

Romanian Parliament

Law no. 544/2001 of 10/12/2001

on free access to information of public interest

In force since 22 December 2001

Published in the Official Gazette, Part I no. 663 of 23 October 2001 and includes the amendments made by the following acts: Corrigendum 2002; L 371/2006; L 380/2006; L 188/2007; L 76/2012; L 144/2016; Last amendment on July 17, 2016.

The Romanian Parliament adopts this law.

CHAPTER I General provisions

Art. 1. - The free and unrestricted access of the person to any information of public interest, defined by this law, is one of the fundamental principles of the relations between persons and public authorities, in accordance with the Romanian Constitution and international documents ratified by the Romanian Parliament.

Art. 2. - For the purposes of this law:

- a) by "public authority or institution" is meant any public authority or institution which uses or manages public financial resources, any autonomous company governed by the Company Law no. 31/1990, republished, as subsequently amended and supplemented, under the authority or, as the case may be, in the coordination or subordination of a central or local public authority and to which the Romanian state or, as the case may be, a territorial-administrative unit is a sole shareholder as well as any regional operator or operator as defined in the Community Public Utilities Act no. 51/2006, republished, as subsequently amended and supplemented. The political parties, sports federations and non-governmental public utility organisations that benefit from public funds are also subject to the provisions of this law;
- b) "information of public interest" means any information concerning the activities or results of the activities of a public authority or public institution, regardless of the format or manner of expression of the information;
- c) "information on personal data" means any information about an identified or identifiable individual.

CHAPTER II

Organisation and provision of access to public information

SECTION 1

Common Provisions on Access to Public Interest Information

Art. 3. - The public authorities and public institutions ensure access to public information is made ex officio or upon request through the public relations department or the person designated for this purpose.

Art. 4. - (1) In order to ensure access to information of public interest, public authorities and institutions have the obligation to organise specialised information and public relations compartments or to designate persons with attributions in this field.

(2) The tasks, organisation and functioning of the public relations compartments shall be established, based on the provisions of this law, by the regulation of the organisation or functioning of the respective public authority or institution.

Art. 5. - (1) Each public authority or institution has the obligation to communicate ex officio the following information of public interest:

a) the normative acts regulating the organisation and functioning of the public authority or institution;

b) the organisational structure, the departments' attributions, the functioning program, the audience program of the public authority or institution;

c) the name and surname of the persons in charge of the public authority or institution and the official responsible for the dissemination of public information;

d) the contact details of the public authority or institution, including: name, headquarters, telephone numbers, fax, e-mail address and website address;

e) financial sources, budget and balance sheet;

f) their own programs and strategies;

g) the list of documents of public interest;

h) the list of the categories of documents produced and/or managed, according to the law;

i) the means of challenging the decision of the public authority or institution in the situation where the person is considered injured in the right of access to the requested public information.

(2) Public authorities and institutions have the obligation to publish and update annually a newsletter containing the information stipulated in paragraph (1).

(3) The public authorities are obliged to publish on their own initiative a regular activity report, at least annually, which will be published in the Official Gazette of Romania, Part III.

(4) Access to the information provided in paragraph (1) shall be carried out by:

a) display at the headquarters of the public authority or institution or by publication in the Official Gazette of Romania or in the mass media, in its own publications, as well as on its own website;

b) to consult them at the headquarters of the public authority or institution in specially designated areas.

(5) Public authorities and institutions have the obligation to make available the privatization contracts concluded after the entry into force of this law, by consulting them at their premises. The above provisions do not apply to privatization contracts falling within the scope of the provisions of Art. 12 paragraph (1).

Art. 6. - (1) Any individual has the right to request and obtain from public authorities and institutions, under the conditions of the present law, information of public interest.

(2) Public authorities and institutions are obliged to provide the persons, at their request, with the public interest information requested, in written or verbal form.

(3) The written request of public interest information shall contain the following elements:

a) the public authority or institution to which the application is addressed;

b) the requested information so as to enable the public authority or institution to identify public interest information;

c) name, surname and signature of the applicant, as well as the address where the response is requested.

