

CROATIAN PARLIAMENT

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Pursuant to Article 89 of the Constitution of the Republic of Croatia, I enact

DECISION

ON THE PROMULGATION OF THE LAW ON THE RIGHT TO ACCESS INFORMATION

I hereby promulgate the Law on the Right to Access Information, which was adopted by the Croatian Parliament at its session on 15 February 2013.

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Zagreb, 21 February 2013

President of the
Republic of Croatia
Ivo Josipović, mp

LAW

ON THE RIGHT TO ACCESS INFORMATION

I. GENERAL PROVISIONS

Content

Article 1.

(1) This Act regulates the right to access information and reuse of information held by public authorities, prescribes the principles of the right to access information and reuse information, restrictions on the right to access information and reuse information, the procedure for exercising and protecting the right to access to information and re-use of information, scope, manner of work and conditions for the appointment and dismissal of the Information Commissioner and inspection supervision over the implementation of this Act.

(2) This Act also regulates other obligations of public authorities and misdemeanor provisions related to the exercise of the right to access information.

(3) The provisions of this Act shall not apply to parties in judicial, administrative and other proceedings based on law, by which the availability of information from these proceedings is determined by a regulation.

(4) The provisions of this Act shall not apply to information for which there is an obligation to maintain secrecy, in accordance with the law governing the security intelligence system of the Republic of Croatia.

(5) The provisions of this Act shall not apply to information that is classified information owned by an international organization or other state, and classified information of public authorities that is created or exchanged in cooperation with international organizations or other states.

Compliance with European Union regulations

Article 2

This Act contains provisions that are in line with the following acts of the European Union:

- Directive 2003/98 / EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information,

- Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

Goal

Article 3

The aim of this Act is to enable and ensure the exercise of the right to access information guaranteed by the Constitution of the Republic of Croatia, as well as to the re-use of information by natural and legal persons through openness and publicity of public authorities.

Gender neutrality of expression

Article 4

Terms used in this Act and regulations adopted on the basis thereof, which have a gender meaning, regardless of whether they are used in the masculine or feminine gender, equally cover the masculine and feminine gender.

Terms

Article 5

Certain terms in this Act have the following meaning:

1) "User of the right to access information and reuse information" (hereinafter: user) is any domestic or foreign natural and legal person;

2) "Public authorities", in the sense of this Act, are state administration bodies, other state bodies, bodies of local and regional self-government units, legal persons with public powers and other persons to whom public powers have been transferred, legal persons whose is the founder of the Republic of Croatia or local or regional self-government units, legal entities and other persons performing public service, legal entities that are fully financed from the state budget or from the budgets of local and regional self-government units, as well as companies in which the Republic of Croatia and local and regional self-government units have separate or joint majority ownership;

3) "Information" is any information held by a public authority in the form of a document, record, file, register or in any other form, regardless of the manner in which it is presented (written, drawn, printed, recorded, magnetic, optical, electronic or some other record);

4) "International information" is information provided to the Republic of Croatia by a foreign state or international organization with which the Republic of Croatia cooperates or is a member;

- 5) "Right of access to information" includes the right of users to request and receive information as well as the obligation of public authorities to provide access to requested information, ie to publish information regardless of the request when such disclosure arises from an obligation determined by law or other regulation;
- 6) "Reuse" means the use of information by public authorities by natural or legal persons, for commercial or non-commercial purposes other than the original purpose, in the context of the public work for which that information was produced. The exchange of information between public authorities for the purpose of performing tasks within their scope does not constitute re-use;
- 7) "Proportionality and public interest test" is an assessment of the proportionality between the reasons for providing access to information and the reasons for restricting and providing access to information if the public interest prevails;
- 8) "Owner of information", in the sense of this Act, is a competent public authority of the Republic of Croatia or a foreign state or an international organization, within the scope of which the information was created;
- 9) "Central Catalog of Official Documents of the Republic of Croatia" is a publicly available tool on the Internet that provides users with permanent access to documents stored in the database of electronic documents and / or physical collections through the full text and / or edited set of metadata;
- 10) "Information Commissioner" (hereinafter: the Commissioner) is an independent state body for the protection of the right to access information.

II. PRINCIPLES

The principle of publicity and free access

Article 6

The information is available to any domestic or foreign natural and legal person in accordance with the terms and restrictions of this Act.

The principle of timeliness, completeness and accuracy of information

Article 7

The information published or provided by public authorities must be timely, complete and accurate.

The principle of equality

Article 8

(1) The right to access information and re-use information belongs to all users in the same way and under the same conditions. Users are equal in its realization.

(2) Public authorities may not place users in an unequal position, in particular in such a way that information is provided to certain users before others or in a way that is particularly favorable to them.

The principle of disposing of information

Article 9

The user who disposes of the information in accordance with this Law, has the right to make that information public.

III. OBLIGATIONS OF PUBLIC AUTHORITIES

Publication of information

Article 10

(1) Public authorities are obliged to publish on the website in an easily searchable manner:

- 1) laws and other regulations related to their field of work;
- 2) general acts and decisions they make, which affect the interests of users, with the reasons for their adoption;
- 3) draft laws and other regulations and general acts they adopt, in accordance with the provisions of Article 11 of this Act;
- 4) annual plans, programs, strategies, instructions, work reports, financial reports and other relevant documents related to the field of work of public authorities;
- 5) data on the source of financing, budget and budget execution;
- 6) information on awarded grants, grants or donations, including the list of beneficiaries and the amount;
- 7) information on its internal organization, with the names of the heads of bodies and heads of organizational units and their contact details;
- 8) minutes and conclusions from official sessions of public authorities and official documents adopted at those sessions, as well as information on the work of formal working bodies within their competence;
- 9) information on public procurement procedures and tender documentation and information on contract execution;
- 10) information on announced tenders and tender documentation;
- 11) registers and databases or information on registers and databases within their competence and manner of access;
- 12) information on the manner of exercising the right to access information and re-use of information with contact information of the information officer;
- 13) the amount of the fee for access to information and re-use of information, according to the criteria referred to in Article 19, paragraph 3 of this Act;
- 14) most frequently requested information;
- 15) other information (news, press releases, data on other activities).

