

LAW

No. 119/2014

ON THE RIGHT TO INFORMATION

Pursuant to Articles 78 and 83, paragraph 1 of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope and Purpose

1. This Law regulates the right to know the information produced or held by public authorities.
2. Rules provided for in this Law intend to guarantee public's understanding of the information, in the framework of exercising individual's rights and freedoms in practice, and forming views on the state and the society.
3. This Law aims to promote integrity, transparency and accountability of public authorities.

Article 2

Definitions

Within the meaning of this law:

1. "Public authority":

a) is any administrative body provided for in the current legislation on administrative procedures, legislative bodies, legislative, judicial and prosecution bodies at any level, local government units at any level, state authorities and public entities, created by the Constitution or by law.

b) are commercial companies where:

i) the state owns most of the shares;

ii) public functions are discharged, under the provisions of letter "c" of this point;

c) any natural or legal person, who is given by law, bylaw or any other form provided for by the legislation in force the right in discharge of public functions.

2. "Public information" is any data recorded in any form or format, during discharge of the public function, whether or not prepared by a public authority.

3. "Person" means any natural or legal person, local or foreign, as well as any stateless persons.

4. "Personal data" has the same meaning given in the Law on Protection of Personal Data, as amended.

5. "Transparency programs" is the entirety of information and the way of its publication by the public authority, pursuant to Articles 4 and 7 of this Law.

6. "Coordinator for the right to information" is the civil servant as defined in Article 10 of this Law.

CHAPTER II

RIGHT TO INFORMATION AND TRANSPARENCY

Article 3

The right to information

1. Everyone has the right to access public information, without having to explain the reasons as to why.
2. The public authority shall inform the applicant whether or not it has the requested information.
3. Every person has the right to access public information, by receiving the original document or a copy of it in the form or format allowing full access to the content of the document.
4. Public information given to a person cannot be refused to any other person who requests it, unless the information contains personal data of the subject, in accordance with Article 17 of this Law.

Article 4

Preparation and approval of transparency programs

1. The public authority, within 6 months of this Law entering into force or its creation, shall implement an institutional transparency program, to determine the information categories to be made public without request and the disclosure method of this information.
2. In preparing the draft transparency program, the public authority shall take into account the best interest of the public and in particular:
 - a) to ensure maximum access to public information;
 - b) to make available without request as much information as possible, to reduce the need for individual requests for information;
 - c) models approved for the public authority category by the Commissioner for the Freedom of Information and Personal Data Protection, under Article 6 of this Law.

Article 5

Review of the transparency program

1. The review of the transparency program shall be conducted according to the same procedure, used for its adoption.
2. The timeline for reviewing the transparency program may vary, depending on the nature of each public authority, but in any event, it cannot be longer than 5 years.

Article 6

Model transparency programs

The Commissioner for Freedom of Information and Personal Data Protection approves and distributes the model transparency programs for different categories of public authorities, in accordance with the current legislation on personal data protection, within 3 months of this Law entering into force.

Article 7

Categories of information made public without request

1. In accordance with the approved transparency program for each public authority, the latter shall prepare in advance, in easily understandable and accessible formats and make available to the public on their internet site the following categories of information:
 - (a) a description of the organizational structure, functions and duties of the public authority;
 - (b) full texts of ;
 - i) Conventions ratified by the Republic of Albania,
 - ii) Laws;
 - iii) Bylaws;
 - iv) Codes of Conducts;
 - v) All policy documents;

