

THE LAW OF THE REPUBLIC OF MOLDOVA

THE LAW on Access to Information

The Parliament adopts the present organic law.

Article 1. Scope of the present law

(1) The present law regulates:

- a) the interaction between the providers of information and individuals and/or legal entities during the exercise of their constitutional right to access information.
- b) the principles, conditions, ways and order of accessing official information held by the providers of the information;
- c) issues regarding the access to private information (personal data) and its protection during the accessing period;
- d) the rights of applicants during the process of obtaining information, including private information;
- e) the obligations of information providers to ensure access to official information;
- f) methods of safeguarding the right to information.

(2) The interactions related to the following activities are not considered object of the present law:

- a) data collection, processing, storage and safekeeping;
- b) the mandatory submission of information, specified by law, to public authorities and institutions by private individuals;
- c) the access by public authorities/institutions, individuals and/or legal entities authorized to manage public services to information held by other public authorities/institutions, individuals and/or legal entities;
- d) the presentation of information about the activity of private individuals and legal entities, parties and socio-political movements, public associations, foundations.

Article 2. Objectives of the present law

The present law aims:

- a) to create and establish a general normative framework on access to official information;
- b) to increase the effectiveness of the process of informing the public, and control on the part of citizens over the activity of public authorities/institutions;
- c) to stimulate the formation of opinions and active participation of people in the decision-making activities in a democratic way.

Article 3. Legislation on access to information

(1) The legislation on access to information is based on the Constitution of the Republic of Moldova, international treaties and agreements, to which the Republic of Moldova is party; and includes the present law and provisions of other normative acts, which regulate interactions related to access to information.

(2) If there is a discrepancy between international agreements and treaties, to which the Republic of Moldova is party, and provisions in the national legislation, then the prescriptions in international treaties and agreements will be applied.

Article 4. Principles of state policy on access to official information

(1) Under the present law, any person has the right to seek, obtain and disseminate official information.

(2) The exercise of the right provided for in par. (1) of the present article may be restricted for specific reasons, in accordance with international law, including the protection of national security or a person's private life.

(3) The exercise of the right provided for in par. (1) of the present article, will not involve in any way discrimination on the basis of race, nationality, ethnic origin, language, creed, sex, opinion, political affiliation, wealth or social origin.

Article 5. Subjects of the present law

- (1) The subjects of the present law are information providers and information seekers.
- (2) Information providers, that is holders of official information required under the present law to provide such information to applicants, are:
- a) local and central public authorities – state administration bodies, as stipulated in the Constitution of the Republic of Moldova, and namely: Parliament, President, Government, Public Administration, Judicial Authorities;
 - b) local and central public institutions – organizations founded by the state represented by public authorities that are financed by the state budget, who are responsible for activities of administration, those in social-cultural domains or other non-commercial activities;
 - c) individuals and legal entities that, under the law or contract with public authorities, are empowered to provide some public services and to collect, select, preserve and hold official information, including data with private character.
- (3) Official information may be requested, under conditions defined in the present law, by:
- a) any citizen of the Republic of Moldova;
 - b) foreign citizens that reside in the Republic of Moldova;
 - c) stateless persons that reside in the Republic of Moldova.

Article 6. Official information

- (1) Under the present law, the official information is defined as all information held and administered by information providers, which has been developed, selected, processed, systematized and/or adopted by official bodies or persons, or that is presented to them in conformity with the law by other subjects.
- (2) Under the present law, documents containing information are considered:
- 1) any of the following (or a part thereof):
 - a) any piece of paper or other material, which carries an inscription;
 - b) a map, chart, drawing, photograph;
 - c) any paper or other material, which carries markings, figures, symbols or perforation that have a meaning to people qualified to interpret them;
 - d) any object or material that can be used to reproduce sound, images or inscriptions with or without the help of another object or device;
 - e) any other register of information that appeared as a result of the technological progress.
 - 2) any copy, reproduction or publication of the objects listed in point (1) of the present paragraph;
- or
- 3) any part of the objects listed in point (1) or of a copy, reproduction or publication of the objects mentioned in point (2) of the present paragraph.
- (3) Undocumented official information that is in the hands of the providers (or responsible persons named by them) will be presented to information seekers in conformity with the general rules.

