

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED  
BY BULGARIA**

**ARTICLE 10 UNCAC**

**TRANSPARENCY AND INTEGRITY IN PUBLIC ADMINISTRATION**

**BULGARIA (THIRD MEETING)**

**Subparagraph (a) of article 10**

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to **enhance transparency** in its **public administration**, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the **general public to obtain**, where appropriate, **information on the organization, functioning and decision-making processes of its public administration** and, with due regard for the protection of privacy and personal data, on **decisions and legal acts that concern members of the public**;

*Has your country adopted and implemented the measures described above? (Check one answer)*

**(Y) Yes**

The Law on Access to Public Information is regulating the access to information in Bulgaria.

Within the meaning of this Law "public information" shall be any information pertaining to public life in the Republic of Bulgaria and enabling members of the society to form their own opinion regarding the operation of the entities obligated under the law. The law applies to the access to any public information which is created or is stored by State bodies, local administration or local self-government in the Republic of Bulgaria.

The right of access to public information is based on the following basic principles:

1. openness, truthfulness and comprehensiveness of the information;
2. ensuring access to public information on equal terms;
3. ensuring legality in seeking and obtaining public information;
4. protection of the right to information;
5. protection of personal data;

6. safeguarding the security of the society and the State.

For the purpose of ensuring transparency of the operation of the administration and of best facilitating access to public information, each head of an administrative structure within the system of the executive branch of government shall periodically publish up-to-date information. The public information is accessible at no charge.

Records and protocols from sessions of the Council of Ministers as well as all decisions taken are published on the web-site of the Government and are generally accessible. The same applies to the records and decisions of the Municipality Councils.

Bulgaria has joined the Global Initiative "Partnership for open governance" and has created a web page for public consultations: [www.strategy.bg](http://www.strategy.bg)

Each head of an administrative structure within the system of the executive branch of government shall periodically publish up-to-date information containing:

1. a description of the powers of the said head and particulars of the organization, functions and responsibilities of the administration headed thereby;
2. a list of the acts issued in the exercise of the powers of the said head;
3. a description of the data files and resources used by the relevant administration;
4. designation, address, telephone number and opening hours of the unit in the relevant administration which is in charge of accepting applications for granting access to information.

The head of such structures are also preparing an annual report on the applications for access to public information.

This information is to be published on the Internet sites of the administrative structures within the system of the executive power.

The existing internal rules regarding access to public information and the procedure for access to the public registers kept by the administrative structures within the system of the executive branch of government shall be announced in an Access to Information Section on their Internet sites.

### **Subparagraph (b) of article 10**

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to **enhance transparency in its public administration**, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) **Simplifying administrative procedures**, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

*Has your country adopted and implemented the measures described above? (Check one answer)*

(Y) Yes

See the answer under the previous point 33 (art. 10, letter "a")

### **Subparagraph (c) of article 10**

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to **enhance transparency in its public administration**, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) **Publishing information**, which may include periodic reports on the risks of corruption in its public administration.

*Has your country adopted and implemented the measures described above?*

(Y) Yes

See the information under point 33 (art.10, letter "a")

### **Please describe action taken to increase awareness of the risks of corruption in public Administration:**

- The institute for public administration is holding anticorruption trainings for the public administration.

### **If there have been any concrete changes or new measures in response to previous reports, please provide a brief account of such changes or measures:**

- No data available at the time of filling the questionnaire.

### **Access to Public Information Act**

Promulgated, SG No. 55/7.07.2000, amended, SG No. 1/4.01.2002, effective 1.01.2002, SG No. 45/30.04.2002, SG No. 103/23.12.2005, amended and supplemented, SG No. 24/21.03.2006, amended, SG No. 30/11.04.2006, effective 12.07.2006, SG No. 59/21.07.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended and supplemented,

SG No. 49/19.06.2007, amended, SG No. 57/13.07.2007, effective 13.07.2007, amended and supplemented, SG No. 104/5.12.2008, amended, SG No. 77/1.10.2010, SG No. 39/20.05.2011

Text in Bulgarian: Закон за достъп до обществена информация

## **Chapter One**

### **GENERAL DISPOSITIONS**

#### **Section I**

##### **Subject-matter and Scope**

##### **Subject-matter of Act**

**Article 1.** (Supplemented, SG No. 49/2007) This Act regulates the social relations pertaining to the right of access to public information, as well as to the re-use of public sector information.

##### **Public Information and Public Sector Information**

(Heading supplemented, SG No. 49/2007)

**Article 2.** (1) Within the meaning given by this Act, "public information" shall be any information pertaining to public life in the Republic of Bulgaria and enabling members of the public to form their own opinion regarding the operation of the entities obligated under the law.

