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Unofficial translation

Access to Public Information Act

Promulgated, SG No. 55/7.07.2000, amended, SG No. 1/4.01.2002, effective 1.01.2002, SG No. 45/30.04.2002, SG No. 103/23.12.2005, SG No. 24/2006

Chapter One

Basic Principles

Section I

Subject and scope

Subject of the act

Art. 1. This act shall regulate the social relations relating to the access to public information.

Public information

Art. 2. (1) Within the meaning of this act, public information shall be any information relating to the social life in the Republic of Bulgaria, and giving opportunity to the citizens to form their own opinion on the activities of the persons having obligations under this act.

(2) The information under sub-article 1 shall be deemed public irrespective of the kind of its physical bearer.

(3) (Amended, SG No. 1/2002) This act shall not apply to the access to personal data.

Persons responsible for ensuring access to public information

Art. 3. (1) This act shall apply to access to public information that is created by or kept with the state bodies or the local self-governance bodies of the Republic of Bulgaria, hereinafter referred to as "the bodies".

(2) This act shall also apply to the access to public information, which is created by and kept with:

1. bodies, subject to the public law, other than those under sub-art. 1;

2. individuals and legal entities as far as only their activities financed with funds from the consolidated state budget are concerned;

3. mass media, and relates to the transparency of their activities.

Persons entitled to the right of access to public information

Art. 4. (1) Any citizen of the Republic of Bulgaria is entitled to access to public information subject to the conditions and the procedure set forth in this act, unless another act provides for a special procedure to seek, receive and impart such information.

(2) Foreign citizens and individuals with no citizenship shall enjoy the right under sub-art. 1 in the Republic of Bulgaria.

(3) Legal entities shall enjoy the right under sub-art. 1 too.

Exercising the right of access to public information

Art. 5. The right of access to public information may not be exercised against others' rights and reputation, as well as against the national security, public order, national health and the moral standards.

Basic principles

Art. 6. The basic principles governing the exercise of the right of access to public information shall be:

1. openness, correctness and comprehensiveness of the information;

2. securing equal conditions for access to public information;

3. securing conformity with the law of the process of seeking and receiving public information;

4. protection of the access to information right;

5. personal data protection;

6. guaranteed the security of the society and the state.

Permissible restrictions to the right of access to public information

Art. 7. (1) (Amended, SG No. 45/2002) The right of access to public information shall not be abridged, except where the said information is classified information constituting a state or another protected secret in the cases provided for by a law.

(2) Access to public information may either be full or partial.

Exemption from the scope of the act

Art. 8. This act shall not apply to information, which is:

1. obtainable in the course of provision of administrative services to citizens and legal entities;

2. kept with the State archives of the Republic of Bulgaria.

Section II

Official and administrative public information

Kinds of public information

Art. 9. (1) Public information, which is created and kept by the bodies and their administrative structures, is divided into official and administrative information.

(2) (Amended, SG No. 45/2002) Where so provided in an act of Parliament, certain official or administrative information may be classified as state or administrative secret.

Official public information

Art. 10. Official information shall be deemed information contained in the acts of the state or local self-government bodies in the course of exercise of their powers.

Administrative public information

Art. 11. Administrative information shall be deemed information, which is collected, created and kept in connection with official information, as well as in the course of the activities of the bodies and their administrative structures.

Chapter Two

Access to Public Information

Section I

Access to Official and Administrative Public Information

Access to official public information

Art 12. (1) Access to official information, which is contained in normative acts shall be provided by means of their promulgation.

(2) Access to other official information shall be provided by promulgating it if so provided in an act of parliament, or if so decided by the agency who created it.

(3) Access to official information in cases other than those provided in sub-art. 1 and 2 shall be unrestricted and shall be exercised in accordance with the procedure set forth in this act.

(4) In case of request for access to official information, which is promulgated, the respective body shall be obliged to state the number, the date and the name of the issue where the information was published.

Access to administrative public information

Art. 13. (1) Access to administrative public information shall be unrestricted.

(2) Access to administrative public information may be restricted, if it:

1. relates to the preparatory work of an act of the bodies, and has no significance in itself (opinions and recommendations prepared by or for the body, reports and consultations);

2. contains opinions and statements related to on-going or prospective negotiations to be led by the body or on its behalf, as well as any data relating thereto, and was prepared by the respective bodies' administrations.

(3) (Amended, SG No. 45/2002) The restrictions under sub-art. 2 shall not apply after a period of 2 years as form the creation of such information.

Duties for disclosing public information

Art. 14. (1) The bodies shall inform about its activities by making publications or using other form of announcements.