Article 7. Official information with limited access

- (1) The exercise of the right to information may be subject only to the restrictions defined by an organic law and meeting the following requirements:
- a) respecting other people's rights and reputation;
 - b) protecting national security or public order, as well as public health or morals.
- (2) According to para. 1 of the present article, free access to any kind of official information may not be restricted except for the following cases:
- a) information falling under the category of state secrets, regulated by organic law and qualified as information protected by the state and related to its military, economic, technical-scientific, foreign policy, intelligence, counterintelligence and investigation activities, whose dissemination, disclosure, loss, theft may endanger the security of the state;
 - b) confidential business information submitted to public institutions under conditions of confidentiality, and which is regulated by the legislation on trade secrets and is related to production,

technology, administration, funding, other business activities, whose disclosure (transmission, leak) may affect the interests of businesses;

c) personal data, the disclosure of which may be considered interference in one's private life, which is protected by the current legislation, access to which can be allowed only with the observation of the provisions of article 8 of the present law;

d) information related to the investigative activity of the corresponding bodies, but only in cases when the disclosure of such information might affect the investigation, interfere with a lawsuit, deprive a citizen of his/her right to a fair and impartial trial, endanger the life or physical safety of any person; cases which are regulated by the current legislation;

e) information that represents the final or preliminary results of scientific and technical research, whose disclosure may deprive the researchers of their priority right of publication or have a negative impact on other rights protected by law.

(3) If access to information, solicited documents, is partially limited, the information providers are required to present to the information seekers parts of the document, access to which is not prohibited by law, indicating in the places of omitted parts one of the following: "state secret", "commercial secret", "confidential information about the person". In these cases, the refusal of the access to the respective parts of the document, information, will be based on article 19 of the present law.

(4) No restrictions may be imposed on the freedom of information, unless the information provider can successfully prove that such a restriction is regulated by an organic law and is necessary in a democratic society for the protection of rights and legitimate interests of the person or national security, and that the damage to those interests would be larger than the public interest for that kind of information.

(5) No one can be punished for the fact that he or she made public information with limited access, if releasing this information does not damage or cannot damage legitimate interests related to national security, or if the public interest for knowing the information is larger than the damage that can result from its dissemination.

Article 8. Access to private information (personal data)

(1) Private information - personal data related to an identified or identifiable private individual - the disclosure of which would violate the person's privacy, is considered confidential information about the person.

In the framework of the present law, data that are used exclusively for a person's identification (data contained in the identification cards) are not considered confidential information.

(2) Information providers that hold personal data are under the obligation to protect the person's private life.

(3) The protection of citizen's private life includes:

a) the right of the person, whose interests are affected by the disclosure of the information, to be asked for permission;

b) the right to participate in the decision-making process as an equal party;

c) the right to anonymity when personal data are supplied under conditions of confidentiality;

d) the right to check and correct inadequate, incorrect, incomplete, outdated, irrelevant data;

e) the right not to identify oneself when decisions are made regarding information disclosure;

g) the right to appeal to courts.

(4) Personal data will be:

a) obtained, gathered, processed, stored, and used correctly for very specific legitimate purposes;

b) truthful, adequate, pertinent and commensurate with the objective for which they have been obtained;

c) preserved in a form that allows the identification of the person they refer to, and for a term not shorter than is necessary to achieve the objectives, for which the data have been obtained.

(5) Any person will have free access to his or her own personal data. He or she has the right to:

a) get acquainted with this information personally or in the presence of another person

b) clarify such data in order to ensure their completeness and verity;

c) be granted, when appropriate, the correction or liquidation of such data when they are used improperly;

d) find out who and for what purposes has used, is using or is going to use such data;

e) make copies from the documents, information about him or herself or parts of them.

(6) Information providers will take all the necessary steps to protect the information from destruction or loss, as well as against unauthorized access, modification or publication, but these measures must not violate the right of access to official information in conditions established by the present law.

