

THE LAW OF UKRAINE

On Access to Public Information

This Law determines procedures for exercising and securing the right of every person to access to information of public interest possessed by government agencies and other providers of public information as identified by this Law.

Chapter I. GENERAL PROVISIONS

Article 1. Public Information

1. In the context of this Law, public information shall be understood as:

1) information possessed by government agencies and other public information providers identified by this Law (hereinafter referred to as information, information providers, etc.);

2) information of public interest (importance), i.e. information that indicates threats to state sovereignty and territorial integrity of Ukraine; enables citizens to make informed political choices; guarantees awareness of events and facts affecting one's life; ensures realization of constitutional rights, freedoms and duties; helps prevent violations of human rights, deception of the public, hazardous environmental and other consequences of actions of commercial entities, or absence thereof, etc.

Article 2. The Aim and Scope of the Law

1. The aim of this Law is to ensure transparency and openness of government agencies and to provide mechanisms for realization of the right of every person to access to public information.

2. This Law shall not apply to relations pertaining to receipt of information by government agencies when performing their functions.

Article 3. Guarantees of Observance of the Right to Access to Public Information

1. The right to access to public information shall be guaranteed by:

1) information providers being under the obligation to provide and disclose information;

2) establishment of special information services and/or systems within information providing entities to secure access to public information in accordance with the established procedures;

- 3) simplification of procedures for submission of requests and receipt of information;
- 4) free access to open sessions of government agencies;
- 5) parliamentary, civil, and state control over observance of the right to access to public information and information access modes;
- 6) legal responsibility for violation of the legislation on access to public information.

Article 4. Principles of Securing Access to Public Information

1. Access to public information under this law shall be secured in accordance with the following principles:

- 1) transparency and openness of activities of government agencies;
- 2) free receipt and distribution of information, except when restricted by the law;
- 3) equal rights of every person in terms of access to public information, regardless of race, political, religious, and other beliefs, sex, ethnic and social origins, material status, place of residence, language, or other characteristics;
- 4) unimpeded and timely provision of complete, authentic and accurate information to the requestor by information providers.

Chapter II. INFORMATION ACCESS MODES

Article 5. Types of Information in Terms of Information Access Modes

1. Information access modes shall be understood as legally established procedures for receipt, storage, use, and distribution of information. In terms of access mode, information shall be categorized as open information and restricted information.

2. Restricted access to information shall be applied exclusively in order to protect national security, territorial integrity, or law and order, prevent riots or crimes, support public health service, protect reputation and rights of other persons, prevent disclosure of confidential information, or maintain authority and impartiality of justice if potential damage caused by publication of such information outweighs public interest for such information.

3. Access to information of public interest or information that has been previously disclosed shall not be restricted.

Article 6. Open Information

1. Information not legally qualified as restricted information shall be considered open. The right to have access to open information can not be restricted.

2. Access to open information is secured by:

1) systematic and timely publication of information through:

public telecommunications networks, including official web-pages;
information stands;

direct release of information to mass media;

any other means not prohibited by law.

2) provision of information on request.

Article 7. Restricted Information

1. Restricted information shall include:

1) secret information;

2) confidential information.

2. Secret information shall be understood as legally restricted information the disclosure of which may harm persons, society, and the state.

3. Confidential information shall be understood as restricted information possessed, used and managed by natural persons and legal entities, except government agencies, that may be disclosed at their discretion in keeping with procedures and subject to conditions established by them. Commercial secrets, personal information, or any other confidential information except information of public interest shall be qualified as confidential information.

4. Government agencies and other information providing entities identified by article 12 of this Law that possess confidential information may manage this information strictly within the scope of their authority, and according to legally established procedures and with consent of persons who provided it, except in cases stipulated by the law.

5. Natural persons and legal entities, except government agencies, possessing commercial, personal, corporate, professional, banking, and other information purchased with their own funds, or information affecting their professional, business, production, banking, commercial, and other interests, provided such information is not legally restricted, shall independently determine its access mode, including its confidential status, and shall take measures to secure its protection.