(2) Any information referred to in Paragraph (1) shall be public regardless of the type of physical data medium thereof.

(3) (New, SG No. 49/2007) "Public sector information" shall be any information materialized on a paper, electronic or other medium, inter alia stored as a sound or visual recording, and collected or created by a public sector body.

(4) (Amended, SG No. 1/2002, renumbered from Paragraph (3), SG No. 49/2007) This Act shall not apply to access to personal data.

##### **Re-use of Public Sector Information**

**Article 2a.** (New, SG No. 49/2007) (1) "Re-use" of public sector information shall be the use of such information for commercial or non-commercial purposes other than the initial purpose for which the said information was created within the powers or functions of a public sector organization.

(2) The provision of public sector information to a public sector body in connection with the implementation of the powers or functions thereof shall not constitute re-use within the meaning given by this Act.

### **Obligated Entities**

(Heading amended, SG No. 49/2007)

**Article 3.** (1) (Amended, SG No. 104/2008) This Act shall apply to access to any public information which is created or is stored by the State bodies, the local units thereof or the bodies of local self-government in the Republic of Bulgaria, hereinafter referred to as "the public authorities".

(2) (Amended, SG No. 104/2008) This Act shall furthermore apply to access to any public information which is created and stored by:

1. public legal entities other than those referred to in Paragraph (1), including the bodies governed by public law;

2. natural and legal persons, solely in respect of any activities performed thereby which are financed by resources of the consolidated State budget and by resources from funds of the European Union or provided by the European Union under projects and programmes.

(3) (New, SG No. 49/2007, amended, SG No. 104/2008) The public sector bodies shall be obligated to make public sector information accessible for re-use, except in the cases provided for in this Act.

(4) (New, SG No. 49/2007) "Public sector body" shall be any state body, body of local-self government and body governed by public law, as well as any associations formed thereby.

### **Holders of Right of Access to Public Information and of Right to Re-use Public Sector Information**

(Heading supplemented, SG No. 49/2007)

**Article 4.** (1) Every citizen of the Republic of Bulgaria shall enjoy a right of access to public information under the terms and according to the procedure established by this Act, unless another law establishes a special procedure for seeking, obtaining and disseminating any such information.

(2) In the Republic of Bulgaria, any foreigner and any stateless person shall enjoy the right under Paragraph (1).

(3) The right under Paragraph (1) shall furthermore be enjoyed by any legal person.

(4) (New, SG No. 49/2007) The persons referred to in Paragraphs (1), (2) and (3) shall enjoy a right to re-use public sector information.

### **Exercise of Right of Access to Public Information**

**Article 5.** (Amended, SG No. 49/2007) The exercise of the right of access to public information and to re-use public sector information may not be prejudicial to the rights and reputation of other persons, or to national security, public order, public health and morals.

### **Fundamental Principles**

**Article 6.** (1) (Redesignated from Article 6, SG No. 49/2007) The following fundamental principles shall apply upon exercise of the right of access to public information:

1. openness, truthfulness and comprehensiveness of the information;
2. ensuring access to public information on equal terms;
3. ensuring legality in seeking and obtaining public information;
4. protection of the right to information;
5. protection of personal data;
6. safeguarding the security of society and the State.

(2) (New, SG No. 49/2007) The following fundamental principles shall apply upon exercise of the right to re-use public sector information:

1. ensuring a possibility for multiple re-use of public sector information;
2. transparency upon provision of public sector information;
3. non-discrimination upon provision of public sector information;
4. non-restriction of free competition.

### **Permissible Restrictions to Right of Access to Public Information**

(Heading supplemented, SG No. 49/2007)

**Article 7.** (1) (Amended, SG No. 45/2002, SG No. 59/2006, SG No. 49/2007) The right of access to public information and to re-use public sector information shall not be abridged, except where the said information is classified information or another protected secret in the cases provided for by a law.

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

### **Exemption from Scope of Application of Act**

**Article 8.** (Amended, SG No. 49/2007) The provisions of the law regarding the access to public information shall not apply to any information which:

1. is provided in connection with administrative services to members of the public and legal persons;
2. (amended, SG No. 57/2007) is held in the National Archival Collections of the Republic of Bulgaria.

## **Section II**

### **Official and Administrative Public Information**

#### **Types of Public Information**

**Article 9.** (1) Public information, which is created and stored by the public authorities and the administrations thereof, shall be either official information or administrative information.

(2) (Amended, SG No. 45/2002) In the cases provided for by a law, particular official or administrative information may be declared classified information constituting a state or an official secret.