(2) The documents referred to in paragraph 1, items 2, 3 and 4 of this Article shall be submitted by public authorities to the Central Catalog of Official Documents of the Republic of Croatia for their permanent availability and re-use of information, and the public authority responsible for enacting laws and bylaws and documents referred to in paragraph 1, item 1 of this Article. The Croatian Information and Documentation Referral Agency (HIDRA) manages and maintains the Central Catalog of Official Documents of the Republic of Croatia.

(3) The manner of organizing and maintaining the Central Catalog of Official Documents of the Republic of Croatia shall be prescribed by an ordinance of the Minister competent for general administration affairs.

(4) The provisions of this Article shall not apply to information for which there are restrictions on the right of access under the provisions of this Act.

Publication of documents for the purpose of public consultation

Article 11

(1) Public authorities responsible for drafting laws and by-laws are obliged to publish on their websites, together with the annual plan of normative activities and the plan of consultations on draft laws and other regulations related to their field of work, in order to inform the public.

(2) The public authorities referred to in paragraph 1 of this Article shall publish on the website a draft law and other regulation on which a public consultation is held with the interested public, as a rule lasting 30 days, with the publication of the reasons for adoption and objectives they want to achieve by counseling.

(3) After the consultation, public authorities are obliged to inform the interested public about the accepted and non-accepted remarks and proposals via their website, where they should publish a report on the conducted consultation with the interested public, which they submit to the Government of the Republic of Croatia.

(4) The provisions of paragraphs 1, 2 and 3 of this Article shall be applied in an appropriate manner in the procedure of adopting general acts of local and regional self-government units and legal persons with public authority, which regulate issues within their scope, directly meet the needs of citizens or other issues of interest for the general welfare of citizens and legal entities in their area, or in the field of their activities (arrangement of settlements and housing, spatial planning, utilities and other public services, environmental protection, etc.).

Publicity of work

Article 12

(1) Public authorities are obliged to inform the public about:

1) the agenda of sessions or sessions of official bodies and the time of their holding, the manner of work and the possibilities of direct insight into their work,

2) the number of persons who can at the same time be provided with a direct insight into the work of public authorities, whereby the order of reporting must be taken into account.

(2) Public authorities are not obliged to provide direct insight into their work when it comes to issues in which the public must be excluded by law, or if it is information for which there are restrictions on the right of access under the provisions of this Act.

Information Officer

Article 13

(1) In order to ensure the right of access to information, a public authority is obliged to issue a decision appointing a special official responsible for resolving the exercise of the right of access to information (hereinafter: information officer).

(2) The public authority is obliged to inform the public about the official data on the information officer.

(3) Information officer:

1) perform the tasks of regular publication of information, in accordance with the internal structure of public authorities, as well as resolving individual requests for access to information and re-use of information,

2) improve the manner of processing, classifying, storing and publishing information contained in official documents related to the work of public authorities,

3) provide the necessary assistance to applicants in connection with the exercise of the rights established by this Act.

(4) The public authority is obliged to inform the Commissioner about the decision on the appointment of the information officer within one month from the decision on the appointment of the information officer.

(5) The Commissioner shall keep the Register of Information Officers.

Official register

Article 14

(1) A public authority body shall keep a special official register of requests, procedures and decisions on exercising the right to access information and reuse information, in accordance with the provisions of this Act.

(2) The structure, content and manner of keeping the official register shall be prescribed by an ordinance of the minister competent for general administration affairs.

IV. RESTRICTIONS ON THE RIGHT TO ACCESS INFORMATION

Restrictions and their duration

Article 15

(1) Public authorities shall restrict access to information concerning all proceedings conducted by the competent authorities in pre-investigation and investigative actions during the duration of those proceedings.

(2) Public authorities may restrict access to information:

- 1) if the information is classified by the level of secrecy, in accordance with the law governing the secrecy of data;
- 2) if the information is a business or professional secret, in accordance with the law;
- 3) if the information is a tax secret, in accordance with the law;
- 4) if the information is protected by the law governing the field of personal data protection;
- 5) if the information is in the process of being prepared within a public authority, and its publication before the completion of the production of complete and final information could seriously disrupt the decision-making process;
- 6) if access to information is restricted in accordance with international agreements,
- 7) in other cases determined by law.

(3) Public authorities may restrict access to information if there are grounds to suspect that its disclosure would:

- 1) prevented the efficient, independent and impartial conduct of judicial, administrative or other legally regulated proceedings, execution of a court decision or sentence,
- 2) disable the work of bodies that perform administrative supervision, inspection supervision, ie supervision of legality,
- 3) infringed the intellectual property right, except in the case of the express written consent of the author or owner.

(4) Information restricting the right of access for the reasons stated in paragraph 3, item 3 of this Article shall become available to the public when determined by the person who could be harmed by publishing the information, but no later than 20 years from the day when the information incurred, unless a longer period is specified by law or other regulation.

(5) If the requested information also contains information subject to the restriction referred to in paragraphs 2 and 3 of this Article, the remaining parts of the information shall be made available.

(6) The information shall be made available to the public after the reasons on the basis of which the public authority restricted the right of access to information cease to exist.

