

# ACCESS TO PUBLIC INFORMATION ACT

Promulgated in the State Gazette (SG) No 55 of 7 July 2000; amended in SG Nos 1 of 4 January 2002 (effective from 1 January 2002); 45 of 30 April 2002; 103 of 23 December 2005; 24 of 21 March 2006; 30 of 11 April 2006 (effective from 12 July 2006); 59 of 21 July 2006 (effective from the date of entry into force of the Treaty on Accession of the Republic of Bulgaria to the European Union, 1 January 2007); amended in SG Nos 49 of 19 June 2007; 57 of 13 July 2007 (effective from 13 July 2007); amended in 104 of 5 December 2008; 77 of 1 October 2010; 39 of 20 May 2011 and 97 of 11 December 2015.

## CHAPTER ONE

### GENERAL PROVISIONS

#### SECTION I

##### Subject and scope

##### Subject of the Act

**Article 1** (amended in SG No 49/2007)

This Act lays down the rules governing access to public information and the re-use of public sector information.

**Public information and public sector information** (heading amended in SG No 49/2007)

##### Article 2

**(1)** Within the meaning of this Act, public information shall be any information relating to public life in Bulgaria that enables citizens to form an opinion on the activities performed by the bodies with obligations arising hereunder.

**(2)** The information referred to in paragraph 1 shall be public, regardless of the medium or device on which it is physically stored.

**(3)** (new in SG No 49/2007; amended in SG No 97/2015) Public sector information shall be any information compiled or produced by a public sector organisation that is physically available on a storage medium or device, including as a document, audio or video recording.

**(4)** (new in SG No 97/2015) The information referred to in paragraph 3 shall be kept in electronic form.

**(5)** (amended in SG No 1/2002, ex-paragraph 3; amended in SG Nos 49/2007 and 97/2015) This Act shall not apply to access to personal data.

##### Re-use of public sector information

**Article 2a** (new in SG No 49/2007)

(1) Re-use of public sector information means the use of the latter for commercial or non-commercial purposes other than the initial purpose for which it was created within the powers or functions of a public sector body.

(2) The supply of public sector information to a public sector body, related to the exercise of its powers or functions, shall not be considered reuse within the meaning of this law.

**Obligated bodies** (heading amended in SG No 49/2007)

### **Article 3**

(1) (amended in SG No 104/2008) This Act shall apply to access to public information produced or kept by central government bodies and their local departments and the local authorities of the Republic of Bulgaria, hereinafter referred to as 'Bodies'.

(2) (amended in SG No 104/2008) This Act shall also apply to the access to public information produced and kept by:

1. bodies, including organisations, governed by public law other than those referred to in paragraph 1;

2. natural and legal persons only in respect of activities financed by subsidies from the consolidated State budget and European Union funds or grants received for the purpose of project/programme implementation.

(3) (new in SG No 49/2007; amended in SG No 104/2008) Public sector organisations shall supply public sector information for re-use, except in those cases expressly provided for herein.

(4) (new in SG No 49/2007; amended in SG No 97/2015) Public sector organisations shall be the bodies referred to in paragraphs 1 and 2(1).

**Parties entitled to access to public information and having the right to re-use public sector information** (heading amended in SG No 49/2007)

### **Article 4**

(1) Each Bulgarian citizen shall be entitled to access to public information subject to the rules and the procedures stipulated herein, unless seeking, obtaining and disseminating such information is governed by the rules and procedures laid down in a special law.

(2) The right referred to in paragraph 1 also applies to foreign citizens and stateless persons resident in Bulgaria.

(3) The right referred to in paragraph 1 applies to all legal persons.

(4) (new in SG No 49/2007) The persons referred to in paragraphs 1, 2 and 3 shall be entitled to re-use public sector information.

## **Exercise of the right of access to public information and re-use of public sector information**

### **Article 5** (amended in SG No 49/2007)

The right of access to public information and public sector information may not be exercised against others' rights and reputation, or against the national security, public order, national health, and moral standards.

### **Basic principles**

#### **Article 6**

**(1)** (ex-Article 6; SG No 49/2007) The right to access to public information shall be exercised in line with the following basic principles:

1. openness, truthfulness and comprehensiveness of the information;
2. providing equal conditions for access to public information;
3. ensuring legality in seeking and receiving public information;
4. protection of the right to information;
5. (amended in SG No 97/2015) personal data protection;
6. protection of national security and the State.

**(2)** (new in SG No 49/2007) Supplying public sector information for re-use shall be governed by the following principles:

1. ensuring that it is possible to supply public sector information for multiple re-use
2. transparency in the provision of public sector information;
3. non-discrimination in the provision of public sector information;
4. non-restriction of free competition.

### **Permissible restrictions of the right of access to public information and re-use of public sector information** (heading amended in SG No 49/2007)

#### **Article 7**

**(1)** (amended in SG Nos 45/2002, 59/2006 and 49/2007) The right of access to public information and re-use of public sector information shall not be limited, except where such information is classified or protected as a secret as defined by law.

**(2)** Access to public information may be full or partial.

## **Exemptions from the scope of this Act**

**Article 8** (amended in SG No 49/2007) The provisions governing access to public information shall not apply to information that is:

1. supplied in connection with the provision of administrative services to natural and legal persons;
2. (amended in SG No 57/2007) kept by the Bulgarian National Archive.

## **Section II**

### **Official and administrative public information**

#### **Types of public information**

##### **Article 9**

(1) The public information produced and kept by public bodies and the administrative services under their jurisdiction shall be regarded as official and administrative.

(2) (amended in SG No 45/2002) When so stipulated by law, official or administrative information may be declared classified information constituting a State or an official secret.

#### **Official public information**

**Article 10** Official public information shall be any information contained in decisions adopted by central or local government bodies while performing their statutory duties.

#### **Administrative public information**

**Article 11** Administrative public information shall be the information collected, produced and kept in connection with official information and the activities performed by public bodies and the administrative services under their jurisdiction.