(2) The bodies shall be obliged to announce information, which has been collected, or came to its knowledge during the performance of their activities, where such information:

1. is of a nature to prevent some threat to the citizens' life, health or security, or to their property;

2. disproves a previously disseminated incorrect information that affects important social interests;

3. is, or could be, of interest to the public;

4. must be prepared and released by virtue of law.

Publication of up-to-date public information

Art. 15. (1) In order to achieve transparency of the administration's activities, and for the purpose of maximum facilitation of access to public information, every chief officer of an administrative structure within the system of the executive power shall publish on a regular basis up-to-date information containing:

1. description of his/her powers as well as data on the organizational structure, the functions and the responsibilities of the administration led by him/her.

2. list of the acts issued within the scope of its powers;

3. description of the data volumes and resources, used by the respective administration,

4. the name, the address, the telephone number and the working hours of the respective administration's office which is authorized to receive applications for access to public information.

(2) (Amended, SG No. 24/2006) Every chief officer under sub-art. 1 shall prepare an annual report on the applications for access to public information, which shall contain among others data on the refusals made and the reasons therefor. This annual report shall be part of the annual reports under art. 62, sub-art. 2 of the Administration Act.

Duties of the Minister of the state administration and administrative reform

Art. 16. (1) (Amended, SG No. 24/2006) The Minister of the State administration and administrative reform shall publish an annual summary of the reports on the bodies and their administrations, containing the information under art. 15., as well as other information relating to the implementation of this act.

(2) (Amended, SG No. 24/2006) The Minister of State administration and administrative reform shall be responsible for distributing the summary. The information contained in the summary shall be made available in every administration for review by the citizens.

Section II

Access to Other Public Information

Access to public information related to the activities of other persons responsible for its disclosure

Art. 17. (1) Access to public information relating to the activities of the responsible persons under art. 3, sub-arts. 2 shall be unrestricted.

(2) Information under sub-art. 1 that represents commercial secret or whose disclosure or dissemination is of a nature to result in unfair competition among business persons shall not be disclosed.

Access to public information for mass media

Art. 18. Public information for the mass media is only the information concerning:

1. the persons taking part in the management of the respective media or exercise effective control over its management or its activities;

2. business related parties taking part also in the management of other mass media, which allows them to exercise an effective control over their management or their activities;

3. the persons directly engaged in the mass media and which participate in the formation of its editorial policy;

4. the announced statements on the mass media' public goals, as well as principles and internal rules applied by the mass media to guarantee correctness and objectivity of disseminated information;

5. the financial results of the mass media's owner and the dissemination of its production.

Objectives of the access to public information for the mass media

Art. 19. The access to the information under art. 18 shall be exercised with compliance with and with balance of the principles of transparency and economic freedom, as well as of personal data protection, commercial secrecy and the secret of the sources of the mass media that wished to remain secret.

Section III

Free of charge access and costs related to the granting of public information

Art. 20. (1) The access to public information shall be free of charge.

(2) The expenses incurred for granting access to public information shall be recovered in accordance with tariffs determined by the Minister of Finance, and shall not exceed the actual costs incurred.

(3) A justification of the expenses under art. 2 shall be made to the applicant upon his/her request.

Informational obligations upon filing of application for access

Art. 21. The responsible persons under art. 3 shall inform on the possible forms of granting access to public information on the spot where the applications are accepted, as well as on the charges due and the means of their payment.

Free of charge corrections and amendments to the disclosed information

Art. 22. No additional expenses shall be charged for corrections and/or addendum to the granted public information in cases where the information is incorrect or incomplete and this has been requested by the applicant on stated grounds.

Revenues from granting of access to public information

Art. 23. The revenue received in the course of granting access to public information shall be for the account of the budget of the respective body.

Chapter Three

Procedure for Granting Access to Public Information

Section I

Application or verbal request for access to information

Art. 24. (1) The request for granting access to public information shall be made in the form of a written application or verbal request.

(2) The application is deemed written also in cases where it is send electronically subject to conditions determined by the respective body.

(3) Where the applicant is not granted access to public information requested in oral form, or he/she considers the disclosed public information insufficient, he/she may file a written application.

Content of application of access to information

Art. 25. (1) The application for access to public information shall contain:

1. full name, or respectively the business name and the seat of the applicant;

2. description of the information requested;

3. the preferred form of access to the requested information;

4. the address for correspondence with the applicant.

(2) If any requisite under 1, 2 or 4 above is not present in the application, the latter shall be left without further consideration.

