

# LAW ON FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE

## I BASIC PROVISIONS

### Purposes of the Law

#### Article 1

This Law shall govern the rights of access to information of public importance held by public authorities, with a view to exercising and protecting the public interest to know and attaining a free democratic order and an open society.

For the purpose of exercising the rights of access to information of public importance held by public authorities, this Law shall provide for the establishment of the institution of the Commissioner for Information of Public Importance (hereinafter referred to as Commissioner) as an autonomous government body independent in the exercise of its powers.

### Information of Public Importance

#### Article 2

Information of public importance, within the meaning of this Law, is information held by a public authority body, created during or relating to the operation of a public authority body, which is contained in a document and concerns anything the public has a justified interest to know.

For information to be considered information of public importance, it shall be irrelevant whether the source of information is a public authority or another person, which medium carries the document containing the information (paper, tape, film, electronic media, etc.), on which date the information was created or in which way the information was obtained, nor shall any other similar properties of such information bear any relevance for this purpose.

### Public Authority Body

#### Article 3

A public authority body within the meaning of this Law (hereinafter referred to as public authority) shall mean:

1) A central government body, a territorial autonomy body, a local self-government body or an organization vested with public powers (hereinafter referred to as government body);

2) A legal entity founded by or fully or predominantly funded by a government body.

## Legal Assumptions of Justified Interest

### Article 4

Justified public interest to know within the meaning of Article 2 of this Law shall be deemed to exist whenever information held by a public authority concerns a threat to, or protection of, public health and the environment, while with regard to other information held by a public authority, it shall be deemed that justified public interest to know within the meaning of Article 2 of this Law exists unless the public authority concerned proves otherwise.

## Content of the Right to Access Information of Public Importance

### Article 5

Everyone shall have the right to be informed whether a public authority holds specific information of public importance and/or whether such is otherwise accessible to him/her.

Everyone shall have the right to access information of public importance by being allowed to examine a document containing information of public importance, by being entitled to make a copy of that document, and by being entitled to receive a copy of such document on request, by mail, fax, electronic mail or otherwise.

## Principle of Equality

### Article 6

Everyone shall be able to exercise the rights in this Law under equal conditions, regardless of their nationality, temporary or permanent residence or place of establishment, or any personal characteristic such as race, religion, national or ethnic background, gender, etc.

## Non-discrimination of Journalists and Media Outlets

### Article 7

A public authority shall not give preference to any journalist or media outlet in cases where more than one applicant applies for the same information by singling out one of them or by allowing one of them to exercise the right to access information of public importance before other journalists or media outlets.

## Limitations of Rights

### Article 8

The rights provided for in this Law may, in exceptional circumstances, be subject to limitations set out in this Law, to the extent necessary in a democratic society to prevent a serious violation of an overriding interest based on the Constitution or law.

Nothing in this Law shall be construed as justifying the revocation of a right conferred by this Law or its limitation to an extent exceeding that provided for in paragraph 1 of this Article.

## II PRECLUSION AND LIMITATION OF FREE ACCESS TO INFORMATION OF PUBLIC IMPORTANCE

### **Life, Health, Security, Judiciary, National Defense, National and Public Safety, National Economic Welfare and Classified Information**

### Article 9

A public authority shall not allow an applicant to exercise the right to access information of public importance if it would thereby:

- 1) Expose to risk the life, health, safety or another vital interest of a person;
- 2) Jeopardize, obstruct or impede the prevention or detection of criminal offence, indictment of a criminal offence, pretrial proceedings, trial, execution of a sentence or enforcement of punishment, any other legal proceeding, or unbiased treatment and a fair trial;
- 3) Seriously threaten national defense, national and public safety or international relations;
- 4) Substantially undermine the government's ability to manage the national economic processes or significantly impede the achievement of justified economic interests;
- 5) Make available information or a document qualified by regulations or an official document based on the law as state, official, commercial or other secret, i.e. if such a document is accessible only to a specific group of persons and its disclosure could seriously legally or otherwise prejudice the interests that are protected by the law and override the access to information interest.