6. Restrictions shall apply to access to information but not the documents. If a document contains restricted information, access shall be granted to sections of the document not containing restricted information.

7. Restricted information shall be provided if it is of public interest and if the right of community to know the information outweighs the right of information provider to its protection.

Article 8. Natural Persons' Access to Their Personal Information

1. Every natural person shall have the right to:

1) know, during the time when information is being collected but before it is used, precisely what data relating to that person is being collected and for what purpose, how, by whom, and for what purpose it is used, transferred or distributed;

2) access to information relating to that person that is being collected and stored; the right to question its authenticity, completeness, etc., except in cases stipulated by the law;

3) demand correction of inaccurate and outdated personal data, deletion of personal data being collected, used or stored in defiance of legislation.

4) access, if ordered by the court, to personal data of other persons if required for enforcement and protection of one's rights and lawful interests;

5) receive compensation for unlawful disclosure of information relating to that person.

2. The scope of personal data that is being collected, stored and used by information managers shall be limited to the extent possible and used exclusively for purposes and in ways stipulated by law.

3. Information managers whose registers contain information on natural persons are obliged to:

1) provide it in an unimpeded manner and free of charge at the request of persons the information is related to except in cases stipulated by law;

2) use it for purposes and in ways stipulated by law;

3) take measures to prevent other persons from gaining unauthorized access to such information;

4) correct inaccurate and outdated personal data at their own discretion or at the request of persons it is related to.

4. Information on natural persons shall not be stored longer than required in order to fulfill the purpose for which it was collected.

5. Denial of access of natural persons to their personal information, concealment of information, unlawful collection, usage, storage and distribution of information may be subject to appeal.

Article 9. Secret Information

1. Secret information shall be understood as information which contains national, official, professional, or banking secrets, investigative secrets, and other secrets envisaged by the law.

2. Official secret shall be understood as secret information legally identified as such, disclosure of which may harm society and the state, obstruct exercising of powers by national and local government agencies, and which does not contain state secrets.

3. Official secret information includes:

1) information contained in documents of government institutions, namely departmental official mail, staff reports, recommendations related to the institution's policy development and decision-making prior to public discussion of such documents and/or their adoption;

2) information collected by government agencies as part of exercising their control functions before a decision is made on the case.

Information containing official secrets shall become open upon adoption of decisions as determined by section 3 of this article.

4. Documents containing official secret information shall be labeled "for official use only".

5. Legal status and access modes of other types of secret information identified in Section 1 of this article shall be determined by relevant laws.

Article 10. Protection of Informers

1. Officials and employees of government agencies (informers) who, in defiance of non-disclosure policy for restricted information, uncover facts of unlawful actions and corruption-related activities of higher officials of national and local government agencies shall be relieved of legal responsibility provided that their intentions are good and they are convinced that disclosure of such information meets public interests.

Chapter III. PARTIES IN THE AREA OF PUBLIC INFORMATION ACCESS

Article 11. Definitions and List of Parties

1. The following shall be the parties in the area of access to public information:

- 1) information requestors—natural persons and legal entities, except for government agencies;
- 2) information providers—subjects identified in Article 12 of this Law;
- 3) officials or structural units of information providing entities that deal with information requests (hereinafter—information officials);
- 4) the Commissioner of the Ukrainian Parliament for Human Rights (hereinafter— Human Rights Commissioner).

Article 12. Information Providers

1. For the purpose of this Law, information providers shall be understood as:

- 1) government agencies;
- 2) legal entities financed by national or local budgets, concerning information on the use of budget finds;
- 3) legal entities with powers delegated by the government or local self-government institutions according to the law or contract to provide educational, recreational, social, or other government services, concerning information on their performance;
- 4) commercial entities that have dominant positions in the market, special or exclusive rights, or are natural monopolies, concerning information on supply conditions and prices of goods and services.