Proportionality and public interest test

Article 16

(1) The public authority responsible for handling the request for access to information referred to in Article 15, paragraph 2, items 2, 3, 4, 5, 6 and 7 and paragraph 3 of this Act shall, prior to decision-making, conduct a proportionality and public interest test. The owner of the information referred to in Article 15, paragraph 2, item 1 of this Act, according to the

previously obtained opinion of the Office of the National Security Council, is obliged to conduct a proportionality and public interest test before making a decision.

(2) When conducting the test of proportionality and public interest, the public authority shall determine whether access to information may be restricted in order to protect any of the protected interests referred to in Article 15, paragraphs 2 and 3 of this Act. In each case, that interest was seriously harmed and whether the need to protect the right to a restriction or the public interest prevailed. If the public interest outweighs the harm to the protected interests, the information will be made available.

(3) Information on the disposal of public funds shall be available to the public without conducting the procedure referred to in paragraph 1 of this Article, unless the information constitutes classified information.

V. PROCEDURAL PROVISIONS

Ways of exercising the right to access information

Article 17

(1) Public authorities are obliged to provide access to information:

1) timely publication of information on its work in an appropriate and accessible manner, ie on the websites of public authorities or in the public media and the Central Catalog of Official Documents of the Republic of Croatia, for the purpose of informing the public,

2) by providing information to the user who submitted the request in one of the following ways:

- direct provision of information,
- providing information in writing,
- inspection of documents and making copies of documents containing the requested information,
- by submitting copies of the document containing the requested information,
- in another way that is appropriate for exercising the right of access to information.

(2) The user may indicate in the request for access to information the appropriate manner of obtaining information, and if he does not indicate the information, it shall be submitted in the manner in which the request was submitted.

Claim

Article 18

(1) The user exercises the right to access information by submitting an oral or written request to the competent authority.

(2) If the request was submitted orally or by telephone, an official note shall be drawn up, and if it was submitted via electronic communication, it shall be deemed that the written request has been submitted.

(3) The written request shall contain: name and seat of the public authority to which the request is submitted, data important for recognizing the requested information, name and address of the natural person of the applicant, company, ie name of the legal person and its seat.

(4) The applicant is not obliged to state the reasons for requesting access to information, nor is he obliged to refer to the application of this Act.

Information access fee

Article 19

- (1) Administrative and court fees shall not be paid for access to information in proceedings before public authorities.
- (2) The public authority has the right to request from the user compensation for the actual material costs incurred by providing the information, in accordance with Article 17 of this Act, as well as for compensation for the costs of delivery of the requested information. At the request of the user, the public authority is obliged to submit the method of calculating the fee.
- (3) The criteria for determining the amount of the fee and the manner of collection of the fee referred to in paragraph 2 of this Article shall be prescribed by the Commissioner.
- (4) Revenues from fees realized on the basis of paragraph 2 of this Article shall be revenues of public authorities.

Deadlines

Article 20

- (1) On the basis of the request for access to information, the public authority body shall decide no later than 15 days from the day of submitting a proper request.
- (2) In the event of an incomplete or incomprehensible request, the public authority body shall without delay invite the applicant to correct it within five days from the day of receipt of the invitation for correction. If the applicant does not correct the request in an appropriate manner, and on the basis of the submitted information it is not possible to determine with certainty what the requested information is, the public authority will reject the request by a decision.

Assignment of claims

Article 21

- (1) If a public authority body does not possess information, but has information about the body that possesses it, it shall, without delay, and no later than within eight days of receiving the request, transfer the request to that body, of which it shall inform the applicant. The deadlines for exercising the right of access to information shall be calculated from the day when the competent public authority received the assigned request.
- (2) If a public authority receives a request for access to information referred to in Article 15, paragraph 2, item 1 of this Act, but is not its owner, it shall without delay, and no later than within eight days of receiving the request, transfer the request to the information owner, of which he will inform the applicant.
- (3) If a public authority receives a request for access to international information, it shall without delay, and no later than within eight days of receiving the request, provide the same to the owner of the information, of which it shall notify the applicant. Exceptionally, a public authority shall act upon a request for access to international information received if it is clear from the information itself that it is intended for immediate publication.

Extension of deadlines

Article 22

- (1) The deadlines for exercising the right to access information may be extended by 15 days, counting from the day when the public authority should have decided on the request for access to information:
 - 1) if the information must be requested outside the seat of the public authority,
 - 2) if a single request requires a large number of different information,
 - 3) if it is necessary to ensure the completeness and accuracy of the requested information,

4) if it is obliged to conduct a test of proportionality and public interest, in accordance with the provisions of this Act.

(2) The body of public authority shall without delay, and no later than within eight days, from the day of receipt of a proper request, inform the applicant and state the reasons for which the deadline has been extended.

Resolving the request

Article 23

(1) The public authority does not issue a decision on the request:

1) when it provides the user with access to the requested information,

2) when informing the user that he has already received the same information, and the period of 90 days from the submission of the previous request has not expired,

3) when informing the user that the information has been made public,

4) when informing the user that, as a party to the proceedings, the availability of information from judicial, administrative and other legally based proceedings has been determined by a regulation,

5) when informing the user that there is an obligation to protect or keep the information secret, in accordance with Article 1, paragraphs 4 and 5 of this Act.

(2) The public authority is obliged to notify the applicant in writing without delay of the existence of the reasons determined in paragraph 1, items 2, 3, 4 and 5 of this Article.

(3) The public authority shall issue a decision when it provides the user with access to the requested information, applying the provision of Article 16, paragraph 1 of this Act.

(4) The public authority shall reject the request by a decision if it does not possess the information and has no knowledge of where the information is located.