#### **Official Public Information**

**Article 10.** "Official information" shall be any information which is contained in the acts of the state bodies and of the bodies of local self- government [issued] in the course of exercise of the powers thereof.

#### **Administrative Public Information**

**Article 11.** "Administrative information" shall be any information which is collected, created and stored in connection with any official information, as well as in connection with the operation of the public authorities and of the administrations thereof.

## **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 any official information, which is contained in statutory instruments, shall be ensured by means of promulgation of the said instruments.

(2) Access to any other official information, where so provided by a law or by decision of the creating authority, shall be ensured by means of promulgation.

(3) Access to any official information other than such covered under Paragraphs (1) and (2) shall be unrestricted and shall be obtained according to the procedure established by this Act.

(4) When requested to grant access to any official information which has been promulgated, the competent public authority shall be obligated to cite the publication where the said information has been promulgated, the issue and the date of publication.

### **Access to Administrative Public Information**

**Article 13.** (1) Access to administrative information shall be unrestricted.

(2) Access to administrative information may be restricted where the said information:

1. is related to the internal preparation of the acts of the public authorities and has no relevance of its own (opinions and recommendations developed by or for the public authority, observations and advice);

2. contains opinions and positions adopted in connection with present or future negotiations conducted by the public authority or on behalf thereof, as well as data pertaining to such opinions and positions, and has been prepared by the administrations of the relevant public authorities.

(3) (Amended, SG No. 45/2002) The restriction under Paragraph (2) shall be inapplicable upon the lapse of two years after the creation of any such information.

(4) (New, SG No. 104/2008) Access to administrative public information may not be restricted if there is an overriding public interest.

### **Obligation to Disclose Public Information**

**Article 14.** (1) The public authorities shall inform the public of the operation thereof by means of publication or announcement in another form.

(2) The public authorities shall be obligated to announce any information collected or obtained thereby in the performance of the operation thereof, where the said information:

1. may avert a danger to the life, health and safety of members of the public or of the property thereof;

2. denies any untrue information which has been disseminated and which affects significant public interest;

3. the disclosure thereof is or could be in the public interest;

4. must be prepared or disclosed by virtue of a law.



## **Publication of Up-to-Date Public Information**

**Article 15.** (1) For the purpose of ensuring transparency of the operation of the administration and of best facilitating access to public information, each head of an administrative structure within the system of the executive branch of government shall periodically publish up-to-date information containing:

1. a description of the powers of the said head and particulars of the organization, functions and responsibilities of the administration headed thereby;
2. a list of the acts issued in the exercise of the powers of the said head;
3. a description of the data files and resources used by the relevant administration;
4. designation, address, telephone number and opening hours of the unit in the relevant administration which is in charge of accepting applications for granting access to information.

(2) (Amended, SG No. 24/2006) Each head referred to in Paragraph (1) shall prepare an annual report on the applications for access to public information as received, including particulars of the refusals of any such applications and on the reasons for the said refusals. Any such annual report shall form part of the annual reports referred to in Article 62 (1) of the Administration Act.

## **Publication on the Internet**

**Article 15a.** (New, SG No. 104/2008) (1) The information covered under Article 15 herein shall be published on the Internet sites of the administrative structures within the system of the executive branch of government.

(2) The data referred to in Item 4 of Article 15 (1) and Article 15 (2) herein, the existing internal rules regarding access to public information and the procedure for access to the public registers kept by the administrative structures within the system of the executive branch of government shall be announced in an Access to Information Section on the Internet sites referred to in Paragraph (1).

## **Accountability**

(Heading supplemented, SG No. 24/2006, amended, SG No. 77/2010)

**Article 16.** (Supplemented, SG No. 24/2006, amended, SG No. 77/2010)

(1) The consolidated information on the public authorities and the administrations thereof, containing the particulars covered under Article 15 herein, as well as other information relevant to the application of this Act shall be included in the Administration Status Report which in turn shall be adopted by the Council of Ministers.

(2) The consolidated information referred to in Paragraph (1) shall be published annually on the Council of Ministers' website. The said information must be available for public inspection on the premises of each administration.

## **Section II**

### **Access to Other Public Information**

#### **Access to Public Information Pertaining to Activities of other Entities Obligated to Disclose It**

**Article 17.** (Amended, SG No. 104/2008)

(1) Access to any public information, which is created, received or stored in connection with the activities of the entities obligated under Article 3 herein, shall be unrestricted.

(2) Any information referred to in Paragraph (1), which constitutes a trade secret and the disclosure or dissemination whereof would lead to unfair competition among merchants, shall not be subject to disclosure except in the cases of an overriding public interest.

(3) The entities obligated under Article 3 herein, when refusing access to public information on the grounds of Paragraph (2), shall be obligated to specify the circumstances which lead to unfair competition among merchants.

