

LAW ON FREE ACCESS TO PUBLIC INFORMATION

I. GENERAL PROVISIONS

1. Subject of the Law

Article 1

(1) This Law predetermines the conditions, the way and the procedures of performing the right of accessing the public information held by the state authorities and other organizations and institutions, which are determined by law, further, by organs of the municipalities, organs of the city of Skopje, organs of the municipalities of the city of Skopje, public institutions and services, public enterprises, legal entities and natural persons who perform public jurisdictions and services of public interest, established by law. (further in the text: holders of information)

(2) The right to free access to public information is being implemented in accordance with this and other law.

(3) The Commission for Protection of the Right to Free Access to Public Information will compose a manual containing the methods and procedures for implementation of this Law.

2. Objectives of the Law

Article 2

(1) This Law provides transparency in the working of the holders of information and enables the physical and legal entities to practice their right to free access to public information.

(2) The holders of information are obligated to provide the public with information concerning their work.

Article 3

The following expressions used in this Law are explained as follows:

- “holders of information” are the organs of the state authorities and other organizations and institutions, which are determined by law, organs of the municipalities, organs of the city of Skopje, organs of the municipalities of the city of Skopje, public institutions and services, public enterprises, legal and physical entities who perform public jurisdictions and services of public interest, established by law;

- “public information” is information in any given form, created and owned by the holder of information, i.e. owned only by the holders of information, according to his jurisdictions (Further in the text: information);

- “applicant for information” is any legal of physical entity, without discrimination on any reason, in a manner and under conditions established by this and other law. (Further in the text: applicant); and

- “document” is any record of information, not considering its physical form or characteristics, written or printed text, maps, schemes, photographs, pictures, sketches, working materials, as well as audio, vocal, magnetic or electronic recordings in any given form, as well as portable equipment for automatic data processing with built-in or portable data storing memories in a digital form.

3. Free access to information

Article 4

(1) All of the legal and physical entities have free access to information;

(2) The free access to information is granted also to foreign physical and legal entities in accordance to this and other law.

4. Publishing of a list

Article 5

The Commission for Protection of the Right to Free Access to Public Information will once a year publish a list of holders of public information and of the person in charge of the holder of information (in the means of public informing, bulletin, internet site).

5. Exclusion from free access to public information

Article 6

(1) The holders of information can reject a request for access to information in accordance to law, if the information concerns:

1. information which according to a law represents a classified information with a certain degree of secrecy;

2. personal data which revealing would represent damage to the protection of private information;
3. information on the archival working which has been determined as confidential;
4. information who's issuing would represent damage to the confidentiality of the tax procedure;
5. information obtained or constructed for aims of investigation, criminal or infringement procedure, executive and civil procedure, and which issuing would have harmful consequences for the process of the procedure;
6. information concerning commercial and other economic interests, including the interests of the monetary and fiscal politics and which issuing would have harmful consequences in the fulfillment of the function;
7. information from a document which is still in preparation procedure and is still in process of harmonization by the holder of information, and which issuing would generate misunderstanding of the content;
8. information on protection of the environment, which is not available to the public on reasons of protection of the people's health and of the environment;
9. information that endangers the rights to industrial or intellectual property (patent, model, scheme, production and service stamp, feature for the origin of the product).

(2) The information contained in Line (1) of this Article becomes available when the reasons for the unavailability cease to exist.

(3) As an exclusion from Line (1) of this Article, the holders of information will approve access to the information, only when by the publishing of the information the consequences to the protected interest are smaller than the public interest that would be achieved by the publishing of the information.

6. Partial access

Article 7

If the document or one of its parts contains information from Article 6, Line (1) of this Law that can be separated from the document, without jeopardizing its safety, the holder of information separates those information from the document and informs the applicant about the content of the rest of the document.

II. OFFICIAL PERSON FOR MEDIATING INFORMATION

1. Official person

Article 8

- (1) Every holder of information should appoint one or more official mediator persons for implementation of the right to free access to information;
- (2) The holder of information is obligated to inform the public on the appointment of the official mediator persons;
- (3) The official mediator person directly contacts the applicant and provides him with the needed information; official mediator person registers the requests for information, archives them and issues them to the applicant.
- (4) Several holders of information can appoint one or more official persons for mediating in the process of implementation of the right to free access to information.