## Information of Public Importance held by a Public Authority and already accessible to the Public

### Article 10

A public authority does not have to allow an applicant to exercise his/her right to access information of public importance if such information has already been published and made accessible in the country or on the Internet.

In cases referred to in paragraph 1 of this Article, a public authority shall instruct the applicant in its response on the information medium (number of an official medium, title of a publication, etc.) containing such information and indicate where and when the requested information was published, unless such information is common knowledge.

## Challenging of Published Information by a Public Authority

### Article 11

If a public authority challenges the accuracy or completeness of published information of public importance, it shall disclose the accurate and complete information and/or grant access to a document containing accurate and complete information, except in cases provided for in Articles 9 and 14 of this Law.

## Extraction of Information

### Article 12

If requested information of public importance can be extracted from other information contained in a document which a public authority has to duty to disclose to an applicant, the public authority concerned shall allow the applicant access only to a part of the document which contains the extracted information and advise him/her that the remainder of the document is not available.

## Abuse of Free Access to Information of Public Importance

### Article 13

A public authority shall not allow an applicant to exercise the right to access information of public importance if the applicant is abusing the rights to access information of public importance, in particular where a request is unreasonable, frequent, where an applicant

repeatedly requires the same information or information already obtained, or when too much information is requested.

## Privacy and Other Personal Rights

### Article 14

A public authority shall not grant an applicant his/her right to access information of public importance if it would thereby violate the right to privacy, the right to protection of reputation or any other right of a person who is the subject of information, except where:

- 1) The person concerned has given his/her consent;
- 2) Such information relates to a person, event or occurrence of public interest, especially in case of holder of public office or political figures, insofar as the information bears relevance on the duties performed by that person;
- 3) A person's behaviour, in particular concerning his/her private life, has provided sufficient justification for a request for such information.

## III PROCEDURE BEFORE A PUBLIC AUTHORITY

### Request for Information, Access, Reproduction and Referral

#### Article 15

An applicant shall submit a request in writing to a public authority to exercise the right to access information of public importance (hereinafter referred to as request).

A request shall contain the name of the public authority, the full name and surname and address of the applicant and as many specifics as possible of the requested information.

A request may also contain other details which could facilitate the search for the requested information.

An applicant shall not be required to specify the reasons for a request.

If a request does not contain the details set out in paragraph 2 of this Article, i.e. if a request is deficient, the authorized person of the public authority shall have a duty to instruct the applicant free of charge on ways to rectify the deficiencies in the request, i.e. he/she shall instruct the applicant to complement the request.

If an applicant fails to rectify any deficiencies by the specific deadline, i.e. within 15 days of being instructed to complement the request, and if the deficiencies are such that they

prevent the processing of the request, the public authority shall pass a decision dismissing the request as deficient.

A public authority shall also have the duty to grant an applicant access to information where a request for information is made verbally and entered in relevant records, it being understood that such requests shall be entered in special records and relevant time limits shall apply accordingly as if the request were submitted in writing.

A public authority may prescribe a sample request form, but it shall nevertheless have to duty to take into consideration all requests not filed on such form.

## Honouring of Requests

### Article 16

A public authority shall, without delay, and within 15 days of receipt of a request at the latest, inform an applicant whether it holds the requested information, grant him/her access to the document containing the requested information or issue or send to the applicant a copy of the document, as the case may be. A copy of a document shall be deemed to be sent to an applicant sent on the day it leaves the office of the public authority from which the information was requested.

If a request relates to information which can reasonably be assumed to bear on the protection of a person's life or freedom and/or the protection of public health and the environment, a public authority must inform the applicant it holds such information, grant access to the document containing the requested information or issue a copy of the document to the applicant, as the case may be, within 48 hours of receipt of the request.

