

Act on the Right of Access to Information

THE CROATIAN PARLIAMENT

2491

On the basis of Article 88 of the Constitution of the Republic of Croatia

I hereby render the DECISION TO PROMULGATE

THE ACT ON THE RIGHT OF ACCESS TO INFORMATION

I hereby promulgate the Act on the Right of Access to Information, adopted by the Croatian Parliament at its session of 15 October 2003

No: 01-081-03-3491/2

Zagreb, 21 October 2003

The President Of the Republic of Croatia

Stjepan Mesic, m.p.

THE ACT ON THE RIGHT OF ACCESS TO INFORMATION

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I. GENERAL PROVISIONS

Contents

Article 1

This Act regulates the right of access to information possessed, disposed of or controlled by public authorities, prescribes the principles of the right of access to information, exceptions to the right of access to information and procedures for the exercise and the protection of the right of access to information.

Objective

Article 2

The objective of this Act is to make possible and ensure the exercise of the right of access to information to physical and legal persons through the openness and public work of bodies of public authority, in accordance with this and other Acts.

Definitions

Article 3

(1) For the purposes of this Act

1) "The beneficiary of the right to information" (hereinafter: the beneficiary) is any domestic or foreign physical or legal person who requests access to information.

2) "The bodies of public authority" are state bodies, bodies of units of local and regional self-government, legal persons vested with public powers and other persons to whom public powers have been delegated.

3) "Information" is data, photographs, drawings, film, reports, acts, tables, graphics, sketches or other articles possessed, disposed of or controlled by bodies of public authority, regardless of whether they are stored in a document or not, and regardless of the source, date of origin, place of storage, manner of discovery, by whose order, in whose name and on whose account the information is stored or any other characteristic of the information.

4) "Document" is any material means where information is written or entered which is possessed, disposed of or controlled by a body of public authority.

5) "The right of access to information" covers the right of the beneficiary to seek and receive information and the obligation of bodies of public authority to make access to the requested information possible, or to publicize information even when there is no special request for them, rather publication is their obligation according to individual laws or other general regulations (hereinafter: the regular publication of information).

(2) The Government of the Republic of Croatia shall each year by 31 January publish a list of bodies of public authority in Narodne novine (the Official Gazette).

II. THE PRINCIPLES OF THE RIGHT OF ACCESS TO INFORMATION

The Assumption of Public and Free Access and Restrictions

Article 4

(1) All information possessed, disposed of or controlled by bodies of public authority shall be available to interested beneficiaries of the right to information.

(2) The beneficiary has the right to find out from the bodies of public authority whether they possess, dispose of or control the information requested.

(3) If there is any restriction to the right of access to certain information, the body of public authority is obliged to state in a separate decision which category of exception it is, or the reasons why it has decided to deny the information.

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

Complete and Accurate Information

Article 5

The information given by the public authority, or published by them, must be complete and accurate.

Equality

Article 6

(1) All beneficiaries have the right of access to information in an equal manner and under equal conditions and they are equal in terms of the exercise of this right.

(2) The bodies of public authority may not place any one beneficiary in a more favorable position in that they give information earlier to any beneficiary.

(3) The right of access to information containing personal details is exercised in the manner prescribed in another law.

The Principle of Disposing of Information Article 7

A beneficiary, who has information available, has the right to present this information to the public.

III. EXCEPTIONS TO THE RIGHT OF ACCESS TO INFORMATION

Exceptions and their Duration Article 8

(1) Bodies of public authority shall deny the right of access to information if the information has been declared a state, military, official, professional or business secret by law or on the basis of criteria established by law, or if it is protected by the law regulating the area of the protection of personal data.

(2) Bodies of public authority may deny the right of access to information if there is any well-founded suspicion that its publication would:

1) make it impossible to take measures or carry out action to prevent and uncover criminal offenses or for the prosecution of perpetrators of criminal offenses;

2) make it impossible effectively, independently or without prejudice to conduct court, administrative or other legally established proceedings, to execute court decisions or penalties;

3) make impossible the work of bodies who carry out administrative supervision, or supervision of legality;

4) cause serious damage to the life, health and safety of people or the environment;

5) make it impossible to implement economic or monetary policies;

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

(3) Information to which the right of access is denied for the reasons given in Paragraph 2, item 6 of this Article shall become available to the public when so determined by the one who may suffer harm by the publication of the information, but no longer than 20 years from the day the information came into being, unless a longer time period is established by law or other regulations.

(4) The bodies of public authority shall permit access to those parts of the information, which may be published, in terms of the nature of their content.

(5) Information shall become available to the public after the reasons have ceased which are given in this Article by which the body of public authority denied the right of access to information.

IV. PROCEDURAL PROVISIONS

The Application of Legislation on General Administrative Procedure Article 9

If this Act does not prescribe otherwise, in the proceedings for the exercise of the right of access to information, the provisions of the Act on General Administrative Procedure shall be applied in the appropriate manner.