## **CHAPTER TWO**

### **ACCESS TO PUBLIC INFORMATION**

#### **Section I**

##### **Access to official and administrative public information**

##### **Access to official public information**

##### **Article 12**

(1) Access to official information contained in a statutory act shall be granted by means of promulgating such acts.

(2) Access to other public information, when so provided for by law or if so decided by the body that produced the information, shall be provided by promulgation.

(3) Access to official information other than the information referred to in paragraphs 1 and 2 shall be unrestricted and granted in accordance with the procedure laid down herein.

(4) When access is sought to official information that has been promulgated, the body to which the request was addressed shall cite the official publication containing the information, including the relevant issue and date.

## **Access to administrative public information**

### **Article 13**

(1) Access to administrative public information shall be unrestricted.

(2) Access to administrative public information may be restricted when the information requested:

1. pertains to the process of drawing up internal decisions or documents by a body which have no relevance on a stand-alone basis (opinions and recommendations drawn up by or at the request of the public body, positions and other consultative documents);

2. contains opinions and positions relevant to ongoing or forthcoming negotiations conducted by or on behalf of a public body, including data pertaining to such negotiations, that have been drafted by the administrative service under the jurisdiction of the body concerned.

(3) (amended in SG No 45/2002) The limitation provided for in paragraph 2 shall expire if two years have elapsed from the date on which the information was produced.

(4) (new in SG No 104/2008) Access to official public information may not be restricted if there is an overriding public interest.

## **Public information disclosure obligations**

### **Article 14**

(1) Public bodies shall provide information on their activities by publishing or providing the relevant information by other means.

(2) Public bodies shall disclose any information collected or obtained during the course of performing their activities, when that information:

1. may avert a threat to the life, health and safety of citizens or their property;

2. disproves incorrect information which has already been disseminated that affects a significant public interest;

3. is or may be of public interest;

4. must be drawn up or provided by law.

## **Publishing up-to-date public information**

### **Article 15**

**(1)** (amended in SG No 97/2015) In order to achieve transparency in the work of public administration and facilitate the maximum degree of access to public information, the Head of each central government body shall publish, on a regular basis, information that contains:

1. a description of the powers and information about the structural organisation, functions and responsibilities of the government body concerned;
2. (amended in SG No 97/2015) a list of the decisions issued within the remit of the powers vested in the body and any relevant bylaws and administrative acts;
3. a description of the databases and information resources used by the administrative body;
4. (amended in SG No 97/2015) the name, address, e-mail, telephone number and working hours of the department responsible for applications for access to information;
5. (new in SG No 97/2015) the rules on the structure and organisation and the internal rules on public service delivery of the government body;
6. (new in SG No 97/2015) strategies, plans, programmes and reports on activity;
7. (new in SG No 97/2015) information on the budget and financial reports of the body subject to publishing pursuant to the Public Finance Act;
8. (new in SG No 97/2015) information on public procurement subject to publishing in the buyer's profile pursuant to the Public Procurement Act;
9. (new in SG No 97/2015) draft laws and bylaws, along with an accompanying justification, or reports setting out the results of public consultations;
10. (new in SG No 97/2015) notices in respect of the launch of procedures for the issuance of the general administrative decision referred to in Article 66 of the Administrative Procedure Code, including an accompanying statement on the underlying reasons and information on applicable timeframes and the manner in which interested parties may take part in the proceedings;
11. (new in SG No 97/2015) information pertinent to the exercise of the right to access to public information, the rules and procedure for the re-use of information, the fees payable pursuant to Article 41g and the different formats in which information is kept;
12. (new in SG No 97/2015) civil service vacancy announcements;
13. (new in SG No 97/2015) information subject to publishing pursuant to the Prevention and Ascertainment of Conflicts of Interest Act;

**14.** (new in SG No 97/2015) public information within the meaning of the Classified Information Act and the implementing regulations thereto;

**15.** (new in SG No 97/2015) the information referred to in Article 14(2)(1) to (3);

**16.** (new in SG No 97/2015) information that has been provided more than three times in accordance with the procedure laid down in Chapter 3;

**17.** (new in SG No 97/2015) other information provided for by law.

**(2)** (amended in SG Nos 24/2006 and 97/2015) The heads referred to in paragraph 1 shall draw up annual reports on the applications for access to public information and re-use of public sector information received, including details of any refusals and the reasons for those refusals. The annual report shall be included in the annual reports referred to in Article 62(1) of the Civil Service Act.

**(3)** (new in SG No 97/2015) The persons referred to in Article 3(2)(1) shall publish on a regular basis up-to-date information about their activity that corresponds to the information referred to in paragraph 1(1), (4), (5), (6), (8), (11), (15), (16) and (17).

**(4)** (new in SG No 97/2015) Public sector organisations, including public libraries and the libraries of higher education institutions, archives and museums, shall publish a full list of the requirements for supplying information for re-use on their webpage and the portal referred to in Article 15d.

### **Publishing information online**

#### **Article 15a** (new in SG No 104/2008)

**(1)** (amended in SG No 97/2015) The information referred to in Article 15 shall be published on the webpages of the central and local government bodies and the bodies referred to in Article 3(2)(1).

**(2)** (amended in SG No 97/2015) The information referred to in Article 15(1)(4) and (11) and the annual reports referred to in paragraph 2, the internal rules on access to public information, the fees payable for access to information in accordance with Article 20(2) and for the re-use of public sector information in accordance with Article 41g, and the rules and procedure for access to the public registers kept by central government bodies shall be published in the *Access to Information* section of the webpages referred to in paragraph 1.

**(3)** (new in SG No 97/2015) The heads referred to in Article 15(1) shall annually publish an updated list of the categories of information on the activity of the respective public body that must be published online, including the different formats in which the information is available.

**(4)** (new in SG No 97/2015) The information referred to in Article 15 shall be published or updated not later than 3 working days from the date on which a decision was adopted or a document created and, where a decision is subject to promulgation, not later than 3 days from the date of promulgation, unless another time period has been expressly stipulated by law.