III. OBLIGATIONS OF THE HOLDERS OF INFORMATION

1. List of information

Article 9

The holders of information are obligated to regularly update the list of information they own and to publish them in a way accessible by the public (Internet pages, billboard etc.)

2. Mediating information

Article 10

- (1) The holder of information is obligated to inform the public about:
 - the elementary contact information for the applicant: name, address, telephone number, fax number, e-mail address and web page address;
 - the procedure for submitting request for access to information;

- the provisions which concern the authorization of the holder of information, connected to the register of provisions published in the internal gazette;
- the suggestions for programs, strategies, positions, opinions, studies and other similar documents, which concern the authorization of the holder of information;
- all of the public announcements in the procedure for public procurements and the documentation for tenders established by law;
- the information about its authorities established by law;
- the organization and the expenses of working, as well as about giving services to the citizens in the executive procedure and about their activities;
- the issuing of information bulletins and other forms of informing and
- other information that emerge from the authorizations and the work of the holder of information.

(2) Every holder of information is obligated to enable a cost-free access to information from Line 1.

Article 11

The persons in charge at the holders of information, in order to provide free access to information, should provide room for viewing the requested information, and the official mediator persons should assist and help in searching of the requested information, in accordance to this and other laws.

IV. PROCEDURE FOR IMPLEMENTATION OF THE RIGHT TO FREE ACCESS TO INFORMATION

1. Oral or written request

Article 12

(1) The applicant can give his request orally, in written or in an electronic form.

(2) Every applicant, based on a request, has the right to access to information own by the holder of information, in a form of viewing, rewriting, photocopy or in an electronic form.

2. Oral request

Article 13

(1) If the applicant orally asks for access to information, the holder of information is obligated enable the access to the applicant, in a way that would give the applicant enough time to view its contents, for which the holder of information should write an official note, except in cases described under Article 6, Line (1) of this Law.

(2) If the answer of the holder of information to the request from Line (1) is positive, he should give the applicant possibility to view the wanted information immediately, or within 10 days, or provide a rewriting, a photocopy or an electronic version of the information.

(3) If the answer of the holder of information to the request is negative, or if he can not answer immediately, and if the applicant has an oral or written objection to the way of acquiring the information, the official mediator person is obligated to write an official note with the data about the applicant, the date of reception of the request, and to inform the applicant about the special request, i.e. about the wanted information.

(4) In cases described under Line (3) in this Article, the further procedure in case of oral request continues in the same manner as in cases of written request, in accordance to this Law.

3. Written request

Article 14

(1) The holder of information decides on the written request for access to information in a procedure established by the Law.

(2) The issues of procedure from Line (1) of this article that are not established by this Law undergo the provisions from the Law on General Executive Procedure.

4. Submitting the request

Article 15

(1) The applicant submits the request for access to information to the holder of information.

(2) For the submitted request in an electronic from Line (1) apply the provisions of this and other Laws

5. Content of the request

Article 16

- (1) The type and the shape of the form for request for access to public information is decided by the Commission. The holder of information is obligated to provide the applicant with this form.
- (2) The form for request contains the name of the holder of information, the personal first and family name of the applicant, data on the representative or the authorized person (if any) and the firm or the legal entity.
- (3) The applicant is obligated to name the information that he seeks as well as to note the way he wants to receive it (view, rewrite, photocopy, electronic form).
- (4) The applicant does not have to explain the reason for his request, but he must make clear that it is a matter of request for access to information.
- (5) The holder of information, according to this Law, is obligated to decide on the request, if according to the subject of the request, it is clear that it is a request for free access.

6. Supplementing and denying the request

Article 17

- (1) If the request is not complete and therefore the holder of information cannot act on it, he will ask the applicant to fill in the request, pointing out the consequences if he does not do it. The applicant is obligated to fill in the request within three days from the day he was informed about the obligation to fill in the request.
- (2) The official mediator person is obligated to give the applicant the adequate help with supplementing the request.
- (3) If the applicant does not act in accordance to Lines (1) and (2) of this Article, the holder of information will decide that the request has been withdrawn.
- (4) If the request after the supplementation still does not fulfill the conditions under Article 16 of this Law, and therefore the holder of information cannot decide on the request, the holder of information will decide that he denies the request.

7. Resending of the request

Article 18

If the holder of information that received the request does not possess the requested information in that moment or within 10 days from the receive of the request, he is obligated to resend the request to the holder of information, who according to the content of the request is the true holder of information and will inform the applicant about the resending.

