

Translator: Anton Perenič

Title: Zakon o dostopu do informacij javnega značaja

Date of translation: 23.04.2003

Pursuant to the second indent of the first paragraph of Article 107 and the first paragraph of Article 91 of the Constitution of the Republic of Slovenia, I hereby issue the

ORDER

on the Promulgation of the Act on Act on the Access to Information of Public Character (ZDIJZ)

I hereby promulgate the Act on the Access to Information of Public Character (ZDIJZ), adopted by the National Assembly of the Republic of Slovenia at its session of 25th February 2003.

No. 001-22-9/03

Ljubljana, 5th March 2003.

dr. Janez Drnovšek
President of the
Republic of Slovenia

ACT ON THE ACCESS TO INFORMATION OF PUBLIC CHARACTER (ZDIJZ)

I. INTRODUCTORY PROVISIONS

Article 1

(Contents of the Act)

- (1) This Act governs the procedure which ensures everyone free access to information of public character held by state bodies, local government bodies, public agencies, public funds and other entities of public law, public powers holders and public service contractors (hereinafter referred to as "the bodies").
- (2) The catalogue of the bodies referred to in the first paragraph of this Article shall be made public annually by the Government of the Republic of Slovenia (hereinafter referred to as "the Government").

Article 2

(Aim of the Act)

- (1) The aim of this Act is to ensure the publicity and openness of the work of the bodies, as well as facilitate the exercise of the rights of individuals and legal entities to acquire information of public character.
- (2) With a view to achieve the aim of this Act, the bodies shall endeavor to inform the public on their work in the greatest extent possible.

Article 3

(Gender Form)

The use of terminology in this Act referring to persons and written in masculine form is neutral for both, feminine and masculine forms.

II. INFORMATION OF PUBLIC CHARACTER

Article 4

(Information of public character)

Information of public character means information originating from the field of work of the bodies and occurring in the form of a document, a case, a dossier, a register, a record or a documentary material (hereinafter referred to as "the document") drawn up by the body, by the body in cooperation with other body, or acquired from other persons.

III. BASIC PROVISIONS

Article 5

(Free access principle)

- (1) Legal entities or natural persons (hereinafter referred to as "the applicants") have free access to information of public character.
- (2) Each applicant shall have, at his request, the right to acquire information from the body by acquiring such information for consulting it on the spot, or by acquiring a transcript, a copy or an electronic record of such information.

Article 6

(Exceptions)

The body shall deny the applicant access to requested information if the application relates to:

1. Information which, pursuant to the Act governing classified data, is defined as classified for the purposes of public security, national security, confidentiality of international relations or confidentiality of intelligence and security activities of state bodies;
2. Information which is defined as a business secret in accordance with the Act governing companies;
3. Personal data the disclosure of which would constitute an infringement of the protection of personal data in accordance with the Act governing the protection of personal data;
4. Information the disclosure of which would constitute an infringement of the confidentiality of individual information on reporting units, in accordance with the Act governing Government statistics activities;
5. Information from the public archives material which is, in accordance with the Act governing archives material and archives, defined as confidential;
6. Information the disclosure of which would constitute an infringement of the tax procedure confidentiality in accordance with the Act governing tax procedure;
7. Information acquired or drawn up for the purposes of criminal prosecution or in relation to criminal prosecution, or misdemeanours procedure, and the disclosure of which would prejudice the implementation of such procedure;
8. Information acquired or drawn up for the purposes of administrative procedure, and the disclosure of which would prejudice the implementation of such procedure;
9. Information acquired or drawn up for the purposes of civil, non-litigious civil procedure or other court proceedings, and the disclosure of which would prejudice the implementation of such procedures;
10. Information from the document that is in the process of drawing up and is still subject of consultation in a body, and the disclosure of which would lead to misunderstanding of its contents;
11. Information on natural value which, in accordance with the Act governing the conservation of nature, is not accessible to public for the purpose of protection of natural value;
12. Information from the document drawn up in connection with internal operations or activities of bodies, and the disclosure of which would lead to disturbances in operations or activities of an body.