If a public authority is justifiably prevented from informing an applicant within the deadline referred to in paragraph 1 of this Article that it holds the information, from granting him/her access to a document containing the sought information and from issuing and/or sending him/her a copy of the document, the public authority shall, within seven days of receipt of the request at the latest, inform the applicant thereof and set another deadline, which shall not be longer than 40 days of receipt of the request, within which it shall inform the applicant that it holds the information, grant him/her access to the document containing the requested information or issue or send to the applicant a copy of the document, as the case may be.

If a public authority does not respond to a request within the specified deadline, an applicant may lodge a complaint with the Commissioner, except in cases where this Law provides otherwise.

Enclosed with the notice on allowing an applicant insight in a document containing the requested information or issuing a copy of a document to an applicant, a public authority shall provide to the applicant details concerning the time, place and manner in which such information shall be made available for examination and the necessary costs of

producing a copy of the document and, if the authority itself does not have the technical means to make a copy, it shall advise the applicant he/she is allowed to use his/her own reproduction equipment to make a copy.

A applicant shall be granted access to a document containing the requested information on the public authority's official premises.

An applicant may, for justified reasons, ask to be given access to a document containing the requested information at a time different from the one set by the authority from which the information is requested.

A person unable to access a document containing the requested information without an escort shall be allowed to access such document with the attendance of an escort.

If a public authority honours a request, it shall not pass a specific decision to that effect, but shall make an official note of it.

If a public authority refuses to inform an applicant, either entirely or partially, whether it holds the requested information, to grant an applicant access to a document containing the requested information or to issue or send to an applicant a copy of the document, it shall have to duty to pass, without delay, and within 15 days of receipt of the request at the latest, a decision rejecting the request and provide rationale for such decision in writing, and shall furthermore be required to notify the applicant in the decision of the available relief against such decision.

## Reimbursement

### Article 17

Access to a document containing requested information shall be granted free of charge.

A copy of a document containing requested information shall be issued against reimbursement by the applicant of the necessary costs of reproduction, while if such copy is sent to the applicant, he/she shall also be required to reimburse any costs associated with such sending.

The government shall pass a list of reimbursable expenses on the basis of which public authorities shall calculate the costs referred to in the foregoing paragraph.

Journalists who request a copy of a document for professional reasons and nongovernmental organizations focusing on human rights that request a copy of a document for the purpose of carrying on their registered activities, as well as all persons who request information regarding a threat to, or protection of, public health and environment, shall be exempted from the duty to reimburse costs set out in paragraph 2 of this Article, except in cases referred to in Article 10, paragraph 1 of this Law.

The Commissioner shall follow the practice of reimbursement of costs and exemption from reimbursement and issue recommendations to public authorities with the aim of standardizing the practice.

## Access and Reproduction

### Article 18

Access to a document containing requested information shall be made using the equipment available to a public authority, unless the applicant asks to have access to a document using his/her own equipment.

A public authority shall issue a copy of a document (photocopy, audio copy, video copy, digital copy, etc.) containing the requested information in the form in which such information is stored, such copy being in the requested form where possible.

If a public authority does not have the technical means to make a copy of the document in terms of paragraph 2 of this Article, it shall make a copy of the document in another form.

If a public authority holds a document containing the requested information in the language in which the request was submitted, it shall have a duty to grant the applicant access and make a copy of the document in the language in which the request was submitted.

## Referral of Requests to the Commissioner

### Article 19

Where a public authority does not hold a document containing the requested information, it shall refer the request to the Commissioner and inform accordingly the Commissioner and the applicant who, to its knowledge, holds the document.

## Processing of a Referred Request by the Commissioner

### Article 20

Upon receipt of a request, the Commissioner shall ascertain whether a document containing the information sought in the request is held by the public authority of referral.

If the Commissioner finds that a document referred to in paragraph 1 of this Article is not held by the public authority of referral, the Commissioner shall refer the request to the public authority that holds the document, unless required otherwise by the applicant, and shall inform the applicant thereof or refer the applicant to the public authority that holds the requested information.