(7) Information providers may disclose any information containing personal data, requested in accordance with the present law, in the following cases:

a) the person, to whom the information refers, has agreed to its disclosure;

b) the requested information has been made public (published in accordance with the current legislation) in full before the day of the request.

(8) If the person does not agree to the disclosure of personal data referring to him/her, access to such data may be allowed only through a ruling by a court of law, which will be a final one and which will have concluded that the disclosure will serve the public interest, that is, it will refer to the protection of public health, security, or the environment.

Article 9. Access to information stored in the Archives of the Republic of Moldova

(1) Access to information stored in the State Archive Fund of the Republic of Moldova is regulated by the Law on the Archive Fund of the Republic of Moldova and by the present law.

(2) In cases of discrepancies between the provisions of the present law and of the Law on the Archive Fund of the Republic of Moldova, priority will be given to the provisions of the present law.

Article 10. Rights of requesting parties

(1) The person has the right to request, in person or through his/her representatives, from information providers, any information held by them, with the exception of cases specified by legislation.

(2) The right of a person to have access to information, including personal data, may not be restricted except for cases specified by legislation.

(3) Any person requesting access to information in accordance with the present law is under no obligation to justify his/her interest for the requested information.

Article 11. Obligations of information providers

(1) The information providers, within their competence, are obliged:

1) to actively provide accurate and timely information to citizens on issues of public and personal interest;

2) to provide free access to information;

3) to observe restrictions on access to information, as stipulated by law, in order to protect confidential information, private life of citizens, and the national security,

4) to observe the time limits set by law for providing information;

5) to publish their own normative acts, adopted in accordance with law;

6) to preserve, under the terms set by law, their own documents, the documents of institutions whose successors they have become, the documents that define their legal status;

7) to protect the information in their possession from unauthorized access, destruction or modification;

8) to preserve information controlled by them in the updated form;

9) to publish immediately, for the knowledge of the public at large, the information that has become known to them in the course of their activity, if such information:

a) can prevent or diminish danger to citizen's life and health;

b) can prevent or diminish the danger of damages of any type;

c) can prevent the publication of untruthful information, or can diminish the negative impact from the publication of such information;

d) is of outstanding importance to society.

(2) In order to guarantee free access to official information, the information provider:

a) will provide office space appropriately equipped for research, which will be made available to information solicitors;

- b) will appoint and train officers who will be in charge of providing official information;
- c) will develop regulations on the rights and obligations of officers in the process of making available documents and official information, in accordance with the present law;
- d) will grant necessary assistance and help to information solicitors for the search and identification of information;
- e) will provide effective access to the registers of information providers, which will be kept in accordance with the legislation on registers;
- f) will make their meetings open to the public, in accordance with the enforced law.

(3) In order to facilitate free access to information, information providers will publish or will use any other general and direct way of making available to the population the documents containing:

- a) the description of the institution's structure and location;
- b) the description of the institution's functions, activity areas and activity forms;
- c) description of subdivisions and their functions, their working hours, including days and hours of working with the public of officers in charge of providing information and official documents;
- d) final decisions on the main issues examined.

(4) In accordance with the present law, information stipulated in para. (3) of the present article will be made public without the application of the procedure of examination of requests about access to information.

(5) In order to make the institution's activity transparent, facilitate access to information, create conditions for timely search for and identification of documents and information, public authorities/institutions will publish at least once every year guides with the list of ordinances, resolutions, other official documents issued by the corresponding institution, as well as guides describing the areas, in which it can provide information; the institutions will provide to the mass media official data about their activity, including areas, in which they can provide information.

(6) Information providers will also take other steps to inform actively citizens and the mass media.

Article 12. Requesting access to official information

(1) Official information and documents may be obtained by the requesting party on the basis of a written or verbal request.

(2) The written request will include:

- a) sufficient and conclusive details for the identification of the requested information (or of parts thereof);
- b) the acceptable form in which the requested information may be received;
- c) identification data of the requesting party.

(3) Except for cases when information about third parties or personal information is being requested, the applicant may omit his/her identification data from the request.