(5) The public authority shall reject the request by a decision:

1) if the conditions prescribed in Article 15, paragraph 1 of this Act are met,

2) if the conditions prescribed in Article 15, paragraphs 2 and 3, and in connection with Article 16, paragraph 1 of this Act are met,

3) if it determines that there is no basis for supplementing or correcting the given information referred to in Article 24 of this Law,

4) if information is requested that is not considered information in the sense of Article 5, paragraph 1, item 3 of this Act.

Supplement and correction of information

Article 24

(1) If the user considers that the information provided on the basis of the request is not accurate or complete, he may request its correction, ie supplementation within 15 days from the day of receiving the information.

(2) The public authority is obliged to decide on the request for supplementation, ie correction of information within 15 days from the day of receipt of the request, in accordance with the provisions of Article 23 of this Act.

Complaint

Article 25

- (1) An appeal may be lodged with the Commissioner against the decision of a public authority body within 15 days from the day of delivery of the decision.
- (2) An appeal may also be lodged when the public authority body, within the prescribed time limit, does not decide on the applicant's request.
- (3) The Commissioner is obliged to make a decision on the appeal and deliver it to the party, through the first-instance body, no later than within 30 days from the day of submitting a proper appeal.
- (4) Public authorities are obliged to provide the Commissioner in the procedure on appeal against the decision on restriction of information referred to in Article 15, paragraphs 2 and 3 of this Act with access to information that is the subject of the procedure. For the information referred to in Article 15, paragraph 2, item 1 of this Act, the Commissioner shall request the opinion of the Office of the National Security Council, in accordance with the law governing the confidentiality of data.
- (5) When the Commissioner in the appeal procedure needs to examine the correctness of the conducted test of proportionality and public interest, ie conduct the test of proportionality and public interest, the decision on appeal shall be made and delivered to the party, through the first instance body, no later than 60 days. submits proper appeals.
- (6) When the Commissioner, for the information referred to in Article 15, paragraph 2, item 1 of this Act, requests the opinion of the Office of the National Security Council, he shall issue a decision and deliver it to the party, through the first instance body, no later than 90 days. proper appeals.
- (7) When it determines that the appeal is founded, the Commissioner shall provide the user with access to the information by a decision.

administrative dispute

Article 26

- (1) No appeal shall be allowed against the decision of the Commissioner, but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia. The High Administrative Court of the Republic of Croatia must rule on the lawsuit within 90 days. A lawsuit has a suspensive effect if the decision provides access to information.
- (2) An administrative dispute against the decision referred to in paragraph 1 of this Article may also be initiated by the public authority that issued the first-instance decision.
- (3) In proceedings on a lawsuit, public authorities shall provide the High Administrative Court of the Republic of Croatia with access to the information referred to in Article 15, paragraphs 2 and 3 of this Act, which are the subject of the proceedings.

YOU. RE-USE OF INFORMATION

The right to reuse information

Article 27

- (1) Every user has the right to re-use information for commercial or non-commercial purposes, in accordance with the provisions of this Act.
- (2) For the purpose of re-use of information, the public authority shall make its information available in electronic form whenever possible and appropriate. The public authority has no obligation to ensure the conversion of information from one form to another or to ensure the use of part of the information and has no obligation to update (update, upgrade, continue to create) certain information only for the purpose of reuse.

Reuse request

Article 28

In the request for re-use of information, the applicant must, in addition to the data referred to in Article 18, paragraph 3 of this Act, also state:

- 1) information he wants to use again,
- 2) the manner in which he wishes to receive the content of the requested information,
- 3) the purpose for which he wishes to re-use the information (commercial or non-commercial purpose).

Deadline for deciding on a request for re-use

Article 29

- (1) The public authority shall decide on the request for re-use of information within 15 days from the day of submitting a proper request.
- (2) In the event of an incomplete or incomprehensible request, the public authority body shall without delay invite the applicant to correct the request within five days from the day of receipt of the request for correction. If the applicant does not correct the request in an appropriate manner, the public authority will reject the request by a decision.
- (3) The deadlines for deciding on the request for re-use of information may be extended by 15 days, counting from the day when the public authority should have decided on the request for re-use of information for the reasons prescribed in Article 22, paragraph 1, items 1, 2 and 3 of this Law.
- (4) The public authority body shall without delay, and within eight days at the latest, inform the applicant about the extension of the deadlines and state the reasons for which the deadline has been extended.

Resolving the request for re-use of information

Article 30

- (1) A public authority body shall not issue a decision on a request when it enables the re-use of information.
- (2) The public authority that provides access to information for re-use may determine the conditions for re-use of information. The conditions must not unnecessarily restrict the possibility of re-use and must not be used to restrict competition.
- (3) In the case of granting the exclusive right to re-use, in accordance with Article 34, paragraph 1 of this Act, the public authority shall enter into a contract with the user regulating the conditions for re-use of information.
- (4) The public authority shall reject the request for re-use of information by a decision if the request refers to:
 - 1) information referred to in Article 15, paragraph 1 of this Act,
 - 2) information referred to in Article 15, paragraphs 2 and 3 of this Act,
 - 3) information protected by intellectual property rights of third parties, indicating the holder of intellectual property rights, if known,
 - 4) information held by bodies providing public services of radio and television or bodies providing public services in the field of education, science, research and cultural activities,
 - 5) information for which other law prescribes access only to authorized persons,

6) information that was not generated within the activities of that public authority body.

Information reuse fee

Article 31

(1) A public authority shall not charge a fee for the re-use of information if it publishes the same information free of charge via the Internet.