The exact manner in which the actions referred to in paragraph 2 of this Article are to be realized shall be determined by the Commissioner, taking into account the need to ensure maximum efficiency in the exercise of rights to access information of public importance.

If the Commissioner refers a request to a public authority referred to in paragraph 2 of this Article, the time limit set out in Article 16 of this Law shall commence from the day of receipt.

## Other Procedural Provisions

### Article 21

The procedure before a public authority shall be governed by the provisions of the Law on General Administrative Proceedings, unless provided otherwise by this Law.

## IV PROCEEDINGS BEFORE THE COMMISSIONER

### Right to a Complaint

#### Article 22

An applicant may lodge a complaint with the Commissioner if:

- 1) A public authority rejects or denies an applicant's request, within 15 days of service of the relevant decision or other document;
- 2) A public authority, in contravention of Article 16, paragraph 2 of this Law, failed to reply to a submitted request within the statutory time limit;
- 3) A public authority, in contravention of Article 17, paragraph 2 of this Law, made the issuance of a copy of a document containing the requested information conditional on the payment of a fee exceeding the necessary reproduction costs;
- 4) A public authority does not grant access to a document containing the requested information in the manner set forth in Article 18, paragraph 1 of this Law;
- 5) A public authority does not grant access to a document containing the requested information and/or does not issue a copy of the document in the manner set out in Article 18, paragraph 4 of this Law, or
- 6) A public authority otherwise obstructs or prevents an applicant from exercising his/her freedom of access to information of public importance, in contravention to the provisions of this Law.

Complaints shall be inadmissible if lodged against decisions of the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court and the Republic Public Prosecutor.

An administrative dispute complaint may be lodged against the decision in paragraph 2 of this Article, in accordance with law, which fact shall be notified to the Commissioner by the relevant court *ex officio*.

## Deliberation of Complaints by the Commissioner

### Article 23

Proceedings before the Commissioner shall be governed by the provisions of the Law on General Administrative Proceedings pertaining to the appellate decisions of second-instance bodies, unless provided otherwise by this Law.

### Article 24

The Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing.

The Commissioner shall dismiss a complaint that is inadmissible, statute-barred or filed by a person not authorized to do so.

The burden of proof to demonstrate compliance with the duties set forth in this Law shall rest with the public authority concerned.

The Commissioner shall pass a decision ordering a public authority to grant free access to information of public importance to the applicant where he/she finds a complaint justified.

If, after the lodging of a complaint for failure to honour a request and before the passing of a decision upon such complaint, a public authority grants the applicant access to the requested information or passes a decision pursuant to such request, the Commissioner shall pass a conclusion and terminate the appellate proceedings. Appellate proceedings shall also be terminated when an applicant decides to withdraw his/her complaint.

## Commissioner's Decisions on Measures to Promote Transparency of Operations

### Article 25

Upon receipt of a request or *ex officio*, the Commissioner shall pass a decision establishing that a public authority has not fulfilled its obligations set forth in this Law, with the exception of public authorities referred to in paragraph 2 of Article 22 of this Law, and order the measures the authority is to take to fulfill them, having given such authority an opportunity to reply in writing.

A request referred to in paragraph 1 of this Article cannot be submitted in cases when this Law envisages a right to complaint.

### Fact-finding by the Commissioner

#### Article 26

The Commissioner shall take steps to find any facts necessary for reaching a decision referred to in Articles 24 and 25 of this Law.

In order to find the facts referred to in paragraph 1 of this Article, the Commissioner shall be allowed access to every information carrier covered by this Law.

### Legal Remedies against Commissioner's Decisions and Conclusions

#### Article 27

An administrative dispute may be instituted against a decision of the Commissioner.

Administrative disputes regarding the exercise of the right to free access to information of public importance shall be resolved in expedited proceedings.

### Binding Nature and Enforcement of Commissioner's Decisions

#### Article 28

The Commissioner's decisions shall be binding, final and enforceable.