## **Publishing data in open format**

### **Article 15b**

- (1) (new in SG No 97/2015) Public sector organisations shall make annual plans enabling them to publish in stages the databases and information resources kept by them online as open format data, accessible without any restriction and free of charge.
- (2) Government bodies shall set targets for the online publication of the databases and information resources referred to in paragraph 1 as part the annual goals referred to in Article 33 of the Civil Service Act to be achieved by each administrative service.
- (3) The Council of Ministers shall annually adopt a list stating data sets to be published online in open format.

## **Platform for access to public information**

### **Article 15c** (new in SG No 97/2015)

- (1) A platform for access to public information shall be developed and maintained by the Council of Ministers.
- (2) The platform shall enable the submission of applications for access to public information.
- (3) Each of the parties for which obligations arise under Article 3(1) shall publish on the platform referred to in paragraph 1 the applications received via the platform, the corresponding decisions on those applications and the information provided thereunder, having ensured compliance with personal data protection rules *vis-à-vis* the applicant in accordance with the Personal Data Protection Act.
- (4) Where an application for access to public information is rejected, the obligated party referred to in Article 3(1) shall also notify the applicant of the decision in accordance with the procedure stipulated in Article 39(1) of this Act.

## **Open data portal**

### **Article 15d** (new in SG No 97/2015)

- (1) The administrative service of the Council of Ministers shall create and maintain an open data web portal.
- (2) Public sector organisations shall publish the information referred to in Article 15b on the web portal referred to in paragraph 1. Access to such information shall be unrestricted and free of charge.
- (3) The rules and procedures for publishing the information referred to in paragraph 2 shall be stipulated in a Regulation adopted by the Council of Ministers.

## **Reporting requirements** (heading amended in SG Nos 24/2006 and 77/2010)



**Article 16** (amended in SG Nos 24/2006 and 77/2010)

(1) A summary report of the public bodies and the administrative services under their jurisdiction containing the information referred to in Article 15 and other information relating to the implementation of this Act shall be included in the Civil Service Report adopted by the Council of Ministers.

(2) The summary report referred to in paragraph 1 shall be published annually on the webpage of the Council of Ministers. The information contained therein must be available to citizens seeking to consult it via all administrative services.

### **Reporting requirements for the re-use of information**

**Article 16a** (new in SG No 97/2015)

(1) The Council of Ministers shall draw up tri-annual summary reports on the availability of information provided by public sector organisations for re-use, the conditions for the provision of such information and the applicable legal protection practice. Public sector organisations shall compile dedicated annual reports setting out the relevant particulars and submit them to the Council of Ministers.

(2) The report shall be published and submitted to the European Commission.

## **Section II**

### **Access to other public information**

#### **Access to public information relating to the activities of other bodies responsible for its disclosure**

**Article 17** (amended in SG No 104/2008) (1) Access to public information produced, obtained or kept in connection with the activities of the bodies for which obligations arise under Article 3 shall be unrestricted.

(2) The information referred to in paragraph 1 shall not be disclosed if it constitutes a trade secret and the disclosure or dissemination of which would distort free and fair competition between commercial undertakings unless there is an overriding public interest.

(3) When an application is rejected in accordance with paragraph 2, the obligated parties referred to in Article 3 shall specify the circumstances that are likely to distort free and fair competition between commercial undertakings.

### **Access to public information on the media**

**Article 18** Public information on the media shall include only information on:

1. the persons engaged in the management of the media concerned or exercising effective control over its management and activity;

2. affiliated parties engaged in the management of other media allowing them to exercise effective control over the management or activity of such media;
3. the parties directly employed by the media and involved in determining its editorial policy;
4. any statements concerning the public goals pursued by the media and the principles or internal mechanisms applied to ensure that reported information is truthful and objective;
5. the financial results of the media owner and product distribution figures.

### **Aim of access to public information on the media**

**Article 19** (amended in SG No 97/2015) The right to access to information in accordance with Article 18 shall be exercised in line with the principles of transparency and of economic freedom and with due respect for the protection of personal data, commercial secrets and non-disclosure of the identity of the sources of information that media use who wish to remain anonymous.

## **Section III**

### **Rules and procedure for calculating the costs for providing access to public information**

#### **Free of charge access and cost of providing public information**

##### **Article 20**

- (1) Public information shall be provided free of charge.
- (2) The fee charged for granting access to public information shall be based on a tariff determined by the Minister for Finance and shall not exceed the actual costs incurred.
- (3) On request from an applicant, information shall be provided on the calculation method used for the charge referred to in paragraph 2.

#### **Obligation to provide information upon the submission of applications**

**Article 21** The parties referred to in Article 3 shall provide applicants with information on where to submit applications, the different methods of providing access to public information, and the fees to be charged and respective methods of payment.

#### **Making corrections to and supplementing provided information free of charge**

**Article 22** No additional fee shall be charged for making corrections to and/or supplementing public information provided when such information is inaccurate or incomplete and the applicant has submitted a reasoned request.

#### **Proceeds from granting access to public information**

**Article 23** The fees charged for granting access to public information shall be paid to and reported as income received by the respective public body.

## **Chapter Three**

### **PROCEDURE FOR GRANTING ACCESS TO PUBLIC INFORMATION**

#### **Section I**

##### **Application for access to public information**

##### **Application or verbal enquiry in respect of access to public information**

##### **Article 24**

(1) Access to public information shall be granted on the basis of a written application or a verbal enquiry.

(2) (amended in SG No 97/2015) An application shall be deemed to be in writing when submitted by e-mail to the address referred to in Article 15(1)(4) or through the platform for access to public information referred to in Article 15c. In these cases, no signature shall be required in line with the provisions laid down in the Electronic Document and Electronic Signature Act.

(3) A written application may be filed when an applicant fails to be granted access to public information requested verbally or considers the information disclosed to be insufficient.

##### **Content of the application for access**

##### **Article 25**

(1) The application for access to public information shall contain the following particulars:

1. the full name or business name and head office of the applicant;
2. a description of the information sought;
3. the preferred form of access to the information sought;
4. a correspondence address for the applicant.

