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Please note that this translation is a final text version published in the Official Gazette no. 172/2003.

THE LAW ON THE RIGHT OF ACCESS TO INFORMATION

I. GENERAL PROVISIONS

CONTENTS

Article 1

This law governs the right on access to information which are possessed by, at disposal or under the control of the public authorities, which prescribe the principles of the right on access to information, the exceptions to the right on access of information and the procedure for the realization and protection of the right on access to information.

PURPOSE

Article 2

The purpose of this Law is to enable and ensure the realization of the right on access to information to the natural and legal persons through open and public activities of the public authorities, in accordance to this and other laws.

TERMS

Article 3

(1) Particular terms in this law have the following meaning:

1) »Person authorized to the information« (hereinafter: the Authorized person) is any domestic or foreign natural person or legal person who requires the access to information,

2) »Public authorities« are government bodies, bodies of the local and regional self-government, legal persons with public authorities and other persons to which the public authorities were transferred,

3) »Information« can be data, photography, drawing, film, report, act, table, chart, draft or other enclosure, which is possessed by, at disposal or under control of public authorities, regardless of its having been filed in a document or not, and regardless of the source, time of creation, filing place, manner in which it was found out, according to whose order, in whose name and on whose behalf the information is filed or any other characteristic of the information,

4) »Document« is every material device on which an information in the possession, at disposal or under the control of public authorities was written or entered into,

5) »The right on access to information« entails the right of an authorized person to request and receive the information, as well as the obligation of the public authorities to enable the access to the information, i.e. to publish the information when there is no particular request for the same, but such a publication represents their obligation determined by the law or other general regulation (hereinafter: regular publishing of the information).

(2) The Government of the Republic of Croatia shall each year on 31st December publish the list of public authorities in the »National Gazette«.

II. PRINCIPLES OF THE RIGHT ON ACCESS TO INFORMATION PRESUMPTIONS OF PUBLICITY, FREE ACCESS AND RESTRICTIONS

Article 4

(1) All information in possession, at disposal or under the control of public authorities must be available to the interested authorized persons.

(2) An authorized person has the right to learn from the public authorities whether they are in possession, at disposal or under the control of the required information.

(3) In the case of restrictions of the right on access on certain information, the public authority is obliged to state the category of exception or the reasons due to which it decided to withhold the information in a special resolution.

(4) Exceptionally, the right on access to information may be restricted in cases and in the manner prescribed by the law.

COMPLETENESS AND ACCURACY OF INFORMATION

Article 5

The information, which are given from the public authorities, or are published by the public authorities, must be complete and accurate.

EQUALITY

Article 6

(1) The right on access to the information belongs to all the authorized persons in the same manner and under the equivalent conditions and they are equal in the realization thereof.

(2) The public authorities may not put into more favorable position none of the authorized persons in the manner the particular authorized person is given the information prior than to the others.

(3) The right on access to information containing personal data is realized in the manner prescribed by other laws.

PRINCIPLE OF AVAILABILITY OF INFORMATION

Article 7

The authorized person disposing with the information is entitled to publicly present that information.

III. EXCEPTIONS OF RIGHT ON ACCESS TO INFORMATION

EXCEPTIONS AND THEIR DURATION

Article 8

(1) The public authorities shall withhold their right on access to information if the information is proclaimed to be the state, military, professional or business secret based on the law or under the criteria determined by the law, or if it is protected by the law which governs the area of the personal data protection.

(2) The public authorities may withhold the right on access to information if there are grounds to suspect that the publishing thereof would:

1) thwart undertaking of measures or actions the purpose of which is prevention and disclosure of criminal acts or prosecution of the perpetrators of the criminal acts,

2) thwart the effective, independent and impartial conducting of the court, administrative or other legally regulated procedure, court decision enforcement procedure or penal enforcement procedure,

3) thwart the work of the authority conducting the administrative supervision, i.e. supervision of legality,

4) cause grave damages to life, health, security of people or environment.,

5) thwart the implementation of economic or monetary policy,

6) endanger the intellectual property right, except in the case of explicit written consent of the author or the owner.

(3) The information, which restrict the right of access due to the reasons stated in the paragraph 2 item 6 of this Article, become available when the person who might be damaged by the publication of such an information decides so, and at most within 20 years as of the date of creation of the information, unless the law or any other regulations prescribes a longer period.

(4) The public authorities shall approve the access to the parts of information, which with regard to the nature of its contents may be published.

(5) The information is available to the public upon the cessation of the reasons stated in this Article according to which the public authority restricts the right on access to information.

IV. PROCEDURAL PROVISIONS

APPLICATION OF REGULATIONS ON GENERAL ADMINISTRATIVE PROCEDURE

Article 9

If this Act does not establish otherwise, in the procedure of realization of the right on access to information the provisions of the Law on General Administrative Procedure shall be applied accordingly.