### **Access to Public Information on Mass Media**

**Article 18.** Public information regarding the mass communication media shall be limited to information concerning:

1. the persons who participate in the management of the relevant mass communication medium or who exercise effective control over the management or operation thereof;

2. any economically connected persons who participate in the management of other mass communication media as well, which allows them to exercise effective control over the management or over the operation of the said media;

3. the persons who are directly engaged in the mass communication medium and who participate in the development of editorial policy;

4. the statements made regarding the public objects of the mass communication medium, as well as the principles or internal mechanisms applied by the mass communication medium to guarantee the truthfulness and objectivity of the information reported;

5. the financial results of the owner of the mass communication medium, and the distribution of the products thereof.

### **Purpose of Access to Public Information on Mass Media**

**Article 19.** (1) Access to any information covered under Article 18 herein shall be exercised while applying and reconciling the principles of transparency and of economic freedom, as well as respecting the protection of personal data, trade secrecy, and non-disclosure of the identity of the sources of the mass communication media who provide information on condition of anonymity.

### **Section III**

#### **Terms and Procedure for Assessment of Costs of Disclosure of Public Information**

##### **Access at No Charge and Costs of Disclosure of Public Information**

**Article 20.** (1) Public information shall be accessible at no charge.

(2) The costs incurred for disclosure of public information shall be paid according to standard specifications determined by the Minister of Finance which may not exceed the costs incidental to materials as incurred for the said disclosure.

(3) Information on assessment of the costs referred to in Paragraph (2) shall be provided to an applicant upon request.

##### **Obligation to Inform upon Submission of Application for Access**

**Article 21.** The entities covered under Article 3 herein shall be obligated to announce, on the premises where applications are submitted, the possible forms of obtaining access to public information, the costs due, and the modes of payment of the said costs.

##### **Free Corrections and Amplification of Information**

Disclosed

**Article 22.** The additional costs of any correction and/or amplification of public information disclosed shall not be paid in the cases where the said information is inaccurate or incomplete and the applicant makes a reasoned request for such correction and/or amplification.

##### **Proceeds from Granting Access to Public Information**

**Article 23.** The proceeds from granting access to public information shall be credited in revenue to the budget of the competent public authority.

### **Chapter Three**

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

### **Section I**

#### **Request for Access to Public Information**

#### **Application or Oral Enquiry for Access**

**Article 24.** (1) Access to public information shall be granted acting on a written application or an oral enquiry.

(2) Any application shall be considered written even when submitted electronically under terms established by the competent public authority.

(3) Should an applicant be not granted access to any public information requested upon an oral enquiry, or should any such applicant consider the public information disclosed thereto insufficient, the said applicant may submit a written application.

#### **Contents of Application for Access to Information**

**Article 25.** (1) Any application for access to public information shall state the following particulars:

1. the forename, patronymic and surname or the corporate name and registered office of the applicant, as the case may be;
2. a description of the information requested;
3. the preferred form of access to the information requested;
4. address for correspondence with the applicant.

(2) Any application, which does not state any of the particulars covered under Items 1, 2 and 4 of Paragraph (1), shall be left without consideration.

(3) Any application for access to public information shall be subject to mandatory registration according to a procedure established by the competent public authority.

#### **Forms of Granting Access to Public Information**

**Article 26.** (1) Access to public information shall be granted in any of the following forms:

1. inspection of the information in the original form or in a copy;
2. oral response to an enquiry;
3. copies on a paper-based data medium;
4. copies on a machine-readable data medium.

(2) One or more of the forms covered under Paragraph (1) may be employed for access to public information.

(3) Where the preferred form of granting access to public information is the one referred to in Item 4 of Paragraph (1), the technical parameters for recording the information shall furthermore be specified.

(4) Any sight-, hearing- or speech-impaired persons may request access in a format compatible with the communicative faculties thereof.

### **Obligation to Comply with Preferred Form of Access**

**Article 27.** (1) The public authorities shall be obligated to comply with the preferred form in which access to public information is requested except in the cases where:

1. the said form is technically impracticable;
2. the said form involves an unjustified increase in the costs of disclosure;
3. the said form leads to a possibility of wrongful processing of the said information or to infringement of intellectual property rights.

(2) In the cases covered under Paragraph (1), the information shall be disclosed in a form determined by the competent public authority.

## **Section II**

### **Consideration of Applications and Granting Access to Public Information**

#### **Consideration of Applications for Access**

**Article 28.** (1) Any application for access to public information shall be considered as soon as practicable, and in any case not later than fourteen days after the date of registration of the application.