(2) Applications that do not contain the particulars referred to in Article 1(1), (2) and (4) shall not be processed.

(3) Applications for access to public information shall be filed on record in accordance with a dedicated procedure adopted by the respective public body.

##### **Forms of granting access to public information**

##### **Article 26**

(1) Access to public information shall be granted in any of the following forms:

1. (amended in SG No 97/2015) possibility of examining the information by consulting an original, copy or entry into a public register;

2. verbal response to an enquiry;

3. (amended in SG No 97/2015) provision of a copy in physical format;

4. (amended in SG No 97/2015) provision of a copy by electronic means or accessing the information online at the web address where it is published or stored;

(2) Access to information may be granted in one or several of the formats referred to in paragraph 1.

(3) When the preferred form of granting access to public information is that described in paragraph 1(4), the technical requirements for the manner in which the information is to be recorded must be specified.

(4) Persons with visual, auditory or speech impediments may request access to public information in a format that is suitable to their communication needs.

### **Obligation to respect stated preferences for access to public information**

#### **Article 27**

(1) Public bodies shall respect the stated preferences for access to public information, except where:

1. there is no technical possibility to do so;

2. providing the information in the requested format entails an unjustified increase in the cost of disclosure;

3. providing the information in the requested format creates a possibility for unlawful processing of the information requested or an infringement of intellectual property rights.

(2) In the cases referred to in paragraph 1, access to the requested information shall be provided in a form determined by the respective public body.

## **Section II**

### **Review of applications and granting access to public information**

#### **Review of applications for access to public information**

##### **Article 28**

(1) Applications for access to public information shall be processed in the shortest time possible, but not later than 14 days after the date of registering an application.

(2) The public bodies or expressly designated officials acting on their behalf shall adopt a decision to grant or refuse access to the public information sought within the time period stipulated in paragraph 1 and notify the applicant of the decision in writing.

#### **Disambiguation of applications for access to public information**

##### **Article 29**

(1) Where an application fails to specify the information sought or is worded in a vague and imprecise manner, the applicant shall be advised accordingly and given an opportunity to restate the request, specifying the precise information sought. The time period referred to in Article 28(1) shall commence on the date the disambiguated application is submitted.

(2) Where an applicant fails to specify the information sought within 30 days, the application shall not be processed.

#### **Permissible extension of the time period for granting access to public information**

##### **Article 30**

(1) The time period stipulated in Article 28(1) may be extended by up to 10 days when the information specified in the application represents a substantial volume and additional preparation time is required.

(2) The notice referred to in Article 29(1) shall state the reasons for extending the time period required to provide access to the public information sought.

#### **Extending applicable time periods in connection with the protection of third party interests**

##### **Article 31**

(1) The time period stipulated in Article 28(1) may also be extended by up to 14 days when the public information sought concerns a third party and the consent of that party must be obtained.

(2) In the cases referred to in paragraph 1, the respective public body must obtain the express written consent of the third party within 7 days from the date of registering the application referred to in Article 24.

**(3)** The decision adopted by the public body pursuant to Article 28(2) must strictly conform to the conditions upon which the third party has granted consent for the disclosure of public information pertaining to that party.

**(4)** (amended in SG Nos 104/2008 and 97/2015) Where the third party expressly refuses to grant consent for disclosure within the time period referred to in paragraph 1, the public body shall provide public information sought ensuring that its scope and the manner of disclosure do not prejudice the interests of the third party.

**(5)** (amended in SG No 104/2008) Third party consent is not required when obligations for the disclosure of public information concerning that party arise within the meaning of this Act or where there is an overriding public interest.

### **Redirecting applications for access**

#### **Article 32**

**(1)** Where the requested information is not available to the public body but it has knowledge of the party/body that can provide that information, the application shall be redirected and the applicant notified accordingly. The notice to the applicant must contain the name and address of the body or legal person to which the application has been redirected.

**(2)** In the cases referred to in paragraph 1, the time period specified in Article 28(1) shall commence on the date of receipt of the redirected application.

### **Notifying applicants of the unavailability of requested public information**

#### **Article 33**

When the requested information is not available to the public body and it is not aware of the party/body from which it may be obtained, it shall notify the applicant accordingly within 14 days.

### **Decision to grant access to public information**

#### **Article 34**

**(1)** The decision referred to in Article 28(2) to grant access to the requested public information shall specify:

1. the extent of access provided to the public information sought;
2. the time period in which access to the requested public information has been provided;
3. the place where access to the requested public information will be provided;
4. the form in which access to the requested public information will be provided;
5. the costs related to providing access to the requested public information.

(2) The decision may be referred to other public bodies, organisations or parties to whom more comprehensive information is available.

(3) (amended in SG No 97/2015) The decision to grant access to the requested public information shall be notified to the applicant by signed-for delivery, registered mail or e-mail, when the applicant has requested the latter option and provided an e-mail address.

(4) The time period stipulated in paragraph 1(2) may not be less than 30 days from the date of receipt of the decision.

## **Providing access to requested public information**

### **Article 35**

(1) Access to public information shall be provided against payment of the requisite fee and presentation of a receipt.

(2) A protocol shall be drafted and signed by the applicant and the responsible official in order to grant access to public information.

(3) (new in SG No 97/2015) When an applicant has requested that access to public information be provided by electronic means and has provided an e-mail address, the public body shall send the positive decision on the application, along with a copy of the information sought or a link to the web address where the information is available to the e-mail address provided. In this case, the protocol referred to in paragraph 2 is not required and no fee shall be charged.

(4) (new in SG No 97/2015) If the applicant has changed his/her e-mail address without notifying the public body or has provided an e-mail address that is incorrect or does not exist, the information shall be considered to have been received on the date on which it was sent.

## **Relinquishing access to public information**

### **Article 36**

(1) (amended in SG No 97/2015) Where an applicant fails to respond within the time period stipulated in Article 34(4) or pay the published charge, he/she shall be considered to have relinquished his/her access to the requested public information.

(2) (new in SG No 97/2015) Paragraph 1 shall not apply when the application has been submitted via the platform for access to public information or by electronic means.

