

**LAW
ON FREE ACCESS TO INFORMATION
OF PUBLIC CHARACTER**

I. GENERAL PROVISIONS

1. Subject of the Law

Article 1

(1) The present Law shall regulate the conditions, manner and procedure of exercising the right to free access to information of public character disposed by state administration bodies and other bodies and institutions established by law, municipal bodies, bodies of the City of Skopje and of the City of Skopje's municipalities, public institutions and services, public enterprises, legal and natural persons performing public competences and activities of public interest, determined by law (hereinafter referred to as information holders).

(2) The right to free access to information of public character shall be exercised in accordance with the present Law and other laws.

(3) The Commission for Protection of the Right to Free Access to Information of Public Character shall adopt the Instructions on the manner and procedure of implementation of the present Law.

2. The goal of the Law

Article 2

(1) The present Law shall provide for publicity and openness in the operation of information holders, and shall enable natural and legal persons to exercise their right to free access to information of public character.

(2) Information holders shall be bound to provide for public information throughout their operation.

Article 3

Certain expressions in the present Law shall have the following meanings:

- “information holders” shall refer to state administration bodies and to other bodies and institutions specified by law, municipal bodies, bodies of the City of Skopje and to municipalities comprising the City of Skopje, public institutions and services, public enterprises, and to legal and natural persons performing public competencies and activities of public interest determined by law;
- “information of public character” shall refer to information in any form whatsoever, created and disposed by an information holder i.e. disposed by the information holder only in line with its competencies (hereinafter referred to as “information”);
- “information requester” shall refer to any legal or natural person without discrimination on any grounds whatsoever, in a manner and under conditions

prescribed in the present Law and in other laws (hereinafter referred to as “the requester”); and

- “document” shall refer to any record of information, regardless of its physical form or features, a written or a printed text, maps, schemes, photographs, pictures, drawings, sketches, working materials, as well as audio, voice, magnetic or electronic records, optical or video records in any form whatsoever, as well as mobile equipment for automatic data processing with integrated or transferable memory to store data in digital form.

3. Free access to information

Article 4

- (1) Free access to information shall be enjoyed by all legal and natural persons.
- (2) Free access to information shall also be enjoyed by foreign legal and natural persons in accordance with the present Law and other laws.

4. Publishing a list

Article 5

The Commission for Protection of the Right to Free Access to Information of Public Character shall, once a year (in the media, a bulletin, on a website), publish a list of holders of information of public character, and the responsible person within the information holder.

5. Exceptions to the free access to information

Article 6

- (1) Information holders may reject a request to access information in accordance with the law, should the information in question relate to the following:
 - 1. information that, under the law, represents classified information of appropriate degree of secrecy;
 - 2. personal datum the disclosure of which would mean violation of personal data protection;
 - 3. information on archive working having been identified as confidential;
 - 4. information the disclosure of which would mean violation of the confidentiality of the tax procedure;
 - 5. information obtained or compiled within an investigation, a criminal or a misdemeanor procedure, for the purpose of conducting an administrative or a civil procedure, the disclosure of which would have harmful consequences for the course of the procedure itself;
 - 6. information relating to commercial and other economic interests, including the interests of monetary and fiscal policies, the disclosure of which may have harmful consequences for the exercising of a particular function;
 - 7. information contained in a document undergoing a procedure of compiling and still being subject of harmonization with an information holder, the disclosure of which would cause misunderstanding of the contents of the document in question;

8. information related with environment protection which is not available to the public due to the human health and environmental protection; and
 9. information jeopardizing industrial or intellectual property rights (patent, model, sample, goods or service seal, product origin indication).
- (2) Information listed in paragraph (1) hereunder shall become available once the reasons for its being unavailable shall cease to exist.
- (3) Under exception to paragraph (1) hereunder, information holders shall allow access to information should, in case such information is published, consequences to the interest being protected be smaller than the public interest to be maintained with the publishing of such information.

6. Partial access

Article 7

If a document or any part thereof contains information mentioned in Article 6, paragraph (1) of the present Law, which may be separated from the document in question without jeopardizing its overall security, the information holder shall separate such information from the document and shall inform the requester on the contents of the remaining part of the document.