(3) Every filed application for access to public information shall be registered in accordance with the procedure adopted by the relevant agency.

Forms for granting of access to public information

Art. 26. (1) Access to public information shall be granted in the following forms:

1. examination of the information - original or copy

2. verbal explanation;

3. paper copy;

4. copy on technical bearer.

(2) Access to public information may be granted in one or more of the forms sub-art. 1.

(3) Where the preferred form of access to public information is the one described in sub-art. 1, point 4, the technical parameters for the recording of the information should be defined.

(4) Persons with impaired sight, hearing or speech are entitled to request access in a form that corresponds to their ability to communicate.

Obligation to comply with the preferred form of access

Art. 27. (1) The bodies shall comply with the requested form of access to public information, except where:

1. it cannot be satisfied due to technical reasons;

2. it results in unjustified increase of costs of disclosure;

3. creates opportunities for unlawful processing of the information or for infringement of intellectual property rights.

(2) In the cases provided under sub-art. 1, access shall be granted in a form decided by the respective agency.

Section II

Consideration of Apllication and Granting Access to Public Information

Consideration of applications for access

Art. 28. (1) Each application for access to public information shall be considered within the shortest possible time, but not later that 14 days as of date of registration.

(2) Within the time period set in sub-art. 1, the body, or person explicitly authorized by them, shall decide on whether to grant or deny access to public information and shall notify in writing the applicant of the decision.

Specification of the application for access

Art. 29. (1) Where it is not clear what information is being requested or it is too broadly defined, the applicant shall be advised accordingly and shall be provided an opportunity to specify the requested information. The time period set in the preceding article shall start running as of the date when the requested public information was specified.

(2) If the applicant failed to specify the requested public information within a period of 30 days, the application shall not be considered.

Permissible extension of the term for granting of access

Art. 30. (1) The time period set in art. 28, sub-art. 1 may be extended with no more than 10 days, where the requested information as specified in the application is substantial in volume and additional time for it's preparation is needed.

(2) The notification under art. 29, sub-art. 1 should state the reasons for the extension of the term in which the access to the public information shall be granted.

Extension of the term for reasons of protection of third parties' interests

Art. 31. (1) The time period set in art. 28, sub-art. 1 may be extended with not more than 14 days also where the requested information is a matter of concern to a third party and his/her consent is needed for its disclosure.

(2) In the cases under sub.art. 1, the respective body shall seek the explicit written consent of the third party within 7 days as from the registration of the application under art. 24.

(3) When it takes the decision under art. 28, sub-art. 2, the respective body shall be obliged to comply strictly with the conditions under which the third party has consented to the disclosure of the information that concerns him/her.

(4) In the absence of consent by the third party within the term specified in sub-art. 1 or in case of explicit refusal by the third party to give its consent, the respective body may disclose the requested public information in scope and in a manner so as not to disclose the information concerning the third party.

(5) The consent of the third party is not required where it is a responsible person and the information concerned is a public information under this act.

Re-allocation of the application for access

Art. 32. (1) When the body does not have the requested information, but is aware of its location, it shall re-sent the application within 14 days as of receipt of the application and shall notify the applicant of the re-sending. The notification must always specify the name and the address of the respective agency or legal entity.

(2) In the case described in sub-art. 1, the time period set in art. 28, sub-art. 1, shall start running as of the receipt of the re-sent application.

Notification of unavailability of the requested public information

Art. 33. If the body does not have the requested information and is not aware of its location, it shall notify the applicant accordingly within 14 days.

Decision to grant access to public information

Art. 34. (1) The decision under art. 28, sub-art. 2, by which access to public information is granted must state:

1. the degree of the ensured access to the requested public information;

2. the time within which access to the requested public information is available;

3. the location where the requested information will be disclosed;

4. the form in which access to the requested public information will be granted;

5. the costs for granting access to the requested public information.

(2) The decision may also state other bodies, organizations and persons who have more complete information available.

(3) The decision to grant access to the requested public information shall be handed over to the applicant against his/her signature or sent by registered mail.

(4) The time period described in sub-art. 1, point 2 may not be less than 30 days as of receipt of the decision.

Granting of access to the requested public information

Art. 35. (1) Access to public information shall be granted after payment of the specified costs and after presentation of document evidencing their payment.

(2) A record shall be drawn upon provision of access to public information, which shall be signed by the applicant and the relevant civil servant.

Refusal of the applicant of the granted access

Art. 36. If within the time specified in art. 34, sub-art. 4 the applicant fails to appear or to pay the required costs, either of his failures shall be considered a refusal of the granted right of access to public information.

