

# Act on Free Access to Information and Amendments of Certain Acts

## The National Council has passed the following act:

### Article I

#### §1 Subject of the Act

This act shall regulate the terms, procedure and scope of free access to information.

#### §2 Obligees

(1) The entities obliged to provide access to information under this Act (hereinafter the "Obligees") shall be state agencies, municipalities, as well as legal entities and natural persons that have been given the power by law to make decisions on the rights and responsibilities of natural persons or legal entities in the area of public administration, and that [obligation applies] only within the scope of their decision-making power.

(2) Legal entities established by law and legal entities established by a state agency or municipality under a special law shall also be Obligees.

(3) Legal entities established by Obligees in accordance with Section 1 and 2 that manage public funds or operate with state property or the property of municipalities shall also be the Obligees.

(4) A special law may also instruct other legal or natural entities to provide access to information.

#### §3

(1) Everybody shall have the right of access to information that the Obligees have available.

(2) Any Obligee under §2, Section 3 shall disclose only information pertaining to the management of public funds and utilization of state property or the property of municipalities; and [information] on the content, performance [of any concluded agreements] and activities carried out on the basis of any concluded agreement.

(3) Access to information shall be provided without any need to prove legal or other reason or interest for which information is required.

#### §4 Definitions of Certain Terms

(1) An Applicant shall mean any natural or legal person requesting access to information.

(2) A mass access to information shall mean access of unlimited number of Applicants by means of telecommunication, especially through the internet.

(3) Disclosed information shall mean information that may be repeatedly [at any time searched and retrieved by anybody, especially information published in the press or issued on a different data carrier that enables recording and storing of information; or is displayed on a freely accessible official notice board; or is accessible via any device enabling mass access [to information]; or available in a public library.

(4) Associated information shall mean any information closely related with the requested information, mainly information on its existence, origin, number, reason for denial to provide information, period of denial of information and the date of its reexamination.

#### §5 Mandatory Disclosure of Information

(1) Each Obligee under §2, Section 1 and §2, Section 2 shall disclose the following information:

a) the mode [method] of establishment of the Obligee, its powers and competencies and a description of its organizational structure,

b) place, time and manner of obtaining information; information on where [appropriate] application, motion, proposal, complaint or any other filing may be filed,

c) place, period and procedure for filing a legal remedy and possibilities of judicial review of the Obligee's

decision resolution, including explicit statement of requirements that must be observed,

d) procedure that must be followed by the Obligee in disposing of all applications, motions and filings, including corresponding deadlines that must be adhered to,

e) a list of regulations, guidelines, instructions and interpretations governing Obligee's actions or decision-making; or regulating the rights and responsibilities of natural persons and legal entities in relation to the Obligee,

f) scale of administrative charges collected by the Obligee for administrative actions; and charges for providing access to information,

(2) The National Council of the Slovak Republic shall disclose:

a) dates of its sessions and the sessions of its committees and draft session agendas,

b) minutes from public sessions,

c) copies of acts submitted [to the National Council] within three days after their filing with the Office of the National Council,

d) copies of acts passed [by the National Council] within three days after the third reading,

e) information on the attendance of MPs at the sessions of the National Council and the sessions of its committees within three days after their end,

f) information on voting of MPs after each session of the National Council of the Slovak Republic, with the exception of secret voting and voting at a closed session,

(3) The Office of the President of the Slovak Republic shall disclose:

a) the program and results of business trips of the President, receptions by President and places of his stays,

b) signing of any act or its return to the National Council of the Slovak Republic,

c) presentation of awards,

d) designation or removal of a state official and acceptance of resignation,

e) any pardon, mitigation or removal of any sanction and any ordinance not to start or interrupt in criminal prosecution,

f) organizational structure and number of employees of the Office of the President of the Slovak Republic.

(4) The Government of the Slovak Republic shall disclose the copies of materials (proposals, reports, analyses) submitted at the Government sessions and any adopted resolutions, including their supplements.

(5) The ministries, other central bodies of state administration and bodies of local state administration shall disclose materials of programmatic, concept and strategic nature and the draft rules of law upon their release for inter-ministerial commentary period.

(6) Provisions under Section 2 shall apply appropriately to disclosure of information by municipal councils, city councils and local councils.

## §6

(1) Information under §5 shall be disclosed in a way enabling mass access. This obligation shall not apply to natural persons and the municipalities which do not have the status of a city.