- vi) The Manual and any other documents relating to the functions of a public authority affecting the general public;
- (c) information on the procedures to be followed to request information, and the electronic mailing address for information requests as well as appeal procedures for the corresponding decision;
 - (d) data on the location of public authority offices, work schedule, name and contact of the coordinator for the right to information;
 - (e) details on the education, qualifications and salaries of officials, who according to the law must declare their assets, salary structures for other employees, a description of the selection procedures, powers and duties of senior public authority official and the procedure they follow to make decisions;
 - (f) monitoring and control mechanisms for the public authority, including strategic work plans, audit reports by the Supreme State Audit or other entities, as well as documents containing performance indications of the authority;
 - (g) details on the budget and spending plan for the current and previous financial years, as well as any annual reports on budget implementation. In those cases where the public authority is self-financed by the license fees or any other form of direct financing from entities regulated by it, documents on the state of liabilities paid by the licensed entities are also made public;
 - (h) information on the procurement procedures or concession/public-private bidding process, respectively under the provision of Law No. 9643 of 20.12.2006, "On Public Procurement" and Law No. 125/2013, "On concessions and public private partnership" performed on behalf of public authority, including:
 - i) list of contracts signed;
 - ii) amount contracted;
 - iii) signatories and description of services or goods contracted;
 - iv) information on the implementation and monitoring of contracts, as well as various policies and guides;
 - (i) information about the services public authorities offer to the public, including the quality of service standards;
 - (j) any mechanism and procedure for making claims and complaints relating to acts or inactions of the public authority;
 - (k) any mechanisms or procedures interested persons may use to express their opinions or affect in any other way drafting of laws, public policies or discharge of public authority functions;
 - (l) a simple description of the system used by the public authority to keep the documentation, types and forms of documents and categories of information made public without request;
 - (m) register of requests and responses under Article 8 of this Law;
 - (n) a description of categories and forms of social assistance, subsidies given by the public authority and procedures to receive them;
 - (o) information and documents frequently required;
 - (p) any other information deemed useful by the public authority.

2. The public authority also creates and archives a digital copy of its online website, complete with the information required in the approved program of transparency, as well as methods, mechanisms and frequency of publication of public information made publicly available without request.

3. Acts containing rules, norms or determinations of rights and fundamental freedoms of the individual directly affecting them, shall be made public by publishing or posting them on the official website, within 48 hours of the adoption of the act by the public authorities.

Article 8

The register of requests and responses

1. The public authority creates, maintains and makes public a special register, showing all the requests for information and the information contained in the responses. The register is updated every 3 months

and is published on the public authority's website, as well as in the reception facilities of the public authority's offices. The identity of the information seekers is not shown in the register.

2. The Commissioner for Freedom of Information and Protection of Personal Data sets the standards on the format and the content of the register.

Article 9

Information previously provided

1. The public authority enables that the information given at least once to an applicant, is made available in the most practical way possible to all other persons who may require it in the future.

2. Information requests for information recorded in the Register of Requests and Responses are given no later than 3 working days from the submission of the request.

Article 10

The powers of the Right to Information Coordinator

1. To implement this Law, in order to coordinate the work for guaranteeing the right to information, the public authority shall appoint one of the officials as the Right to Information Coordinator.

2. The Right to Information Coordinator has the following powers:

- (a) enables any applicant to access public information under this law, by seeing the original document or by getting a copy of it;
- (b) creates, maintains, updates and publishes a Register of Requests and Responses within the period provided for in point 1, Article 8 of this Law;
- (c) coordinates the work to meet the information requests within the time and manner provided herein;
- (d) records the information requested and assigns a serial number to each of them;
- (e) sends an information request to a public authority within the time limits stipulated in this Law, when the public authority where the request was sent does not have the required information;
- (f) verifies instances when information is given free of charge to the citizens, as provided for in point 5, Article 13 of this Law;
- (g) sends initial notifications, under Articles 14 and 15 of this Law, and communicates with the applicant, as required on the subject of the public information request.

CHAPTER III

ACCESS TO PUBLIC INFORMATION

Article 11

Information requests

1. The information request shall be in writing and delivered by hand, mail or email, with the correct identity of the applicant and his/her signature. In every case, the request is recorded in the Register of Requests and Responses, provided for in the Article 8 of this Law.

2. In every case, the information request is recorded and assigned a serial number. The serial number, along with the contact details of the Right to Information Coordinator are given to the applicant who sent the information request.

