

The Romanian Parliament

Law no. 52/2003 (republished*)
of 01/21/2003
on decisional transparency in public administration

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Law no. 52/2003 regarding the decisional transparency in the public administration was published in the Official Gazette of Romania, Part I, no. 70 of 3 February 2003, and was subsequently supplemented by Law no. 242/2010 for supplementing Law no. 52/2003 regarding the decisional transparency in the public administration, published in the Official Gazette of Romania, Part I, no. 828 of 10 December 2010.

CHAPTER I
General dispositions

Art. 1. - (1) This law establishes the minimum procedural rules applicable to ensuring decision-making transparency within the elected or appointed central and local public administration authorities, as well as other public institutions using public financial resources, in the relations established between them and citizens and their legally constituted associations.

(2) The law aims at:

- a) increasing the level of responsibility of the public administration towards the citizen as a beneficiary of the administrative decision;
- b) involving the active participation of citizens in the administrative decision-making process and in the drafting of normative acts;
- c) increasing the level of transparency in the entire public administration.

Art. 2. - The principles underlying this law are as follows:

- a) to inform persons, ex officio, on matters of public interest to be debated by the central and local public administration authorities, as well as draft normative acts;
- b) consultation of citizens and associations legally established, at the initiative of public authorities, in the drafting of normative acts;

c) active participation of citizens in administrative decision making and drafting of normative acts, in compliance with the following rules:

1. the sessions and debates of the public authorities and institutions that are the subject of this law are public, according to the law;

2. the debates will be recorded and made public;

3. the minutes of these meetings shall be recorded, archived and made public, in accordance with the law.

Art. 3. - For the purposes of this law, the terms below are defined as follows:

a) normative act - the act issued or adopted by a public authority, with general applicability;

b) decision-making - deliberative process conducted by public authorities;

c) elaboration of normative acts - the procedure of drafting a normative act before submitting it for adoption;

d) recommendation - any point of view, suggestion or opinion, expressed verbally or in writing, received by the public authorities from any interested person in the decision-making process and in the drafting of the normative acts;

e) the obligation of transparency - the obligation of the public administration authorities to inform and submit to the public the draft normative acts, to allow access to the administrative decisions and to the minutes of the public meetings;

f) legally constituted association - any civic, trade union, employers' organization or any other associative group of civic representation;

g) minutes - the written document summarizing the views expressed by the participants at a public hearing or a public debate;

h) order of precedence - the order which determines the priority of the participation in the public meetings, in relation to the interest shown in the subject of the meeting;

i) public hearing - a meeting held within the public administration authorities and accessible to any interested person;

j) public policy documents - the decision-making instruments through which are identified the possible solutions for solving the public policy issues, as they are defined and structured in the Government Decision no. 870/2006 regarding the approval of the Strategy for the improvement of the system of elaboration, coordination and planning of public policies at the level of the central public administration and in the Government Decision no. 775/2005 for the approval of the Regulation regarding the procedures for elaboration, monitoring and evaluation of public policies at central level, as subsequently amended;

k) public debate - the public meeting, organized according to art. 7.

Article 4 - The public administration authorities bound to comply with the provisions of this law are:

a) central public administration authorities: ministries, other central government bodies subordinated to the Government or ministries, their decentralized public services and autonomous administrative authorities;

b) local public administration authorities: county councils, local councils, mayors, institutions and public services of local or county interest.

Art. 5. - The provisions of this law also apply to public policy documents elaborated by the central public administration authorities, as provided by art. 4 a).

Art. 6. - The provisions of this law do not apply to the process of drafting normative acts and meetings in which information is presented on:

a) national defense, national security and public order, the country's economic and political strategic interests, as well as the deliberations of the authorities, if they are labelled as classified information, according to the law;

b) the values, deadlines and technical and economic data of commercial or financial activities, if their publication violates the principle of fair competition, according to the law;

c) personal data, according to the law.