## **Section III**

### **Refusal to grant access to public information**

#### **Grounds for refusal to grant access**

**Article 37** (amended in SG Nos 45/2002, 59/2006, 104/2008) **(1)** An application for access to public information may be refused when:

1. the requested public information is classified or constitutes another protected secret as defined by law and in Article 13(2) of this Act;
2. (amended in SG No 97/2015) access to the requested information affects the interests of a third party who has expressly refused disclosure, except in the case of overriding public interest;
3. the requested public information has already been provided to the applicant in the last 6 months.

**(2)** In the cases referred to in paragraph 1, access shall be granted solely to that part of the information which is not restricted.

### **Content of the refusal to grant access to public information**

**Article 38** The decision to refuse access to public information must specify the factual and legal grounds for the refusal stipulated in this Act, the date of the decision and the procedure for its appeal.

### **Delivery of the refusal of access**

**Article 39** Refusals to grant access to public information shall be delivered to applicants against a signature or sent by registered mail.

## **Section IV**

### **Appealing the positive decisions and refusals to grant access to public information**

#### **Competent court to hear appeals against decisions granting or refusing access to public information**

#### **Article 40**

**(1)** (amended in SG Nos 30/2006 and 49/2007) The decisions to grant or refuse access to public information shall be subject to appeal before the competent administrative court or the Supreme Administrative Court, depending on the public body that issued the decision, in accordance with the procedure laid down in the Administrative Procedure Code.

**(2)** (amended in SG Nos 30/2006 and 39/2011; compare previous provision) The decisions to grant or refuse access to public information issued by the bodies referred to in Article 3(2) shall be subject to appeal before the administrative courts in accordance with the procedure laid down in the Administrative Procedure Code.



## **Competence of the court before which an appeal has been brought**

### **Article 41**

(1) When a court finds a contested decision unlawful, it shall revoke it in part or in full and order the public body that issued the decision to grant access to the requested public information.

(2) In the cases referred to in paragraph 1, access to the requested public information shall be provided in accordance with the rules and procedure laid down in this Act.

(3) Where a refusal to grant access to public information is appealed on the grounds of Article 37(1)(1), the court may request that the public body provide the necessary evidence justifying the refusal in a closed hearing.

(4) (amended in SG No 45/2002) In the cases referred to in paragraph 3, the court shall rule on the legality of the refusal and the decision of the public body to protect the information with a security marking.

## **CHAPTER FOUR**

(New in SG No 49/2007)

## **PROCEDURE FOR THE RE-USE OF PUBLIC SECTOR INFORMATION**

### **Section I**

(New in SG No 49/2007)

### **Making public sector information for re-use**

#### **Conditions for making public sector information available for re-use**

**Article 41a** (amended in SG No 97/2015)

(1) Public sector information shall be presented in the format and language in which it has been collected or produced, or in another format at the discretion of the public sector organisation, and as open machine-readable format together with the corresponding metadata. Information shall be presented in open, machine-readable format with a view to achieving the goals set out in Article 15b. In this case, the format and metadata shall conform to official open data standards.

(2) (amended in SG No 97/2015) No obligation shall arise hereunder for public sector organisations to produce or adapt information in order to make it available for re-use or making extracts of documents or other materials available where this would involve disproportionate effort, going beyond a simple operation.

(3) Public sector organisations cannot be required to continue the production of a certain type of document with a view to the re-use of such documents.

**(4)** (amended in SG No 97/2015) At the request of the applicant and where possible, the requested information shall be supplied by electronic means (e-mail) or in another electronic format, as appropriate.

**(5)** (new in SG No 97/2015) The Regulation referred to in Article 15d(3) shall stipulate standard conditions for the re-use and publication in open format of public sector information for commercial or non-commercial purposes. The conditions in question may not unreasonably restrict the possibilities for re-use or limit competition.

**(6)** (new in SG No 97/2015) Public sector organisations shall supply information for re-use unconditionally or under certain pre-determined conditions that do not exceed the standard conditions stipulated in the Regulation referred to in Article 15d(3).

**(7)** (new in SG No 97/2015) Information protected by intellectual property rights as may be used by libraries, including the libraries of higher education establishments, museums and archives, shall be supplied for re-use if such re-use is authorised by the intellectual property rights holder.

**(8)** (new in SG No 97/2015) The re-use of information held by archives, such as documents held by the National Archival Repository, shall be governed by the rules and procedures stipulated in Chapter Six of the National Archival Repository Act and the provisions laid down herein.

## **Public sector information that is not available for re-use**

### **Article 41b**

**(1)** (amended in SG No 97/2015) Public sector information shall not be supplied for re-use when:

**1.** (amended in SG No 97/2015) its content is related to an activity falling outside of the remit of powers and functions of a public sector organisation as stipulated by law, statute, internal rules or an act delegating a public task to the organisation concerned;

**2.** it is subject to intellectual property rights held by a third party;

**3.** it has been collected or created by public radio or television operators or their regional centres;;

**4.** (amended in SG No 97/2015) it is the property of schools, higher education institutions (except their libraries), research organisations, including organisations established for the purpose of dissemination of the results of research organisations, and other cultural establishments, except libraries, museums and archives;

**5.** (new in SG No 97/2015) it has been classified;

**6.** (new in SG No 97/2015) it contains a statistical secret collected and held by the National Statistical Institute or a statistical body;

7. (new in SG No 97/2015) it contains an industrial or commercial secret or an occupational secret within the meaning of the law;

8. (new in SG No 97/2015) its disclosure requires the applicant to provide evidence in respect of his/her legal interest in obtaining the information;

9. (new in SG No 97/2015) it is an extract from a document that contains solely emblems, coats of arms and distinguishing signs;

10. (new in SG No 97/2015) it contains personal data, the re-use of which constitutes unlawful access to or processing of personal data within the meaning of the Personal Data Protection Act.

(2) (new in SG No 97/2015) In the cases referred to in paragraph 1, access shall be granted solely to the part of the information to which access is not restricted.