(2) Within the time limit referred to in Paragraph (1), the public authorities or persons expressly designated thereby shall make a decision to grant or to refuse access to the public information requested and shall notify the applicant in writing of the decision thereof.

#### **Specification of Application for Access**

**Article 29.** (1) Should it be unclear exactly what information is requested, or should the application be formulated in rather general terms, the applicant shall be notified and shall have the right to specify the subject of the public information requested. The time limit referred to in Article 28 (1) herein shall begin to run from the date of specification of the subject of the public information requested.

(2) Should the applicant fail to specify the subject of the public information requested within thirty days, the application shall be left without consideration.

#### **Permissible Extension of Time Limit for Granting of Access**

**Article 30.** (1) The time limit referred to in Article 28 (1) herein may be extended, by not more than ten days, where the information requested in the application is voluminous and the retrieval thereof requires additional time.

(2) The notification referred to in Article 29 (1) herein shall state the reasons for extension of the time limit wherewithin access to the public information requested will be granted.

#### **Extension of Time Limit to Protect Third Parties' Interests**

**Article 31.** (1) The time limit referred to in Article 27 (1) herein may furthermore be extended, by not more than fourteen days, where the public information requested pertains to a third party and the consent thereof has to be obtained for disclosure of the said information.

(2) In the cases under Paragraph (1), the competent public authority shall be obligated to request the express written consent of the third party within seven days after registration of an application under Article 24 herein.

(3) In making a decision under Article 28 (2) herein, the competent public authority shall be obligated to comply strictly with the conditions whereunder the third party has granted consent to disclosure of the information pertaining to the said third party.

(4) (Amended, SG No. 104/2008) Should the third party fail to grant consent within the time limit referred to in Paragraph (1), or should the third party explicitly refuse to grant consent, the public authority concerned shall provide the public information requested up to an extent and in a manner precluding the disclosure of any information which pertains to the third party.

(5) (Amended, SG No. 104/2008) Consent from the third party shall not be necessary in the cases where the said party is an obligated entity and the information pertaining to the said third party is public information within the meaning given by this Act, as well as where there is an overriding public interest in disclosure of the said information.

## **Redirection of Application for Access**

**Article 32.** (1) Should the public authority do not possess the requested information but is aware of the location thereof, within fourteen days after receipt of the application the said authority shall redirect the said application to the proper addressee, notifying the applicant. Any such notification shall mandatorily state the designation and address of the competent public authority or legal person.

(2) In the cases covered under Paragraph (1), the time limit referred to in Article 28 (1) herein shall begin to run from the time of receipt of the redirected application by the competent public authority.

## **Notification of Unavailability of Public Information Requested**

**Article 33.** Should the public authority do not possess the information requested and be unaware of the location thereof, the said authority shall notify the applicant within fourteen days.

## **Decision to Grant Access to Public Information**

**Article 34.** (1) Any decision referred to in Article 28 (2) herein, whereby access to public information requested is granted, shall mandatorily state:

1. the extent of access ensured to the public information requested;
2. the period of time wherewithin access to the public information requested is granted;
3. the premises whereon access to the public information requested will be granted;
4. the form wherein access to the public information requested will be granted;
5. the costs incidental to the granting of access to the public information requested.

(2) The decision may name any other public authorities, organizations or persons which or who possess more comprehensive information.

(3) The decision to grant access to the public information requested shall be delivered to the applicant upon signed acknowledgement or shall be dispatched by mail with advice of delivery.

(4) The period of time referred to in Item 2 of Paragraph (1) may not be shorter than thirty days reckoned from the date of receipt of the decision.

## **Granting Access to Public Information Requested**

**Article 35.** (1) Access to public information shall be granted after payment of the prescribed costs and upon presentation of documentary proof of payment.

(2) A memorandum on the granting of access to public information shall be drafted and signed by the applicant and by the competent officer.

### **Relinquishment by Applicant of Access Granted**

**Article 36.** Should an applicant fail to present himself or herself within the period fixed under Article 34 (4) herein, or should the applicant fail to pay the prescribed costs, the said applicant shall be presumed to have relinquished the access granted thereto to the public information requested.

## **Section III**

### **Refusal of Access to Public Information**

#### **Grounds for Refusal of Access**

**Article 37.** (Amended, SG No. 45/2002, SG No. 59/2006, SG No. 104/2008) (1) Access to public information may be refused on any of the following grounds:

1. the information requested is classified information or another protected secret in the cases provided for by law, as well as in the cases covered under Article 13 (2) herein;
2. the access affects the interests of a third party, and the said party has not granted explicit written consent to disclosure of the public information requested, except in the cases of an overriding public interest;
3. the public information requested has been disclosed to the applicant during the last preceding six months.