(2) Information under §5 shall be disclosed in the seat of the Obligee and all its workplaces on a publicly accessible place.

(3) Obligees that operate information systems shall disclose information contained therein on a freely

accessible internet page, unless disclosure of this information is prohibited by a special act. Such disclosure shall not be a violation of special regulations.

(4) Obligees may also disclose information under the above sections in other ways. In addition to information disclosed under the above sections, the Obligee may also disclose other information.

(5) In municipalities stipulated by a special act the Obligee shall disclose information also in the language of national minorities.

(6) Provisions of §8 to §12 shall apply to any restrictions on disclosure of information.

### **§7 Obligation to Refer to Publicized Information**

(1) Should the applicant request information that has already been disclosed, the Obligee may, instead of providing the information, forthwith, but not later than within five days, inform the applicant on how to find and retrieve such disclosed information.

(2) Should the applicant insist on having access to previously disclosed information, the Obligee shall provide it. In such event, the period for providing access to information shall commence on the day the applicant stated it insists on a direct access to information.

Limitations of the Access to Information

### **§8 Protection of Classified Facts**

If the requested information has been classified in accordance with the law as a state or professional secret, or as a fact subject to protection of information by encryption, and the applicant has no authorization, the Obligee shall not provide such information, but shall reference to the appropriate legal statute.

### **§9 Protection of Person and Personal Data**

(1) Information relating to person and privacy of a natural person, personal letters, pictures and representations, as well as any image and sound recordings relating a natural person or its personal expressions, shall be provided by the Obligee only if so stipulated in a special act or with a prior consent of the person affected. Should the affected person be dead, consent may be given by a close person. Provisions of special regulations shall not be hereby affected.

(2) Information on personal data of a natural person that is processed by information system under the conditions set by a special act shall be provided by the Obligee only if it is stipulated by a special act or upon prior written consent of the person affected. Should the person affected not have legal capacity, the consent may be given by an appropriate legal representative. Should the affected person be dead, consent may be given by a close person.<sup>13</sup>

### **§10 Protection of trade secret**

(1) The Obligee shall not disclose any information classified as a trade secret.

(2) Disclosure of the following information shall not be deemed as a violation or jeopardizing a trade secret:

a) information related to a significant impact on health of the population, world cultural and natural heritage, environment, including biological diversity and ecological stability,

b) information on environmental pollution,

c) information obtained through public funds or relating to the use of public funds or state or municipal property,

d) information on state assistance and information under §3, Section 2.

### **§11 Other Limitations on the Right to Information**

(1) The Obligee shall limit disclosure of information or not provide information, if

a) information was obtained from a person not required by law to provide information, who upon notification of

the Obligeé instructed the Obligeé in writing not to disclose information. If the person authorized to give consent for disclosure of information fails to reply within 7 days upon notification, it shall be deemed that the person consented to disclosure of information. The person must be informed of the consequences in the notification,

b) information is to be disclosed under a special act; and if it is to be disclosed under such law within a period set in advance; and not later than such period,

c) it may violate intellectual property rights under a special law, except if the author consented to the disclosure of information upon notification of the Obligeé,

d) it concerns the decision-making power of the courts and law enforcement bodies,

e) it concerns the place of habitat of endangered species of plants and animals, minerals and fossils and is a threat of inappropriate destruction, damage or disturbance.

(2) The provision of subsection a) shall not apply with respect to information obtained through public funds or information concerning the use of these funds or information concerning the use of state or municipal property.

(3) If in order to carry out tasks under special act the Obligeé obtained information from a third party which is subject to non-disclosure rules or other limitations protecting information from being publicized or abused but the information may be provided under this Act, the Obligeé shall provide only that information which is directly connected with its tasks.

## **§12 Terms of Limitation**

The Obligeé shall exercise any limitation of the right to information by providing all requested information including all associated information, after excluding information stipulated by law. The entitlement to refuse information shall only last as long as the reasons for non-disclosure exist.

## **§13**

Disclosure of information under this Act shall not be deemed as a violation of confidentiality rules stipulated in special act.

Disclosure of Information upon Request

## **§14 Disclosure of Information Request**

(1) The request may be filed in writing, orally, by telephone, fax, e-mail or any other technically reasonable way.