II. OFFICIAL IN CHARGE OF INFORMATION MEDIATION

2. The official

Article 8

- (1) Every information holder shall designate one or more officials for information mediation for the purpose of exercising the right to free access to information.
- (2) The information holder shall be obliged to inform the public on the official in charge of information mediation.
- (3) The official in charge of information mediation shall maintain contacts with the information requester and shall provide it with the information and support necessary, and shall maintain appropriate records of information requests received and of information storing and issuing.
- (4) Several information holders may together appoint one or several officials in charge of information mediation in the exercising of the right to free access to information.

III. DUTIES OF INFORMATION HOLDERS

1. Information list

Article 9

Each information holder shall be obliged to regularly maintain and update the list of information it disposes with, and to publish such list so as to make it available to the public (on a website, information board etc.).

2. Information mediation

Article 10

- (1) The information holder shall be obliged to inform the public on the following:
- the basic data to establish contact with the information holder, in particular: name, address, telephone number, fax number, e-mail address, and website address;
 - the manner of submitting a request for access to information;
 - the regulations regarding the competence of the information holder, related to the register of regulations published in the official gazette;
 - the proposed programs, programs, strategies, views, opinions, studies, and other similar documents related with the information holder's competence;
 - all calls for bids within public procurement procedures, and the tender documentation specified by law;
 - information on its competencies determined by law;
 - the organization and costs of operation, of providing services to citizens in administrative procedures, and of its own activities;
 - the issuing of information bulletins and other forms of informing;
 - the website publishing of decisions, acts and measures affecting citizens' life and work; and
 - other information that may stem from the information holder's competence and operation.
- (2) Each information holder shall be bound to provide for free-of-charge access to information mentioned in paragraph (1) hereunder.

Article 11

In order to provide for free access to information, the responsible person with the information holder shall be bound to provide to information requesters premises in which the latter may have insight to information requested, and officials in charge of information mediation shall be bound to assist information requesters in their requesting information in accordance with the present Law and with other laws.

IV. THE PROCEDURE OF EXERCISING THE RIGHT TO FREE ACCESS TO INFORMATION

1. Oral or written requests

Article 12

- (1) The requester may request access to information in oral, written or electronic forms.
- (2) Each requester shall, on the basis of its request, have the right to access information maintained by the information holder, in particular by means of insight, transcript, photocopy or an electronic record.

2. Oral request

Article 13

(1) If the requester demands access to information by means of an oral request, the information holder shall be obliged to provide the requester with such access, in a manner to allow the requester sufficient time to get acquainted with its contents, on which the information holder shall compile a written note, unless the procedure involves information mentioned in Article 6, paragraph (1) of the present Law.

(2) If the information holder responds positively to the demand mentioned in paragraph (1) hereunder, it shall, immediately afterwards, or within ten days following the submitting of the demand at latest, enable the requester to become acquainted with the contents of the information request so as to provide the requester with the opportunity for information insight or with a transcript, a photocopy or an electronic record of the information requested.

(3) Should the information holder respond negatively to a request or is not able to respond to such a request immediately, or if the requester files an oral or written complaint as to the manner of their being acquainted with the information requested, the official in charge of information mediation shall be obliged to draft an official note regarding such a demand to include data on the requester and the date of demand receipt, and to inform the requester of the information in question on the special request or on the information requested.

(4) In cases mentioned in paragraph (3) hereunder, the procedure following the oral request shall proceed in the same manner as in case of a written request for information, in accordance with the present Law.

3. Written request

Article 14

(1) Any written request for access to information shall be decided upon by the information holder, in a procedure determined by the present Law.

(2) Issues within the procedure mentioned in paragraph (1) hereunder not having been determined by the present Law shall be governed by provisions contained in the Law on the General Administrative Procedure.

4. Submitting a request

Article 15

(1) The request for access to information shall be submitted by the requester to the information holder.

(2) As for a request mentioned in paragraph (1) hereunder submitted in electronic form, the provisions of the present Law and of other laws shall apply.