Article 7

(Partial access)

If a document or a part of a document only partially contains the information referred to in the preceding Article, which may be excluded from the document without jeopardizing its confidentiality, the authorized person of a body shall exclude such information from the document and refer the contents of the rest of the document to the applicant.

Article 8

(Catalogue of information of public character)

Each body shall be obliged to continuously maintain and make public in an appropriate manner (official bulletin of the body, World Wide Web, etc.), as well as submit to the applicant for consultation on the spot, the catalogue of public information partitioned into content blocks held by the body.

Article 9

(Appointment of an official)

- (1) Each body shall appoint one or more officials competent for the transmission of information of public character.
- (2) Without prejudice to the provision in the preceding paragraph, several bodies may jointly appoint one or more officials competent for the transmission of information of public character.

Article 10

(Transmission of information to the World Wide Web)

- (1) Each body is obliged to transmit to the World Wide Web the following information of public character:
 1. consolidated texts of regulations relating to the field of work of the body, with regard to the state register of regulations on the Web;
 2. programmes, strategies, views, opinions, studies, and other similar documents relating to the field of work of the body;
 3. proposals for regulations, programmes, strategies, and other similar documents relating to the field of work of the body;
 4. all publications and tendering documentation in accordance with regulations governing public procurements;
 5. information on administrative services;
 6. other information of public character.
- (2) Each body should facilitate, free of charge, access to information referred to in the preceding paragraph.

Article 11

(Government regulation)

The Government shall provide in detail what shall be considered as information from the document that is in the process of drawing up (point 10 of Article 6 of this Act), methods of preparation of the catalogue of information of public character (Article 8 of this Act), types of information referred to in point 6 of the first paragraph of the preceding Article and methods of transmission of information to the World Wide Web.

IV. PROCEDURE WITH A REQUEST

Article 12

(Oral request or written request)

The applicant may request access to information of public character by way of oral or written request.

Article 13

(Legal protection)

The applicant who files a written request for access to information of public character shall enjoy the legal protection in accordance with the provisions of this Act.

1. Oral request for access to information of public character

Article 14

(Oral request)

- (1) If the applicant requests access to information of public character by way of oral request, the body is obliged to ensure the applicant access to information of public character, except in the case of information referred to in Article 6 of this Act.
- (2) If the body sustains a request, it shall forthwith ensure the applicant the acquaintance with the contents of the requested information by way of submitting to him the information for consulting it on the spot or by ensuring him a transcript, a copy or an electronic record of such information.
- (3) If the applicant requests that the information be submitted to him for the consultation on the spot, the body is obliged to ensure the applicant the consultation on the spot in such a manner, so that the applicant shall have enough time to become acquainted with its contents.

2. Written request for information of public character

Article 15

(Rules of procedure)

- (1) The bodies shall decide a written request (hereinafter referred to as "the request") for access to information of public character throughout the procedure provided by this Act.
- (2) For the questions concerning the procedure, which are not governed by this Act, the provisions laid down in the Act governing general administrative procedure shall apply.

Article 16

(Filing the request)

- (1) The applicant shall file a request for access to information of public character with the body, which is considered by the applicant to hold such information.
- (2) In filing a request for information referred to in the preceding paragraph in electronic form, the provisions of the Act governing electronic commerce and signature shall apply.

Article 17

(Required contents of request)

- (1) The request must contain the indication of the body with which it is being filed, the personal name, company or the name of the legal entity, the indication of the potential representative or the plenipotentiary, as well as the address of the applicant, or the address of his representative or plenipotentiary.
- (2) In his request, the applicant must specify:
 1. the information he wishes to become acquainted with,
 2. the way he wishes to become acquainted with the contents of the requested information (consultation on the spot, a transcript, a copy, an electronic record).
- (3) The applicant is not required to give the legal grounds for the request or expressly characterise it as a request for the access to information of public character. If it is evident from the nature of the request that the latter concerns access to information of public character under this Act, the body shall consider the request pursuant to this Act.

