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GOVERNMENT OF ROMANIA
The Ministry of Public Information

BILL
on Decisional Transparency in Public Administration

Chapter I
General Provisions

Art. 1 – (1) The present law establishes the minimal procedural rules enforceable to ensure decisional transparency within central and local public administration authorities, elected or appointed, as well as on other legal persons that use public financial resources, within relations between them and the citizens as well as citizens' legally established associations.

(2) The purpose of the law is the following:

- a) increasing responsibility degree of public administration toward the citizen as a beneficiary of administrative decision.;
- b) stimulating active participation of the citizens in administrative decision-making process as well as in legal regulation elaboration process;
- c) increasing transparency degree at the level of the whole public administration.

Art. 2 – The basic principles of this law are the following:

a) **informing** the persons beforehand, by automatic disclosure, on public interest issues that are to be debated by central and local public administration authorities, as well as on draft legal regulations;

b) **consulting the citizens and citizens' legally established associations**, at public authorities' initiative, relative to draft legal regulation elaboration process;

c) **actively participating** in administrative decision-making and in legal regulation elaboration process, with the observance of the following rules:

1. the meetings of the institution that are subject to this law are public, in accordance with the law;
2. debates shall be spread on the records and brought to public's knowledge;
3. the minutes of these meetings shall be recorded, filed and brought to public's knowledge.

Art. 3 – For the purpose of the present law, the terms below have the following meaning:

a) *public administration authority* – any organizational structure of local or central public administration that acts as public authority in office, elected or appointed, with a view to accomplishing a public interest;

b) *administrative decision* – any act of a public authority, adopted as a result of a collective deliberation;

c) *legal regulation* – the act issued or adopted by a public authority, with general or local applicability;

d) *decision-making* – deliberative process developed by public authorities within public meetings;

e) *legal regulation elaboration* – procedure of redacting a legal regulation, previously to submitting it in order to be analysed and endorsed by the public authority;

f) *information of public interest* – any information regarding the activities or resulting from the activities of a public authority or institution, regardless of the support or form or the way in which the respective information is expressed;

g) *recommendation* – any point of view, suggestion, proposal or opinion, expressed verbally or in writing, received by public authorities from any person interested in decision-making process and in legal regulation elaboration process;

h) *transparency obligation* – obligation of public authorities to inform and submit draft legal regulations to public debate, to allow access to administrative decision-making and to the minutes of public meetings;

i) *legally established association* – any civic, trade union, employer organization or any other associative civic representation group;

j) *minute* – written document in which the points of view expressed by the participants in a meeting, as well as the result of the debates are spread on the records in short;

k) *priority order* – order that determines priority of participation in public meetings depending on the interest expressed toward the topic of the meeting;

l) *public meeting* – meeting held by public administration authorities in which the administrative decisions that will be adopted by the authority are presented.

Art. 4 – (1) Public authorities that are subject to this law are the following:

a) central public administration authorities: the Government, the ministries, other central organs of public administration that are below the Government or below the ministries, the Government's and the ministries' decentralized public services, as well as autonomous administrative authorities;

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

(2) Transparency rules established by the present law are also enforceable on autonomous administrations of national or local interest, to trade companies in which the state or an administrative-territorial unit holds the rank of majority shareholder as well as on other legal persons of private civil law when the use of certain public financial resources is taken into discussion.

Art. 5 – The Parliament, the President of Romania, the Judicial Authority and the Public Ministry are not subject to this law.

Art. 6 – The legal regulation elaboration processes and the meetings during which information on the following domains is presented and debated do not come within the provisions of the present law:

a) National defence, public order and safety, the country's economic and political interests as well as the authorities' deliberations if they are part of classified information category, in accordance with the law;

b) Commercial or financial activities, if publication of those infringes loyal competition principle, in accordance with the law;

c) Personal data, in accordance with the law.

