

PARLIAMENT OF ROMANIA
THE CHAMBER OF DEPUTIES

L A W

Regarding the Free Access to the Information of Public Interest

The Chamber of Deputies adopts the present bill.

CHAPTER I
GENERAL PROVISIONS

Art. 1. – The free and unrestrained access of one person to any information of public interest, defined in this way through the present law, constitutes one of the fundamental principles of the relations between persons and public authorities, in accordance with the Constitution of Romania and the international documents ratified by the Parliament of Romania.

Art. 2. – In the sense of the present law:

a) by *authority* or *public institution* it is understood any authority or public institution, as well as any state company (*régie autonome*), which uses public financial resources and carry on its activities on Romania's territory, in accordance with the Constitution;

b) by *information of public interest* it is understood any information regarding or resulting from a public authority's or a public

institution's activities, irrespective of the support, or the form, or the mode of expressing the information;

c) by *information regarding personal data* it is understood any information regarding an identified or identifiable natural person.

CHAPTER II

THE ORGANIZATION AND FUNCTIONING OF ACCESS TO THE INFORMATION OF PUBLIC INTEREST

Section 1

Common Provisions Regarding the Free Access to the Information of Public Interest

Art. 3. The providing, by the public authorities and institutions, of the free access to the information of public interest is accomplished "ex officio" or by request, through the agency of the compartment for public relations or of the person especially appointed with this view.

Art. 4. – (1) In order to provide any person's access to the information of public interest, the public authorities and institutions are bound to organize specialized informing and public relations

compartments or to appoint persons discharging functions within this domain.

(2) The functions, organization and functioning of the public relations compartments are established on the basis of the provisions of the present law, by the Organization and Functioning Regulations of the respective public authority or institution.

Art. 5. – (1) Every public institution or authority is bound to report “ex officio” the following information of public interest:

a) the legal regulations which settle the organization and functioning of the public authority or institution;

b) the organization structure, the functions of the departments, the functioning schedule, the hearings schedule of the public authority or institution;

c) the surname and the first name of the persons within the leading structure of the public authority or institution and of the clerk responsible for the dissemination of the public information;

d) the contact coordinates of the public authority or institution, respectively: the title, address, phone numbers, fax numbers, e-mail address and the web page address;

e) the financial sources, the budget and the book-keeping balance sheet;

f) the public authority’s or the public institution’s own programmes and development strategies;

g) the list of the documents of public interest;

h) the list of the categories of documents produced and/or managed, according to the law;

i) the modalities of disputing the public authority's or the public institution's decision whenever a person considers that he/she was prejudiced relative to his/her right to access to the requested information of public interest.

(2) The public authorities and institutions are bound to publish and update yearly an informative bulletin which will contain information stipulated within the Art. No. 1.

(3) The public authorities are bound to make public "ex officio" a periodical activity report, yearly at least, which shall be published in the Official Gazette of Romania, the 2nd Part.

(4) The access to the information stipulated within Paragraph (1) is attained through:

a) display on the premises of the public authority's or the public institution's headquarters, or publishing in the Official Gazette of Romania or in the mass media, the public authority's or the public institution's own publications as well as web page;

b) consulting information on the premises of the public authority's or the public institution's headquarters, in spaces especially settled with this view.

Art. 6. – (1) Any person has the right to request and to obtain from the public authorities and institutions, according to the provisions of the present law, information of public interest.

(2) The public authorities and institutions are bound to provide for the persons, by the persons' request, the information of public interest, requested in writing or verbally.

(3) The request in writing for the information of public interest contains the following elements:

a) the public authority or institution to which the request is addressed;

b) the requested information, so that it would allow the public authority or institution to identify the information of public interest;

c) the solicitor's surname, first name and signature, as well as the address on which the answer is requested.

Art. 7. – (1) The public authorities and institutions are bound to answer in writing the request for the information of public interest in 10 days' time, or, depending on the case, in maximum 30 day's time since the enrolling of the request, according to the difficulty, complexity, volume of the documentary researches and urgency of the request. In case that the duration necessary for identifying and disseminating the requested information exceeds 30 days, the answer shall be communicated to the petitioner in maximum 30 days' time, on condition that the petitioner should be informed in writing about this situation in 10 days' time.