(2) The dead line for obtaining the information starts at the day of the receiving of the request by the true holder of information, where the request was resent, from Line (1) of this Article.

Article 19

The official person from Article 8 of this Law enforces the procedure on the request for access to public information at the holder of information.

8. Acting on the request

Article 20

(1) If the holder of information gives a positive answer to the request, he should write a report about it.

(2) If the holder of information partially or completely denies the request, he should write a decision about it.

(3) In cases described in Line (2) of this Article, the decision should contain an explanation on the reasons for which the request has been denied.

(4) If the holder of information does not give access to the information or does not provide the applicant with the decision from Line (2) of this Article, within the dead line established in Article 21 of this Law, it is considered that the request has been denied, after which a complaint can be submitted.

Article 21

(1) The holder of information is obligated to immediately answer the request of the applicant, or within the dead line of 30 days after the day of receiving of the request.

(2) The holder of information issues the information in the requested form, except in cases when the information already exists in a predetermined shape and is already accessible by the public, and if it is convenient that the information is presented in a different shape than the requested one, for which the holder of information should explain the reason for the different way of presentation.

9. Extension of the dead line for presenting of the requested information

Article 22

(1) If the holder of information needs longer period of time than the dead line from Article 21 of this Law, in order to provide partial access to information, as in Article 7 of this Law, or because of the large size of the requested document, the dead line can be extended, but no more than 40 days from the day of receiving of the request.

(2) About the extension of the dead line from Line (1) of this Law, as well as about the explanation of the reasons for extension, the holder of information is obligated to inform the applicant, in written form, within three days before the end of the dead line from Article 21 of this Law.

(3) The applicant has the right to a complaint to the Commission for protection of the right to free access to information, within eight days, if the holder of information does not act within the dead line from Line (1) of this Article.

10. Answered requests

Article 23

The holder of information is obligated to inform the applicant concerning the request for access to information if there is a positive answer to a similar or same request to the same person, within 6 months before the day of receiving the request.

11. Presenting answer on requested information

Article 24

(1) If the holder of information gives a positive answer to the request, he should give immediate access to the content of the requested information by viewing, rewriting, photocopy or in electronic form.

(2) If the applicant wants to view the information, the holder of information is obligated to provide it in the best manner, so that the applicant will have enough time to get introduced with its contents.

(3) If, as a result of the obtained information, there is a request for additional information, connected with the documents owned by the holder of information, the applicant submits a new request, according to Articles 15 and 16 of this Law, together with the received answer.

(4) If the applicant considers that the information that he received is not the one he requested, he can write a new request to the holder of information asking for the request information, no later than 10 days after the receiving of the new request.

12. The language of the request

Article 25

The applicant submits the request to the holder of information in Macedonian language and in Cyrillic letters. The applicant who uses official language different than the Macedonian language and letter, can submit the request in the official language and letter that he uses in accordance to the Law.

13. Denial of request and informing about it

Article 26

(1) The holder of information can partially or totally deny the request, if he determines that the requested information is information from Article 6, Line (1), and also bearing in mind Article 6 Line (3) of this Law.

(2) If the request concerns information that the holder does not possess or if the information is already published, according to Articles 18 and 23 of this Law, the applicant should be informed in written form.

14. Right to a legal protection

Article 27

According to this Law, the applicant who submitted a request for access to information has a right to legal protection.

15. Procedure on complaints

- (1) The applicant has the right to a complaint against the decision from the holder of information for denial of the request, within 15 days after receiving the decision from the Commission for Protection of the Right to Free Access to Public Information.
- (2) The applicant has the right to submit a complaint to the Commission for Protection of the Right to Free Access to Public Information, in cases when the holder of information did not act in accordance to the Articles 20, Line (4), 24, Line (4) and 26, Line (1) of this Law, within 8 days from the day of receiving of the complaint.
- (3) The Commission for Protection of the Right to Free Access to Public Information will decide on the complaint of the applicant within 15 days from the day of receiving of the complaint.
- (4) The procedure on the complaint from Line (2) of this Article is being implemented according to the orders from the Law on General Executive Procedure.