3. Information requests are recorded in order of submission and treated without distinction between them.

4. The information request should contain:

- (a) full name of the applicant;
- (b) postal or electronic address where the information is request to be send;
- (c) description of the information required;
- (d) format in which the information is preferred;

- (e) any information that the applicant considers that might help identify the information required.
5. If the information request does not specify the format in which the information is requested, it is given in the most efficient and lowest cost for the public authority.

Article 12

Clarification and handling of the information request

1. When the public authority, who has received the information request, is unclear about the content and the nature of the request, it contacts the applicant immediately, but no later than 48 hours from the date of the received request, to ask for necessary explanations. In all cases, the public authority shall assist the applicant in clarifying the request.
2. If after reviewing the request, the public authority finds that it does not have the requested information, it sends the request, no later than 10 consecutive days from the date of receiving the request, to the competent authority, and informs the applicant. The sole reason for justifying the forwarding of the request to another authority is the lack of required information.
3. The public authority, to whom the information request was addressed to, notifies the applicant that his request is forwarded to another authority, and informs him of the contacts of the authority where the request is sent to.

Article 13

Cost of service

1. Public administration services are free of charge. Disclosure of information can be made against a fee, previously arrived at and made public by the public authority on its website and in premises where members of the public are received. The fee is the cost for the reproduction of the information request and, where appropriate, the cost of delivery. Information requested electronically is free of charge.
2. The cost of reproduction can not be higher than the actual cost of the material on the information reproduced. The cost of delivery can not be higher than the average cost of the same service in the market.
3. The Commissioner for Freedom of Information and Protection of Personal Data examines periodically, in collaboration with the Ministry of Finance, public charges published by public authorities and, where appropriate, orders their amendment.

4. Citizens appropriately registered with the social assistance schemes and persons eligible under the Law No. 10039 of 22.12.2008 "On Legal Aid", as amended, receive the information free of charge up to a certain number of pages for each request or to the equivalent value when the information is given in a different format.

5. The Minister of Justice and the Minister of Finance by way of a joint decision, determine the number of pages, for which information is obtained free of charge, according to point 4 of this Article, along with all exemptions from payment.

Article 14

Ways of providing information

1. As a rule all information requests are handled through the free of charge access to information in the premises of a public authority, through the unique portal e-albania.al, or where appropriate, through the official website of the public authority on the internet.

2. Requests related to written documents, are handled by making available to the applicant:

- (a) a full copy, in the same format as the one used by the public authority, except in special cases;
- (b) a full copy of the information via email, when the information exists in such a form or can be converted.

3. When it comes to requests of other forms, the information shall be provided in the most efficient way and at the lowest cost for the public authority.

4. In every case, the refusal decision of the given form requested is given in writing along with the reasoning about it.

Article 15

Deadlines for receiving information

1. The public authority handles the information request by giving the required information as soon as possible, but no later than 10 working days from the day of submission, unless otherwise provided for by the particular Law.

2. When the public authority receives the information request and forwards it to another authority, it replies no later than 15 working days from the request having being received by the first authority.

3. Deadlines specified in points 1 and 2 of this Article, may be extended by no more than 5 working days for one of the following reasons:

- (a) the need to look for and consider numerous voluminous documents;
- (b) the need to expand the search in offices and facilities that are physically separated from the headquarters of the authority;
- (c) the need to consult with other public authorities before making a decision whether or not to meet the request.

The decision to extend the deadline shall be immediately notified to the applicant.

4. In any event, failure to handle to the information request within the above mentioned deadlines shall be considered as a refusal.

5. The provisions of this Article shall also apply to accessing of any archived information.

Article 16

Preliminary notices to the applicant

1. If the authority determines that the handling of an information request is too costly or its handling requires more time than the deadline specified in point 1, Article 14, of this Law, the public authority shall immediately notify the applicant accordingly and propose the possibility of changing their request.

2. When the requested information is in electronic format and is available on line, the public authority shall immediately notify the applicant of the correct webpage address where the information can be found. When the information is not required in electronic format, the public authority cannot respond to a request by the applicant showing the exact address of the webpage where the information is found in electronic form.