(4) The request may be made verbally when the answer is positive and the requested information can be provided instantly. If the information provider intends to deny access to the requested information, he/she must inform the information solicitor about that and offer him/her the possibility to write a request.

(5) Analytical or novel information, as well as information synopses, can be compiled and furnished to the information solicitor on the basis of a contract between the requesting party and the information provider, for a negotiable fee, if the corresponding institution is willing and has the right to meet such a request.

Article 13. Means of accessing official information

(1) The means of accessing information are:

- a) listening to the information that can be presented verbally;
- b) examining the document or information (or parts thereof) on the institution's premises;
- c) releasing a copy of the requested document or information (or parts thereof);
- d) releasing a copy of the document's or information's translation (or parts thereof) into a language different from the original one, for an additional fee;
- e) sending by mail (including e-mail) the copy of the document or information (or parts thereof), a copy of the document's or information's translation into another language, upon the applicant's request, for a corresponding fee.

(2) Excerpts from registers, documents, information (or parts thereof) may be made available to the applicant, upon the applicant's request, in a reasonable and acceptable form that allows its:

- a) examination on the institution's premises;
- b) retyping, photocopying or copying by another method that would ensure the safety of the original;
- c) recording onto an electronic carrier, recording on audio or video tape or on any other bearer resulting from technological progress.

Article 14. Language in which requested information is to be supplied

(1) The information and documents requested in accordance with the present law will be supplied to the requesting party in the state language or in the language, in which they have been drawn originally.

(2) If the documents have been drawn in a language different from the state language, the information supplier is under the obligation to supply—upon the applicant's request—a copy of the information's or document's official translation into the state language.

Article 15. Responding to requests regarding access to information

(1) Written requests regarding access to information will be registered according to the legislation on registers and petitions.

(2) The requests will be examined and carried out by the corresponding public officers.

(3) Decisions made according to the present law will be communicated to the requesting party in such a way as to guarantee their receipt and acknowledgment.

(4) If the request regarding access to information is satisfied, information providers will take all possible measures to prevent the disclosure of information with limited access, as well as to protect its integrity and prevent unsanctioned access to all types of information that they possess.

Article 16. Time limits in which requests on accessing information are to be carried out

(1) Information and documents requested will be presented to the applicant as soon as they become available, but not later than 15 working days from the day, on which the request to access information has been registered.

(2) The manager of the public institution may extend by 5 working days the term, in which the information and documents are supplied, if:

- a) a very large amount of information has been requested, and it requires selection;
- b) additional consultations are necessary in order to carry out the request.

(3) The requesting party will be informed about any extension of the term and the reasons for that, five days before the initial term expires.

Article 17. Referrals

The request for information can be readdressed to another provider, after the mandatory notification of the information solicitor within three working days from the moment the request is received, on his/her approval, in the following cases:

- a) the requested information is not possessed by the notified provider;
- b) the requested information, held by another provider, would satisfy completely the interest for information of the information solicitor.

Article 18. Release of official information

Official information, documents, parts thereof, excerpts from registers, copies of translations released under the present law, will be signed by the officer in charge.

Article 19. Denial of access to information

(1) Refusal to provide a piece of official information or document will be explained in writing; such an explanation will include the date, on which the answer was made, the name of the officer in charge, the grounds for refusal with a mandatory reference to the normative act (title, number, adoption date, source of official publication) on which the refusal is based, as well as the procedure for contesting the refusal, including the prescription term.

(2) Information providers can not be forced to prove the nonexistence of undocumented information.

Article 20. Fees for providing official information

(1) Fees will be levied for providing official information and documents, except for cases specified by law, in amounts and according to procedures set by representative bodies; such fees will be disbursed to the state budget.

(2) The fees will not exceed the costs incurred during the search for and processing of the information or parts thereof, copying, sending it to the applicant and/or translating it from the state language, based on the request of the information solicitor.

(3) Fees for providing analytical or novel information, as well as information synopses, carried out on the request of the information solicitor, will be established on the basis of a bilateral contract between the applicant and the corresponding institution.