THE MANNER OF APPLICATION OF RIGHT ON ACCESS TO INFORMATION

Article 10

The public authorities are obliged to enable the access to information by:

1) regular publishing of certain information, as determined by the specific law or other general act, under condition of their monthly publishing in an appropriate and available manner,

2) directly providing with information an authorized person who submitted the request,

3) insight into the documents and copying of documents which contain the requested information,

4) delivering to an authorized person, who submitted the request, of the copies of documents containing the requested information,

5) in any other manner enabling the realization of the right on free access to information.

REQUEST

Article 11

(1) The authorized person realizes its right on access to information by the submission of an oral or written request to the competent public authority.

(2) If the request is submitted orally, the minutes with regard to it shall be composed, and if it is submitted by telephone or other telecommunication means an official note shall be composed.

(3) The written request contains: name and seat of the public authority to which the request was submitted, data relevant for recognition of the requested information, name and last name and the address of the natural person-applicant, name of the company i.e. name of the legal person and its registered office.

(4) The applicant is not obliged to state the reasons of his request for access to information.

(5) The applicant may propose in his request the manner in which the public authority will make the information available.

TERMS

Article 12

(1) Based on oral or written request the public authority is obliged to enable to the applicant the access to the information at the latest within the period of 15 days as of the date of filing of the request.

(2) In the case of an incomplete or incomprehensible request the public authority shall invite the applicant to correct its request within three days. If the applicant fails to correct the request in the appropriate manner, the public authority shall by its resolution dismiss the request as incomprehensible or incomplete.

ASSIGNATION OF REQUEST

Article 13

(1) If the public authority does not possess the information, does not have them at its disposal or under its control, but has the knowledge about the competent authority, it is mandatory, without delay and within 8 days as of the receipt of the request at the latest, to assign the request to the public authority which has the information in its possession, at its disposal or under its control, about which it shall also inform the applicant.

(2) In the case from paragraph 1 of this article, the terms of realization of the right on access to information shall be counted as of the date of the receipt of the request of the public authority.

EXTENSION OF TERMS

Article 14

(1) The terms of realization of the right on access to information are determined by this Act and may be extended up to 30 days if:

- 1) it is necessary to ask for the information outside the seat of the public authority,
- 2) a larger number of various information is sought by one request.

(2) about the extension of terms the public authority shall without delay and within 8 days at the latest, inform the applicant by stating the reasons of the extension of the terms.

DECISION ON REQUEST

Article 15

(1) The public authority shall not bring any special decision on the acceptance of the request for access to information. With that regard it shall compose an official note.

(2) The public authority is obliged to bring its decision on rejection of the request:

- 1) with regard to the cases from Article 8 paragraphs 1 and 2 hereof,
- 2) if the public authority does not have in the possession, does not control or does not have any knowledge as to where the information is stored,
- 3) if the access to the same information is enabled to the same authorized person within the term of 60 days as of the date of filing of the request.

(3) In the case the information is already published, the public authority is obliged to inform the applicant with no delay as to where, when and how the information was published.

SUPPLEMENT AND CORRECTION OF INFORMATION

Article 16

(1) If the authorized person, based on the available evidence, considers that the information

given based on the request is not accurate or complete, he may request the correction, i.e. supplement thereof.

(2) The public authority is obliged to bring a special decision on the rejection of the request if it considers that there are no grounds for the supplement or the correction of the information.

APPEAL AND ADMINISTRATIVE DISPUTE

Article 17

(1) The applicant may file the appeal against the decision of the public authority to the head of the competent public authority, within the period of 8 days as of the date of its delivery.

(2) The second degree decision on the appeal must be brought and delivered with no delay, within the term of 15 days as of the date of filing of the appeal at the latest.

(3) Against the second-degree decision, i.e. final first-degree resolution of the public authority rejecting the request, the applicant may initiate the administrative dispute by the filing of the complaint to the Administrative court, in accordance with the provisions of the Law on Administrative Procedure. The procedure under the complaint is urgent.

OFFICIAL REGISTRY

Article 18

The public authority is obliged to keep an official registry on the requests, procedures and decisions with regard to the realization of the right on access to information in accordance with the provisions of this Act. The competent Minister of general administration affairs shall prescribe by the bylaw on organization, contents and manner of keeping of the official registry.

FEE

Article 19

The public authority has right to charge the authorized person a fee related to actual material costs incurred by offering and delivering of the requested information.

V. SPECIAL PROVISION ON PUBLIC AUTHORITIES

PUBLISHING OF INFORMATION

Article 20

(1) Independently of particular requests by which the realization of the right on access to information is asked, the public authorities are obliged to publish in an appropriate manner, in the official gazettes or on the computer media particularly the following:

1) decisions and measures by which the interests of authorized persons are affected, along with the reasons for bringing thereof,

2) information on its work, including data on the activities, organization, costs of work and sources of financing,

3) information on the submitted requests, petitions, proposals as well as other activities undertaken by the users towards the public authorities.