5. The request content

Article 16

(1) The type and format of the request to access information form shall be determined by the Commission; the information holder shall be bound to provide the requester with such a form;

(2) Each request shall contain the title of the information holder, the personal name and surname of the information requester, data on the possible representative or authorized person, the firm or the legal person.

(3) In its request, the requester shall be obliged to state the information it wants to become acquainted with, and the way in which it wants to become acquainted with the contents of the information requested (insight, transcript, photocopy, electronic record).

(4) The requester shall not be obliged to provide justification to its request, but it shall have to state that it is submitting a request for access to information.

(5) If, on the basis of the subject of a request, it is to be concluded that the procedure is about a request to access information in accordance with the present Law, the information holder shall be obliged to consider such a request in accordance with the present Law.

6. Request supplementing and rejecting

Article 17

(1) If an information request is incomplete and if, due to this fact, the information holder is not able to act thereon, it shall ask the information requester to supplement its request and shall clearly specify the consequences if the requester fails to do so. The requester shall be bound to amend its request within three days following the date of its receipt of the notification on the need of supplementing the information request.

(2) The official in charge of information mediation shall be bound to provide the requester with appropriate assistance in the supplementing of the latter's request.

(3) Should the requester fail to act in accordance with paragraphs (1) and (2) hereunder, the information holder shall, by a conclusion, find the request to be withdrawn.

(4) Should a request, even after being supplemented, fail to meet the requirements mentioned in Article 16 of the present Law, and should the information holder, due to this fact, be prevented from considering such a request, the information holder shall adopt a decision whereby such a request shall be rejected.

7. Request forwarding

Article 18

(1) If the information holder having received an information request does not dispose with the information requested, it shall, immediately, and within ten days following its receipt of the request at latest, be obliged to forward this request to the information holder that, according to the contents of the request in question, is considered to be the holder of the information requested, and shall inform the requester accordingly.

(2) The prescribed time period to provide information shall commence from the day the request mentioned in paragraph (1) hereunder is received by the information holder to whom such request has been forwarded.

Article 19

The procedure following a request to access information of public character shall be maintained by the official mentioned in Article 8 of the present Law.

8. Request processing

Article 20

- (1) If the information holder positively responds to a request, it shall compile a report thereon.
- (2) If the information holder decides to fully or partially reject a request, it shall adopt an appropriate decision thereto.
- (3) In cases mentioned in paragraph (2) hereunder, the decision shall contain an elaboration of the reasons due to which the request in question has been rejected.
- (4) If the information holder fails to enable the requester access to information within the time period determined in Article 21 of the present Law, and if it fails to provide the requester with the decision mentioned in paragraph (2) hereunder, the request shall be considered rejected, after which a relevant complaint may be filed.

Article 21

- (1) The information holder shall be bound to answer the requester's request immediately, or within 30 days following the date of information holder's receipt of such request at latest.
- (2) The information holder shall provide the information in the form requested, unless the information requested already exists in a pre-determined form and is available to the public, and unless it is more desirable that the information be issued in a form other than the requested one; in such cases, the information holder shall justify its reasons for such information issuing.

9. Extension of the time period for issuing the information requested

Article 22

- (1) If the information holder should need a time period longer than the one prescribed in Article 21 of the present Law to enable partial access to certain information, in line with Article 7 of the present Law, or due to the large scope of the document requested, it may extend the time period needed, yet the time period for issuing information may not, as a whole, exceed the period of 40 days following the date of receipt of an information request.
- (2) The information holder shall be bound to inform the requester in written form on the extension of the time period mentioned in paragraph (1) hereunder, as well as on the justification of the reasons for the extension, which must be done three days at latest prior to the expiring of the time period set out in Article 21 of the present Law.
- (3) The information requester shall have the right to initiate a complaint in front of the Commission for Protection of the Right to Free Access to Information of Public Character within eight days, should the information holder fail to act within the time period mentioned in paragraph (1) hereunder.

10. Requests already answered to

Article 23

The information holder shall be bound to inform the information requester regarding the request for access to information, if the former has already responded positively to an identical or a similar request from the same requester, within six months prior to the date of such request receipt.