CHAPTER II

Procedures for the participation of citizens and associations legally constituted in the process of drafting the normative acts and in the decision-making process

SECTION 1

Provisions on participation in the drafting of normative acts

Art. 7. - (1) Within the procedures for elaboration of draft normative acts the public administration authority has the obligation to publish an announcement regarding this action on its own site, to display it at its own premises, in an accessible space to the public, and forward it to the central or local media, as the case may be. The public administration authority will submit the draft normative acts to all persons who have submitted a request for receiving this information.

(2) The announcement regarding the drafting of a normative act shall be brought to the attention of the public, according to para. (1) at least 30 working days prior to submission to the public authorities for endorsement. The announcement will include: the date of display, a substantiation note, a statement of reasons, an approval report on the need to adopt the proposed normative act, an impact and/or feasibility study, as the case may be, the full text of the draft act, the term and the way in which the interested persons can submit in writing proposals, suggestions, opinions with recommendation value regarding the draft normative act.

(3) The announcement regarding the elaboration of a draft normative act with relevance to the business environment shall be transmitted by the initiator to the business associations and other legally established associations, by specific fields of activity, within the term stipulated in paragraph (2).

(4) Upon publishing the announcement, the public administration authority shall set a period of at least 10 calendar days for the draft normative acts provided for in paragraph (2) to receive in writing proposals, suggestions or opinions on the draft normative act subject to public debate.

(5) Proposals, suggestions or opinions on the draft normative act subject to public debate shall be recorded in a register, mentioning the date of receipt, the person and the contact details from which the proposal, opinion or recommendation was received.

(6) The interested persons or organizations who submit in writing proposals, suggestions or opinions on the draft normative act subject to public debate shall specify the article or articles in the draft normative act to which they refer, mentioning the date of dispatch and the contact details of the sender.

(7) The head of the public authority shall designate a person within the institution, responsible for the relationship with the civil society, to receive the proposals, suggestions and opinions of the interested persons on the proposed draft normative act.

(8) The draft normative act shall be submitted for analysis and approval to the public authorities concerned only after finalization, on the basis of the observations and proposals formulated according to par. (4).

(9) The public authority concerned is obliged to decide on the organization of a meeting in which the draft normative act is publicly debated if this has been requested in writing by a legally established association or by another public authority.

(10) The public debates shall be conducted according to the following rules:

a) the responsible public authority, through the person designated according to par. (7), will organize the meeting, publish on its own site and display at its own premises, along with the documents mentioned in paragraph (2) information related to how to collect recommendations, how to enroll and take the floor, the speaking time, and any other details of the public debate that ensure the right to free expression of any interested citizen;

b) the public debate will end when all the applicants enrolled for speech have expressed their recommendations with concrete reference only to the draft normative act in question;

c) at the public debate presence is mandatory for the initiator and/or the initiators of the normative act within the institution or local public authority, experts and/or specialists who participated in the elaboration of the substantiation note, the explanatory statement, the approval report on the necessity of the adoption of the proposed normative act, the impact and/or feasibility study, as the case may be, and the draft normative act;

d) Within 10 calendar days after the conclusion of the public debate, the following documents shall be publicly accessible on the website and at the headquarters of the responsible public authority: minutes of the public debate, collected written recommendations, improved versions of the draft

normative act in various stages of drafting, endorsement reports, as well as the final version of the normative act.

(11) All documents referred to in paragraph (2) and paragraph (10) points a) and d) will be kept on the website of the responsible public authority in a section dedicated to decisional transparency. All site updates will necessarily include the date of the impression.

(12) In all cases where public debates are held, they must be held no later than 10 calendar days after the announcement of the date and place where they are to be organized. The public authority concerned must examine all the recommendations regarding the draft normative act in question.

(13) In the case of a situation which, because of its exceptional circumstances, requires immediate solutions, in order to avoid serious prejudice to the public interest, the draft normative acts are subject to adoption under the emergency procedure provided by the regulations in force.