Chapter II
**Procedures on
Participation of the Citizens and of Legally Established
Associations in Legal Regulation Elaboration Process and in Decision-
Making Process**

SECTION 1

Provisions on Participation in Legal Regulation Elaboration Process

Art. 7 – (1) Within draft legal regulation elaboration procedures, the authority of public administration is bound to publish within

its own Web page an announcement on this action, to display it on the premises of its own headquarters within a space accessible to the public (the information-documentation unit) and to disseminate it to central or local mass media, depending on the case.

(2) The announcement on a draft legal regulation elaboration shall be brought to public's knowledge in accordance with the provisions stipulated in Paragraph (1), at least within 30 days before its submittal in order to be analysed, endorsed and adopted by public authorities. The announcement shall contain a substantiation notification, a grounds exposal or, depending on the case, an approval paper on the necessity of adopting the submitted legal regulation, the complete text of the draft of the respective act as well as the deadline, the place and the modality in which those who might be interested in it may send their written proposals, suggestions, opinions used as recommendations only, regarding the draft legal regulation.

(3) The announcement on elaboration of a draft legal regulation relevant for business environment shall be transmitted by its initiator to business associations and to other legally established associations, on specific activity domains, within the time stipulated in Paragraph (2), in order to receive a consultative approval.

(4) When the announcement is published, the public administration authority shall establish a period of maximum 20 days for receiving, in writing, the consultative approval formulated by the associations stipulated in Paragraph (3) as well as the other proposals, suggestions or opinions on the draft legal regulation submitted to public debates.

(5) The head of the public authority shall appoint a person within the respective institution, in charge with the relation with civil society, who will receive the consultative approval as well as the interested persons' proposals, suggestions and opinions on the proposed legal regulation.

(6) The draft legal regulation shall be transmitted to the interested public authorities, in order to be analysed and approved, only after its finalization on the basis of the observations and proposals stipulated in accordance with Paragraph (4).

(7) The respective public authority is bound to decide organization of a meeting within which the draft legal regulation shall be debated, if the respective procedure was requested in writing by a legally established association, by another public authority as well as if intimations sent by People's Attorney were received.

(8) In all cases when public debates are organized, the respective debates shall take place within maximum 20 days since publication of the date and the place when and where they will be carried out. The respective

public authority shall take into consideration all recommendations on the respective draft legal regulation.

(9) In case of regulating a situation which, due to its exceptional circumstances, imposes adoption of immediate solutions, with a view to avoiding a severe infringement of public interest, the draft legal regulations shall be submitted to adoption under the emergency procedure stipulated within regulations now in force. In this case, the legal terms stipulated in Paragraphs (2) and (4) are of 48 hours, respectively, of 24 hours.

Art. 8 – (1) When initiating a draft legal regulation, public administration authorities are bound to elaborate and publish a preliminary analysis on estimation of costs and benefits implied by the respective draft legal regulation.

(2) The cost/benefit analysis may be contained in the substantiation notification, in the grounds exposal or, depending on the case, in the approval paper on the respective draft legal regulation.

SECTION 2

Provisions on Participation in Decision-Making Process

Art. 9 – (1) Participation of the interested persons in public meeting debates shall take place under the following circumstances:

a) announcement on the public meeting shall be displayed at the public authority's headquarters, inserted in the public authority's Web page and issued to mass media at least 3 days before the meeting;

b) the respective announcement shall be brought to the knowledge of the citizens and of the legally established associations that have sent, in writing, their proposals and suggestions used as recommendations only, on one of the domains of public interest that will be approached during the public meeting;

c) the announcement shall contain the date, the hour and the place when and where the public meeting will take place, as well as the meeting's agenda.

(2) Dissemination of the announcement and special invitation to participation in public meeting, addressed to certain persons, is the responsibility of the person in charge with the relation with civil society.

(3) Participation of the interested persons in the public meetings shall be allowed within the limit of the available seats in the meeting hall, in

accordance with the priority order established by the interest of the legally established associations relative to the subject approached during the public meeting.