Art. 7. - (1) The public authorities and institutions have the obligation to respond in writing to the request of the public interest information within 10 days or, as the case may be, within 30 days from the registration of the request, depending on the difficulty, the complexity, the volume of documentary work and the urgency of the request. If the time required to identify and disseminate the requested information exceeds 10 days, the response shall be communicated to the applicant within 30 days, provided written notice thereof is given within 10 days.

(2) The refusal to communicate the requested information shall be motivated and communicated within 5 days of receipt of the petitions.

(3) Requesting and obtaining information of public interest can be made, if the necessary technical conditions are met, also in electronic format.

Art. 8. - (1) For the information requested verbally, the officers of the information and public relations compartments have the obligation to specify the conditions and the forms in which the access to the public interest information takes place and can provide the requested information on the spot.

(2) If the requested information is not available on the spot, the person is advised to request in writing the information of public interest, and the request to be solved within the time limits stipulated in art. 7.

(3) The information of public interest requested verbally shall be communicated within a minimum program established by the management of the public authority or institution which shall be displayed at its headquarters and which shall be compulsory during the operation of the institution, including one day per week, after the operating schedule.

(4) Registry activities on petitions can not be included in this program and are carried out separately.

(5) Information of public interest requested verbally by the mass media shall be communicated, as a rule, immediately or within 24 hours at most.

Art. 9. - (1) Where the request for information involves the making of copies of the documents held by the public authority or institution, the cost of the copying services shall be borne by the applicant, in accordance with the law.

(2) If, as a result of the information received, the applicant requests new information on the documents held by the public authority or institution, this request shall be treated as a new petition, the reply being sent within the time limits provided for in Art. 7 and 8.

Art. 10. - It is not subject to the provisions of art. 7-9 the work of public authorities and institutions with regards to responding to petitions and audiences, conducted in accordance with their specific competencies, if it concerns other approvals, authorizations, services and any other requests other than information of public interest.

Art. 11. - (1) Persons conducting studies and researches on their own or for business purposes shall have access to the documentary fund of the authority of the public institution on the basis of the personal request, according to the law.

(2) Copies of the documents held by the public authority or institution shall be carried out in accordance with art. 9.

Art. 11. - Any contracting authority, as defined by law, has the obligation to make available to the interested natural or legal person, under the conditions provided by art. 7, public procurement contracts.

Art. 12. - (1) Exemption from the free access of the citizens, stipulated in art. 1 and Art. 11, the following information:

a) information in the field of national defense, safety and public order, if it belongs to the categories of classified information, according to the law;

b) information regarding the deliberations of the authorities, as well as those regarding the economic and political interests of Romania, if they are labelled as classified information, according to the law;

c) information on commercial or financial activities, whether their advertising infringes intellectual or industrial property rights and the principle of fair competition, according to the law;

d) information on personal data, according to the law;

e) information on the procedure during the criminal or disciplinary investigation, if the outcome of the investigation is jeopardized, disclosure of confidential sources or endangering the life, bodily integrity, health of a person following an investigation being carried out or in progress;

f) information on court proceedings, if their publicity prejudices the assurance of a fair trial or the legitimate interest of any party to the proceedings;

g) information the disclosure of which prejudices measures for the protection of young people.

(2) The responsibility for applying the measures for protection of the information belonging to the categories stipulated in paragraph (1) is the responsibility of the persons and public authorities holding such information, as well as the public institutions empowered by law to ensure the security of the information.

Article 13 - Information that favors or conceals the violation of a law by a public authority or institution can not be labelled as classified information and constitutes information of public interest.

Art. 14. - (1) The information regarding the citizen's personal data can only become public interest information insofar as it affects the capacity to exercise a public office.

(2) Public information of personal interest may not be transferred between the public authorities except under a legal obligation or with the prior written consent of the person who has access to that information according to art. 2.

SECTION 2

Specific provisions on access to the public interest information for mass media

Art. 15. - (1) The access of the mass media to the public interest information is guaranteed.

(2) The activity of collecting and disseminating information of public interest, carried out by the mass media, constitutes an embodiment of the right of citizens to have access to any information of public interest.