(2) The refusal of communicating requested information shall be justified and communicated in 5 days' time since the receiving of the petitions.

(3) The request for and the acquiring of the information of public interest can also be accomplished digitally, if the necessary technical conditions are met.

Art. 8. – (1) As regards the information requested verbally, the clerks within the information and public relations compartments are bound to specify the characteristic forms and conditions of the access to the information of public interest, and they shall supply the requested information at once.

(2) In case that requested information is not available at once, the petitioner is guided to request the public information by writing, and then the request shall be settled by the terms stipulated within the Art. No. 7.

(3) The information of public interest requested verbally is communicated within a minimal programme settled by the public authority's or public institution's leading structure, programme which shall be displayed on the premises of the public authority's or the public institution's headquarters, and which shall be carried on compulsorily during the institution's functioning, including a day a week after the functioning schedule.

(4) The registry activities regarding the petitions cannot be included in this schedule and they are carried on separately.

(5) The information of public interest requested verbally by the mass media shall be communicated, as a rule, immediately, or in maximum 24 hours' time.

Art. 9. – (1) In case that the request for the information involves the realization of copies of the documents belonging to the public authority or institution, the petitioner shall meet the expenses of the copying services, according to the law.

(2)- If, as a result of the received information, the petitioner requests further information related to the documents possessed by the public authority, this request will be dealt with as a petition, the answer being sent within the terms stipulated in articles No. 7 and 8

Art. 10. – The public authorities' and the public institutions' activity involving answering the petitions and hearings, carried on according to the specific competences of the respective authorities, if this activity regards formal approvals, authorization, services performance and any other requests but the information of public interest, does not come within the provisions of the present law.

Art. 11. – (1) The persons who make studies or do research in their own interest or in professional interest have access to the public authority's or the public institution's documentation fund, on the basis of personal request, according to the law.

(2) The copies of the documents belonging to the public authority or to the public institution are carried out according to the provisions stipulated within Art. No. 9.

Art. 12. – The following information makes an exception relative to the free access of the citizens, stipulated within Art. No. 1.:

a) the information regarding national defence, public security and order, if this type of information belongs to the categories of the classified information, according to the law;

b) the information regarding the authorities' debates, as well as the information regarding Romania's economic and political interests,

if this type of information belongs to the categories of classified information, according to the law;

c) the information regarding economic or financial activities, if their publicity jeopardizes the principle of honest competition, according to the law;

d) the information regarding personal data, according to the law;

e) the information regarding the procedure in a penal or disciplinary investigation, if the result of the investigation is jeopardized, if confidential sources are disclosed, if the life, the physical integrity or health of a person are jeopardized in the course of or as a result of the investigation.

f) the information with respect to the judiciary procedures if their publicity jeopardizes the insurance of a fair trial or the legitimate interest of any of the parts involved in the trial

(2) The responsibility for applying measures of protecting the information stipulated within Paragraph (1) rests upon the public persons and authorities holding the mentioned type of information, as well as upon to the state institutions entrusted by law to ensure the security of information.

Art. 13. – Information favouring or hiding the breaking of the law by a public authority or institution cannot be included in the category of classified information and constitute information of public interest.

Art. 14. – (1) Information regarding the personal data of the citizen may become information of public interest only in so far as it affects the citizen's capacity of officiating when holding a public position.

(2) The public information of personal interest cannot be transferred among the public authorities but on the basis of a legal obligation, or on the basis of previously written consent of the person who has access to that information according to Art. No. 2 within the present law.

Section No. 2

Special Provisions Regarding the Access of Mass Media to the Information of Public Interest

Art. 15. – (1) The access of the mass media to the information of public interest is guaranteed.

(2) The activity of collecting and disseminating the information of public interest, carried on by mass media, constitutes a materialization of the citizens' right of access to any information of public interest.