(3) (new in SG No 97/2015) In the case of overriding public interest, the public sector organisation shall supply information for re-use, although it may contain an industrial or commercial secret.

(4) (new in SG No 97/2015) In the cases referred to in paragraph 3, the public sector organisation may prohibit the re-use of the information for commercial purposes or in a manner that may limit or otherwise distort competition within the meaning of Section Two of the Competition Protection Act.

### **Making public sector information available to public sector organisations**

#### **Article 41c** (new in SG 49/2007)

(1) Public sector information shall be made available for re-use also to public sector bodies under the provisions of this law.

(2) In the event that public sector information is requested for re-use by bodies covered under paragraph 1 for performing activities, which are beyond the scope of its powers or functions, the same conditions and charges shall apply.

#### **Facilitating the search for information** (heading amended in SG No 97/2015)

**Article 41d** (amended in SG No 97/2015) Public sector organisations shall create conditions that facilitate the search of public sector information by keeping and publishing lists of the main documents, together with the corresponding metadata, using different mechanisms to enable online access. The information shall be supplied in a machine readable format or in another appropriate form. Whenever possible, public sector organisations shall create conditions for document search in multiple languages.

## **Prohibition of arrangements granting an exclusive right for re-use**

**Article 41e** (new in SG No 49/2007)

(1) The conclusion of any contracts for exclusive provision of public sector information is prohibited.

(2) The conclusion of a contract under paragraph 1 shall be permitted only in the cases when a service of public interest cannot be provided by other means. The existence of grounds for the conclusion of such a contract shall be reconsidered once every three years by the public sector body which is a party to the contract.

(3) (new in SG No 97/2015) It shall be permissible to conclude the contract referred to in paragraph 1 where an exclusive right for re-use is granted in connection with the digitisation of cultural resources for a maximum period of 10 years. Where, in exceptional circumstances, the period for which an exclusive right is granted exceeds 10 years, the contract shall be reviewed after 11 years have elapsed from the date of the contract and at seven-year intervals thereafter.

(4) (new in SG No 97/2015) The provisions of the contracts granting exclusive rights referred to in paragraph 3 shall be made public and public sector organisations shall provide information about the contractor selection procedure and criteria applied.

(5) (new in SG No 97/2015) The contract referred to in paragraph 3 shall grant the public sector organisation the right to receive a copy of the digitised cultural resources free of charge.

(6) (new in SG No 97/2015) Once the exclusive rights conferred under the contract referred to in paragraph 3 have been terminated, the copy referred to in paragraph 5 shall be supplied for re-use.

## **Section II**

### **Procedure for making public sector information available for re-use**

(New in SG No 49/2007)

#### **Application for re-use of public sector information**

**Article 41f** (amended in SG No 97/2015)

(1) Public sector information shall be made available for re-use upon the submission of a written application. Applications shall be considered to be made in writing when submitted by electronic means to the e-mail address referred to in Article 15(1)(4) or via the web portal referred to in Article 15d.

(2) When the application is filed by electronic means, the public sector bodies shall be obliged to reply by electronic means. In this case a confirmation of receipt of the response shall not be required.

## **Payment**

### **Article 41g** (new in SG No 97/2015)

**(1)** Public sector information shall be made available for re-use free of charge or against payment of a charge, which may not exceed the cost of reproducing and providing the information.

**(2)** The cost calculation principle referred to in paragraph 1 shall not apply to fees charged:

**1.** by public sector organisations which by virtue of the provisions laid down in a public task are required to generate an income that covers a substantial part of the costs associated with the performance of the delegated task; the obligation in question shall be pre-determined and published electronically;

**2.** in respect of the re-use of information, when the public sector organisation is required to generate an income that is sufficient to cover a substantial part of the cost of collecting, producing, reproducing and disseminating the information by law or by virtue of an established administrative practice; the obligation in question shall be pre-determined and published electronically;

**3.** by libraries, including the libraries of higher education institutions, museums and archives.

**(3)** In the cases referred to in paragraph 2(1) and (2), public sector organisations shall calculate the general fees charged for supplying information for re-use, depending on data categories and volumes in accordance with objective, transparent and verifiable criteria set out in a methodology adopted by the Council of Ministers. The total income generated by public organisations from supplying information for re-use or authorising such re-use for a given financial reporting period must not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment, calculated in accordance with the accounting principles applied by the public sector organisation.

**(4)** In the cases referred to in paragraph 2(3), the total income generated by public sector organisations from supplying information for re-use or authorising such re-use for a given financial reporting period must not exceed the cost of collection, production, reproduction, dissemination, keeping and acquisition of rights to use the information, together with a reasonable return on investment, calculated in accordance with the accounting principles applied by the public sector organisation

**(5)** The value of the fees charged shall be determined as follows:

**1.** for fees charged by government bodies, by a tariff adopted by the Council of Ministers;

**2.** for fees charged by other public sector organisations, by the Head of the organisation;

**3.** for fees charged by municipalities, by the municipal council. In this case, the fees may not exceed those referred to in sub-paragraph 1.

**(6)** The amount of the fees, the calculation basis, the factors taken into account for the purpose of their calculation and any other conditions, if applicable, shall be published,

including electronically if the public body/organisation has a webpage. The calculation basis for the fee charged for supplying specific information for re-use shall be provided on request.

(7) The fees charged for the re-use of information shall be paid to and reported as income of the respective public sector organisation.

(8) The Council of Ministers shall review the methodology referred to in paragraph 3 tri-annually on the basis of the report referred to in Article 16a(1).

(9) Where a public sector organisation has not calculated the charges referred to in paragraphs 5(2) and (3), it shall supply information for re-use free of charge or against payment of the charges set out in the tariff referred to in Article 5(1).

#### **Article 41h** (amended in SG No 97/2015)

(1) The head of the public sector organisation or a duly authorised official acting on his/her behalf shall review the application referred to in Article 41f within 14 days of its receipt and make a positive or negative decision on information re-use, which shall be notified to the applicant.