3. After receiving the information request, the public authority calculates the amount to be paid for the reproduction and as appropriate for sending the information, and it immediately notifies the applicant. Rules for of the manner in which the payment is made are determined by the joint decision of the Minister of Justice and the Minister of Finance.

CHAPTER IV

RESTRICTIONS FOR THE RIGHT TO INFORMATION

Article 17

Restrictions

1. The right to information may be restricted if it is necessary, proportionate and if its disclosure may harm the following interests:

- (a) the right to a private life;
- (b) trade secret;
- (c) copyright;
- (d) patents

Restricting the right to information, due to interests stipulated in letters "a", "b", "c" and "d" of this paragraph, shall not apply when the holder of such rights has given the consent for disclosing the relevant information or when at the time of disclosure of information he/she is considered a public authority under the provisions of this law. Notwithstanding the provisions of this paragraph, the information requested is not rejected if there is a higher public interest for granting it.

2. The right to information may be restricted, if giving the information causes a clear and serious harm to the following interests:

- (a) national security, as defined by the legislation for classified information;
- (b) prevention, investigation and prosecution of offences;
- (c) conduct of an administrative investigation within a disciplinary proceeding;
- (d) conduct of inspection and auditing procedures of public authorities;
- (e) formulation of state monetary and fiscal policies;
- (f) equality of parties in court proceedings and the conduct of litigation;
- (g) preliminary consultations and discussions within or between public authorities on public policy development;
- (h) progres of international or intergovernmental relations.

Notwithstanding the provisions of paragraph 1 of point 2 of this Article, the information requested is not rejected if there is a higher public interest to grant it.

Restrictions on the right to information, due to the interests foreseen in point 2, letter "c" and "d" of this Article, shall not apply when the administrative investigation, in the context of a disciplinary proceeding, and audit inspection procedures of the public authority have been completed.

Restriction on the right to information, due to the interests foreseen in point 2, letter "e" and "f" of this Article, shall not apply where the relevant data are facts, analyses of facts, technical data or statistics.

Restriction on the right to information, due to the interests foreseen in point 2, letter "g" of this Article, shall not apply once the policies are published.

3. The right to information may be restricted, if necessary, proportionate and if the dissemination of the information shall violate the professional secrecy guaranteed by Law.
4. The right to information is restricted even when, despite the assistance provided by the public authority, the request remains unclear and it becomes impossible to identify the information required.
5. The right to information is not automatically refused when the information sought is found in documents classified as "state secret". In this case, the public authority, receiving the information request, starts immediately the classification review procedure at the public authority who ordered the classification, according to the Law No. 8457 of 11.02.1999, "On the classified information as "state secret"", as amended. The public authority shall immediately notify the applicant on starting the classification review procedure under the Law and decides whether to extend the deadline for providing information within 30 working days. In any case, the decision to handle or not the information request is taken and reasoned based on the criteria of this Article.
6. If the restriction affects only part of the information request, the rest of the information is not refused to the applicant. The public authority clearly indicates the relevant parts of the rejected document, and based on which point of this Article is making this rejections.
7. The provisions of this Article shall also apply to receiving archived information of any kind, irrespective of the provisions of the Law "On Archives".