(2) A public authority may charge a fee for the re-use of information, in accordance with Article 19, paragraph 2 of this Act.

Publication of conditions for re-use of information

Article 32

The public authority is obliged to publish in advance via the website all the conditions for re-use and compensation referred to in Article 19, paragraph 2 of this Act.

Prohibition of discrimination

Article 33

(1) The conditions for the re-use of information must not be discriminatory.

(2) The re-use of information is allowed and available to all applicants for the same fee and under the same conditions. The number of applicants to whom the authority grants the right to re-use information is not limited. The body may not, by contract or other agreement or decision, authorize the applicant to re-use information which would prevent the re-use of that information by other users.

(3) The same conditions as for other users shall apply to a public authority that re-uses its information as a basis for commercial activities that do not fall within the scope of its public affairs.

Exclusive rights

Article 34

(1) As an exception to Article 33, paragraph 2 of this Act, a public authority may grant the exclusive right to re-use information if it is absolutely necessary for the provision of a public service or other services in the public interest. The validity of the grounds for granting such an exclusive right shall be subject to regular review by the Commissioner and shall be reviewed at least every three years.

(2) All prescribed data on the approval and verification of the contract on granting the exclusive right to re-use information shall be submitted to the Commissioner within 15 days from the day of concluding the contract. The Commissioner shall keep publicly available records of all granted exclusive rights.

(3) Detailed conditions on the re-use of information and granting of exclusive rights referred to in paragraph 1 of this Article, as well as the content and manner of publication and related record keeping shall be prescribed by the Minister responsible for general administration.

VII. INFORMATION COMMISSIONER

Information Commissioner

Article 35

(1) The Commissioner protects, monitors and promotes the right to access information guaranteed by the Constitution of the Republic of Croatia.

(2) The Commissioner may not be called to account, detained or punished for the expressed opinion and actions taken within his scope of work, unless it is a violation of the law by the Commissioner which is a criminal offense.

(3) The Commissioner:

- performs the tasks of the second instance body in resolving complaints about the exercise of the right to access information and the right to re-use information;

- performs supervision and carries out inspection supervision over the implementation of this Law;

- monitors the implementation of this Act and regulations governing the right of access to information and informs the public about their implementation;

- proposes to public authorities to take measures to improve the exercise of the right to access information, regulated by this Law;

- informs the public about the exercise of the user's right to access information;

- propose measures for professional training and advanced training of information officers in public authorities and acquaintance with their obligations related to the application of this Act;

- initiates the adoption or amendment of regulations in order to implement and improve the right to access information;

- submits to the Croatian Parliament a report on the implementation of this Act and other reports when it deems it necessary;

- participates in the work of the working bodies of the Croatian Parliament and attends the sessions of the Croatian Parliament when issues from its scope are on the agenda;

- submits an indictment and issues a misdemeanor warrant for established misdemeanors.

(4) In order to access and work with classified information, the Commissioner and civil servants in the Office must meet the conditions prescribed by a special law and shall keep, in accordance with the law governing data secrecy, all personal and other confidential information they learn in the performance of their duties.

Election of the Commissioner

Article 36

(1) The Commissioner is elected by the Croatian Parliament for a term of five years with the possibility of re-election.

(2) No later than six months before the expiration of the Commissioner's term of office, or no later than 30 days after the termination of office for other reasons, the Committee on the Constitution, Rules of Procedure and Political System of the Croatian Parliament shall publish a public call for candidacies.

(3) The Committee on the Constitution, Rules of Procedure and Political System of the Croatian Parliament, with the previously obtained opinion of the Committee on Information, Informatization and Media of the Croatian Parliament, shall determine the proposal of at least two candidates for Commissioner on the basis of applications from the public call.

(4) The Commissioner is independent in his work, and is responsible for his work to the Croatian Parliament.

Conditions for the election of the Commissioner

Article 37

(1) A person who meets the following conditions may be elected as a Commissioner:

- Croatian citizenship and residence in the territory of the Republic of Croatia,
- completed undergraduate and graduate university study or integrated undergraduate and graduate university study of legal or social profession,
- at least 10 years of work experience in the profession,
- a distinguished expert with a recognized ethical and professional reputation and experience in the field of protection and promotion of human rights, freedom of the media and the development of democracy,
- who has not been convicted and against whom no criminal proceedings have been instituted for criminal offenses for which proceedings are initiated ex officio,
- who is not a member of a political party.

(2) The provisions of the Law on Obligations and Rights of State Officials shall apply to the Commissioner in an appropriate manner.

(3) The Commissioner is entitled to a salary equal to the salary of the Vice-President of the working bodies of the Croatian Parliament.

Dismissal of the Commissioner

Article 38

(1) The Croatian Parliament shall dismiss the Commissioner before the expiration of the term for which he was elected:

- if he so requests,
- if circumstances arise due to which he no longer meets the conditions for election referred to in Article 37 of this Act,
- if he has been prevented from performing his duties for a period longer than six months,
- if he does not perform his duty in accordance with this Law.

(2) The procedure for dismissal of the Commissioner shall be initiated by the Committee on the Constitution, Rules of Procedure and the Political System of the Croatian Parliament.

(3) The Commissioner shall be dismissed by the Croatian Parliament with the prior opinion of the Committee on Information, Informatization and Media of the Croatian Parliament.

Organization of the Office of the Commissioner

Article 39

(1) The Commissioner has the Office of the Commissioner, as a professional service.

(2) Internal organizational units for individual areas of work shall be established in the Office of the Commissioner, in accordance with the type of work.

(3) The provisions of the Civil Servants Act shall apply to employees of the Office of the Commissioner.

(4) The Commissioner has the position of the head of the body in relation to the employees of the Office of the Commissioner.