2. In terms of the obligation to disclose and provide information on request, as provided by this Law, information providers also include commercial entities possessing:

- 1) information on the environmental situation;
- 2) information about the quality of food and household products;
- 3) information concerning accidents, disasters, natural hazards and other emergencies, both imminent and potential, which threaten citizens' health and security;
- 4) other information of public interest.

Article 13. Obligations of Information Providers

1. Providers shall be under the obligation to:

- 1) publish information about their activities and decisions;
- 2) maintain and regularly update registers (lists) of documents in their possession;
- 3) maintain chronological files of copies of official documents and records for public access;

4) provide special facilities for requestors to work with documents and make notes and copies, etc.;

5) establish special departments or assign officials to provide access to information to those who request it;

6) control compliance with the information access modalities;

7) provide authentic, accurate and complete information and, if necessary, check whether the information provided is authentic and unbiased.

2. Information providers shall submit to the Human Rights Commissioner an annual report on their compliance with information requests. The report shall specify the following:

1) the number of information requests received and the number of requests met;

2) the number of rejected requests, with references to the provisions on the basis of which information access was denied;

3) the number of complaints about denying access to information;

4) amount of fees collected for providing requested information;

5) information on compliance with the obligation to publish information;

6) other information at the request of the Human Rights Commissioner unless provision of such information is prohibited by law.

Article 14. Obligation to Disclose Information. Terms of Disclosure

1. Information providers shall be obliged to disclose information concerning:

1) organizational structure, mission, functions, authority, main tasks, working areas, and financial resources (structure and amount of budget funds, procedures and mechanisms for their spending, etc.);

2) regulatory principles of activities, regulatory acts and individual legal acts adopted by the provider, and draft resolutions;

3) services provided by those institutions, conditions for their provision, forms and sample documents, instructions for completion thereof;

4) procedures for completion and submission of information requests, and procedures to appeal decisions of the information providers', their actions or lack thereof;

5) general information about the registration system and types of information possessed by providers;

6) mechanisms or procedures for the society to present its interests or influence in some other way policy development or powers exercised by information providers;

7) plans and meeting agendas;

- 8) locations where requestors can obtain the required forms;
- 9) general rules and working regulations of the institution;
- 10) reports, particularly on addressing information requests, etc.

2. Information identified by Section 1 of this article shall be subject to obligatory publication on the providers' official websites immediately following its emergence, and within 5 calendar days following its emergence if published otherwise.

3. Draft laws and regulations submitted to respective providers for consideration shall be published no later than within 30 calendar days before consideration.

4. Any information about facts that may harm one's life, health and/or property and related measures shall be disclosed immediately.

Article 15. Officials Dealing with Information Request

1. Information providers shall be responsible for appointing and organizing the work of information officials, i.e., authorized employees of respective departments of the information providing entities who are to process, categorize, and analyze information requests, control provision of requested information, and provide advice on request development.

2. Requests that were registered in accordance with procedures established by the information providers shall be processed by the authorized officials.

Article 16. Control of Enforcement of the Right to Access to Public Information

1. The parliamentary control of enforcement of the right to access to information by information providers shall be exercised by the Human Rights Commissioner who, within his/her secretariat and budget, shall establish to this end a department to control enforcement of the right to access to information.

2. The civil control of enforcement of the right to access to information by information providers shall be exercised by People's Deputies of Ukraine, members of local councils, non-governmental organizations, community councils, and individual citizens by means of public hearings, public assessment process, and so on.

3. The government control of enforcement of the right to access to information by information providers shall be exercised in accordance with administrative procedures.

Article 17. Procedures for Exercising Control by the Human Rights Commissioner

1. In addition to the powers provided by the Law of Ukraine On the Verkhovna Rada Human Rights Commissioner, the Commissioner shall:

1) take part in development and implementation of the national policy to provide access to information;

2) conduct public awareness efforts in mass media, and carry out educational activities related to access to information;

3) take necessary measures to promote access to information;

4) organize trainings for civil servants on securing access to information;

5) carry out academic and expert research of access to information issues;

6) monitor and collate the results of efforts to provide access to information;

7) inspect information providers in the process of addressing information requests and disclosure of information, either following complaints or on his/her own initiative;

8) examine citizens' complaints about violations of their rights and lawful interests by information providers;

9) maintain and compile records of cases where the right to access to information has been violated, and make proposals for their elimination;

10) cooperate with international organizations and respective foreign institutions on compliance with the international standards for securing access to information.

