

UNOFFICIAL TRANSLATION

LAW 544/12 October 2001

on Free Access to Public Information

The Parliament of Romania enacts the following Law.

CHAPTER 1

General Provisions

Art.1.-The individual's free and unconstrained access to public information, thus defined in this Law, represents one of the fundamental principles of the relations between the individuals and the public authorities in conformity with the Romanian Constitution and the international documents ratified by the Romanian Parliament.

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

- a) Public authority or organization means any public authority or organization or any autonomous organization using public financial resources and developing its activity in Romania, according to the Constitution;
- b) Public information means any information related to or resulting from the activities of a public authority or organization, regardless of the frame, form or way of expression of the information.
- c) Personal information means any information about an identified or identifiable physical person.

CHAPTER 2

Organization and granting access to public information

SECTION 1

Provisions regarding access to public information

Art.3. – Public authorities and organizations shall grant ex officio or by request access to the public information. The request shall be

addressed to the compartment of public relations or to the designated person.

Art. 4. - (1) In order that each individual should have access to public information, public authorities and organizations shall establish specialized compartments for public relations and information or shall designate a person with tasks in this field.

(2) The attributions, organization and functioning of the public relation compartments shall be established according to the organizational and functioning rules of the respective public authority or organization, on the basis of this law.

Art.5. - (1) Each public authority or organization shall communicate ex officio the following public information:

- a) the norms that settle the organization and functioning of the public authority or organization;
- b) the organization's structure, the departments' attributions, the working time table and the audience time table of the public authority or organization;
- c) the name and surname of the management staff of the public authority or organization and of the employee assigned to release public information;
- d) contact coordinates of the public authority or organization: name, headquarters, phone numbers, fax numbers, e-mail and web site;
- e) financial sources, budget and balance sheet;
- f) own programs and strategies;
- g) list of public documents;
- h) list of categories of produced and/or managed documents;
- i) ways of contesting the decision of the public authority or organization if an individual considers himself/herself as an injured party in what concerns the right to have access to the requested public information.

(2) The public authorities and organizations shall publish and update annually an information bulletin which will include the information provided in paragraph (1).

(3) The public authorities release to the public, ex officio, at least annually, a periodical activity report, which will be published in the Romanian Official Journal, Part II.

- (4) Access to the information provided in paragraph (1) shall be granted by:
- a) display of information at the public authority or organization headquarters or by publishing in the Romanian Official Journal or in the mass-media, in its own publications and web site;
 - b) consultation of the information at the headquarters of the public authority or organization, in specially designated places.

Art. 6. - (1) Any individual has the right to request and obtain public information from the public authorities and organizations, under the terms of this law.

(2) Public authorities and organizations shall provide public information to the individuals, at their request, in writing or orally.

(3) The request, in writing, for public information shall include the following:

- a) the public authority or organization to which the request is addressed;
- b) the requested information, so that the public authority or organization may identify the public information;
- c) name, surname and signature of the petitioner and the address where the answer shall be sent.

Art.7 – (1) Public authorities and organizations shall answer, in writing, to the request for public information within 10 (ten) days or in 30 (thirty) days, depending on the difficulty, complexity, volume of documentary works and urgency of request. If the duration necessary for the identification and disclosure of the requested information exceeds 10 days, the answer shall be communicated to the petitioner in no more than 30 days, with a 10 days' prior notification of the person.

(2) Refusal to disclose requested information shall be accounted for and communicated within 5 days from reception of the petitions.

(3) The request and disclosure of public information shall also be made in electronic format, if the necessary technical requirements are fulfilled.

Art.8. – (1) For information requested orally, the employees of the information and public relations compartment shall state the circumstances and ways in which the access to public information is granted and may provide the requested information without delay.

(2) If the requested information is not available on the spot, the petitioner is advised to request, in writing, the respective public information, and the petition will be solved under the terms of art. 7.

(3) The public information requested orally shall be communicated within a minimum compulsory time table established by the staff management of the public authority or organization, which will be displayed at its headquarters and will apply during the working hours of the organization, and one day per week after the working program.

(4) The registering activities regarding the petitions cannot be included in this time table and shall be dealt with separately.

(5) The public information requested orally by the mass-media shall be communicated, as a rule, immediately or in no more than 24 hours.

Art.9. - (1) If the request for information implies reproduction of the documents held by the public authority or organization, the petitioner shall bear the cost of the reproduction, in compliance with the law.

(2) If following the information received, the petitioner requires new information regarding the documents held by the public authority or organization, this request shall be dealt with as a new petition, and the answer will be sent under the terms of articles 7 and 8.

Art.10. – Activities of public authorities and organizations such as answering petitions and granting audience, carried out according to their competencies, and if they refer to other approvals, authorizations, service-rendering or any other requests except public information shall not be submitted to the provisions of articles 7 to 9.

Art.11. – (1) Individuals carrying out surveys and research for their own interest or for their jobs have access to the documents record of

the public authority or organization based on a personal demand and under the terms of the law.

(2) Reproductions of the documents held by the public authority or organization shall be made under the terms of art. 9.