(2) It must be clear from the Request what Obligeé it is addressed to, who filed it, what information it concerns and what way of disclosure the Applicant suggests.

(3) Should the request fail to meet the requirements stipulated in Section 2, the Obligeé shall notify the Applicant without any delay to complete the incomplete request in a period of not less than seven days. The Obligeé shall instruct the Applicant on how to complete the request. If the Applicant fails to complete the request despite the Obligeé's notice and information cannot be provided due to such deficiency, the Obligeé shall table the request.

(4) The request is deemed filed on the day the Obligeé with appropriate competence was notified.

(5) Upon request, the Obligeé shall confirm in writing the filing of the request and shall give an estimated cost of disclosure of information.

## **§15 Request Assignment**

(1) If the Obligeé does not have the requested information available and knows where it is possible to obtain the information, it shall pass on the request within five days to the Obligeé that has the requested information available, otherwise it shall reject the request by a resolution (§18).

(2) The Applicant shall be notified of the passing on of the request by the Obligeé without delay.

(3) The period for request disposition shall commence anew on the day the Obligee obtained the passed on request.

### **§16 Disclosure of Information Upon Request**

(1) Information shall be disclosed mainly orally, by inspection of files, including the possibility to make a copy or notes, by transfer of data to a data carrier, disclosure of copies of original with requested information, by telephone, fax, mail or email. If it is not possible to provide information in a way requested by the Applicant, the Obligee and the Applicant shall agree on a different way of providing the information.

(2) The Obligee shall enable anybody to make copies, notes or abstracts from files and documents without any requirement to prove legal or any other interest.

(3) The Obligee shall take measures to prevent violation of obligations under §8 to 12 by inspection of documents.

### **§17 Request Disposition Periods**

(1) The Obligee shall dispose of the request for information without undue delay, but not later than ten days after filing of the request or after any missing requirements in the request are completed (§14, Section 2 and 3) unless stipulated otherwise herein.

(2) The Obligee may extend the period (Section 1) for serious reasons by a maximum of ten days. The following shall be deemed serious reasons:

a) seeking and gathering of requested information at a location not in the seat of the Obligee disposing of [processing] the request,

b) seeking and gathering of a large amount of separate or differing information requested in a single request,

c) justifiable technical problems related to the search and disclosure of information that are expected to be removed within the extended period

(3) The Obligee shall notify the Applicant of the extension of the period without delay, not later than before the termination of the period (Section 1). The Obligee shall state the reasons leading to the extension of the period in the notice.

### **§18 Request Disposition and Resolution**

(1) If the Obligee provides the required information to the Applicant to the extent and by the manner under within the period stipulated by law, the Obligee shall issue a resolution that is to be recorded in a file. No appeal is possible against this resolution.

(2) If the Obligee fails to satisfy the request, even partially, it shall issue a resolution to that effect within the period stipulated by law. The Obligee shall not issue the resolution if the request was carried over (§16, Section 3).

(3) If the Obligee failed to provide information within the period set for disposition of the request, or to issue a resolution or provide access to the information, it shall be deemed that the Obligee issued a resolution denying information. The third day after the termination of the period set for request disposition shall be deemed to be the delivery day of the resolution (§17).

(4) If the Obligee (§2, Section 3) fails to satisfy the request, even partially, it shall file a motion with the person that established the Obligee, or with whom the Obligee made an agreement on environmental tasks, requesting that a resolution (Section 2) is issued.

### **§19 Remedies**

(1) Parties to the proceeding may file an appeal against the Obligee's resolution rejecting to disclose requested information within 15 days from the delivery of such resolution or lapse of the period for request disposition under §17. The appeal shall be filed with the Obligee that issued or should have issued the resolution.

(2) The decision on the appeal against decision of the Obligee shall be made by the superior of the Obligee that issued or should have issued the decision. If it is a decision of the municipal office, the decision on the

appeal shall be made by the mayor. It shall be possible to file an extraordinary remedy against the decision of the central body of state administration, which will be decided by the head of the central body of state administration.

(3) The appellate body shall make the decision within 15 days from the delivery of the appeal by the Obligee. If the appellate body makes no decision within this period, it shall be deemed that it issued a resolution rejecting the appeal and confirming the appealed decision; the second day after the lapse of the period for issuing of resolution shall be deemed to be the delivery day of this resolution.