(2) In the cases covered under Paragraph (1), partial access shall be granted solely to such part of the information to which access is not restricted.

#### **Contents of Decision to Refuse Access**

**Article 38.** Any decision to refuse access to public information shall state the grounds of fact and law for refusal under this Act, the date of making the decision, and the procedure for appeal against the said decision.

#### **Delivery of Decision to Refuse Access**

**Article 39.** Any decision to refuse access to public information shall be delivered to the applicant upon signed acknowledgement, or shall be dispatched by mail with advice of delivery.

## **Section IV**

### **Appeal of Decisions and of Refusals of Access to Public Information**



## **Cognizance upon Appeal of Decisions Regarding Access or Refusal of Access**

**Article 40.** (1) (Amended, SG No. 30/2006, SG No. 49/2007) Any decision to grant access to public information or to refuse access to public information shall be appealable before the administrative courts or before the Supreme Administrative Court according to the procedure established by the Administrative Procedure Code, depending on which public authority has issued the act.

(2) (Amended, SG No. 30/2006, SG No. 39/2011) Any decision to grant access to public information or to refuse access to public information by any entity covered under Article 3 (2) herein shall be appealable before the administrative courts according to the procedure established by the Administrative Procedure Code.

## **Competence of Court Considering Appealed Decisions**

**Article 41.** (1) In the cases where the court establishes legal non-conformity, the court shall revoke the decision appealed in whole or in part, ordering the public authority to grant access to the public information requested.

(2) In the cases covered under Paragraph (1), access to the public information requested shall be granted according to the procedure established by this Act.

(3) Upon appeal of a refusal of access to public information in pursuance of Item 1 of Article 37 (1) herein, the court may, sitting in camera, demand the public authority to adduce the requisite evidence substantiating the said refusal.

(4) (Amended, SG No. 45/2002) In the cases referred to in Paragraph (3), the court shall pronounce on the legal conformity of the refusal and on the placement of a security marking.

## **Chapter Four**

**(New, SG No. 49/2007)**

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

### **Section I**

#### **Provision of Public Sector Information for Re-use**

#### **Conditions for Provision of Public Sector Information for Re-use**

**Article 41a.** (New, SG No. 49/2007) (1) Public sector information shall be provided in a format and in a language in which the said information was collected or created, as the case may be, or in another format at the discretion of the public sector body.

(2) Public sector bodies shall not be obligated to provide information for re-use where this requires the creation, collection or processing of such information or where this is related to provision of extracts from documents where this would involve disproportionate effort, going beyond a simple operation.

(3) Public sector bodies shall not be obligated to continue the creation or collection of a certain type of information for the needs of the re-use of such information.

(4) Upon request by the applicant and where possible, the information requested shall be made available through electronic means at an electronic mail address named or in other appropriate manners for provision of the information in electronic form.

### **Public Sector Information which Is Not Provided for Re-use**

**Article 41b.** (New, SG No. 49/2007) The following public sector information shall not be provided for re-use:

1. whereof the content is related to activities falling outside the scope of the powers and functions of public sector bodies;
2. whereof a third party holds an intellectual property right;
3. which has been collected or created by public-service radio and television broadcasters or regional centres thereof;
4. which has been collected or created by schools, higher schools, scientific and research organizations, the State Archival Collections, libraries, museums, orchestras, operas, ballets, theatres and other scientific and cultural establishments.

### **Provision of Public Sector Information to Public Sector Bodies**

**Article 41c.** (New, SG No. 49/2007) (1) Public sector information shall be provided for re-use to public sector bodies under the terms and according to the procedure established by this Act.

(2) If public sector information is requested for re-use by a body referred to in Paragraph (1) in connection with the implementation of any activities which are beyond the powers or functions of the said body, the same conditions and payment shall apply.

### **Means of Facilitating Search for Information**

**Article 41d.** (New, SG No. 49/2007) Public sector bodies shall ensure conditions facilitating the search for public sector information by means of various mechanisms for online access or in another appropriate manner.

### **Prohibition of Exclusive Arrangements for Re-use**

**Article 41e.** (New, SG No. 49/2007) (1) It shall be prohibited to conclude contracts granting exclusive rights for the provision of public sector information.

(2) Conclusion of a contract referred to in Paragraph (1) shall be permissible solely in the cases where the provision of a service in the public interest cannot be ensured in another manner. The validity of the reason for conclusion of such a contract shall be reviewed once every three years by the public sector body which is a party to the said contract.

## **Section II**

### **Procedure for Provision of Public Sector Information for Re-use**

#### **Request for Re-use of Public Sector Information**

**Article 41f.** (New, SG No. 49/2007) (1) Public sector information shall be provided for re-use after submission of a written request.