SECTION 2

Provisions on participation in the decision-making process

Art. 8. - (1) Participation of the interested persons in the works of the public meetings shall be carried out under the following conditions:

a) the announcement of the public meeting is displayed at the headquarters of the public authority, inserted on its website and forwarded to the media at least 3 days before the meeting;

(b) this notice must be brought to the attention of citizens and legally constituted associations which have submitted suggestions and proposals in writing of recommendation value relating to one of the areas of public interest to be addressed in a public hearing;

c) the announcement will contain the date, time and venue of the public hearing as well as the agenda.

(2) The forwarding of the announcement and of the special invitation of persons to the public hearing shall be the responsibility of the person designated for the relationship with civil society.

(3) Participation of the interested persons at the public meetings shall be made within the limits of the seats available in the meeting room, in the order of precedence given by the interest of the associations legally constituted in relation to the subject of the public meeting, determined by the person who presides the public meeting.

(4) The order of precedence can not limit the access of mass media to public meetings.

Art. 9. - The person who presides over the public meeting offers the opportunity to the guests and persons who participate on their own initiative to express themselves on the issues on the agenda.

Article 10. - (1) The adoption of administrative decisions is the exclusive competence of public authorities.

(2) The views expressed during public sessions by the persons mentioned in art. 9 have recommendation value.

Art. 11. - The minutes of the public hearing, including the vote of each member, except where a secret vote has been taken, shall be displayed at the seat of the public authority concerned and published on its website.

Art. 12. - (1) The public authorities referred to in art. 4 are obliged to prepare and archive the minutes of the public meetings. Where necessary, public meetings may be recorded.

(2) The recordings of the public meetings, except those stipulated in art. 7, shall be made public, upon request, under the conditions of Law no. 544/2001 regarding the free access to public information, with subsequent amendments and supplements.

(3) The public administration authorities referred to in art. 4 are obliged to justify in writing the non-observance of the recommendations formulated and submitted in writing by the citizens and their legally constituted associations.

Art. 13. - (1) The public authorities referred to in art. 4 are required to draw up and make public an annual report on decisional transparency, which shall include at least the following elements:

- a) the total number of recommendations received;
- b) the total number of recommendations included in the draft normative acts and the content of the decisions taken;
- c) the number of participants in public meetings;
- d) number of public debates organized on draft normative acts;
- e) the situation of cases in which the public authority has been sued for failure to comply with the provisions of the present law;
- f) own evaluation of the partnership with the citizens and their legally constituted associations;
- g) the number of meetings that were not public and the reason for restricting access.

(2) The Annual Report on Decision-Making Transparency shall be made public on its website by displaying it at its premises in a publicly accessible place or by a public hearing.

CHAPTER III Penalties

Art. 14. - (1) Any person who considers himself/herself to be injured in his/her rights provided by the present law may file a complaint according to the provisions of the Law on administrative litigation no. 554/2004, as amended and supplemented.

(2) The complaint and the appeal shall be judged in an emergency procedure and shall be exempt from stamp duty.

Art. 15. - Disciplinary offense and sanction, according to the provisions of Law no. 188/1999 on the Civil Servants' Statute, republished, as subsequently amended or supplemented, or, as the case may be, according to labor law, the act of an official who, for reasons contrary to the law, does not allow persons access to public meetings or prevents the

involvement of interested persons in the elaboration process of normative acts of public interest, under the present law.

Art. 16. - Persons attending public meetings, invited or on their own initiative, must comply with the rules of organization and functioning of the public authority. If the meeting chairperson finds that a person has violated the regulation, can order the warning and, ultimately, the eviction of said person.

CHAPTER IV Final provisions

Art. 17. - (1) This law shall enter into force within 60 days from its publication in the Official Gazette of Romania, Part I.

(2) On the date of entry into force of this law, any contrary provision shall be abrogated.

Art. 18. - Within 30 days from the entry into force of this law, the public authorities and other legal entities stipulated in art. 4 shall be obliged to amend their regulations for organization and functioning in accordance with the provisions of this law.