

REPUBLIC OF ALBANIA
ASSEMBLY

D R A F T L A W

No. _____ date _____

ON THE RIGHT TO INFORMATION OVER THE OFFICIAL DOCUMENTS

In virtue of articles 23 and 17 of the Constitution, on the proposal of the Council of Ministers, the Assembly of the Republic of Albania,

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope of the law

The present law guarantees the enjoyment of the right to information on official documents.

Article 2

Definitions

For the purposes of this law:

- a) "Public authority" - shall mean any organ of the public administration, public institution, organizational unit, person as well as any other subject which based on the law exercises public functions or services within the territory of the Republic of Albania;
- b) "Official document" shall mean any document, in any form and format, kept by the public authority according to the existing rules and is related to the exercise of a public function;
- c) "Person" shall mean any individual, natural or legal person, Albanian or foreigner;
- d) "Public" shall mean any person.

CHAPTER II Right to information and duties of public authority

Article 3 Right to information

Everyone is entitled, upon his request, to information on an official document without being obliged to explain the motives of such request.

Public authorities shall grant any information in relation to an official document, save when the law provides differently.

Information on an official document, granted to a person, shall not be refused to any other person.

Article 4 Limitations

If the requested information on a official document is restricted by another law, the public authority shall provide the requested with a written declaration expressing the reasons of such refusal and/or basic rules on which the requested can get such information.

If the limitation of the information is limited to only one part of the official document, the remaining part shall not be refused to the requester.

Article 5 Right to information on subject exercising state functions

Shall not be refused the request for information on a official document when such document contains the personal data of:

- a. persons vested with state functions, including civil service personnel;
 - b. subjects which offer public services,
- when these data are related to their legally required qualities for the performing of their duties.

Article 6 Quality of information

Public authority shall issue rules and set up structural and practical facilities in order to provide the public with exact, full, speedy and adequate information on official documents.

Article 7 Forms of information granting

The requester shall have in his/her disposal a complete copy of the official document.

Public authority, upon request of the interested party or with his/her initiative, offers the requester other forms of submission including the oral form. The requester shall express his/her consent in a written form.

Article 8 Official documents available without a public request

Public authorities shall make available to the public in sufficient quantity and appropriate formats, official documents which facilitate the information of public on their activity, such as:

- a) information as where its central and local organs are situated, the employees from whom, and the methods whereby, the public may obtain information, make submissions or requests, or obtain decisions;
- b) statements on methods and procedures by which its functions are channeled and determined;
- c) rules and methods on how different forms can be obtained, and instructions as to the scope and content of all papers and documents as well as instructions how this forms are filled;
- d) general legal rules based on which the subject operates as well as the adopted policies and the changes thereon.

Article 9 Documents prepared in advance

In compliance with the existing legislation, regulations and other publicly known rules, public authority shall make available for review and duplication, in anticipation of any request from the public, the following official documents:

- a) final decisions on a given case, including concurring and dissenting opinions as well as implementative orders;
- b) administrative staff manuals and instructions to staff that affect a member of the public;
- c) copies of data that have been given to at least one member of the public, regardless of their format;
- d) indexes and registers of official documents.

Article 10 Time limits for the acceptance of the request

The public authority decides whether to accept the request within 15 days from its submission. The decision thereon shall be given in written form. In case of full or partial rejection of the request, the public authority shall provide the reasons for such rejection.

Article 11 Time limits for satisfying the request

The public authority shall satisfy the request within 30 (40) days from its acceptance, save when law provides otherwise.

Article 12 Reinstatements of time limits

When the satisfaction of the request by the public authority, for reasons of:

1. the large volume of work;
 2. the need to consult with a third party;
- needs more time than the time limit envisaged in article 11, the public authority within one week of before the termination of the prior time limit, notifies in written the interested party explaining the reasons for such delay and offers him:
1. the reinstatement of a new time limit which starts at the end of the prior time limit and is no longer than 10 (20) days with no right for another reinstatement;
 2. the modification of the request in respect to the quantity of information, in a way that this makes possible the respect for the time limit.

In both cases the interested party shall express in written his/her consent on the reinstatement of the time limit.

Article 13 Fees for the supply of information

The supply for information on official documents may be subjected to fees if such supply causes expenses to be borne by the interested party. Such fees shall be settled before hand.

Fees for ordinary and standardized services are made available to the public. Fees for other services are decided on a case by case basis and are communicated to the interested parties at the moment of acceptance of the request.

The fees shall not exceed the direct costs incurred for the supply of the data. The direct cost shall consist of the direct material cost incurred for the processing of the requested data.

The data envisaged in article 8, paragraph 1 shall be forwarded free of charge. Procedures and decisions for the levying of fees are themselves considered data of public interest.

CHAPTER II

The Advocate of the People as the Supervisor of the Freedom of Information

Article 14

The Advocate of the People shall supervise the implementation of the present law.

The Advocate of the People shall designate the commissioners to deal with the right to information on official documents.

Article 15

The powers of the Advocate of the People in the field of freedom of information on official documents are regulated by the law "On the Advocate of the People" and the provisions of the present law.

Article 16

The Advocate of the People shall demand the interruption of any action/non-action on the side of the administration that has brought about the infringement of the rights recognized by this law as well as the taking of measures for the elimination of such infringement.

The targeted public authority shall notify the Advocate of the People in a written form as to the following:

-the interruption of the action/non-action, within three days from the day when the request of the people's advocate was lodged;

-the taking of the requested measures within 30 days from the day when the request of the Advocate of the People was lodged.

If the targeted public authority does not comply with the request of the Advocate of the People, the latter shall take all necessary steps envisaged in the law "On the Advocate of the People" as well as inform the public in relation with the fact of the illegal or otherwise irregular act/omission, the identity of the violator and the nature of the violation.

CHAPTER III

APPEAL

Article 17 General Rule

The violation of the provisions of this law insofar as it does not qualify as a criminal offence, shall constitute administrative offence and shall be regulated by the provisions of the law "On Administrative Offences".

Article 18 Administrative Appeal

Everybody who believes that his/her rights, as recognized by this law, are infringed, is entitled to lodge an administrative appeal.
The procedure for the administrative appeal is provided for by law.

Article 19 Judicial Appeal

Everybody who believes that his/her rights, as recognized by this law, are infringed, is entitled to lodge a judicial appeal.
The procedure for the judicial appeal is provided for by the provisions of the Code of Civil Procedure on judicial review of administrative action.

Article 20 The People's Advocate Appeal)

Everybody who believes that his/her rights, as recognized by this law, are infringed, is entitled to lodge an appeal to the Advocate of the People.

The procedure for the People's Advocate appeal is provided for by the provisions of the Law "On the Advocate of the People"

Article 21 Reparation (indemnification)

Everybody is entitled to seek reparation for the infringement of his/her rights, as recognized by this law, if such infringement causes damage.
The procedure on the appeal for reparation is provided for by law.

CHAPTER IV

Transitory and Final Provisions

Article 22

All those subjects whose activity is totally or partially subjected to the provisions of this law, shall take all necessary measures of a technical-administrative nature within one year from the day of the entry into force of this law, in order to adjust their activity to the provisions of the present law.

Article 23