11. Responding to an information request

Article 24

(1) If the information holder positively responds to a request, it shall immediately enable the requester to become acquainted with the contents of the information requested, in particular by means of insight, transcript, photocopy, or electronic records.

(2) If the requester demands that the information be provided to it for insight, the information holder shall be bound to enable such insight by providing to the requester sufficient time to become acquainted with the contents of the information in question.

(3) If, as a result of the information provided a request for additional information related to the documents owned by the information holder arises, in line with the Articles 15 and 16 of the present Law, together with the already provided answer the requester submits new request.

(4) Should the requester consider that the information it has become acquainted with is not the information it has stated in its request, it may request the information holder to enable it to become acquainted with the information it originally mentioned in its request, within ten days at latest following the receipt of the repeated request on the part of the information holder.

12. The language of request submitting

Article 25

The requester shall submit its request to the information holder in the Macedonian language and its Cyrillic alphabet; the requester speaking an official language other than the Macedonian language and alphabet may submit its request also in the official language and alphabet being used in accordance with the law.

13. Request rejection and notification

Article 26

(1) The information holder may fully or partially reject a request if it finds that the information requested represents information mentioned in Article 6, paragraph (1), bearing in mind also Article 6, paragraph (3) of the present Law.

(2) If the request relates to information not disposed by the information holder, or if the information requested has already been published in accordance with Articles 18 and 23 of the present Law, the requester shall be notified thereon in written form.

14. The right to legal protection

Article 27

Each requester having submitted a written request for access to information shall be entitled to legal protection in accordance with the present Law.

15. The appeal procedure

Article 28

(1) The requester shall have the right to initiate a complaint in front of the Commission for Protection of the Right to Free Access to Information of Public Character, against the decision in which the information holder has rejected its request, within 15 days following the date of the requester's receipt of the relevant decision.

(2) The requester shall have the right to submit complaint to the Commission for Protection of the Right to Free Access to Information of Public Character, in case the information holder has failed to act in accordance with Article 20, paragraph (4), Article 24, paragraph (4), and Article 26, paragraph (1) of the present Law, within eight days following the date of its receipt of the relevant act at latest.

(3) The Commission for Protection of the Right to Free Access to Information of Public Character shall decide upon the requester's complaint within 15 days following the date of complaint receipt.

(4) The appeal procedure mentioned in paragraph (2) hereunder shall be maintained in accordance with the provisions contained in the Law on the General Administrative Procedure.

V. COSTS OF INFORMATION MEDIATION

Article 29

(1) Insight to information requested shall be provided free of charge.

(2) For the obtained transcript, photocopy or electronic records, the information requester shall pay a fee to the amount of material costs to be covered.

(3) The Government of the Republic of Macedonia shall, upon proposal from the Ministry of Finance, adopt an act specifying the reimbursement of material costs of information providing by information holders.

(4) The information holder shall publish the amount of the fee mentioned in paragraph (3) hereunder in an appropriate manner (in the official bulletin of the information holder, on its website, on an information board, etc.), and shall make this amount known to any requester before it submits its request.

(5) Should the request relate to information of larger scope, the information holder may ask the requester to in advance pay the fee to cover the costs of information obtaining.

VI. THE COMMISSION FOR PROTECTION OF THE RIGHT TO FREE ACCESS TO INFORMATION OF PUBLIC CHARACTER

1. The status of the Commission

Article 30

(1) The Commission for Protection of the Right to Free Access to Information of Public Character (hereinafter referred to as "the Commission") shall be independent in its work and in its adoption of decisions within its competencies determined by the present Law.

(2) The funds for the operation of the Commission shall be provided by the Budget of the Republic of Macedonia. The seat of the Commission is in Skopje. The Commission reports to the Parliament of the Republic of Macedonia and submits annual report for its work.

2. Composition, appointment and dismissal of the Commission

Article 31

(1) The Commission is consisted of five members, one of them is president and one is vice-president. The term of office of the members is five years with the right to re-appointment. The president and the vice-president perform their functions professionally.

(2) Upon proposal from the Government of the Republic of Macedonia, the president, vice-president and the member of the Commission representing the nongovernmental sector shall be appointed and dismissed by the Parliament of the Republic of Macedonia, for a five-year period, with the right to re-appointment.