Art. 10 - The person chairing the meeting will invite the guests to take into discussion the issues contained in the agenda.

Art. 11 – (1) Adoption of administrative decisions comes within the exclusive province of public authorities.

(2) The points of view expressed during the meeting by the persons invited shall be used as recommendations only.

Art. 12 – The minute of the debates within a public meeting, inclusively, depending on the case, the result of the expressed votes, shall be displayed at the headquarters of each public authority or it shall be published within the respective public authority's own Web page, in accordance with provisions of Art. 6.

Art. 13 – (1) Public authorities stipulated in Art. 4 are bound to elaborate and to file minutes of the public meetings. When considered necessary, the public meetings may be also videotaped.

(2) The audio records of the public meetings, except for those stipulated in Art. 6 will be brought to public knowledge, by request.

Art. 14 – (1) Public authorities stipulated in Art. 4, Paragraph (1), are bound to elaborate and to publish an annual report on decisional transparency, which shall obligatorily comprise the following elements:

- a) total number of the received recommendations;
- b) total number of recommendations included in the draft legal regulations and in the content of the already made decisions;
- c) total number of the participants in the public meetings;
- d) the number of the public debates organized on the draft legal regulations;
- e) situation of the cases in which public authorities were publicly charged for not observing provisions of the present law;
- f) own evaluation of the partnership with the citizens and their legally established associations;
- g) the number of the closed-door meetings and motivation for restricting access.

(2) The annual report on decisional transparency shall be brought to public knowledge within the respective public authority's own Web page, by displaying it at the public authority's headquarters on premises accessible to the public or by presenting it within a public meeting.

CHAPTER III

Punishments

Art. 15 – (1) Any person that considers himself/herself infringed in his/her rights stipulated in the present law may lodge a complaint to the administrative contentious section of the Court within whose area the plaintiff's domicile is situated or within whose area the respective public institution's or public authority's headquarters is situated.

(2) The complaint must be lodged within maximum 30 days' time since the coming into force of the legal regulation or of the administrative decision adopted in public meeting.

Art. 16 – (1) Any administrative decision and any legal regulation adopted without carrying out obligations relative to informing and consulting the public as well as to public's participation in, derived from the present law, shall be considered null.

(2) Non-observance, by the public authorities, of the obligations deriving from provisions of the present law as well as nullity of the decisions or of the legal regulations adopted under these circumstances shall be ascertained by the competent Administrative Contentious Court, after judging the cause initiated on the basis of a complaint on violation of the law.

(3) The Court may compel the public authority or institution to resume the public information and consultation procedure stipulated by the law or to convoke a public meeting on the same agenda.

(4) Court's verdict shall be subject to appeal. The Appeal Court's verdict shall be final and irrevocable. The Court shall judge both the complaint and the appeal in emergency procedure and both the complaint and the appeal shall be exempted from the payment of the stamp fee.

Art. 17 – The deed of the public servant that, for reasons contrary to the law, denies persons' access to the public meetings or incapacitates the interested persons from involving in legal regulation of public interest elaboration process, under the present law, constitutes a disciplinary

deviation and it shall be punished in accordance with provisions of Law No. 188/1999 on the Statute of Public Servants or, depending on the case, with labour legislation.

Art. 18 – Persons assisting in the public meetings, invited or on their own initiative must observe the public authority's own regulations on public meetings. In case that the president of the meeting will notice that a person has encroached the mentioned regulations, the president may order evacuation of the respective person.

CHAPTER IV **Final Provisions**

Art. 19 – (1) The present law shall come into force in 60 days' time since its publication in the Official Gazette, Part I.

(2) On the date of coming into force of the present law any contrary provisions shall be abrogated.

Art. 20 – In 30 days' time since the coming into force of the present law, public authorities and the other legal persons that are subject to the present law are bound to modify their organization and functioning regulations in accordance with the provisions of the present law.