CHAPTER V

VIOLATIONS AND ADMINISTRATIVE SANCTIONS

Article 18

Administrative violations and sanctions

1. Failure to implement the provisions of this Law entails administrative liability, as per the cases provided for in point 2 of this Article.
2. The actions and inactions, in accordance with this Law to the extent they do not constitute a criminal offence, are considered administrative offenses and are fined as follows:
 - (a) refusal of information contrary to the provisions of this Law, shall be punished by 150 000 to 300 000 ALL;
 - (b) failure to implement the institutional transparency program, within the period provided in point 1, Article 4 of this Law, is punishable by 50 000 to 100 000 ALL;
 - (c) non-review of the institutional transparency program, within the period provided in point 1, Article 5 of this Law, is punishable by 50 000 to 100 000 ALL;
 - (d) failure to follow the institutional transparency program procedures, within the period provided in point 2, Article 5 of this Law, is punishable by 50 000 to 100 000 ALL;
 - (e) failure to create, hold, publish or updated the Register of Requests and Responses, within the period provided in point 1, Article 8 of this Law, is punishable by 50 000 to 100 000 ALL;
 - (f) failure to meet the requirements for information, recorded in the Register for Requests and responses, within the deadline and as provided for in Article 9 of this Law, is punishable by 150 000 to 300 000 ALL;
 - (g) failure to register the information request, assign it a serial number and give the contact details of the Right to Information Coordinator, under the provisions of point 2, Article 11 of this Law, is punishable by 150 000 to 300 000 ALL;
 - (h) failure to send the information request to another public authority, within the period provided in point 2, Article 12 of this Law, is punishable by 150,000 to 300,000 ALL;
 - (i) sending the information request to a public authority when the authority that received the request already has the require information, contrary to the requirement of point 2, Article 12 of this Law, is punishable by 150 000 to 300 000 ALL;

- (j) failure to notify the applicant that the request is sent to another authority and the necessary contacts were sent to another authority, contrary to the provisions of point 3, Article 12 of this Law is punishable by 50 000 to 100 000 ALL;
- (k) failure to preliminarily set a fee, disclose or set abusive fees for the reproduction and delivery of information contrary to the requirements of Article 13, point 1 and 2 of this Law, is punishable by 150 000 to 300 000 ALL;
- (l) failure to meet the requirements of point 4, Article 13 of this Law, to provide free of charge information is punishable by 50 000 to 100 000 ALL;
- (m) unjustified refusal of the applicants preference for the mode of giving the information, contrary to the provisions of point 4, Article 14 of this Law, is punishable by 25 000 to 50 000 ALL;
- (n) failure to notify the applicant of the decision to extend the deadline for completing the information request, under the provisions of point 3, Article 15 of this Law, is punishable by 150 000 to 300 000 ALL;
- (o) failure to send preliminary notifications, under the provision of Article 16 of this Law, is punishable by 25 000 to 50 000 ALL;
- (p) damage or destruction of official documents, in order to avoid the right to the freedom of information, is punishable by 150 000 to 300 000 ALL;
- (q) non-disclosure of official documents, contrary to the rules in force, with the intention to obstruct the right to information is punishable by 150 000 to 300 000 ALL.

3. Determination procedures, examination and enforcement of administrative offenses are those provided for in the Law on "Administrative Contraventions".

Article 19

Administrative responsibility

1. The head of the public authority is legally-administratively liable for the administrative violations provided for in letters "b", "c", "d" and "l" of point 2, Article 18 of this Law.

2. In accordance with the relevant provisions of the applicable legislation governing the administrative procedure, the Head of the public authority delegates its authority to discharge the functions described in point 1 of Article 4, point 1 and 2 of Article 5, point 1 and 2 of Article 13 to the most senior civil servant of the public authority, according to the classification of Law No. 152/2013, "On the Civil Servant". In this case, the most senior civil servant shall be legally liable for the administrative violations provided for in "b", "c", "d" and "j" of point 2, Article 18 of this Law.

3. The right to information coordinator has the administrative responsibility, according to the provisions of this Law, for administrative offenses provided for in letters "a", "e", "f", "g", "h", "i", "j", "l", "m", "n" and "o", of point 2, Article 18 of this Law.

4. Every employee of the public authority has administrative responsibility for violations of provisions stated in letters "p" and "q", of point 2, Article 18 of this Law.

Article 20

Relations with the Assembly

1. The Commissioner for the Freedom of Information and Protection of Personal Data reports to the Parliament or Parliamentary Committees at least once a year or whenever required by them. He may also ask the Parliament to be heard on issues he considers important. The reporting shall contain data and explanations for implementing the right to information in the Republic of Albania, as well as transparency programs.