4) information on tenders and tender documentation in accordance with the Law on Public Procurement.

(2) the public authorities competent to prepare draft laws and bylaws are obliged to publish such drafts and enable the authorized persons to manifest their opinions in an appropriate term. The draft laws and bylaws, written opinions of authorized persons and final drafts of the stated acts shall be published in the manner prescribed by paragraph 1 of this Article.

PUBLICITY (TRANSPARENCY) OF WORK

Article 21

(1) With the purpose to ensure the transparency of their work the public authorities are obliged to determine the conditions of their general acts under which the direct insight of the public into their work is enabled.

(2) Public authorities are obliged to inform the public on:

1) the agenda of sessions or meeting and time of holding thereof, on the methods of work of the public authorities and possibilities of direct insight in their work,

2) number of persons to which the direct insight into the work of public authorities may be simultaneously ensured in the course of which there must be taken care of the order of application.

(3) Public authorities are not obliged to ensure the direct insight into their work if at issues in question, according to the law, the public must be excluded, i.e. if the relevant information are exceptions to the right on access to information according to the provisions of this Act.

INFORMATION OFFICER

Article 22

(1) In order to ensure the access to information, the public authority is obliged to bring a decision by which it shall designate a special official person competent to resolve the issues of realization of the right on access to information (hereinafter: information officer).

(2) The public authority is obliged to inform the public about the official data of the information officer as well as about his working method.

(3) The information officer:

1) performs the activities with regard to solving particular requests and regular publishing of information, in accordance with the internal organization of the public authority,

2) improves the method of processing, classification, keeping and publishing of information contained in the official documents and related to the work of the public authority,

3) ensures the assistance necessary to the applicants for realization of hereby determined rights.

(4) The public authority shall by its special decision create a catalogue of information which it possesses, has at its disposal or under control, which catalogue shall contain a systematic overview of the information accompanied by the description of contents, purpose, method of ensuring and term of realization of the right on access.

(5) The information officer shall undertake all the actions and measures necessary for keeping the catalogue in an orderly manner, for which he will be directly responsible to the head of the public authority.

EXCLUSION OF THE RESPONSIBILITY OF INFORMATION OFFICER

Article 23

The information officer who enables, in good faith and for the reasons of accurate and complete public informing, the access to certain information that would exceed his authority, may not be held responsible if the access to such information is not subject to the restrictions from Article 8 of this Act.

SUPERVISION OF INFORMATION ACT IMPLEMENTATION

Article 24

The Ministry responsible for general administration affairs shall perform the supervision of the implementation of this Act.

REPORTS

Article 25

(1) All public authorities are obliged to deliver a report on implementation of the provisions of this Act to the Ministry responsible for general administration affairs, based on the data contained in the catalogue of information described in Article 22 paragraph 4 hereof, for the previous year and not later than 31st January.

(2) The Ministry responsible for general administration affairs submits the compiled report on implementation of this Act to the Government of Republic of Croatia not later than 28th February for the previous year.

(3) The Government of Republic of Croatia is obliged to submit the report on implementation of this Act to the Croatian Parliament for its approval not later than 31st March for the previous year. The report shall be published in the »National Gazette« upon the obtained approval.

VI. PENAL PROVISIONS

Article 26

(1) If the legal person with public authorities who, contrary to the provisions of this Act, thwarts or restricts the realization of the right on access to information shall be punished for the infringement with a fine ranging from 20.000,00 to 100.000,00 kuna.

(2) For the infringements from paragraph 1 of this Article the responsible person in the public authorities shall be punished with a fine ranging from 5.000,00 to 10.000,00 kuna.

(3) The natural person, who damages, destroys, hides or in any other way makes a document containing the information unavailable when intending to thwart the realization of the right on access to information, shall be punished with a fine ranging from 1.000,00 to 8.000,00 kuna.

(4) For the infringement from paragraph 3 the responsible person in the public authority shall be punished by a fine ranging from 5.000,00 to 10.000,00 kuna or by imprisonment of up to sixty days.

COMPLETE FULFILMENT OF OBLIGATION

Article 27

Besides the imposing of penal and disciplinary sanctions, in the case of determined responsibility based on unjustified withholding or restriction of the right on access to information, the public authority is obliged to enable the authorized person the realization of the right on access to information in accordance with the provisions of this Law.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 28

The public authorities shall ensure the organizational, material, technical and other conditions for the implementation of the provisions of this Act, within the period of 90 days as of the date of entering into force hereof.

Article 29

The competent Minister shall bring at the latest within six months as of the date of entering into force of this Act, the By laws from Article 18 of hereof.

Article 30

This Act enters into force eight days as of the date of its publication in the »National Gazette«.

Class: 008-02/03-01/05

Zagreb, 15th October 2003