The Commissioner's decisions shall be administratively enforced by the Commissioner by coercive means (coercive action or fines, as appropriate), in accordance with the law pertaining to general administrative proceedings.

In the procedure of administrative enforcement of the Commissioner's decisions, complaints against enforcement shall not be admissible.

If the Commissioner is unable to enforce his/her decisions as provided for in paragraph 2 of this Article, the Government shall, on request, assist him/her in the administrative enforcement of such decisions by taking actions within its sphere of competence, with recourse to direct enforcement, in order to ensure compliance with the Commissioner's decisions.

## **V Appointment, Position and Authority of the Commissioner**

### **Seat of the Commissioner**

#### **Article 29**

The seat of the Commissioner shall be in Belgrade.

### **Appointment**

#### **Article 30**

The National Assembly of the Republic of Serbia (hereinafter referred to as the National Assembly) shall appoint the Commissioner by a majority of votes of all members of parliament, acting on proposal of the Committee of the National Assembly responsible for information.

The incumbent shall be a person of established reputation and expertise in the field of protecting and promoting human rights.

To be eligible for appointment as Commissioner, a person must fulfill the requirements for employment in government agencies, hold a Bachelor's degree in Law and have at least ten years of relevant work experience.

A person holding a post in or employed by a government body or a political party shall not be eligible for appointment as Commissioner.

The Commissioner shall be appointed to a seven-year term of office.

The same person may be appointed Commissioner for maximum two consecutive terms.

### **Termination of Office**

#### **Article 31**

A Commissioner's office shall be terminated upon expiration of his/her term in office, on his/her personal request, upon turning sixty five years of age or upon removal from office.

The National Assembly may decide, by a majority of votes of all members of parliament, to remove a Commissioner from office.

A Commissioner shall be removed from office: if he/she has been sentenced to imprisonment for a criminal offence; in the event of permanent incapacity; if he/she holds a post in, or is employed by, a government body or a political party; if he/she no longer

holds the citizenship of the Republic of Serbia; or if he/she fails to perform his duties with due competence, diligence and responsibility.

A motion to remove a Commissioner from office must be backed by at least one third of members of parliament.

The Committee of the National Assembly responsible for information shall determine whether reasons for removal from office pertain and shall notify its findings to the National Assembly.

The Committee of the National Assembly responsible for information shall also inform the National Assembly if a Commissioner requests to be relieved of duty or if he/she has reached the statutory age for termination of office.

If the National Assembly does not decide upon a request within 60 days, it shall be deemed that a Commissioner is terminated with effect on expiration of that period.

In other situations, a Commissioner's office shall be terminated as from the date specified in a pertinent decision passed by the National Assembly.

## Status of the Commissioner

### Article 32

The Commissioner shall be autonomous and independent in the exercise of his/her powers.

In the exercise of his/her powers, the Commissioner shall neither seek nor accept orders or instructions from government bodies or other persons.

The Commissioner shall have the same salary and other employment rights in accordance with the law as a judge of the Supreme Court, as well as the right to reimbursement of costs incurred in the performance of his/her duties.

The Commissioner shall not be held liable for an opinion he/she expressed or a recommendation he/she made while performing his/her duties; in the event of legal proceedings over a criminal offence committed in the exercise of his/her powers, he/she cannot be detained without the consent of the National Assembly.

## Deputy Commissioner

### Article 33

The Commissioner shall have a Deputy, who shall be appointed by the National Assembly by a majority of votes of all members of parliament, on recommendation from the Commissioner.

The Commissioner shall nominate for the post of Deputy Commissioner a person who meets the requirements for employment by government bodies.

The Deputy Commissioner shall be appointed to a seven-year term of office.

The same person may be appointed Deputy Commissioner for maximum two consecutive terms.

A Deputy Commissioner shall perform the duties of the Commissioner if the latter is absent, deceased, terminated, removed from office or temporarily or permanently prevented from exercising his/her powers.