5. COSTS FOR MEDIATING THE INFORMATION

Article 29

- (1) The viewing of the requested information is free of charge.
- (2) The applicant pays the material costs of the received rewriting, photocopy or electronically received information.
- (3) The Government of the Republic of Macedonia, after a suggestion from the Ministry of Finances, will adopt and act for determining the material costs for the given information from the holders of information.
- (4) The holder of information will publish the expenses from Line (3) of this Article in an appropriate manner (in an official bulletin of the holder of information, on an Internet page, billboard etc.) and gives it for viewing to every applicant before he submits the request.
- (5) If the request concerns larger information, the holder of information can ask the applicant to cover the expenses in advance for obtaining the information.

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

1. Status of the Commission

Article 30

(1) The Commission for Protection of the Right to Free Access to Public Information (further in the text: Commission) is independent in its working and in the bringing of the decisions in accordance to the authorities determined by this Law.

(2) The means for the functioning of the Commission are provided from the budget of the Republic of Macedonia. The Commission is located in Skopje. The Commission is responsible for its work to the Parliament of the Republic of Macedonia, where it sends its yearly reports on its work.

2. Structure, appointing and dismissing of the Commission

Article 31

(1) The Commission is consisted of five members, one from which is the president and other vice-president. The mandate of the members is five years, with right to be re-elected. The president and the vice-president are performing their function professionally.

(2) On a proposal of the Government of the Republic of Macedonia, the president, the vice-president and the member of the Commission which represents the non-governmental sector are being appointed and dismissed by the Parliament of the Republic of Macedonia for a mandate of five years, with the right to be re-elected.

(3) Two members of the Commission from the expert staff of the Commission and by proposal of the Government of the Republic of Macedonia are being appointed and dismissed by the Parliament of the Republic of Macedonia for a period of five years with the right to be re-elected.

(4) The President of the Commission represents, acts for and leads the work of the Commission.

(5) Only a person who is citizen of the Republic of Macedonia, respectable and recognized in the field of informing and access to the public information can be appointed president, vice-president or member of the Commission from the non-governmental sector.

(6) The president, the vice-president and the members of the Commission cannot perform duties in organs of political parties during their mandates.

(7) The Parliament of the Republic of Macedonia, on proposal of the Government of the Republic of Macedonia, dismisses the president, the vice president and the members of the Commission before the end of their mandates on their request, based on incapability for functioning, because of an illness, or when working against the provisions of this Law.

(8) If the function of a member of the Commission, or of his deputy ceases, based on Line (7) of this Article, and on proposal of the Government of the Republic of Macedonia, the Parliament of the Republic of Macedonia appoints a new member with a new mandate in the Commission.

3. Jurisdiction of the Commission

Article 32

The Commission performs the following tasks:

- decides on complaints against the decision and the conclusion with which the holder of information denied the request for access to information to the applicant;
- takes care for the implementation of the provisions of this Law;
- prepares and publishes list of holders of information;
- gives opinions on proposals for laws governing free access to information;
- undertakes activities of educating the holders of information for providing the applicants free access to information they possess;
- cooperates with the holders of information concerning the application of the right to free access to information;
- gives suggestions for the needed means for functioning of the Commission while preparing the Budget of the Republic of Macedonia;
- prepares Rulebook of procedure for its functioning;
- prepares annual report for its work and presents it to the Parliament of the Republic of Macedonia;
- performs tasks of international cooperation concerning the execution of the international obligations of the Republic of Macedonia, takes part in implementation of projects of the international organizations and cooperates with the organs of other countries and institutions in the field of free access to public information;
- adopts a Statute, as well as other acts who manage the way of functioning and the organization of the Commission and
- conducts other activities determined by this and other Laws.

4. Way of functioning

Article 33

The Commission performs its jurisdiction tasks on a session. The way of functioning and decision-making are determined by the Statute, which is approved by the Parliament of the Republic of Macedonia.

5. Expert staff

Article 34

The executive-, expert- and other administrative-technical works of the Commission are being conducted by the expert staff, lead by a chief of staff, which is appointed and dismissed by the Commission.

6. Court protection

Article 35

One can file a suit for executive court procedure to the authorized court against the decision of the Commission.

VII. INFORMING THE PUBLIC ABOUT THE ACCESS TO INFORMATION

Article 36

(1) The holders of information will introduce the public with the way and the conditions for access to information.

(2) The holders of information will cooperate with other holders of information and with the Commission concerning the application of the provisions of this Law.

VIII. ANNUAL REPORT

Article 37

(1) The official person of the holder of information is obligated to prepare an annual report for implementation of this Law for the previous year and to present it to the Commission no later than January 31 in the current year.

