gradually recognized the abuse of rights as a so-called factual reason for rejecting a request for information. The most significant arguments from these court decisions are summarized. The thesis then delves deeply into § 11a of Act No. 106/1999 Coll., on Free Access to Information, which was incorporated into the law by Amendment No. 241/2022 Coll. Initially, a historical overview of attempts to amend Act No. 106/1999 Coll. to include the possibility of rejecting a request for information based on the abuse of rights is provided. § 11a is then thoroughly analyzed. Subsequently, the work focuses on its practical implications. The work presents extensive empirical research regarding the use of § 11a by the obligated entities, which showed that the given paragraph has been used so far by only a fraction of the obligated entities, but if it was used, it was in most cases appropriate. The results are interpreted more in depth and commented upon. The current case law related to the new section is also summarized. Finally, this thesis addresses the procedure of the obligated entity, offering a clear summary and guidelines on how to proceed in cases of the abuse of rights. It also briefly outlines how applicants can defend themselves against the actions of the obligated entity.

## **Key words:**

*right to access information, abuse of rights, abuse of the right to access information*