(2) Where the request has been submitted through electronic means, public sector bodies shall be obligated to reply through electronic means as well. In such case, conformation of the receipt of the reply shall not be required.

#### **Charging**

**Article 41g.** (New, SG No. 49/2007) (1) Public sector information shall be provided for reuse at charges recovering the material costs of the provision of the said information, determined by a rate schedule adopted by the Council of Ministers.

(2) The charges referred to in Paragraph (1) must not exceed the costs of provision of the public sector information.

(3) When requested to do so, public sector bodies shall provide data on the manner of determination of the costs referred to in Paragraph (1).

(4) The amounts under Paragraph (1) shall be credited to the budget of the relevant public sector body.

#### **Time Limit for Provision of Public Sector Information**

**Article 41h.** (New, SG No. 49/2007) (1) Public sector bodies shall process any request for re-use as received and shall reply to the applicant within a timeframe of not more than fourteen days after the receipt of any such request.

(2) In the cases where the information requested is relevant for a specified period of time, public sector bodies must provide such information within a reasonable time where within the said information has not lost its topical relevance.

(3) In the cases where the request for re-use of public sector information is complex and more time is needed to provide such information, the timeframe referred to in Paragraph (1) may be extended by up to fourteen days. In such case, the applicant shall be notified of the time required for provision of the information within fourteen days after receipt of the request,

### **Refusal to Provide Public Sector Information for Re-use**

**Article 41i.** (New, SG No. 49/2007) (1) Any refusal to provide public sector information for re-use shall be reasoned.

(2) Provision may be refused where:

1. a law prohibits the provision of the information requested;
2. the request is not responsive to the conditions covered under Article 41f herein.

(3) A refusal referred to in Paragraph (1) shall state the grounds of fact and law for a refusal, the date whereon the decision was made and the procedure for appeal of the said decision. In case of a refusal by reason of the existence of intellectual property rights held by a third party, the decision on refusal shall include a reference to the name of the right holder or of the person wherefrom the public sector body has obtained the said rights.

(4) The existence of personal data in the public sector information which is requested for re-use may not be grounds for refusal in the cases where the said information constitutes or is part of a publicly accessible register.

### **Cognizance and Appeal**

**Article 41j.** (New, SG No. 49/2007) Any refusal to provide public sector information for re-use shall be appealable before the administrative courts or before the Supreme Administrative Court, depending on the authority which issued the act, according to the procedure established by the Administrative Procedure Code.

## **Chapter Five**

**(New, SG No. 49/2007)**

### **ADMINISTRATIVE PENALTY PROVISIONS**

#### **Administrative Violations and Sanctions**

**Article 42.** (Amended, SG No. 49/2007) (1) Any public official who, without reasonable excuse, fails to pronounce on an application for access to public information within the statutory time limit, shall be liable to a fine of BGN 50 or exceeding this amount but not exceeding BGN 100, unless subject to a severer sanction.

(2) Any public official, who disobeys a court order to grant access to public information requested, shall be liable to a fine of BGN 200 or exceeding this amount but not exceeding BGN 2,000, unless subject to a severer sanction.

(3) Any failure to fulfil obligations under Article 31 (3) herein shall be punishable by a fine of BGN 50 or exceeding this amount but not exceeding BGN 100, applicable to natural persons, or by a pecuniary penalty of BGN 100 or exceeding this amount but not exceeding BGN 200, applicable to legal persons.

(4) Any failure by the entities covered under Article 3 (2) herein to grant access to public information shall be punishable by a pecuniary penalty of BGN 100 or exceeding this amount but not exceeding BGN 200.

### **Authority Imposing Administrative Sanctions**

**Article 43.** (Amended, SG No. 49/2007) (1) Violations under this Act shall be ascertained by the officials designated by the Minister of Justice in the cases covered under Article 3 (2) herein or by the relevant body of power in the rest of the cases.

(2) Penalty decrees shall be issued as follows:

1. under Article 42 (1) herein: by the relevant body of power referred to in Article 3 (1) herein or by an employee empowered thereby;
2. under Article 42 (2) herein: by the persons referred to and according to the procedure established by Article 306 of the Administrative Procedure Code;
3. under Article 42 (3) herein: by the relevant authority, and in the cases where the obligated entity is among those covered under Article 3 (2) herein, by the Minister of Justice or by an employee empowered thereby;
4. under Article 42 (4) herein: by the Minister of Justice or by an employee empowered thereby.

### **Law Governing**

**Article 44.** Violations shall be ascertained, and sanctions shall be imposed, appealed against and executed according to the procedure established by the Administrative Violations and Sanctions Act.