(2) The report from Line (1) of this Article is consisted of:

- data on the official persons appointed for mediating the information at the holders of information;
- number of submitted requests;
- number of positively answered requests;
- number of denied requests and explanation of the reasons for every denied request;
- number of submitted objections and decisions, with description of the decision, as well as with explanation of the reasons for the decision, in cases of repeated denial of the requested information;
- number of executive court procedures against the final decision or in cases when the holders of information do not answer;
- number and list of brought court verdicts, in which the law suit of the applicant has been answered positively in the executive court procedure, as well as revealing the reasons on which the court verdict is based.

(3) The Commission prepares a joint report on the implementation of this Law based on the gathered information from the reports from the holders of information, and no later than March 31 in the current year for the previous year, and presents information to the Parliament of the Republic of Macedonia.

(4) The report from Line (3) of this Article, after it is being reviewed and adopted by the Parliament of the Republic of Macedonia, will be published in the means of public informing (bulletin, Internet page).

Article 38

An employee in the state administration will not be held responsible if he issues classified information, if that information is important for determination of abuse of official position and corruptive behaviour, as well as for stopping serious threats to the health of the people and to the endangering of the environment.

IX. PENAL PROVISIONS

Article 39

The responsible, i.e. the official person at the holder of information will be charged for violation with penalty of 30.000 to 50.000 denars, for not giving public information in accordance to the provisions of this Law.

Article 40

The person in charge, i.e. the official person at the holder of information will be charged for violation with penalty of 30.000 to 50.000 denars, for giving information contrary to Article 6, Line (1) of this Law, for denying or granting access to information contrary to the provisions of this Law, and therefore causing damage to the applicant, to the public, or to the interest protected by that information.

Article 41

The person in charge at the holder of information will be charged for violation with penalty of 20.000 to 40.000 denars, for not appointing official person authorized for mediation in implementation of the right to free access to information (Article 8).

Article 42

The person in charge at the holder of information will be charged for violation with penalty of 20.000 to 50.000 denars, if he does not prepare and update the list of information they own and if he does not publish them in an appropriate manner approachable for the applicant, according to Article 9 of this Law.

Article 43

(1) The person in charge at the holder of information will be charged for violation with penalty of 20.000 to 40.000 denars, if he does not provide the applicants of information with adequate room for viewing the requested information. (Article 11)

(2) The official person for mediating with information at the holders of information will be charged for violation with penalty of 20.000 to 50.000 denars, if he does not assist the applicants in the process of searching the information, according to this Law. (Article 11)

Article 44

(1) The official person for mediating with information at the holders of information will be charged for violation with penalty of 20.000 to 50.000 denars, if he does not mediate the information in the determined dead line without explanation. (Article 21)

(2) Any person that at the holders of information, that during the procedure of complaint, does not deliver or prevent the Commission from viewing the document, will be charged for violation with penalty of 20.000 to 50.000 denars. (Article 32)

Article 45

The person in charge at the holder of information will be charged for violation with penalty of 5.000 to 30.000 denars, if he does not prepare the annual report on the implementation of this Law and does not present it to the Commission. (Article 37)

X. TRANSITORY AND FINAL PROVISIONS

Article 46

The provision from Article 1, Line (3) of this Law will be adopted within 3 months from the day of adoption of this Law.

Article 47

The Government of the Republic of Macedonia will adopt the act from Article 29, Line (3) of this Law, within six months from the day of adoption of this Law.

Article 48

The holders of information will appoint official persons for mediation with information from Article 8 of this Law within four months from the day of adoption of this Law.

Article 49

- (1) The president, the vice-president and the members of the Commission are being appointed within 30 days from the day of adoption of this Law.
- (2) The Agency of Information ceases to exist.
- (3) The Commission takes over the employees from the Agency of Information into the expert staff of the Commission within 60 days from the day of adoption of this Law.
- (4) The Commission takes over the material, technical, spatial and other conditions necessary for the implementation of this Law.
- (5) The Commission will adopt the acts of secondary legislation within three months from the day of adoption of this Law.
- (6) The Commission, in cooperation with the Government of the Republic of Macedonia, the non-governmental sector and with support from the international organizations, within six months after the adoption of this Law, will conduct training of the persons in charge for implementation of this Law.

Article 50

This Law will be enforced on the eighth day after it is published in the “Official Gazette”, and will be applied from September 1, 2006 year.

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