(2) Where the requested information is time-specific, public sector organisations must provide it within a reasonable time before the information becomes out of date.

(3) If an application for re-use of public sector information is of a complex nature and requires more time to be supplied, the term under paragraph 1 may be extended up to 14 days. In this case, a notification shall be sent to the applicant regarding the necessary time for supplying the information within a period of 14 days as of the date of filing the request.

#### **Refusal to supply public sector information for re-use**

**Article 41i** (new in SG No 49/2007) (1) Any refusal to supply public sector information for reuse shall be well grounded.

(2) Refusal may occur in the cases, where:

1. the supply of the requested information is prohibited by law;
2. the application does not meet the requirements under Article 41f.

(3) (amended in SG No 97/2015) The refusal under paragraph 1 shall contain the factual and legal grounds for the refusal, the date on which the decision was made and the procedures for its appeal.. Where a request has been refused on the basis of Article 41b(1) and (2), the public sector organisation must indicate the natural or legal persons that holds the rights, if known, or the persons from whom the public sector organisation obtained the information and the right to use it. This obligation shall not apply to libraries, including the libraries of higher education institutions, museums and archives.

(4) The presence of personal data in the public sector information, which has been requested for re-use shall not be considered grounds for refusal in the cases where this information constitutes or is part of a publicly accessible register.

## **Competent court and appeal**

**Article 41j** (new in SG No 49/2007) A refusal to supply public sector information for re-use shall be subject to appeal before the administrative courts or before the Supreme Administrative Court, depending on the body which has issued the act, in accordance with the procedure laid down in the Code of Administrative Procedure.

## **Chapter Five**

(new in SG No 49/2007)

## **ADMINISTRATIVE AND PENAL PROVISIONS**

### **Infringements and penalties**

#### **Article 42**

**(1)** (amended in SG No 97/2015) Where an official fails to adopt a decision on an application for access to public information or the re-use of information within the time period stipulated by law without a justifiable reason, a fine of BGN 50 to BGN 100 shall be imposed, unless the infringement carries a heavier penalty.

**(2)** (amended in SG No 97/2015) Where an official fails to comply with a court order on granting access to requested public information or to supply information for re-use, a fine of BGN 200 to BGN 2 000 shall be imposed, unless the infringement carries a heavier penalty.

**(3)** (amended in SG No 97/2015) A failure to fulfil the obligations laid down in Articles 14, 15, 15a, 15b, 15c and 31(3) shall carry a fine of BGN 50 to BGN 100 for natural persons or a penalty of BGN 100 to BGN 200 for legal persons.

**(4)** For failure to provide access to public information by the persons referred to in Article 3(2), the punishment shall be a property sanction of between BGN 100 and BGN 200.

**(5)** (new in SG No 97/2015) A failure to supply information for re-use shall carry a fine of BGN 50 up to BGN 200.

### **Body responsible for the ascertainment of infringements**

**Article 43** (amended in SG No 49/2007)

**(1)** The offences under this Act shall be determined by the officials appointed by the Minister of Justice in the cases referred to in Article 3(2), or by the relevant authority in other cases.

**(2)** Penalties shall be issued as follows:

1. under Article 42(1) – by the relevant authority referred to in Article 3(1), or by an authorised official;

2. under Article 42(2) – by the persons and in accordance with the procedure specified in Article 306 of the Code of Administrative Procedure;
3. under Article 42(3) – by the relevant body, and if the responsible person falls into the category specified in Article 3(2) – by the Minister for Justice or an authorised official;
4. (amended in SG No 97/2015) under Article 42(4) and (5) - by the Minister for Justice or an authorised official.

### **Applicable law**

**Article 44** Infringements shall be ascertained and penalties shall be levied, appealed and enforced in accordance with the provisions laid down in the Administrative Violations and Penalties Act.

### **SUPPLEMENTARY PROVISION**

**§1** (amended in SG Nos 1/2002; 103/2005; 49/2007; 104/2008; and 97/2015) Within the meaning of this Act:

1. ‘Physical medium’ is any paper, technical, magnetic, electronic or another similar medium, regardless of the recorded content (written text, plan, map, photograph, audio file, visual file or audiovisual file, etc.).

2. ‘Personal data’ is any information relating to a natural person who is identified or identifiable, directly or indirectly, by reference to an identification number or to one or more factors specific to his or her physical, physiological, genetic, mental, psychological, economic, cultural or public identity.

3. ‘List of acts issued within the remit of competence of a government body’ is the organised aggregate of all statutory acts, general and individual decisions issued by a government body.

4. ‘Public body’ is a legal entity that satisfies one of the following conditions:

(a) more than half of its income for the previous budgetary year was received from the State budget, the budget of the National Social Insurance Institute or the National Health Insurance Fund, municipal budgets or the contracting authorities referred to in Article 7(1) or (3) of the Public Procurement Act;

(b) more than half of the members of its managing or supervisory board are appointed by the contracting authorities referred to in Article 7(1) or (3) of the Public Procurement Act;

(c) its operations are controlled by the contracting authorities referred to in Article 7(1) or (3) of the Public Procurement Act; operational control means that it is possible for one party to exercise a dominant influence over the activity of another party.

Public bodies also include hospitals registered as commercial undertakings, when more than 30 percent of their income for the previous year was received from the State and/or municipal budget and/or the National Health Insurance Fund, and the libraries of higher education institutions, public libraries within the meaning of the Public Libraries Act, and museums and archives whose activities are financed by the central or local government.



**5.** Where the non-disclosure of facts, information, decisions and data related to an economic activity is in the interest of the respective holders but there is an overriding public interest in disclosure, the facts, information, decisions and data in question may not be considered an 'industrial or trade secret'. Until proven otherwise, an overriding public interest in disclosure of such information is considered to exist when:

**(a)** disclosure will enable citizens to form an opinion and participate in ongoing discussions;

**(b)** it promotes the transparency and accountability of the decisions adopted by the bodies referred to in Article 3(1);

**(c)** it ensures that the bodies referred to in Article 3 are able to fulfil their statutory obligations in a lawful and appropriate manner;

**(d)** it exposes corruption and abuse of power, poor management of central or local government property or other unlawful or inappropriate actions or omissions on the part of government bodies and officials employed by those bodies that affect adversely State or public interests and rights or legal interests of third parties;

**(e)** it disproves incorrect information which has already been disseminated affecting significant public interests;

**(f)** it is connected with the parties, sub-contractors, the subject matter, price, rights and obligations, terms and conditions, time periods and sanctions stipulated in contracts concluded by the parties referred to in Article 3.