2. The Human Rights Commissioner shall exercise control over legitimacy of information providers' decisions, their actions or lack thereof concerning:

1) compliance with information request registration procedures;

2) enforcement of legal terms and procedures to address information requests;

3) restriction of access to information;

4) compliance with requirements for disclosure of information and protection of restricted information by information providers;

5) availability of registers for documents possessed by information providers which enable immediate retrieval of information, as well as additions to the register;

6) compliance with requirements for storage and protection of information against unauthorized deletion or access.

3. As part of control of the information providers addressing information requests, the Human Rights Commissioner shall conduct inspections based on complaints or at his/her own discretion, during and following which he/she shall have the right to:

- 1) request from information providers explanations and relevant documents;
- 2) examine documents in possession of information providers, including documents containing restricted information;
- 3) issue acts of response (submissions) requesting information providers to bring their activities into accordance with the legislation in force, in case violations have been found;
- 4) issue acts of response (submissions) concerning disciplinary responsibility of the officials for breach of legislation on access to information;
- 5) submit proposals to information providers on improvement of access to information.

Article 18. Registers of Documents in Possession of Information Providers

1. In order to secure storage and access to information, all documents in possession of government agencies shall be subject to registration in the register of documents.

2. The register of documents shall be understood as a system for recording and storing information concerning documents in possession of information providers, the said system containing basic attributes of documents and information.

3. Registers shall be developed in accordance with the guidelines issued by the heads of government agencies.

4. Registers shall contain the following information:

- 1) title of document,
- 2) date of development,
- 3) date of submission,
- 4) source of information (author, respective department),
- 5) information access category,
- 6) reasons for classifying the information,
- 7) reasons and terms of information access restriction,
- 8) sector,
- 9) keywords,
- 10) type of medium (text document; tape; video recordings, audio recordings, etc.)
- 11) type of document (regulatory acts, treaties, resolutions, minutes, reports, press releases, draft resolutions, memorandums, statements, requests, proposals, letters, etc.),

- 12) form and location of document, etc.
5. Registers of documents shall not be qualified as restricted information.
6. Information providers shall bear responsibility for securing access to registers of documents in accordance with the procedures established by this Law.

Chapter IV. SECURING THE RIGHT TO ACCESS TO INFORMATION BY MEANS OF INFORMATION REQUESTS

Article 19. Development of Information Requests

1. Every person shall have the right to address an information provider with an information request, regardless of whether the document in question is related to that person, without specifying the reason for request.

2. Information requests may be individual or collective. They may be submitted orally, in writing, by mail, fax, phone, e-mail, or by other means at the requestor's discretion.

3. Oral information requests shall be submitted to get access to operational information or information required in order to prevent unlawful actions or emergencies.

4. Written requests may be submitted at will.

5. In order to simplify the procedure for development of a written information request, the latter may be submitted by means of filling in a respective information request form which shall be provided by information providers and can be found on the provider's official website. The forms shall contain brief instructions concerning procedures for submitting an information request, obtaining information, etc.

6. If a person is unable to submit a written request for valid reasons (i.e. incapacitation, disability, etc.), it shall be completed by an official dealing with information requests and bear the official's name and contact phone number. A copy of the request shall be provided to the requestor.

Article 20. Requirements for Information Requests

1. An information request shall contain:
 - 1) requestor's name, mail or e-mail address, and phone number if available;
 - 2) general description of information, or the type, title and requisites of the requested document;
 - 3) ways and means to meet the information request;
 - 4) boxes for signature and date, if the request is submitted in writing.

Article 21. Deadlines for Addressing Information Requests

1. Information providers shall address the request as soon as possible but no later than within 5 business days following receipt of request.