(4) The resolution rejecting the application can be examined in a court proceeding under a special law.

## **§20 Registration of Requests**

The Obligee shall keep a registry of requests in order to provide data necessary to review the process of request disposition and data on most frequently requested information. The registry shall contain mainly the following data:

- a) the date of filing of the request,
- b) information requested and the requested way of disclosure,
- c) the disposition of request (provision of information, resolution or request assignment),
- d) filing of an appeal.

## **§21 Costs**

(1) Information shall be provided free of charge, with the exception of the payments not higher than the cost of material for reproduction, cost of technical carriers and delivery of information to the Applicant.

(2) The Obligee may forgive the charges,

(3) The details on the costs of disclosure shall be regulated by a generally binding regulation of the Ministry of Finance of the Slovak Republic,

(4) Any payments shall be the income of the Obligee.

## **§22 Transitional and Final Provisions**

(1) Unless stipulated otherwise herein, general provisions on administrative proceedings shall apply to the proceedings under this law.

(2) Disclosure of information from state archives shall be governed by a special regulation.

## **§23 Terminating Provisions**

Act 171/1998 of the National Council on Free Access to Environmental Information shall be revoked.

## **Article II**

Act 327/1990 on Offenses, as amended by Act 524/1990, Act 295/1992, Act 266/1992, Act 511/1992, Act 237/1993, Act 42/1994, Act 248/1994 Coll., 249/1994 Coll., Act 250/1994 Coll., Act 202/1995 Coll., Act 207/1995 Coll., Act 265/1995 Coll., Act 285/1995 Coll., Act 160/1996 Coll., Act 168/1996 Coll., Act 143/1998 Coll. and Act 319/1998 Coll., shall be amended as follows:

### **1. §42a shall be inserted after §42 as follows:**

"§42a

Violation of the Right to Information

(1) Any person knowingly issuing or disclosing untrue or inaccurate information; or violating any obligation stipulated in a special act3a); or causing a violation of the right to information by issuing a decision, order or

any other measure, shall be guilty of an offense.

(2) A fine up to SKK 50.000 may be imposed for an offense under Section 1 and relevant activity banned for up to two years.

**The footnote 3a shall read:**

"3a) Act ..../2000 on Free Access to Information, as amended (Freedom of Information Act)."

**2. In §68, Section 1, phrase "§42a and" shall be inserted after the words "as well as offenses under".**

### Article III

Act 145/1995 of the National Council on Administrative Charges, as amended by the following acts: Act 123/1996, Act 224/1996 Coll., Act 70/1997 Coll., Act 1/1998 Coll. and Act 232/1999, shall be amended as follows:

**§4, Section 2e) shall read:**

"e) on free access to information"

### Article IV

Act 287/1994 of the National Council of the Slovak Republic on Protection of Nature and Country, as amended by Act 222/1996, shall be amended as follows:

Sections 2 and 3 of §49 shall be omitted. Numbering of Section 1 shall be omitted.

### Article V

**Act 17/1992 on Environment, as amended by Act 127/1994 and Act 287/1994 shall be amended as follows:**

Following §33a and §33b shall be inserted after §33 that shall read, including the headings:

Special provisions on environmental information

#### §33a

Disclosing Information on Environmental Pollution

(1) Any natural person licensed to carry out business or legal entity obliged under special regulations, or resolutions based on such regulation, to measure the amount of specified emissions into the air or water or watch; or to measure any other impacts on environment by a facility run by such person, shall disclose the results of these measurements and observations in generally comprehensible form and on a generally easily accessible place on a regular basis not later than ten days after the end of each month when such obligation applied and disclose a summary not later than 30 days after the end of a calendar year.

(2) It must be clear from the publicized results of measurements and observations what was the extent of the pollution of environment by the facility and what was the relation of the measured values to the legal or permitted limits.

(3) A natural person with a business license or a legal entity that gravely endangered or caused damage to the environment, especially as a result of any accident of the facility, fire or traffic accident shall inform the public without any delay. The information shall include, to the extent known, a brief description of the incident, its causes, extent of damage or danger to the environment or its individual parts and adopted measures. The form and extent of publicized information shall correspond with the type, seriousness and extent of danger or damage to the environment and capacity of the Obligee.

(4) Observance of the obligation under Section 3 shall not affect the disclosure obligation or any other obligations under special acts.2)