Article 18

(Supplementing the request)

- (1) If the request is incomplete and, hence, the body cannot deal with it, the body must invite the applicant to supplement it within the time limit laid down by the body. The time limit may not be less than 3 working days.
- (2) Official referred to in Article 9 of this Act is obliged to provide the applicant with the

appropriate assistance in supplementing the request.

- (3) If the applicant does not supplement the request within the time limit laid down in the first paragraph, or if the request does not fulfill the conditions set out in Article 17 of this Act even following its supplementation and, hence, the body cannot deal with it, the body shall act in accordance with the Article 19 of this Act.

Article 19

(Dismissal of the Request)

The body shall dismiss the request by order, if the procedural conditions laid down in Articles 17 and 18 are not fulfilled.

Article 20

(Conduct of the body in cases when it does not hold the requested information)

If the body, which has received the request, does not hold the requested information, it must immediately, and at the latest within the time limit of 3 working days beginning from the day of receiving the request, assign the request to the body which is, in relation to the contents of the request, competent for resolving the request, and notify the applicant.

Article 21

(Official of the body)

An official referred to in Article 9 of this Act shall conduct the procedure with a request for access to information of public character within a body.

Article 22

(Decision)

- (1) If the body sustains a request, it shall not issue a special decision but it shall make an official note.
- (2) If the body refuses the request, in whole or in part, it shall issue a written decision.
- (3) In cases referred to in the preceding paragraph, the decision must also contain, among other components, the explanation of grounds for the refusal of the request, as well as an caution on legal remedy.
- (4) If the body does not ensure the applicant access to information within the time limit laid down in Article 23 of this Act, and if it does not render and serve the decision on the refusal of the request on the applicant, the request shall be deemed as refused by the body.

Article 23

(Time limit for the decision)

The body shall decide the applicant's request immediately, and at the latest within the time limit of 20 working days beginning from the day of receiving the complete request.

Article 24

(Exceptional circumstances)

- (1) In cases when the body requires more time for the transmission of requested information due to the implementation of partial access to information of public character, in accordance with the provisions laid down in Article 7 of this Act, or due to comprehensive documentation, it may extend the time limit laid down in the preceding Article for not more than 30 working days.
- (2) The body is obliged to decide the extension of the time limit, including the explanation of the grounds for the extension, by an order, which it shall serve on the applicant. The body is obliged to reach the order at the latest within the time limit of 5 working days after the expiry of the time limit laid down in Article 23 of this Act.
- (3) Appeal against the order referred to in the preceding paragraph is not possible.

Article 25

(Access to information)

- (1) If the body sustains a request, it shall forthwith enable the applicant to become acquainted with the contents of the requested information by way of submitting to him the information for the consultation on the spot or by ensuring him a transcript, a copy or electronic record of such information.
- (2) If the requested information is protected in accordance with the Act governing copyright, the body, in the case referred to in the preceding paragraph, shall enable the applicant to become acquainted with the information by way of submitting to him the information for the consultation on the spot.
- (3) If the applicant requests the information to be submitted to him for the consultation on the spot, the body is obliged to ensure the applicant the consultation on the spot in such a manner, so that the applicant has enough time to become acquainted with the contents of the information.
- (4) If the applicant deems that the information, which he has become acquainted with, is not the information of public character he had stated in his request, he may request from the body to ensure him the acquaintance with the information of public character he had stated in his request. The body must decide a request referred to in the preceding paragraph immediately, and at the latest within the time limit of 3 working days.
- (5) The Government shall specify the methods of transmission of information of public character.

Article 26

(Refusing a request)

The body may refuse the applicant's request, in whole or in part, if it finds the requested information or document to be an exception under Article 6 of this Act.

3. Appellate proceedings

Article 27

(The right of appeal)

- (1) The applicant has the right of appeal against the decision by which the body had refused the request, as well as against the order by which the body had dismissed the request.
- (2) The applicant also has the right of appeal in the case referred to in the fourth paragraph of Article 25 of this Act.
- (3) An authorised person to access information of public character shall decide on the appeal.
- (4) Appellate proceeding shall be implemented in accordance with the provisions laid down in the Act governing general administrative procedure.