2. If the information request concerns information required for protection of person's life or freedom, or it is related to the environmental situation, quality of food and household products, accidents, disasters, natural hazards and other emergencies, both real and potential, that threaten people's security, response shall be given immediately but no later than within 48 hours following receipt of request.

3. Demands for immediate addressing of the request shall be motivated.

4. If the request is for a large volume of information or requires processing of a large amount of data, information providers may extend the term for addressing the request to 20 business days specifying the reason for such extension. Information provider shall immediately notify the requestor as well as the Human Rights Commissioner in writing but no later than within 5 business days.

Article 22. Charges for Provision of Information

1. Requested information shall be provided free of charge.

2. Should the information request require producing copies of documents amounting to more than 50 pages the requestor shall be obliged to reimburse the cost of copying and printing.

3. The cost shall be determined by the respective provider based on fair market value of copying and printing within the limits established by the Cabinet of Ministers of Ukraine.

4. If provision of information is subject to charges, the requestor shall be notified immediately, and information request shall be addressed only upon payment has been made for provision of information or relief from payment of such charges has been ascertained.

5. Requestor's personal information or information of public value shall be provided free of charge.

Article 23. Denial or Deferral of Access to Information

1. Information providers shall have the right to decline a request if:

1) requested information is qualified as restricted information and is not of public interest;

2) information provider does not and is not supposed to possess requested information;

3) information request cannot be met because it does not clearly specify the information being requested;

4) the requestor has not paid the fees for addressing the information request stipulated by the law and has not applied for relief from payment;

5) required information has already been provided to the requestor, and the latter fails to provide a grounded explanation as to the need for repeated receipt of information.

2. Information provider's response stating that requested information can be obtained from public sources, or a response that does not address the request shall be considered as denying access to information.

3. Requests forwarded to a wrong address shall be re-addressed by the initial recipient of request if the latter due to his/her status or functions knows or is supposed to know the location of the requested information.

4. Each statement of denial shall specify:

1) official or employee of the information providing entity responsible for addressing the information request;

2) date of denial;

3) motivated reason for denial;

4) procedures for appealing against denial.

5. Deferral of the request may be allowed if the required information cannot be made available within the time limit stipulated by this Law because of force majeure. The requestor shall be informed in writing of such deferral along with an explanation of the procedures for appealing against the decision.

6. Each statement of deferral shall specify:

1) the name of the official of the information providing entity responsible for addressing the information request;

2) date of deferral notice, mailed or received;

3) reasons due to which the required document cannot be made available within the time limit established by this Law;

4) the period over which the request shall be met.

Chapter V. PROCEDURES FOR APPEALING AGAINST INFORMATION PROVIDERS' DECISIONS, ACTIONS, OR LACK THEREOF.

Article 24. The Right to Appeal against Information Providers' Decisions, Actions, or Lack thereof.

1. Information providers' decisions, actions, or lack thereof may be appealed with the head of the providing entity or a higher authority, if applicable, the Human Rights Commissioner, or a court.

2. The following are subject to appeal:

- 1) rejection of information request;
- 2) deferral of information request;
- 3) failure to provide information;
- 4) provision of information which the requestor considers inaccurate or incomplete;
- 5) untimely provided information;
- 6) other decisions, actions, or lack thereof which the requestor considers a violation of his/her rights and lawful interests.

Article 25. Appeals against Information Providers' Decisions, Actions, or Lack thereof to the Human Rights Commissioner

1. The appeal to the Commissioner for Human Rights shall be submitted in writing by the person (complainant) who considers his/her rights and lawful interests to have been violated by the information providing entity or its representative.

2. The appeal shall specify:

- 1) complainant's name, mail address, as well as phone number and e-mail address, if applicable;
- 2) name of the information provider, whose decisions, actions, or lack thereof are appealed, the official's position and place of employment, mail address as well as phone number and e-mail address, if applicable;
- 3) the content of the information request that was submitted to the information provider;
- 4) reasons for the requestor to believe that information provider's decisions, actions or lack thereof are unmotivated;
- 5) list of attached documents.