The Manner of Exercise of the Right of Access to Information Article 10

The bodies of public authority are obliged to make access to information possible:

- 1) By regular publication of certain information, as prescribed in a separate law or other general act, under the condition that they publicize once a month, in a suitable and accessible manner in order to inform the public;
- 2) By the direct supply of information to the beneficiary who has submitted a request;
- 3) By allowing examination of documents and photocopying of documents containing the information requested;
- 4) By sending the beneficiary who submitted a request photocopies of the documents containing the information requested;
- 5) In other ways to exercise the right of free access to information.

The Request Article 11

- (1) The beneficiary exercises his/her right of access to information by submitting an oral or written request to the competent body of public authority.
- (2) If the request is submitted orally, minutes shall be made of it, and if it is made over the telephone or by other telecommunications equipment an official note shall be made.
- (3) A written request shall contain: the title and seat of the body of public authority to whom the request is addressed, the data important for recognition of the information requested, the name and surname and address of the physical person making the request, the company, or title of the legal person and its seat.
- (4) The applicant is not obliged to give the reasons for requesting access to the information.
- (5) The applicant may propose in the request the manner in which the body of public authority may make the information available.

Time Limits Article 12

- (1) On the basis of an oral or written request, the body of public authority is obliged to enable the applicant to gain access to the information within no more than 15 days from the day the request is submitted.
- (2) If the request is incomplete or incomprehensible, the body of public authority shall invite the applicant to correct it within three days. If the applicant does not correct the request in the appropriate manner, the body of public authority shall by a decision reject the request as incomprehensible or incomplete.

Forwarding a Request Article 13

(1) If the body of public authority does not possess, dispose of or have control of the information but does know which body is competent, it shall without delay, and no more than 8 days from receiving the request, forward the request to the body of public authority which does possess, dispose of or control the information, and shall inform the applicant accordingly.

(2) In the case mentioned in Paragraph 1 of this Article, the time limits for the exercise of the right of access to information shall be reckoned from the day when the body of public authority received the forwarded request.

Extension of Time Limits Article 14

(1) The time limits for exercising the right of access to information established by this Act, may be extended by up to 30 days insofar as:

- 1) the information must be sought outside the seat of the body of public authority;
- 2) a large number of different pieces of information are requested in one application.

(2) The body of public authority shall without delay, within no more than 8 days, inform the applicant of the extension of the time limit, and give the reason for the extension of the time limit.

Decisions on Requests Article 15

(1) The body of public authority shall not render a separate decision on the granting of the request for access to information, but shall write an official note about it.

(2) The body of public authority shall render a decision on the rejection of a request:

- 1) If it is a case as in Article 8, Paragraphs 1 and 2 of this Act;
- 2) If the body of public authority does not dispose of and does not control the information nor have any knowledge where the information may be found;
- 3) Insofar as the same beneficiary has been allowed access to the same information within 60 days of the submission of the request.

(3) If the information has already been published, the body of public authority shall inform the applicant without delay where, when and how the information requested was published.

Additions to and Correction of Information Article 16

(1) Insofar as the beneficiary, on the basis of evidence he/she has available, considers the information offered on the basis of the request to be inaccurate or incomplete, he/she may request that it be corrected or completed.

(2) The body of public authority is obliged to render a separate decision on the rejection of the request if it considers that there is no foundation for any additions to or corrections of the information given.

Appeals and Administrative Disputes Article 17

(1) The applicant may submit an appeal against the decision by the body of public authority to the head of the competent body of public authority, within 8 days of the day the decision was served.

(2) The second instance decision on the appeal must be rendered and served without delay, and no more than 15 days from the day the appeal was submitted.

(3) The applicant may file a complaint and thereby institute an administrative dispute before the Administrative Court against the second instance decision, or the final first instance decision by the body of public authority by which the request was rejected, in accordance with the provisions of the Act on Administrative Disputes. The proceedings on the complaint are urgent.

Official Register Article 18

The body of public authority shall keep separate official register of requests, proceedings and decisions on the exercise of the right of access to information in accordance with the provisions of this Act. The organization, content and manner of keeping the official register shall be prescribed by a regulation by the minister responsible for general administrative affairs.

Fees Article 19

The body of public authority has the right to reimbursement by the beneficiary of material expenditure in relation to the supply and service of the information requested.

V. SPECIAL PROVISIONS ON THE BODIES OF PUBLIC AUTHORITY

The Publication of Information Article 20

(1) Regardless of individual requests seeking the exercise of the right of access to information, the bodies of public authority are obliged in an appropriate manner, in official gazettes or in the IT medium to publicize particularly:

1) their decisions and measures which affect the interests of beneficiaries, with the reasons for adopting them;

2) information on their work, including data on the activities, organization, expenditure involved in their work and sources of financing,

3) information on requests submitted, petitions, proposals and other activities taken by beneficiaries towards the body of public authority,

4) information on tenders and tender documents for public procurement, in accordance with the Act on Public Procurement.