Article 28

(Authorised person to access information of public character)

- (1) An authorised person to access information of public character (hereinafter referred to as "the authorised person") is an autonomous public body competent for deciding on an appeal against the decision by which the body dismissed or refused the request for access to information of public character.
- (2) The authorised person shall be appointed by the National Assembly of the Republic of Slovenia, following the proposal from the president of the Republic of Slovenia.
- (3) A citizen of the Republic of Slovenia may be appointed as the authorised person.
- (4) The authorised person shall be appointed for five years and shall be eligible for a single reappointment.
- (5) Appropriations required for the work of the authorised person shall be granted from the budget of the Republic of Slovenia. The National Assembly of the Republic of Slovenia shall set the amount of appropriations, following the proposal from the authorised person.

Article 29

(Status of the authorised person and dismissal of authorised person from office)

- (1) The authorised person shall have the status of the officer of state.
- (2) An early dismissal of the authorised person from office is possible only at his own request, when the authorised person has been convicted of a criminal offence followed by custodial sentence, or in the case of a permanent loss of working abilities for the performance of his function.
- (3) Procedure for the dismissal of the authorised person from office shall begin following the proposal from one third of deputies. The National Assembly of the Republic of Slovenia shall dismiss the authorised person from office if the majority of the deputies present vote in favour of his dismissal from office.

Article 30

(Professional service of the authorised person)

- (1) The authorised person shall have Rules of Procedure for the organisation and method of work. The authorised person shall adopt Rules of Procedure in agreement with the National Assembly of the Republic of Slovenia, and shall publish it in the Official Gazette of the Republic of Slovenia.
- (2) The authorised person shall have a professional service composed of not more than two advisers.
- (3) The authorised person may appoint advisers and other experts for a given period among the employees of state bodies. These shall have the right to return to their previous functions or positions after the expiration of the given period.
- (4) Organisational-administrative tasks for the authorised person shall be provided for by the Ministry, competent for the information society (hereinafter referred to as "the Ministry").

V. JUDICIAL PROTECTION

Article 31

(Administrative dispute)

An administrative dispute may begin against the decision by the authorised person in accordance with the statute.

VI. PROMOTION AND COUNSELING IN RELATION TO ACCESS TO INFORMATION OF PUBLIC CHARACTER

Article 32

(Tasks of the Ministry)

- (1) The Ministry shall perform promotional and developmental tasks in relation to access to information of public character.
- (2) Tasks of the Ministry referred to in the preceding paragraph are, in particular:
 1. referring to the public the means and conditions for the access to information of public character;
 2. providing counseling to other bodies in relation to the application of the provisions of this Act;
 3. other promotional and developmental tasks.

Article 33

(Citizens' Rights Ombudsman)

Citizens' Rights Ombudsman is also competent, in accordance with the statute, for the protection of the right for the access to information of public character as a special domain.

VII. COST OF THE TRANSMISSION OF INFORMATION

Article 34

(Cost of the transmission of information)

- (1) Consultation on the spot of the requested information shall be free of charge.
- (2) The body may charge the applicant the material costs for the transmission of a transcript, copy or electronic record of the requested information.

Article 35

(Government regulation)

The Government shall prescribe the cost schedule, on the basis of which the body shall charge material costs referred to in the preceding Article.

Article 36

(Cost schedule and its publication)

- (1) Any body must publish the cost schedule referred to in the preceding Article in an appropriate manner (official bulletin of the body, World Wide Web, bulletin board etc.), as well as submit it for consultation on the spot to any applicant.
- (2) In the act of the preceding paragraph the bodies shall also state the official referred to in the Article 9 of this Act.
- (3) The body is obliged to notify the applicant on the payment of costs and, if the applicant so demands, give the applicant an advanced notification on the amount of costs charged for the transmission of information.
- (4) If the applicant's request relates to information of greater scope, the body may require from the applicant an advanced deposit of the assessed amount for the full coverage of the costs of the transmission of information.