(4) No fees will be levied for information requested by the information solicitor, if this information:

- a) influences directly the rights and freedoms of the information solicitor;
- b) is presented verbally;
- c) is solicited for examination on the institution's premises;
- d) contributes to the transparency of the public institution and is in the interest of society.

(5) If the information provided to the information solicitor contains inaccuracies or incomplete data, the public institution is under the obligation to make the corresponding corrections and additions free of charge, except for cases when such corrections require considerable efforts and costs not planned for and not taxed when the information was first provided.

(6) The public institution will inform the applicant in the most appropriate and detailed way possible about the rules for fees calculation for the information released.

Article 21. General provisions on protection of right to information

(1) When a person deems that one of his/her legitimate rights or interests has been violated by the information providers, he/she may contest these acts extrajudicially or directly in court.

(2) The person can turn to the ombudsman for protection of his or her legal rights and interests.

(3) When the party requesting information believes that his/her rights and legitimate interests have been violated, he/she may contest the actions of the person in charge of receiving and examining requests for access to information, and especially in matters regarding:

- a) unjustified refusal to accept and register the request;
- b) refusal to provide free and unconditional access to public records held by the information provider;
- c) violation of terms and procedures of responding to an information-access request;
- d) failure to provide adequately, or not providing at all the requested information;
- e) groundless refusal to provide the requested information;
- f) groundless claims by public officers to consider information state secret, trade secret or confidential information;
- g) unjustified declaration of some information secret;
- h) the establishment of a fee and its amount for the provided information;
- i) causing of material and/or moral damages by an illegal deed of the information provider.

(4) During dispute-solving concerning access to information, the competent bodies will undertake necessary measures for the protection of the rights of all interested persons that can possibly be violated by means of information disclosure, including the assuring of the participation of those in the proceedings as third persons.

(5) The judicial institution, during the dispute settlement concerning access to information, will undertake all reasonable and sufficient measures for precaution, including, if necessary, the organization of closed meetings, for not disclosing information, limited access to which can be justified.

Article 22. Contesting information provider's actions extrajudicially

(1) When the party requesting information believes that his/her rights and legitimate interests to access information have been violated, he/she may contest the actions of the person in charge of receiving and examining information-access requests during a 30-day period from the date when he or she found

out or was supposed to find out about the violation to the top management of the information provider or/and to the higher body in hierarchy.

(2) The top management of the information provider or/and the higher body in hierarchy will examine the information solicitor's petition during a period of 5 working days and will inform him/her about the results of the examination during 3 working days.

(3) Notifications, by which actions or lack of actions of the organizations that have no higher body are contested, are addressed directly to the judicial institution.

Article 23. Legal appeal of the information provider's actions

(1) When the person, who considers that his/her rights and legitimate interests to access information have been violated, or he/she is not satisfied with the solution provided by the top management of the information provider or by the hierarchically superior body, he/she may contest the actions or lack of actions of the information provider in an appropriate court of law.

(2) The notification of the court must be done during one month after the communication of the answer by the information provider or, if the information solicitor did not receive an answer, from the day when he had to receive the answer. If the information solicitor contests the actions of the information provider extrajudicially, the term of one month begins from the day when the top management of the information provider or of the hierarchically superior body communicate their resolution, or if he/she does not receive an answer – from the day when he/she was supposed to receive it.

Article 24. Consequences of information-access violation

Depending on the severity of the consequences caused by an illegal refusal, on the part of the public officer in charge, to provide official information and documents, to provide access to requested information, the court of law will impose sanctions in accordance with the current legislation, the reparation of the damage caused by an unjustified refusal to provide information, or by other actions violating the right to free access to information, as well the undelayed fulfillment of the applicant's request.

Article 25. Final and transitory provisions

Within three months after the present law is adopted, the Government will:

submit to Parliament proposals regarding the harmonization of the current legislation with the present law, including the establishment of responsibility for severe violations of the right to information access;

adjust its normative acts to the present law and develop new normative acts aimed at the implementation of the present law.

CHAIRMAN
OF PARLIAMENT

Dumitru DIACOV

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