The procedure for termination of office of the Commissioner shall apply according to the termination of a Deputy Commissioner.

The procedure for termination of a Deputy Commissioner may also be initiated by the Commissioner.

## Commissioner's Expert Service

### Article 34

The Commissioner shall have an expert service to assist him/her in the exercise of his powers.

The Commissioner shall pass regulations governing the work of his/her expert service, for which he/she shall obtain the approval of the Administrative Committee of the National Assembly. The Commissioner shall independently decide on the admission of staff to the expert service in accordance with law, bearing in mind the need to ensure competent, diligent and responsible discharge of his/her duties.

Legislative provisions pertaining to employment in government bodies shall apply *mutatis mutandis* to the Commissioner's expert service.

The required funding for the operations of the Commissioner and his/her expert service shall be allocated from the budget of the Republic of Serbia.

## Powers of the Commissioner

### Article 35

The Commissioner shall:

1) Monitor compliance of public authorities with the duties provided for in this Law and report to the public and the National Assembly thereof;

- 2) Make motions to draft or amend regulations for the purpose of implementation and promotion of the right to access information of public importance;
- 3) Propose to public authorities measures to be taken to improve their operations governed by this Law;
- 4) Take necessary measures to train employees of government bodies and to advise them on their duties regarding the rights to access information of public importance, with a view to ensuring effective implementation of this Law;
- 5) Deliberate complaints against the decisions of public authorities that violate the rights provided for in by this Law;
- 6) Disseminate to the public the content of this Law and the rights regulated by this Law;
- 7) Perform other duties pursuant to this Law and other laws.

The Commissioner may make motions to assess the constitutionality and legality of laws and other general instruments.

## Reports

### Article 36

Within three months of end of each financial year, the Commissioner shall submit to the National Assembly an annual report on the activities undertaken by the public authorities in the implementation of this Law and his/her own activities and expenses.

In addition to the report in paragraph 1 of this Article, the Commissioner shall submit to the National Assembly also any other reports he/she deems appropriate.

## VI MEASURES TO IMPROVE TRANSPARENCY OF OPERATIONS OF PUBLIC AUTHORITIES

### Guidance on the Exercise Rights

#### Article 37

The Commissioner shall, without delay, publish and update a guidebook with practical instructions on the effective exercise of rights provided for in this Law, which shall be published in the Serbian language and in other languages considered to be official in accordance with the law.

The guidebook referred to in paragraph 1 of this Article shall, as a mandatory minimum, explain the content and scope of rights to access information of public importance and the manner of exercise of those rights.

The Commissioner shall have a duty to inform the public of the content of the guidebook referred to in paragraph 1 of this Article through the press, the electronic media, the Internet, public panel discussions and in other ways.

## Authorized Person of a Public Authority and Protection of Sources of Information of Public Importance

### Article 38

The responsible person in a public authority shall appoint one or more officials (hereinafter referred to as authorized persons) to respond to request for free access to information of public importance.

The authorized person shall:

- 1) Receive requests, inform applicants whether the requested information is held and grant access to documents containing the requested information or provide the information by appropriate means, pass decisions rejecting requests and provide necessary assistance to applicants in the exercise of their rights provided for in this Law;
- 2) Take measures to promote the practice of managing, maintaining, storing and safeguarding of information mediums.

If an authorized person referred to in paragraph 1 of this Article has not been appointed, the duties of the authorized person shall be performed by the responsible person of the public authority.

An employee of a public authority who has provided access to information of public importance to which access cannot be restricted under Articles 9 and 14 of the Law, as well as to any information to which access has already been granted by a public authority under this Law, shall not be held liable or suffer injurious consequences on that account, provided that such information reveals corruption, malfeasance in office, wasteful disposal of public funds and illegal action or proceeding of a public authority.