VIII. REPORTING

Article 37

(Annual reports of the bodies)

- (1) The body is obliged to draw up an annual report on the implementation of this Act and submit it to the Government by every 31 January for the previous year.
- (2) The report referred to in the preceding paragraph of this Article must contain:
 1. the names and surnames of officials authorised for the transmission of information of public character;
 2. the number of filed requests;
 3. the number of sustained requests;
 4. the number of refused requests, including the statement of grounds for every refusal;
 5. the number of filed appeals and decisions rendered following the appeals, including the description of the decision and the statement of grounds for the adopted decisions in the case of the renewed refusal of disclosure of information;
 6. the number of instituted administrative dispute procedures against final decisions and in the cases when the body remains silent;
 7. the number and list of received court decisions by which suits were decreed in favour of the applicant in the administrative dispute procedure, including the statement of reasons on the basis of which the decision of the court was reached.
- (3) The Government shall draw up a joint annual report on the implementation of this Act, on the basis of the received reports referred to in the first paragraph of this Article, by every 31 March for the previous year, and submit it to the National Assembly of the Republic of Slovenia for the reading.

Article 38

(Adopting and publishing the joint annual report)

The joint annual report referred to in the third paragraph of the preceding Article, shall be read and adopted by the National Assembly of the Republic of Slovenia, which shall publish it in the Official Gazette of the Republic of Slovenia, as well as on the World Wide Web.

IX. PENAL PROVISIONS

Article 39

(Liability for misdemeanor)

- (1) A fine of at least SIT 250.000 shall be imposed upon a person for the misdemeanor of destruction of a document, a case, a dossier, a register, a record or a documentary material containing information of public character, with the intention of making such information inaccessible to the public.
- (2) A fine of at least SIT 350.000 shall be imposed upon a responsible person of the body for the misdemeanor of destruction of a document, a case, a dossier, a register, a record or a documentary material containing information of public character, with the intention of making such information inaccessible to the public.
- (3) A fine of at least SIT 250.000 shall be imposed upon an official of the body for the misdemeanor, if this person does not, without justification, transmit the requested information of public character within the prescribed time limit.

X. TRANSITORY AND FINAL PROVISIONS

Article 40

(Commencement of the work of the authorised person)

The authorised person shall commence with his work by 9 January 2003 at the latest.

Article 41

(Regulations and other Government acts)

- (1) The Government shall publish a catalogue referred to in the second paragraph of the Article 1 of this Act at the latest within six months following the entry into force of this Act.
- (2) The Government shall issue the regulations laid down in Article 11 and the fifth paragraph of Article 25 of this Act at the latest within four months following the entry into force of this Act.
- (3) The Government shall issue the cost schedule referred to in Article 35 of this Act at the latest within six months following the entry into force of this Act.

Article 42

(Acts by the bodies)

- (1) The bodies shall draw up the catalogues referred to in Article 8 of this Act within one year following the entry into force of the regulation laid down in Article 11 of this Act.
- (2) The bodies shall publish the cost schedule referred to in Article 35 of this Act at the latest within one month following its entry into force.

Article 43

(Nomination of the person responsible)

The bodies shall nominate the officials referred to in Article 9 of this Act at the latest within three months following its entry into force.

Article 44

(Transmission of the documents to the World Wide Web)

The bodies are obliged, at the latest within six months following the entry into force of the regulation laid down in Article 11 of this Act, to transmit to the World Wide Web the information of public character referred to in Article 10 of this Act.

Article 45

(Expiration)

On the date of entry into force of this Act, the first paragraph of Article 38 and the first paragraph of Article 40 of the Act governing archives material and archives (Official Gazette of the Republic of Slovenia, No. 20/97 and 32/97 – corrigendum) shall cease to be in force.

Article 46

(Effective date of the Act)

This Act shall enter into force on the fifteenth day after the publication in the Official Gazette of the Republic of Slovenia.

No 010-01/02-11/2

Ljubljana, 25th February 2003.

Vice-President

Of the National Assembly

Of the Republic of Slovenia

Irma Pavlinčič Krebs