(5) The internal organization of the Office of the Commissioner shall be regulated by the Rules of Procedure.

(6) The seat of the Office of the Commissioner is in Zagreb.

(7) Funds for the work of the Office of the Commissioner shall be provided from the state budget of the Republic of Croatia.

Rules of Procedure of the Commissioner and Rules of Procedure

Article 40

(1) The Commissioner shall adopt the Rules of Procedure which shall be approved by the Croatian Parliament. The Rules of Procedure shall be published in the Official Gazette.

(2) The Rules of Procedure shall regulate the internal organization, the manner of work of the Commissioner, the manner of planning and performing tasks and other issues of importance for the performance of the tasks of the Commissioner.

(3) The Commissioner shall issue an Ordinance on Internal Order regulating the number of civil servants required to perform tasks with an indication of their basic tasks and tasks and professional conditions required for their performance, their powers and responsibilities and other issues relevant to the Commissioner's work.

VIII. SUPERVISION

Monitoring the implementation of the Act

Article 41

Supervision over the implementation of this Act shall be performed by the Commissioner.

Inspection control

Article 42

(1) Inspection supervision over the implementation of this Act shall be performed by inspectors and other authorized officials of the Office of the Commissioner (hereinafter: inspectors).

(2) Inspectors must meet the following professional requirements: completed graduate university study or specialist graduate professional study, legal professions or other social sciences, three years of work experience in law enforcement or supervision over the implementation of laws and other regulations and passed the state professional exam .

Article 43

Inspection supervision is performed on the occasion of received petitions of users of the right to access information and re-use of information, at the proposal of a third party or ex officio.

Article 44

(1) The inspector is independent in his work.

(2) No one may, by using his official position or in any other way, prevent or obstruct the inspector in performing supervision and taking measures and actions for which he is authorized.

Inspector jobs

Article 45

(1) In performing inspection supervision over the application of this Act, inspectors shall supervise in particular:

- whether an information officer has been appointed in the public authority body and whether the information officer acts in accordance with the powers prescribed by this Act;

- whether the public authority keeps a special official register of requests, procedures and decisions on exercising the right to access information and re-use information;
- whether the public authority publishes the amount of the fee for access to information and re-use of information, in accordance with Article 19, paragraph 2 of this Act;
- whether the public authority publishes information in accordance with Article 10, paragraph 1 of this Act;
- whether the public authority submits a report in accordance with Article 60 of this Act;
- regularity of application of the provisions of this Act regarding requests for access to information and requests for re-use of information;
- taking other actions regarding the received requests for access to information and requests for re-use.

(2) In performing inspection supervision, inspectors have the right to request and obtain from public authorities all information that is the subject of the procedure, in accordance with this Act.

(3) The information referred to in Article 1, paragraphs 4 and 5 of this Act may not be the subject of inspection supervision.

The way the inspector works

Article 46

Inspection is carried out as:

1. direct inspection supervision, direct insight into the data and documentation of the supervised public authority and the conditions and manner of work of the supervised public authority;
2. indirect inspection supervision, by direct inspection of the submitted data and documentation.

Article 47

(1) The inspector is obliged to inform the head of the public authority in which the inspection will be carried out (hereinafter: the head of the supervised body) about the implementation of direct inspection supervision, no later than three days before the beginning of the inspection.

(2) As an exception to paragraph 1 of this Article, the inspector may perform inspection supervision without prior notice in the event of a reason for urgent action.

(3) The head of the supervised body of public authority is obliged to enable the smooth implementation of inspection supervision, which includes the provision of working space for the implementation of supervision, the use of technical aids, data and documentation that are the subject of supervision.

(4) The inspector may, if necessary, take statements from the heads of supervised public authorities or other officials as part of the supervision.

Article 48

(1) In the implementation of indirect inspection supervision, the inspector is authorized to request the delivery of documentation in writing and to set an appropriate deadline for its delivery.

(2) The head of the supervised body of public authority or another authorized person shall act upon the request of the inspector, as well as ensure the delivery of complete and accurate data, and in case of impossibility to act, submit a written statement without delay.

Article 49

- (1) After the inspection, the inspector shall draw up a report on the established illegalities, irregularities and deficiencies.
- (2) The record on inspection supervision referred to in paragraph 1 of this Article (hereinafter: the record) must contain:
 - 1) factual situation and violations of laws and other regulations, irregularities and shortcomings in work,
 - 2) assessment of the situation,
 - 3) measures ordering the elimination of established illegalities, and the deadline for execution of the ordered measures,
 - 4) proposals for the elimination of identified irregularities and shortcomings in the work,
 - 5) the obligation to inform the inspector about the measures taken,
 - 6) instruction on the right to object.
- (3) The inspector is obliged, depending on the nature of the ordered measures, to determine an appropriate deadline for their execution.
- (4) If during the inspection no illegalities, irregularities or deficiencies in the work are established, the head of the supervised public authority shall be notified in writing.

Rights and duties of inspectors

Article 50

The inspector may impose the following measures in the minutes:

- 1) order the undertaking of appropriate measures in order to eliminate the established violations of this Law and other regulations, irregularities and shortcomings in the work of the supervised public authority body,
- 2) prohibit the performance of actions taken contrary to this Act or other regulations,
- 3) propose measures to be taken in order to eliminate irregularities or shortcomings in the work,
- 4) propose measures to improve the work of the supervised public authority.

Article 51

- (1) The minutes shall be submitted to the head of the supervised public authority.
- (2) The minutes may also be submitted to the body to which, on the basis of regulations on the organization of the state administration, ie local and regional self-government, the supervised body is directly responsible for its work.