The right to protection under paragraph 4 of this Article shall be granted to an employee if he/she had reasonable cause to believe the truthfulness of the information, if he/she neither sought nor obtained any benefits with regard to allowing access to information and if, prior to allowing access to such information, he/she had notified the matter to a competent person in the public authority, who failed to act with a view to rectifying any such irregularities.

An employee who is held liable or suffers any damage in violation of the provisions of paragraphs 4 and 5 of this Article shall have the right to indemnification by the public authority of his/her employment.

An employee who provides access to information of public importance pursuant to paragraphs 4 to 7 of this Article may be rewarded by the public authority of his/her employment.

The provisions of paragraphs 4 to 7 of this Article shall apply *mutatis mutandis* to public officials, contracted persons, as well as to persons receiving services from a public authority or persons having the status of a party in a procedure before a public authority.

## Obligation to Publish a Directory

### Article 39

A government body shall at least once a year publish a directory containing key facts about its operations, in particular:

- 1) Description of its powers, duties and internal organization;
- 2) Information on the budget and means of work;
- 3) Information on the types of service it directly provides to interested parties;
- 4) Procedure for submitting a request to the government body concerned or for lodging a complaint against its decisions, actions or omissions;
- 5) Review of requests, complaints and other direct measures taken by the interested parties, as well as of decisions made by the government body concerned upon received requests and complaints and/or responses to other direct measures taken by interested parties;
- 6) Information on the manner and place of storing information mediums, type of information it holds, type of information it grants access to and the description of the procedure for submitting a request;
- 7) Names of the heads of the government body, descriptions of their powers and duties and procedures for their decision-making;
- 8) Rules and decisions of the government body concerning the transparency of its operations (working hours, address, contact phones, logo, accessibility for persons with special needs, access to sessions, permissibility of audio and video recording, etc.), as well as any authentic interpretation of these decisions;

9) Regulations and decisions on exemptions or limitations of the transparency of work of the government body, with relevant rationale.

A government body shall grant an interested party access to its directory free of charge or issue such party a copy of the directory, against the reimbursement of necessary costs.

## Instructions on Compiling and Publishing of Directories

### Article 40

The Commissioner shall publish instructions for compiling and publishing the directories referred to in Article 39 of this Law and shall, on request, offer advice to government bodies to ensure correct, complete and timely compliance with the duty to publish a directory.

## Maintaining Information Mediums

### Article 41

A public authority shall maintain the information mediums so as to enable the exercise of the right to access information of public importance in compliance with this Law.

## Training of Staff

### Article 42

For the purpose of effective implementation of this Law, a government body shall train its staff and advise its employees on their duties regarding the rights provided for in this Law.

The staff training referred to in paragraph 1 of this Article shall cover in particular: the content, scope and importance of the right to access information of public importance, the procedure for exercising those rights, the procedure for managing, maintaining, and safeguarding information mediums and types of data which the government body is required to publish.

## Reporting to the Commissioner

### Article 43

A government body shall, by the 20<sup>th</sup> January each year, submit an annual report for the previous to the Commissioner detailing the activities of the body undertaken with the aim of implementing this Law, which shall contain the following information:

1) Number of submitted requests, number of wholly or partly approved requests and the number of rejected or dismissed requests;

- 2) Number and content of the complaints against the decisions to reject or dismiss a request;
- 3) Total sum of fees charged for the exercise of the right to access information of public importance;
- 4) Measures taken with regard to the obligation to publish a directory;
- 5) Measures taken with regard to maintaining information mediums;
- 6) Measures taken with regard to staff training.

The information referred to in paragraph 1, paragraphs 1) to 3) of this Article shall be presented aggregately and by individual applicants in the following categories: citizens, media outlets, citizens' associations, political parties, public authorities and other applicants.

## **VII Indemnification**

### Article 44

A public authority shall be held liable for any damage caused by the inability of a media outlet to publish information because that public authority had unjustifiably denied or limited its rights to access information of public importance referred to in Article 5 of this Law and/or because that public authority gave preference to a journalist or media outlet, in contravention of the provisions of Article 7 of this Law.