(2) The bodies of public authority who have responsibility for drafting acts and subordinate legislation are obliged to publicize these acts and enable beneficiaries to comment on them within an appropriate

time limit. Draft acts and secondary legislation, the written comments of beneficiaries and the final proposals of these acts shall be published in the manner prescribed in Paragraph 1 of this Article.

The Public Nature of the Work of Public Authorities Article 21

(1) In order to ensure the public nature of their work, bodies of public authority are obliged to determine in their general acts the conditions under which they allow direct insight into their work by the public;

(2) The bodies of public authority are obliged to inform the public on:

1) The agendas of sessions or meetings and the time they are held, the manner of work of the body of public authority and the possibility of direct insight into their work;

2) The number of persons who may be simultaneously given direct insight into the work of the body of public authority, in that account shall be taken of the order in which requests are submitted.

(3) The bodies of public authority are not obliged to provide direct insight into their work if it is a question of matters from which the public must be excluded by law, or information exempt from the right of access to information according to the provisions of this Act.

Information Officer Article 22

(1) The body of public authority, in order to provide access to information, is obliged to render a decision to designate a special official person, with authority to decide on the exercise of the right of access to information (hereinafter: the information officer).

(2) The body of public authority is obliged to acquaint the public with official data on the information officer, and on the manner in which he/she works.

(3) Information officers shall:

1) carry out tasks to decide individual requests and the regular publication of information, in accordance with their internal organization;

2) work to improve the manner of processing, classification, storage and publication of information contained in official documents relating to the work of the body of public authority;

3) provide essential help for applicants in relation to the exercise of their rights established in this Act.

(4) The body of public authority shall by a separate decision, organize a catalogue of the information it possesses, disposes of or controls, containing a systematized overview of the information, with a description of the content, intent, how it may be obtained and the time needed to exercise the right of access.

(5) The information officer shall undertake all tasks and measures necessary in order to run the catalogue in an orderly manner, for which he/she is directly responsible to the head of the body of public authority.

Exemption from Responsibility of the Information Officer Article 23

An information officer who in good faith, and in order to inform the public accurately and completely, allows access to certain information beyond the boundaries of his/her authority, may not be held responsible if access to this information is not subject to the restrictions in Article 8 of this Act.

Supervision of the Implementation of this Act **Article 24**

Supervision of the implementation of this Act is carried out by the ministry responsible for general administrative affairs.

Reports **Article 25**

(1) All bodies of public authority are obliged to send a report to the ministry responsible for general administrative affairs on the implementation of this Act in the previous year on the basis of data contained in the catalogue of information in Article 22, Paragraph 4 of this Act, by 31 January at the latest.

(2) The ministry responsible for general administrative affairs shall submit a combined report on the implementation of this Act in the previous year to the Government of the Republic of Croatia by 28 February at the latest.

(3) The Government of the Republic of Croatia shall submit a report by 31 March at the latest on the implementation of this Act in the previous year to the Croatian Parliament for approval, and, once it has been approved, it shall be published in Narodne novine (the Official Gazette).

VI. PENAL PROVISIONS

Article 26

(1) Legal persons with public authority who in violation of the provisions of this act do not allow or limit the exercise of the right of access to information shall be penalized for this misdemeanor by a fine of 20,000.00 to 100,000.00 kunas.

(2) For the misdemeanor in Paragraph 1 of this Article, the responsible person within the body of public authority shall also be penalized with a fine of 5,000.00 to 10,000.00 kunas.

(3) Physical persons who damage, destroy, conceal or in any other way make unavailable documents containing information with the intent to deny the exercise of the right of access to information, shall be penalized with a fine of 1,000.00 to 8,000.00 kunas.

(4) For the misdemeanor in Paragraph 3 the responsible person in the body of public authority shall be penalized by a fine of 5,000.00 to 10,000.00 kunas or imprisonment for up to sixty days.

Complete Fulfillment of Obligations **Article 27**

Over and above the imposition of penal and disciplinary sanctions, where liability is established on the basis of unjustified denial or restriction of the exercise of the right of access to information, the body of public authority is still obliged to enable the beneficiary of the right to information to exercise that right of access to information in accordance with the provisions of this Act.

TRANSITIONAL AND CONCLUDING PROVISIONS

Article 28

The bodies of public authority shall provide the organizational, material, technical and other conditions for the implementation of the provisions of this Act within 90 days of the day this Act comes into force.

Article 29

The secondary legislation from Article 18 of this Act shall be adopted by the Minister responsible no later than six months from the day this Act comes into force.

Article 30

This Act shall come into force on the eighth day after it is published in Narodne novine (The Official Gazette).

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Zagreb, 15 October 2003*

*THE CROATIAN PARLIAMENT
President of the Croatian Parliament*

Zlatko Tomcic, m.p.

Source: Open Society Institute, Justice Initiative

PROVISIONAL TRANSLATION