Art. 16. – (1) In order to provide the access of the mass media to the information of public interest, the public authorities and

institutions are bound to appoint a spokesperson, who shall belong, as a rule, to the information and public relations compartments.

Art. 17. – (1) The public authorities are bound to organize periodically – as a rule, once a month, press conferences in order to inform about the information of public interest.

Within the press conferences, the public authorities are bound to answer relative to any information of public interest.

Art. 18. – (1) The public authorities are bound to grant, without discrimination, the accreditation to the journalists and the mass media representatives.

(2) Accreditation is granted by request, in 2 days' time since its registration.

(3) The public authorities may refuse to accredit a journalist or withdraw one journalist's accreditation only on account of acts which hinder normal carrying on of the public authority's activity, and which are not related to the respective journalist's opinions as expressed in the press, in accordance with the law and within the law.

(4) The refusal to grant accreditation to a journalist and the withdrawal of a journalist's accreditation are communicated by writing and do not affect the respective press organ's right to obtain accreditation for another journalist.

Art. 19. – (1) The public authorities and institutions are bound to inform the mass media in due time about the press conferences or any other public actions organized by them.

(2) The public authorities and institutions can't deny in any way the access of the mass media to the public actions organized by them.

(3) The public authorities, which are bound, due to their own functioning and organization law, to carry on specific activities in the presence of the public, are bound to allow the press' access to the respective activities, the dissemination of the materials obtained by the journalists being to have respect only for professional deontology.

Art. 20. – The mass media are not bound to publish the information provided by the public authorities or institutions.

CHAPTER III

PENALTIES

Art. 21. – (1) The explicit or tacit refusal of the employee appointed by an authority or a public institution to carry out the provisions of the law, constitutes a breaking in the law and brings about the disciplinary responsibility of the culprit.

(2) Against the refusal mentioned within Paragraph (1) there can be handed in a complaint addressed to the respective public authority's or to the respective public institution's manager, in 30 days' time since the harmed person has taken note of the respective refusal.

(2) If, after the administrative investigation, the complaint proves well-grounded, the answer shall be transmitted to the harmed person in 15 days' time since the complaint has been handed in, and the answer shall contain both the initially requested information of public interest and the mention of the disciplinary penalties taken against the culprit.

Art. 22. – (1) In case that a person considers that he/she has been harmed respective to his/her rights recognized by the law, the respective person may hand a complaint to the administrative contentious section of the Court within whose area the respective person's domicile or headquarters are situated, or within whose area the authority's or public institution's headquarters are. The complaint shall be handed in 30 days' time since the expiry of the period stipulated within Art. No. 7.

(2) The Court can force the public authority or the public institution to provide the requested information of public interest and may order the paying of moral and/or patrimonial damages.

(3) The Court's decision is subject to appeal.

(4) The Court of Appeal's decision is definitive and irrevocable.

(5) The complaint and the appeal are both cases judged by Court, by emergency procedure and are exempted of stamp fee.

CHAPTER IV

TRANSITORY AND FINAL PROVISIONS

Art. 23. – (1) The present law will go into effect 60 days after its publishing in the Official Gazette of Romania

(2) Within 60 days after the publishing in the Official Gazette of Romania , the Government will elaborate, if ordered by the Ministry of Public Information, the methodological norms for its coming into force.

Art. 24. – (1) In 60 days' time since the going into effect of the present law, the Ministry o Public Information, the Ministry for Communication and Information Technology and the Ministry of Public Finance shall submit to the Government proposals regarding the necessary measures so that the information of public interest should become available progressively, through the agency of digitally data bases accessible to the public on the national level.

The provisions stipulated within Paragraph (1) shall refer inclusively to the endowment of the public authorities and institutions with adequate calculation technique equipments.

Art. 25. On the date of the going into effect of the present law, any contrary provisions are abolished.

This Bill was adopted by the Senate within the meeting on June, 21, 2001, in accordance with the provisions of Article No. 74, Paragraph (2) within the Constitution of Romania.

The President of the Senate, Alexandru Athanasiu