## **VIII Supervision**

### Article 45

The implementation of this Law shall be supervised by the Ministry responsible for administrative affairs.

Inspection enforcement of this Law shall be performed by the ministry responsible for administrative affairs, through its administrative inspectorate.

## **IX Punitive Provisions**

### Article 46

A fine between 5,000 and 50,000 dinars shall be imposed upon the responsible person in a public authority if such public authority:

- 1) makes access to information conditional on the ability to prove justified or other interest (Article 4);

- 2) Acts in contravention of the principle of equality (Article 6);
  - 3) Discriminates against a journalist or a media outlet (Article 7);
  - 4) Fails to specify the information medium and indicate where and when the requested information was published (paragraph 2 of Article 10);
  - 5) Fails to communicate and/or fails to grant access to a document containing accurate and complete information, and challenges the accuracy and completeness of published information, (Article 11);
  - 6) Refuses to receive an applicant's request (Article 15, paragraph 1);
  - 7) Does not keep special records (Article 15, paragraph 7);
  - 8) Fails to act upon a request for information in compliance with this Law and/or provides incomplete or incorrect information (Article 16);
  - 9) Makes access to information conditional on payment of costs, where the amount of such costs exceeds the statutory limit (Article 17);
  - 10) Fails to issue information in the requested form, despite having the technical capacity to do so (Article 18, paragraphs 2 and 3);
  - 11) Refuses to issue a copy of a document containing information in the language in which the request was submitted without proper justification (Article 18, paragraph 4);
  - 12) Otherwise precludes the exercise of the freedom of access to information of public importance, in contravention of the provisions of this Law (Article 22, paragraph 1, item 6);
  - 13) Fails to give the Commissioner access to an information medium (Article 26, paragraph 2);
  - 14) Fails to comply with a decision of the Commissioner (Article 28, paragraph 1);
  - 15) Does not maintain an information medium in accordance with this Law (Article 41);
  - 16) Fails to train its employees and advise them on their duties with regards to the rights enshrined in this Law (Article 42);
- Prevents an administrative inspector from performing inspection and fails to comply with a decision of an administrative inspector (Article 45, paragraph 2).

A fine between 5,000 and 50,000 dinars shall be imposed on the responsible person in a government body if that government body fails to publish a directory with the prescribed data on its work (Article 39).

#### Article 48

A fine between 5,000 and 50,000 dinars shall be imposed on the responsible person of a public authority in the event he/she fails to submit to the Commissioner an annual report with the prescribed data on the activities the authority undertook with the aim of implementing this Law (Article 43).

### **X Final Provisions**

#### Article 49

Public authorities shall nominate the authorized persons for deciding on requests for free access of information of public importance within 30 days of entry of this Law into force.

The National Assembly shall appoint the Commissioner within 45 days of entry of this Law into force.

#### Article 50

This Law shall come into force on the eighth day upon publication in the “Official Gazette of the Republic of Serbia”.

### ***Independent Articles of the Law Amending the Law on Free Access to Information of Public Importance***

*(“Official Gazette of the Republic of Serbia” No. 54/2007)*

#### **Article 5[s1]**

If the same person is appointed as Commissioner or Deputy Commissioner before the expiration of his/her term of office, his/her term of office shall expire after seven years of first appointment and he/she shall be eligible for reappointment.

#### **Article 6[s1]**

This Law shall come into force on the date of its publication in the “Official Gazette of the Republic of Serbia”.

### ***Independent Articles of the Law Amending the Law on Free Access to Information of Public Importance***

*(“Official Gazette of the Republic of Serbia” No. 104/2009)*

**Article 16**

The Legislative Committee of the National Assembly is hereby mandated to adopt the consolidated text of the Law on Free Access to information of Public Importance.

**Article 17**

This Law shall come into force on the eight day of its Publication in the “Official Gazette of the Republic of Serbia”.