(3) Two members of the Commission from among the Commission's expert service shall, upon proposal from the Government of the Republic of Macedonia, be appointed and dismissed by the Parliament of the Republic of Macedonia, for a five-year period and with the right to be re-elected.

(4) The president of the Commission shall represent the Commission and shall govern its work.

(5) The positions of the Commission president and vice-president, as well as the Commission member representing the nongovernmental sector shall be open for appointment to any person being citizen of the Republic of Macedonia, being respected and distinguished in the fields of information and access to information of public character.

(6) During their mandates, the Commission president, vice-president and members may not perform duties within political parties' bodies.

(7) The Parliament of the Republic of Macedonia shall dismiss the Commission president, vice-president or member prior to the expiration of their mandates, in cases of a proposal from the Government of the Republic of Macedonia, upon personal request from these persons, in case of these persons' illness which will prevent them from performing their duties, or when such persons shall act contrary to the provisions of the present Law.

(8) If under paragraph (7) of this Article the position of the Commission member or its deputy ceases, prior to the expiration of their term of office, the Parliament of the Republic of Macedonia, upon proposal from the Government of the Republic of Macedonia, shall appoint new Commission member with a new term of office.

3. The competences of the Commission

Article 32

The Commission shall perform the following tasks:

- it shall decide on each complaint against the decision and conclusion whereby an information holder shall reject a request to access information filed by an information requester;
- it shall make sure that provisions of the present Law are implemented;
- it shall compile and publish a list of information holders;
- it shall issue opinions on proposed laws regulating free access to information;
- it shall carry out activities regarding the education of information holders to provide information requesters with information disposed of by them;
- it shall cooperate with information holders regarding the exercising of the right to access information;
- it shall issue proposals regarding the necessary funding for the Commission's operation in the process of drafting the Budget of the Republic of Macedonia;
- it shall adopt the Book of Rules for its operation;
- it shall draft the annual report on its operation and shall submit it to the Parliament of the Republic of Macedonia;
- it shall perform tasks in the field of international cooperation related with the meeting of Republic of Macedonia's international commitments, take part in the implementation of international organizations' projects, and shall cooperate with bodies from other countries and institutions in the field of free access to information of public character;
- it shall adopt Statute and other acts to determine the manner of its operation and organization; and
- it shall also perform other tasks determined by the present Law.

4. Manner of operation

Article 33

The Commission shall perform the tasks within its competence on its sessions. The manner of work and decision-making shall be regulated by the Statute for which consent shall be given by the Parliament of the Republic of Macedonia.

5. Expert service

Article 34

The administrative, expert and other administrative and technical tasks of the Commission shall be performed by its expert service that shall be governed by a head of the service who shall be appointed and dismissed by the Commission.

6. Judicial protection

Article 35

A suit to initiate an administrative dispute in front of the competent court may be filed against a decision issued by the Commission.

VII. PUBLIC INFORMATION REGARDING ACCESS TO INFORMATION

Article 36

(1) Information holders shall inform the public on the manner and conditions of access to information.

(2) For the purpose of implementing the provisions contained in the present Law, information holders shall cooperate with the information holders and with the Commission.

VIII. THE ANNUAL REPORT

Article 37

(1) The responsible person within the information holder shall be obliged to draft an annual report regarding the implementation of the present Law, and shall submit this report for the previous year, to the Commission by 31 January of the current year.

(2) The report mentioned in paragraph (1) hereunder shall contain, in particular:

- data on officials in charge of information mediation with information holders;
- the number of requests submitted;
- the number of requests having received positive response;
- the number of requests rejected, including a specification of reasons for each rejected request;
- the number of filed complaints and decisions, including a description of each decision and an elaboration of the reasons for any decision made in cases of repeated rejection of providing the information requested;
- the number of initiated administrative disputes against a final decision or in case of no response on the part of the information holder;
- the number and list of court decisions made in which positive response has been provided to the suit on the part of the requester within the administrative procedure, as well as statement of the reasons on which the decision of the competent court is based.