Objection to the minutes

Article 52

- (1) The head of the supervised body of public authority may file an objection against the minutes within eight days from the day of receipt of the minutes.
- (2) The minutes may be challenged by an objection due to:
 - 1) incompletely or incorrectly established factual situation, incorrect application of regulations and measures imposed on that basis,

- 2) exceeding the authority in the implementation of inspection supervision by inspectors.
- (3) Regarding the objection, a decision on the objection to the minutes shall be made (hereinafter: the decision).
- (4) The decision referred to in paragraph 3 of this Article of the Act is not an administrative act.

Article 53

- (1) The decision must be made within 30 days of receiving the complaint.
- (2) The objection postpones the obligation to act according to the pronounced measures until the receipt of the decision.

Complaint handling

Article 54

- (1) The complaint filed against the inspector's record, for the reasons stated in Article 52, paragraph 2, item 1 of this Act, shall be considered by the inspector who performed the supervision and prepared the record. If the complaint is well-founded, the inspector shall amend the minutes in terms of the allegations in the complaint.
- (2) If the inspector assesses the complaint in whole or in part unfounded, he shall, with a statement, submit the complaint to the Commissioner for decision.
- (3) The Commissioner shall review the complaint and the statement, and is authorized to:
 - 1) revoke or amend the imposed measure, if the allegations from the objection are grounded,
 - 2) reject the objection.

Article 55

- (1) The Commissioner shall decide on the objection to the minutes submitted for the reasons prescribed by Article 52, paragraph 2, item 2 of this Act.
- (2) In dealing with the complaint, the Commissioner is authorized to:
 - 1) repeal the imposed measure, if the inspector imposed the same outside the legal powers,
 - 2) reject the objection.

Control over the execution of measures from the minutes

Article 56

- (1) The head of the supervised body of public authority is obliged to carry out the pronounced measures within the time limit determined by the minutes.
- (2) The head of the supervised body of public authority shall, within 15 days from the expiration of the deadline for taking the measures imposed by the minutes, submit to the inspector a report and evidence on the execution of the measures.

Article 57

- (1) The inspector shall, as a rule, control the execution of the imposed measures indirectly, by obtaining reports and evidence on the implementation of the measures.
- (2) The control of the execution of pronounced measures may also be performed by direct control inspection, if required by the nature of actions to be taken in the execution of measures, ie when the need for direct control due to deficiencies in the report is determined by the inspector.

Article 58

In the event of non-execution of a measure by a supervised public authority, imposed by the Commissioner, imposed in order to eliminate illegality, he is obliged to inform:

- 1) The Government of the Republic of Croatia, if the measures have not been implemented by central state administration bodies whose head is directly responsible to the Government of the Republic of Croatia,
- 2) a central state administration body that supervises the work of a state administrative organization, in accordance with the law,
- 3) the central state administration body responsible for the system and structure of the state administration, local and regional self-government, if the measures have not been implemented by the state administration office in the county, ie the bodies of local and regional self-government units.
- 4) the founder of a public authority.

Handling petitions

Article 59

- (1) Inspectors shall act upon petitions against the work of public authorities bodies related to the application of this Act.
- (2) The inspector is obliged to consider the submitted petition.
- (3) If, after considering the petition, the inspector assesses the allegations set out in the petition as well-founded, he shall be authorized to issue a warning in order to urgently eliminate possible illegalities in addition to requesting a report.
- (4) If it is established in the procedure that the facts presented in the application are correct, and the elimination of illegality or irregularity requires the imposition of a measure, the inspector shall ex officio conduct inspection supervision, in the manner and in accordance with the powers under this Act.
- (5) The inspector is obliged to inform the applicant in writing about the established facts, ie the measures taken regarding the application. The notice is not an administrative act.

IX. REPORTING

Reports

Article 60

- (1) All public authorities are obliged to cooperate with the Commissioner.
- (2) Public authorities shall submit to the Commissioner a report on the implementation of this Act for the previous year no later than 31 January of the current year.
- (3) The report shall contain information on:
 - 1) the number of received requests for access to information and re-use of information,
 - 2) number of adopted requests,
 - 3) the number of partially adopted requests,
 - 4) the number of issued notices, in accordance with Article 23, paragraph 2 of this Act,
 - 5) the number of rejected requests and the reasons for rejection,

- 6) the number of rejected requests and the reasons for rejection,
 - 7) the number of assigned requests,
 - 8) the number of received requests for correction or supplementation of information,
 - 9) the number of adopted requests for correction or supplementation of information,
 - 10) the number of rejected requests for correction or supplementation of information,
 - 11) the number of rejected requests for correction or supplementation of information,
 - 12) the number of requests resolved within the deadline,
 - 13) the number of requests resolved outside the deadline,
 - 14) number of unresolved claims,
 - 15) number of suspended proceedings,
 - 16) number of filed complaints,
 - 17) number of accepted appeals,
 - 18) number of rejected appeals,
 - 19) number of rejected appeals,
 - 20) the number of filed lawsuits,
 - 21) the number of contracts on exclusive rights to re-use information,
 - 22) the amount of realized compensation referred to in Article 19 of this Law,
 - 23) information published in accordance with the obligations set out in Article 10 of this Act.
- (4) In addition to submitting the data referred to in paragraph 3 of this Article, public authorities shall provide an explanation and assessment of the existing situation on the basis of the reported data.
- (5) The Commissioner shall submit to the Croatian Parliament a report on the implementation of this Act no later than 31 March of the current year for the previous year.
- (6) The Commissioner shall prepare the report form referred to in paragraph 2 of this Article and determine the manner of data submission.