Section III

Refusal to Grant Access to Public Information

Grounds for refusals to grant access

Art. 37. (1) Grounds for refusal to grant access to public information is in place where:

1. (Amended, SG No. 45/2002) the information requested is information classified as state or administrative secret, as well as in cases described in art. 13, sub-art. 2;

2. the access is of a nature to affect third party's interests and the third party did not give its explicit written consent for the disclosure of the requested public information;

3. access to the requested public information was provided to the applicant within the preceding six moths.

(2) In the cases described in sub-art. 1, partial access may be granted to such parts of the information, access to which is not restricted.

Content of the decision to refuse to grant access

Art. 38. A decision refusing access to public information shall state the legal and factual grounds for the refusal under this act, the date of the decision and the procedure for its appeal.

Hand-over of the decision for refusal of access

Art. 39. A decision refusing access to public information shall be handed over to the applicant against his/her signature or sent by registered mail.

Section IV

Appeals of Desisions to Refuse to Grant Access to Public Information

Jurisdiction over appeals of the decisions relating to access or to refusal of access

Art. 40. (1) (Amended, SG No. 24/2006) The decisions for granting access to public information or for refusals to grant access to public information may be appealed before the regional courts or before the Supreme Administrative Court depending on the body, which issued the decision, under the provisions of the Administrative Procedure Code.

(2) (Amended, SG No. 24/2006) The decisions of the persons under art. 3, sub-art. 2 to grant access to public information or to refuse to grant access to public information may be appealed before the regional courts in accordance with the Administrative Procedure Code.

Competencies of the court considering the appealed decisions

Art. 41. (1) If a court finds that a refusal is not in conformity with the law, it shall repeal in full or in part, or shall amend, the decision for refusal and shall instruct the body to grant the request for access to public information.

(2) In the cases described in sub-art. 1, access to public information shall be provided in accordance with the procedure set forth in this act.

(3) Upon appeal of refusal to grant access to public information on the grounds of art. 37, sub-art. 1, point 1, the court may, in closed hearing, request from the body the necessary evidences.

(4) (Amended, SG No. 45/2002) In cases under sub-art. 3 the court shall decide on the lawfulness of the refusal and on the marking of the information as classified.

Administrative penalty provisions

Art. 42. (1) If not subject to a harsher penalty, a civil servant who failed to respond within the specified time limits to a request for access to public information without exculpatory reason, shall be fined between 20 and 50 leva.

(2) If not subject to a harsher penalty, a civil servant who did not follow a court order to grant access to public information shall be fined between 100 and 300 leva.

(3) Any failure to meet the obligations under art. 31, sub-art. 3 shall be punished with a fine between 50 and 100 leva for physical persons or between 100 and 200 leva for legal entities.

(4) For failure to provide access to public information by the persons described in art. 3 sub-art. 2, the punishment shall be a fine between 100 and 200 leva.

Bodies entitled to impose sanctions

Art. 43. The penalty acts shall be issued as follows:

1. under art. 42, sub-art. 3 - by the respective agency, and if the responsible person is one described in art. 3, sub-art. 2 - by the Minister of Justice or an authorized official.

2. under art. 42, sub-art. 4 - by the Minister of Justice or an authorized official.

Applicable law

Art. 44. Any offense shall be established, penalty shall be imposed, appealed and executed in accordance with the Administrative Offenses and Penalties Act.

Additional provision

1. Within the meaning of this act:

1. "material bearer of public information" shall be a text, plan, map, photo-picture, image, diskette, audio- or video cassette and other of this kind;

2. (Amended, SG No. 1/2002, SG No. 103/2005) "personal data" shall be any data relating to a given individual, whose identity could be directly or indirectly established, irrespective of its form and way of recording and revealing his/her physical, psychological, intellectual, economical, cultural or social identity, as well as the information containing the said data for non-incorporated groups of individuals, as well as data for personal, economical, cultural or social identity of legal entities, created directly or indirectly by physical persons, the procedure for which collection, processing, protection, and access is determined in law.

Final provision

1. This act revokes:

1. The Decree No. 1086 / 12.07.1977 of the State Council on the work with the criticizing publications (prom. State Gazette issue 56 of 1977)

2. Arts. 14 and 19, as well as point 2 of sub-art. 1 to art. 57 of the Suggestions, Notices, Complaints and Requests Act (prom. State Gazette issue 52 / 04.07.1980, amended issue 68 / 02.09.1988)

This act is adopted on 22 June 2000 and is published in State Gazete on 7 July 2000.