**6.** 'Overriding public interest' is deemed to exist when the purpose of requesting information is to expose corruption and abuse of power and raise the transparency and accountability of the bodies referred to in Article 3;

**7.** 'Machine readable format' is an electronic data format structured in a manner that allows software applications to identify, detect and extract specific data, including individual facts and their internal structure, without the need for data conversion in a different format;

**8.** 'Open format' is an electronic data format that does not require the use of a specific platform or software to re-use the content and has been supplied to the public without any restrictions that would obstruct the re-use of the information;

**9.** 'Open data portal' is a unified, central, public web-based information system that enables the publication and management of information for re-use in machine-readable format, together with the corresponding metadata. The design and structure of the portal allows full or partial data extraction;

**10.** 'Official open standard' is an approved written standard that sets out the specifications and requirements for the operational compatibility of the software used;

**11.** 'Higher education institution' is an educational institution within the meaning of Article 17 of the Higher Education Act;

**12.** 'Metadata' is the description of the structure of information subject to re-use;

**13.** ‘Web address’ is a uniform resource identifier or locator;

**14.** ‘Platform for access to public information’ is a single, central, public and web-based information system that enables the publication and submission of applications for access to public information;

**15.** ‘Archives’ are the central, national and local archives of the State records kept by the National Archival Repository referred to in Article 6(1)(1) of the National Archival Repository Act and the public institutions referred to in Article 6(1)(2) and (3) of the National Archival Repository Act with respect to the archives and archival collections referred to in Article 33(1)(1)(6) to (8) and Article 33(2) of the National Archival Repository Act.

## **FINAL PROVISION**

**§2** This Act shall repeal:

**1.** Decree No 1086 laying down the rules and procedure for handling critical publications (SG No 56/1977);

**2.** Articles 14, 19 and 57(1)(2) of the Proposals, Complaints and Applications Act, (promulgated in SG No 52/1980; amended in SG No 68/1988).

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LAW amending and supplementing the Access to Public Information Act (SG No 49/2007)  
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## **Supplementary provision**

**§16** This Act transposes the provisions of Directive 2003/98/EC of the European Parliament and of the Council regarding the re-use of public sector information.

## **Transitional provisions**

**§17** Contracts regarding the exclusive supply of public sector information which were concluded before the entry into force of this Act and which do not comply with the requirements of Article 41e(2) shall be terminated upon their expiry, but not later than 31 December 2008.

**§18** Within a six-month period following the entry into force of this Act, the persons referred to in Article 3(1) shall be obliged to appoint officials from the relevant administrative body, who shall be directly responsible for the supply of public information and who shall establish a suitable place for reading the supplied information.

## **TRANSITIONAL AND FINAL PROVISIONS to the Law amending and supplementing the Access to Public Information Act (SG No 104/2008)**

**§8** The head of each government body or an official designated to act on his/her behalf shall meet the obligation to publish information online as stipulated in Article 15a within one year of the date this Act enters into force.

**§9** The heads of the government agencies referred to in Article 15 shall ensure that sufficient funds are available to meet the obligation stipulated in Article 15a and for staff training.

LAW amending and supplementing the Access to Public Information Act (SG No 97/2015)  
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### **Supplementary provision**

**§19** This Act transposes the provisions laid down in Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (OJ L 175/1 of 27 June 2013);

### **Transitional and final provisions**

**§20** Contracts for the provision of public sector information concluded prior to 17 July 2013 that do not satisfy the requirements laid down in Article 41e(2) to (5) shall be terminated upon their expiry, but not later than 18 July 2043.

**§21** The Council of Ministers shall:

1. adopt the Regulation referred to in Article 15d(3) and the tariff referred to in Article 41g(5)(1) within six months of the promulgation of this Act in the State Gazette;
2. develop a platform for access to public information and enable the submission of applications via the platform not later than 1 June 2017.

**§22** The municipal councils shall adopt and publish the tariffs referred to in Article 41g(5)(3) within six months of the date of promulgation of this Act in the State Gazette.

**§23.** The administrative service under the jurisdiction of the Council of Ministers shall draw up the first of the reports referred to in Article 16a(2) not later than 18 July 2017;

**§24(1)** Within three months of the date of this Act entering into force, government bodies shall publish:

1. the information referred to in Article 15(1) and (4) in compliance with the requirements laid down in Article 15a(2), with the exception of the tariff information referred to in Article 41g, which shall be published not later than one month following the promulgation of the tariff referred to in Article 41g(5)(1) or (3);
2. the list referred to in Article 15a(3).

**(2)** Public sector organisations, other than government bodies, shall publish the information referred to in Article 15(4) and the tariff referred to in Article 41g(5)(2) within six months of this Act entering into force.

**(3)** The obligated bodies referred to in Article 3(1) shall ensure that applications for access to public information can be submitted via the platform for access to public information referred to in Article 15c as from 1 June 2017.

**§25** The provision of §1(2) regarding Article 2(4) shall apply to information produced after 1 April 2016;

**§26** This Act shall enter into force one month after the date on which it is promulgated in the State Gazette, except for:

**1.** paragraph 6 regarding Article 15d(2), which shall enter into force 9 months after the promulgation of the Act in the State Gazette, and

**2.** paragraph 6 regarding Article 15c and §9 in respect of the wording ‘or through the platform for access to public information’, which shall enter into force on 1 June 2017.

This Act was adopted by the 43<sup>rd</sup> National Assembly on 26 November 2015 and bears the seal of the National Assembly.

Speaker of Parliament

**Tsetska Tsacheva**