Art.12. – (1) Citizens' free access to public information, as stipulated in art.1, shall be denied for the following:

- a) information in the field of national defence, public order and security if, in compliance with the law, it belongs to the category of classified information;
- b) information about consultations of the authorities and regarding Romania's political and economic interests if, in compliance with the law, it belongs to the category of classified information;
- c) information about financial or commercial activities if, according to the law, its release is detrimental to the principle of fair competition;
- d) personal information under the terms of the law;
- e) information on the procedures during criminal or disciplinary investigations if the result of the investigation is jeopardized, confidential sources are disclosed or the person's life, bodily integrity and health are endangered after or during the investigation;
- f) information on the rules of procedure, if its release is detrimental to a fair trial or to the legitimate interest of any of the parties to the trial;
- g) information whose release prejudices the protective measures for the young people;

(2) Accountability for applying the protective measures for information belonging to the categories under paragraph (1) rests with the public persons and authorities holding such information, as well as with the public organizations legally authorized to ensure the protection of information.

Art. 13. – Information encouraging or concealing the breaking of law by a public authority or organization shall not be regarded as classified information and shall be considered public information.

Art.14. – (1) Personal information about a citizen may become public information as long as it refers to exercising a public position.

(2) Public personal information shall be transferred between public authorities only under the terms of a legal obligation or with the prior written consent of the person having access to that information in compliance with art.2.

SECTION 2

Special Provisions for the Access of Mass-Media to Public Information

Art.15. – (1) Access of mass-media to public information is guaranteed by law.

(2) Collation and dissemination of public information developed by the mass-media represent the citizen's right to have access to any public information.

Art.16. – In order to ensure access of the mass-media to public information, the public authorities and organizations shall designate a spokesman, generally from the information and public relations compartments.

Art.17. – (1) Periodically, public authorities shall organize, generally once a month, press conferences for the release of public information.
(2) During the press conferences, the public authorities shall answer any question referring to public information.

Art.18. – (1) Public authorities shall accredit the members of the press and the mass-media representatives without discrimination.

(2) The accreditation shall be granted at request, two days after it has been registered.

(3) Public authorities may deny or withdraw accreditation to a member of the press only for actions which obstruct the normal activity of the public authority and which do not concern the opinions expressed in the press by the respective journalist, under the terms and restrictions of the law.

(4) Denial and withdrawal of accreditation to a member of the press shall be notified in writing, and shall not deprive the press authority of the right to obtain accreditation for another member of the press.

Art.19. – (1) Public authorities and organizations shall inform in due time the mass-media representatives on the press conferences or any other public actions organized by them.

(2) Public authorities and organizations shall not deny the access of mass-media to any public actions organized by them.

(3) Public authorities that are obliged by their own organization and functioning law to develop specific activities in front of the audience shall allow the press to have access to those activities, following that the release of the materials obtained by the journalists shall take into account the professional deontology.

Art. 20. – The mass-media are not obliged to publish the information provided by the public authorities or organizations.

CHAPTER III

Sanctions

Art. 21. – (1) The explicit or silent refusal of the designated employee within a public authority or organization to enforce the provisions of this law shall be considered as infringement and the employee shall be deemed disciplinary responsible.

(2) Within 30 days from notification, the injured person may complain about refusal, as stipulated under paragraph (1), to the head of the public authority or organization.

(3) If after administrative investigation the complaint is found well-grounded, the individual shall receive an answer no later than 15 days from the submission of the complaint; the answer shall contain the public information previously requested and the mentioning of the disciplinary sanctions imposed to the person found guilty.

Art. 22. – (1) A person who considers himself/herself deprived of his/her rights, as stipulated under this law, may complain to the section for contentious matters in the competence of the administrative courts within his/her residential area or in the area where the public authority or organization has its headquarters. The complaint shall be made no later than 30 days from the expiration of the period stipulated under art. 7.

(2) The law court may force the public authority or organization to provide the requested public information and to pay moral and/or patrimonial prejudice.

(3) The decision of the law court may be submitted for appeal.

(4) The decision of the Court is final and irrevocable.

(5) Both the complaint and the appeal shall be trialed in emergency procedure, in the court of justice, and shall be exempted from stamp duty.

CHAPTER IV

Transitory and Final Provisions

Art. 23. – (1) This law shall come into force 60 days from its publication in the Official Journal of Romania, Part I.

(2) No later than 60 days from its publication in the Official Journal of Romania, Part I, the Government shall set up methodological norms for the enforcement of this law, at the initiative of the Ministry of Public Information.

Art. 24. – (1) No later than 60 days from the coming 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 propositions relating to the necessary measures that should be taken so that the public information become available progressively, by means of a computer database accessible to the public at a national level.

(2) The measures stipulated in paragraph (1) shall also concern the supply of public authorities and organizations with appropriate computing equipment.

Art. 25. – The date when this law comes into force, all contrary provisions shall be abrogated.

This law was enacted by the Senate in the working session of 13th September 2001, with the observance of the provisions of art.74, paragraph (2) of the Romanian Constitution.

This law was enacted by the Chamber of Deputies in the working session of 18th September 2001, with the observance of the provisions of art.74, paragraph (2) of the Romanian Constitution.