3. In case of appeal against the declined request or provision of untrue information, complainant shall attach a copy of information provider's decision to decline the request, or other written evidence (documents).

4. The Human Rights Commissioner shall be obliged to examine the appeal and verify legitimacy of information provider's decisions, actions or lack thereof within a 20 calendar day period following receipt of the appeal.

5. The Human Rights Commissioner may extend examination of the appeal to no more than 35 calendar days if additional explanations and documents or other actions are required. The Human Rights Commissioner shall notify the complainant of the extension of the term of examination of appeal within ten calendar days following receipt of appeal.

6. The Human Rights Commissioner shall be obliged to inform the complainant and the information provider about the inspection results.

7. Based on the results of examination of the appeal, the Human Rights Commissioner shall make a decision concerning the appeal and issue summons to publish or provide respective information to the complainant in accordance with this Law.

Article 26. Denial of Examination or Redress of Appeals by the Human Rights Commissioner

1. The Human Rights Commissioner may decline an appeal or leave it without action if it does not meet the requirements stipulated by sections 1 and 2 of Article 2 until necessary corrections are made by the complainant.

2. The appeal shall be dismissed if:

- 1) it is not related to the respective provider's activities;
- 2) court ruling on the same case has entered into force;
- 3) information provider's decisions, actions or lack thereof were legitimate.

3. The Human Rights Commissioner shall inform the requestor in writing on rejection/approval of the appeal specifying the reason for denial.

Article 27. Acts of Response of the Human Rights Commissioner

1. Based on the results of examination of the appeal, the authorized body shall decide to approve or dismiss the appeal and motivate the reason for dismissal.

2. In case of approval of the appeal, the Human Rights Commissioner may request from information providers to:

1) bring their activities in accordance with this Law, particularly provide information that was withheld during processing of the information request, provide authentic information, etc.;

2) bring officials to disciplinary responsibility for infringement of legislation on access to public information.

Article 28. Responses to Requests of the Human Rights Commissioner

1. Information providers shall be obliged to take measures in response to such requests within 5 calendar days following the receipt of which he/she shall notify the Human Rights Commissioner within the designated period.

2. Failure of the information providers to respond to the request may be appealed to the court. Persons filing appeals with the court against the failure of the information providers to respond to the request shall be relieved from payment of the state duty.

Article 29. Responsibility for Violation of Legislation on Access to Public Information

1. Persons found to have violated this Law shall bear responsibility as stipulated by the law.

2. Responsibility for violation of the acts related to information access shall be borne by persons found to have committed the following transgressions:

- 1) unlawful denial of information;
- 2) providing false information;
- 3) untimely provided information;
- 4) deliberate concealment of information;
- 5) ungrounded refusal to disclose information;
- 6) ungrounded classification of certain types of information as having restricted data;
- 7) other violations of the right to access to information and legal interests of natural persons and legal entities.

3. Persons who consider their rights and lawful interests to have been violated by information providers have the right to compensation for material and moral damage in accordance with procedures established by civil law.

Chapter VI. FINAL PROVISIONS

1. This Law shall enter into force three months after the day of its promulgation.

2. Until the legislation of Ukraine is brought into compliance with this Law, legislative acts of Ukraine shall be applied to the extent not contrary to this Law.

3. The Cabinet of Ministers of Ukraine, within two months following entry of this Law into force shall:

- a) determine payment procedures and fee limits for provision of information;
- b) submit for consideration of the Verkhovna Rada of Ukraine proposals to bring the legislation of Ukraine in compliance with this Law;
- c) bring its regulations in compliance with this Law;
- d) ensure compliance of the regulations of Ministries and other central executive authorities with this Law;
- e) provide for publication of regulations envisaged by this law.

4. The following shall become invalid:

- a) Articles 23, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 of the Law of Ukraine On Information (October 2, 1992; # 2657-XII).