(3) The Commission shall compile a joint report for the implementation of the present Law on the basis of data obtained from reports submitted by information holders and shall, by 31 March of the current year, submit this report referring to the previous year to the Parliament of the Republic of Macedonia.

(4) After the Parliament of the Republic of Macedonia have reviewed and adopted the report mentioned in paragraph (3) hereunder, it shall be published in the media (a bulletin, on a website).

Article 38

Any responsibility shall be removed from an employee within the state administration that shall disclose protected information, in case such information be of significance for the disclosure of abuse of power and corruptive behavior, as well as for the prevention of serious threats to human health and life and the environment.

IX. PENAL PROVISIONS

Article 39

A fine of 30,000 to 50,000 denars shall be imposed for an offense to the responsible person i.e. the official with the information holder having failed to provide information of public character in accordance with the provisions of the present Law.

Article 40

A fine of 30,000 to 50,000 denars shall be imposed for an offense to the responsible person i.e. to the official with the information holder having disclosed information contrary to Article 6, paragraph (1) of the present Law, having rejected access to information or provided access to information contrary to the provisions of the present Law, which has caused damage to the requester, the public, or the interest being safeguarded by such information.

Article 41

A fine of 20,000 to 40,000 denars shall be imposed for an offense to the responsible person with the information holder having failed to appoint an official in charge of mediation in the exercising of the right to free access to information (cf. Article 8).

Article 42

A fine of 20,000 to 50,000 denars shall be imposed for an offense to the responsible person with the information holder having failed to maintain and update records on information disposed by the information holder, and having failed to publish such information in an adequate manner accessible by the requester, in accordance with Article 9 of the present Law.

Article 43

(1) A fine of 20,000 to 40,000 denars shall be imposed for an offense to the responsible person with the information holder having failed to provide to requesters premises needed for insight into information requested (cf. Article 11).

(2) A fine of 20,000 to 50,000 denars shall be imposed for an offense to the official in charge of information mediation with the information holder having failed to provide requesters with assistance in requesting information in accordance with the present Law (cf. Article 11).

Article 44

(1) A fine of 20,000 to 50,000 denars shall be imposed for an offense to the official in charge of information mediation with the information holder having failed, with no just reasons, to mediate the information requested within the time period specified (cf. Article 21).

(2) A fine of 20,000 to 50,000 denars shall be imposed for an offense to the person with the information holder that, in a complaint procedure, shall fail to submit the document in question or shall prevent insight to the document in question on the part of the Commission (cf. Article 32).

Article 45

A fine of 5,000 to 30,000 denars shall be imposed for an offense to the responsible person with the information holder failing to draft the annual report on the implementation of the present Law and to submit it to the Commission (cf. Article 37).

X. TRANSITIONAL AND FINAL PROVISIONS

Article 46

The secondary legislation mentioned in Article 1, paragraph (3) of the present Law shall be adopted within three months following the date of entry into force of the present Law.

Article 47

The Government of the Republic of Macedonia shall adopt the act mentioned in Article 29, paragraph (3) of the present Law, within four months following the date of entry into force of the present Law.

Article 48

Information holders shall designate their officials in charge of information mediation, mentioned in Article 8 of the present Law, within four months following the date of entry into force of the present Law.

Article 49

- (1) The president, vice-president and the members of the Commission shall be appointed within 30 days following the date of entry into force of the present Law.
- (2) The Information Agency shall cease to operate.
- (3) The Commission shall take over the Information Agency staff within its Expert Service, within 60 days following the date of entry into force of the present Law.
- (4) The Commission shall take over from the Information Agency the material, technical, spatial and other conditions necessary for the enactment of the present Law, within 60 days following the date of entry into force of the present Law.
- (5) The Commission shall adopt relevant secondary legislation within three months following the date of entry into force of the present Law.
- (6) In cooperation with the Government of the Republic of Macedonia and the nongovernmental sector, and with the support from international organizations, the Commission shall perform training of persons in charge of the enactment of the present Law, within six months following the date of entry into force of the present Law.

Article 50

The present Law shall enter into force on the eighth day from the date of its being published in "The Official Gazette of the Republic of Macedonia", and shall be enacted as of 1 September, 2006.