2. Notification on specific issues is not allowed, with the exception of the issues required by decision of the Parliament.

3. In writing the report, the Commissioner for the Freedom of Information and Protection of Personal Data collects information from public authorities and non-profit organizations that have as their mission the protection of freedoms and human rights, highlighting the relevant communications.

Article 21

Ways of paying the fines

1. The punishments, determined by a fee, are paid in monthly instalments.
2. Monthly instalments are determined to such an extent that the officer and his family be guaranteed their livelihood, at least at the level of the minimum wage, set by the decision of the Council of Ministers.
3. For violations provided for in letters "p" and "q" of point 2, Article 18 of this Law, the Commissioner for Freedom of Information and Protection of Personal Data may propose disciplinary measures against the responsible persons.

Article 22

Appeal of administrative sanctions

Persons, against whom an administrative sanction was imposed, within 30 consecutive days from date of receiving the notification, may appeal to the court, in accordance with the Law No. 10279 of 20.05.2010 "On the Administrative Offences".

Article 23

Recovery of amounts owed

1. The Decision of the Commissioner for Freedom of Information and Protection of Personal Data to fine is notified to the head of the public authority and the finance office.
2. Fines are executed by the finance office of the public authority, for which the perpetrator works, within 6 months from the date of notification. When this deadline is passed, the decision becomes an executive title and is executed on mandatory basis by the Bailiffs at the request of the Commissioner.
3. Fines are paid into the State Budget.

CHAPTER VI

POWERS AND PROCEDURES FOR PROCESSING THE COMPLAINTS

Article 24

Procedures for reviewing claims

1. Every person, when it considers that his rights under this Law have been violated, has the right to appeal administratively to the Commissioner for the Freedom of Information and Protection of Personal Data in accordance with this Law and the Code of Administrative Procedure.
2. The administrative appeal is made to the Commissioner for Freedom of Information and Protection of Personal Data within 30 days from the day when:
 - (a) the applicant has received the notice for the refusal of the information;
 - (b) the deadline for giving the information foreseen in this Law has passed
3. Upon receiving the complaint, the Commissioner for the Freedom of Information and Protection of Personal Data forwards it to the office dealing with the right to information, which verifies the facts and the legal basis of the complaint. For this purpose, he may ask the complainant and the public authority, against whom the complaint is made, to present written submissions, and be informed by any other person and source. When it deems it necessary, the Commissioner holds a public hearing with the participation of the parties.
4. The Freedom of Information and Personal Data Protection Commissioner takes a decision on the appeal within 15 working days from the date when the appeal is filed.
5. The Freedom of Information and Protection of Personal Data Commissioner decides:

- (a) refuse the appeal when:
 - i) when the deadline stipulated in point of this Article has passed;
 - ii) the appeal is not submitted in writing;
 - iii) the full name and the address of the appellant is not shown;
- (b) acceptance of the appeal and ordering the public authority to provided the required information, in full or in part;
- (c) refuses the appeal, in full or in part;
- (d) the deadline within which the public authority must comply with the order.

6. If the Commissioner for the Freedom of Information and Protection of Personal Data does not decide before the end of the period provided for in point 4 of this Article, the complainant has the right to address the court.

7. The administrative procedure provided for in this article shall not prejudice the powers of the Ombudsman regarding the supervision and enforcement of civil rights, according to Law No. 8454, dated 04.02.1999, "On the Ombudsman".

Article 25

The appeal to the court

The applicant or the public authority has the right to appeal the decision of the Commissioner to the competent administrative court.

Article 26

Indemnification

Every person, who has suffered damage due to violation of the provisions of this Law, has the right to seek compensation for damage caused, in accordance with the Law No. 7850, dated 29.7.1994, "The Civil Code of the Republic of Albania".

Article 27

Repeals

Law No. 8503, dated 30.6.1999, "On the right of access to official documents" is repealed.

Article 28

Entry into force

This law enters into force 15 days after its publication in the Official Gazette.

Approved on 18.09.2014

SPEAKER

Ilir Meta