X. MISDEMEANOR PROVISIONS

Article 61

- (1) A fine in the amount of HRK 20,000.00 to 100,000.00 shall be imposed on a public authority body which, contrary to the provisions of this Act, prevents or restricts the exercise of the right to access information and re-use information.
- (2) For the misdemeanor referred to in paragraph 1 of this Article, the responsible person in the public authority shall also be fined from HRK 5,000.00 to 20,000.00.
- (3) A fine of HRK 20,000.00 to HRK 50,000.00 shall be imposed on a natural person who damages, destroys, hides or otherwise makes inaccessible a document containing information with the intention of preventing the exercise of the right of access to information.

(4) For the misdemeanor referred to in paragraph 3 of this Article, the public authority and the responsible person in the public authority shall be fined from HRK 20,000.00 to HRK 50,000.00.

(5) A fine in the amount of HRK 1,000.00 to 50,000.00 shall be imposed on a natural person, or a fine of HRK 2,000.00 to 100,000.00 on a legal person who uses information contrary to the published conditions for the re-use of information referred to in Article 32. of this Act.

Article 62

(1) A fine in the amount of HRK 2,000.00 to 4,000.00 shall be imposed on a public authority body for a misdemeanor if:

1) does not publish information in accordance with Article 10, paragraph 1 and Article 11 of this Act;

2) does not appoint an information officer;

3) fails to submit an annual report on the implementation of the Act.

(2) For the misdemeanor referred to in paragraph 1 of this Article of the Act, the responsible person in the public authority shall also be fined from HRK 1,000.00 to HRK 2,000.00.

(3) A fine in the amount of HRK 5,000.00 to 10,000.00 shall be imposed on a public authority body for a misdemeanor if:

1) does not act upon the decision of the Commissioner,

2) fails to provide the Commissioner with insight into the information that is the subject of the procedure, fails to submit the requested data or submits incomplete or inaccurate data,

3) prevent the inspector from performing supervision without hindrance,

4) fails to eliminate illegalities, irregularities and deficiencies determined by the minutes within the deadline set by the minutes.

(4) For the misdemeanor referred to in paragraph 3 of this Article of the Act, the responsible person in the public authority shall also be fined from HRK 3,000.00 to HRK 5,000.00.

Full fulfillment of the obligation

Article 63

The public authority is obliged to enable the user to exercise the right to access information despite the imposition of misdemeanor sanctions, in the case of established liability based on unjustified denial or restriction of the exercise of the right to access information.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 64

(1) The ordinances referred to in Article 10, paragraph 3, Article 14 and Article 34, paragraph 3 of this Act shall be adopted by the Minister responsible for general administration no later than 90 days from the day this Act enters into force.

(2) The Commissioner shall determine the criteria for determining the amount of compensation referred to in Article 19, paragraph 3 of this Act within 90 days from the day of the election of the Commissioner.

Article 65

Public authorities shall ensure organizational, material, technical and other conditions for the implementation of the provisions of this Act within 90 days from the day this Act enters into force.

Article 66

(1) The Agency for Personal Data Protection shall perform the activities of an independent state body for the protection of the right to access information until the election of the Information Commissioner.

(2) On the day of the election of the Commissioner, the Office of the Commissioner shall take over the tasks and employees of the Department for Access to Information of the Agency for Personal Data Protection, equipment, archives and other documentation, means of work, financial resources, rights and obligations.

(3) Administrative and technical tasks for the needs of the Office of the Commissioner shall be performed by the Personal Data Protection Agency, which is regulated by the Agreement concluded between the Commissioner and the Personal Data Protection Agency.

Election of the Commissioner

Article 67

Within eight days from the entry into force of this Law, the Committee on the Constitution, Rules of Procedure and the Political System shall initiate the procedure for the election of the Commissioner.

Article 68

(1) No later than 60 days from the day of the election, the Commissioner shall submit to the Croatian Parliament for approval the Rules of Procedure prepared on the basis of the provisions of this Act and a special law governing issues within the competence of the Commissioner.

(2) The Commissioner shall adopt the Ordinance on Internal Order no later than 30 days from the entry into force of the Rules of Procedure referred to in paragraph 1 of this Article.

Article 69

(1) Proceedings initiated before the entry into force of this Act shall be continued and completed in accordance with the provisions of the Right to Access Information Act (Official Gazette 172/03, 144/10, 37/11 and 77/11). .).

(2) The Ordinance on the structure, content and manner of keeping the official register on exercising the right to access information (Official Gazette 137/04) shall remain in force until the entry into force of the Ordinance referred to in Article 14, paragraph 2 of this Act.

(3) The criteria for determining the amount of the fee referred to in Article 19, paragraph 2 of the Right to Access Information Act (Official Gazette 172/03, 144/10, 37/11 and 77/11) shall remain in force until the entry into force of the criteria for determining the amount of compensation and the manner of collection of compensation referred to in Article 19, paragraph 3 of this Act.

Article 70

On the day of the election of the Commissioner, employees of the Department for the Right to Access Information of the Personal Data Protection Agency shall take over the Office of the Commissioner and continue to perform the tasks they found on the day this Act enters into force. assignment to positions, in accordance with education, professional knowledge, skills, abilities, previous work experience and results in work on the basis of the Ordinance on the Internal Order of the Commissioner.

Article 71

With the entry into force of this Act, the Act on the Right to Access Information (Official Gazette 172/03, 144/10, 37/11 and 77/11) shall cease to be valid.

Article 72

This Act shall enter into force on the eighth day following that of its publication in the Official Gazette.

Class: 008-02 / 12-01 / 03

Zagreb, 15 February 2013

CROATIAN PARLIAMENT

President of the
Croatian Parliament

Josip Leko, mp