Art. 16. - In order to ensure the access of mass media to information of public interest, public authorities and institutions have to designate a spokesperson, usually within the information and public relations compartments.

Art. 17. - (1) Public authorities have the obligation to organize periodically, usually once a month, press conferences for the disclosure of information of public interest.

(2) At public press conferences the public authorities are obliged to respond to any information of public interest.

Art. 18. - (1) Public authorities are obliged to grant non-discriminatory accreditation to journalists and representatives of the mass media.

(2) Accreditation is granted upon request, within two days of its registration.

(3) The public authorities may refuse to grant accreditation or withdraw the accreditation of a journalist only for acts which prevent the normal conduct of the activity of the public authority and which do not concern the

opinions expressed in the press by the journalist, under the conditions and within the limits of the law.

(4) Refusal to grant accreditation and withdrawal of accreditation of a journalist shall be communicated in writing and shall not affect the right of the press body to obtain accreditation for another journalist.

Art. 19. - (1) The public authorities and institutions have the obligation to inform in good time the mass media about the press conferences or any other public actions organized by them.

(2) Public authorities and institutions can not in any way prohibit the access of the mass media to the public actions organized by them.

(3) Public authorities, which are obliged by their own organization and functioning law to carry out specific activities in the presence of the public, are obliged to allow the press access to those activities, while the dissemination of the materials obtained by the journalists takes into account only the professional deontology.

Art. 20. - The media are not obliged to publish information provided by public authorities or institutions.

CHAPTER III Penalties

Art. 21. - (1) The explicit or tacit refusal of the designated employee of a public authority or institution for the application of the provisions of the present law constitutes a misconduct and entails disciplinary liability of the culprit.

(2) Against the refusal provided in paragraph (1), a complaint may be lodged with the head of the respective public authority or institution within 30 days of the acquaintance of the injured person.

(3) If, after the administrative inquiry, the complaint is substantiated, the reply shall be sent to the injured person within 15 days of the filing of the complaint and shall contain both the information of public interest requested initially and the disciplinary sanctions against the culprit.

Art. 22. - (1) If a person is considered injured in his/her rights provided for in the present law, he/she may file a complaint with the administrative court of the tribunal in whose territorial jurisdiction he/she resides in or in whose territorial jurisdiction the headquarters of the authority or public institution are. The complaint shall be made within 30 days from the date of expiry of the term stipulated in art. 7.

(2) The court may oblige the public authority or institution to provide the information of public interest requested and to pay moral and/or patrimonial damages.

(3) The decision of the tribunal shall be subject to appeal.

(4) The decision of the Court of Appeal shall be final and irrevocable.

(5) Both the complaint and the appeal shall be heard in court in an emergency procedure and shall be exempt from stamp duty.

CHAPTER IV Transitional and final provisions

Art. 23. - (1) This law shall enter into force 60 days after its publication in the Official Gazette of Romania, Part I.

(2) Within 60 days from the date of publication of this law in the Official Gazette of Romania, Part I, the Government shall elaborate, on the initiative of the Ministry of Public Information, the methodological norms for its application.

Art. 24. - (1) Within 60 days from the date of entry into force of this law, the Ministry of Public Information, the Ministry of Communications and Information Technology and the Ministry of Public Finance shall submit to the Government proposals regarding the measures necessary for public interest information to be made available progressively through computerized databases accessible to the public at national level.

(2) The measures provided in paragraph (1) will also include equipping public authorities and institutions with appropriate computer equipment.

Art. 25. - On the date of entry into force of this law, any contrary provisions shall be abrogated.

This law was adopted by the Senate at its meeting on September 13, 2001, in compliance with the provisions of art. 74 par. (2) of the Romanian Constitution.

PRESIDENT OF THE SENATE,
PAUL PĂCURARU

This law was adopted by the Chamber of Deputies in its meeting on September 18, 2001, observing the provisions of art. 74 par. (2) of the Romanian Constitution.

PRESIDENT OF THE CHAMBER OF DEPUTIES
VALER DORNEANU

Bucharest, October 12, 2001
No. 544.