### **SUPPLEMENTARY PROVISION**

**§ 1.** (Amended, SG No. 1/2002, SG No. 103/2005, amended and supplemented, SG No. 49/2007, amended, SG No. 104/2008) Within the meaning given by this Act:

1. "Material data medium of public information" shall be written text, plan, map, photograph, image, floppy disk, audio tape or video tape, and other such.

2. "Personal data" shall be any information relating to a natural person who is identified or can be identified, 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 social identity.

3. "List of the acts issued in the exercise of the powers of an administrative structure within the system of the executive branch of government" shall be a structured set of all statutory instruments, general and individual administrative acts issued by the respective administrative authority.

4. "Body governed by public law" shall be a legal person which, regardless of its commercial or industrial character, is established for the specific purpose of meeting needs in the public interest and in respect of which any of the following conditions is fulfilled:

(a) more than one-half of the income thereof for the last preceding budget year is financed by the State budget, by the budgets of Public Social Insurance or of the National Health Insurance Fund, by the municipal budgets or by any contracting authorities referred to in Item 1 or 3 of Article 7 of the Public Procurement Act;

(b) more than one-half of the members of the management or supervisory body thereof are designated by any contracting authorities referred to in Item 1 or 3 of Article 7 of the Public Procurement Act;

(c) is subject to managerial control on the part of any contracting authorities referred to in Item 1 or 3 of Article 7 of the Public Procurement Act; managerial control shall be in place where one person may exercise a dominant influence on the activity of another person in any manner whatsoever.

"Body governed by public law" shall furthermore be any commercial-corporation medical-treatment facility, whereof more than 30 per cent of the income for the last preceding year are for the account of the State budget and/or the municipal budget and/or the budget of the National Health Insurance Fund.

5. Any facts, information, decisions and data related to economic activity, whose non-disclosure is in the interest of the holders but there is an overriding public interest in the disclosure thereof, may not constitute an "industrial or trade secret". Until proven otherwise, there shall be an overriding public interest in disclosure where any such information:

(a) enables citizens to form an opinion and to participate in current discussions;

(b) facilitates the transparency and accountability of the entities referred to in Article 3 (1) herein regarding the decisions made thereby;

(c) guarantees the legally conforming and expedient fulfilment of the legal obligations of the entities referred to in Article 3 herein;

(d) discloses corruption and abuse of power, mismanagement of state or municipal property or other legally non-conforming or inexpedient acts or omissions by administrative authorities and officials in the respective administration, whereby state or public interests, rights or legitimate interests of other persons are affected;

(e) disproves disseminated untrue information affecting significant public interests;

(f) is related to the parties, the subcontractors, the subject matter, the price, the rights and obligations, the terms and conditions, the time limits and the sanctions specified in any contracts whereto an entity obligated under Article 3 herein is one of the parties.

6. "Overriding public interest" shall be in place where disclosure of corruption and of abuse of power, enhancement of the transparency and accountability of the entities referred to in Article 3 herein is sought through the information requested.

## **FINAL PROVISION**

§ 2. This Act shall supersede:

1. State Council Decree No. 1086 dated 12 July 1977 on Handling of Critical Articles ([promulgated in the] State Gazette No. 56 of 1977);

2. Articles 14 and 19 and Item 2 of Article 57 (1) of the Proposals, Alerts, Complaints and Petitions Act (promulgated in the State Gazette No. 52 of 1980; amended in No. 68 of 1988).

Act to Amend and Supplement the Access to Public Information Act  
(SG No. 49/2007)

## **SUPPLEMENTARY PROVISION**

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

## **TRANSITIONAL PROVISIONS**

§ 17. The contracts granting exclusive rights for the provision of public sector information, concluded prior to the entry into force of this Act, which do not comply with the requirements referred to in Article 41e (2) of the Access to Public Information Act, shall be terminated upon the expiry of the term of validity thereof but not later than the 31st day of December 2008.

§ 18. Within six months after the entry into force of this Act, the entities referred to in Article 3 (1) of the Access to Public Information Act shall be obligated to designate officials of the relevant administration who shall be directly responsible for the provision

of public, as well as to allocate an appropriate place for reading of the information provided.

#### TRANSITIONAL AND FINAL PROVISIONS

to the Act to Amend and Supplement the Access to Public Information Act

(SG No. 104/2008)

§ 8. The obligation to publish on the Internet under Article 15a shall be fulfilled by the heads of administrative structures within the system of the executive branch of government within one year after the entry into force of this Act.

§ 9. The heads within the system of the executive branch of government, obligated under Article 15, shall provide financial resources for the fulfilment of the obligation referred to in Article 15a and the training of personnel within the said system.