

CITIZANTS RIGHTS REGARDING ACCESS TO ENVIRONMENAL INFORMATION



What is the legislation?

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| Legislation | What the legislation says? |
| Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention) ratified through Law 86/2000 | „ Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile”; |
| Directive 2003/4/EC on public access to environmental information | „The objectives of this Directive are: to guarantee the right of access to environmental information held by or for public authorities; to ensure that environmental information is progressively disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information.” |
| Constitution of Romania |
| Emergency Ordinance no. 195/2005 on environment protection, approved with amendments through Law  265/2006 with further amendments; | „The state acknowledges the right of any person to a healthy and ecologically balanced environment, guaranteeing, within this scope, the access to environmental information, with respect to the confidentiality conditions provided by the legislation in force” |
| Law 544/2001 on free access to information of public interest; | „The free and opened access of a person to any information of public interest is one of the fundamental principles of the relation between the persons and public authorities, according to the Constitution of Romania and the international documents ratified by the Parliament of Romania” |
| Government Decision no. 878/2005 on public access to environmental information | „The public authorities shall make available to any applicant, at his request, the environmental information held by or for them, without an interest having to be stated for asking for that information”. |

 What is the environmental information?

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| Environmental information means information about the state and quality of the elements exterior to the human organism. | These are: air and atmosphere, water, soil, land, landscape and natural sites, wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements. |
| Environmental information means information about the factors affecting or likely to affect the environment. | These could be substances, energy, noise, radiation and waste, including radioactive waste, emissions, discharges and other evacuations into the environment. |
| Environmental information means information about the measures taken. | These are: policies, legislation, plans, programmes, conventions between public authorities and natural or legal persons regarding the environmental objectives, the activities affecting or likely to affect the environment. |
| Information regarding human health are also parte of environmental information, if they are directly related to the state of environment. | example: the effects of atmospheric pollutants derived from industry on the population health. |

What is not environmental information?

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| It is not considered environmental information the information referring to activities with no effect on the environment. The environmental information stops at the last cause for a factor that influences one of the environmental elements. | Example: information regarding the construction of a plant, the assemblage and effects of its operation are environmental information. On the other hand, the organization and the management of the company can not be considered environmental information. |

Who can request for environmental information?

Any person that requests environmental information has the right to receive, without having a specific interest for finding out that information.

Who holds environmental information?

The public authorities shall make publicly available the environmental information held by them. The bodies one can address requests to are:

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| * Environmental public authorities | * Other institutions |
| — Ministry of Environment (central public authority for environment protection);  — National Environment Protection Agency (NEPA);  — Regional Environment Protection Agency (REPA);  — Local Environment Protection Agency (LEPA);  — National Environment Guard; | — Ministry of Agriculture, Forests and Rural Development;  — Ministry of Transportation and  Infrastructure;  — Ministry of Education, Research and Innovation;  — Ministry of Health;  — Ministry of Culture, Cults and National  Heritage;  — Institute of Public Health;  — National Institute of Statistics;  — Prefecture and local public authorities;  — National Administration "Romanian Waters"  — Research institutes (e.g.,  Institute of Biological Research,  Institute of Physics, National Institute  Of Research-Development for Environment Protection ICIM, etc.);  — Education units that also develop research activities in the environment protection field;  — NGOs. |

Where and how can environmental information be requested?

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| Receiving requests for environmental information and supplying answers is done by the specialized departments for public relations, organized by public authorities. | Requests need to be formulated into a clear manner. The usual wording is enough. The exact name needs not to be known, but it is advisable to express as clearly as possible what the applicant wants. |

When is the answer received?

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| The request for information shall be dealt with rapidly and in a correct manner in the timeframe set by the legislation. | Environmental information is made available to the applicant as soon as possible, but no later than a month since receiving the request. This time limit can be extended up to 2 months if the volume and complexity of the information is too large. In this case, the applicant is informed about the extension of the period. |

In which form should the requested information be presented?

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| The information shall be presented in the requested form, except in the following cases:  the information is already made available to the public in another form or in an easily accessible format; | it is convenient to the public authority to make it available to the public in another form or format. In this case, the public authority shall justify why the information is supplied in the available form or format. |

What happens if the public authorities don’t hold the requested information?

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| The public authority that received the request shall resend it to another authority that holds that information within 15 days from the date of the request and to inform the applicant about | this or may directly guide the applicant to the public authority to which the request could be addressed. |

 Is it necessary to pay for receiving information?

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| Access to registers and public lists made available to the public and consultation of the information on the spot are free of charge. | There may be some costs to cover the fare for copying and these are paid by the applicant. |

When can a request be refused?

A request can be refused

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| - if:  - the information requested is not held by or for the public authority to which the request is addressed;  - the request is manifestly unreasonable;  - the request is formulated in too general a manner;  - the request concerns material in the course of completion or unfinished documents or data;  - the request concerns internal communications, taking into account the public interest served by disclosure. | - if disclosure of the information would adversely affect:  - the confidentiality of the proceedings of public authorities;  - international relations, public security or national defence;  - the course of justice, or similar actions;  - the confidentiality of commercial or industrial information, where such confidentiality is provided for the legislation in force;  - intellectual property rights;  - the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public;  - the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so;  - the protection of the environment (example: the location of rare species). |

 Access to justice

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| If the request is wrongfully refused, ignored or inadequately answered by the public authority, the applicant may submit a complaint to the manager of the public authority, asking for a review of the documents or of the omissions.  If the applicant doesn’t receive an answer to his complaint within the legal time limit, he can | submit a request to an administrative legal court, where the documents or omissions of the authority would be examined. The request is solved following the provisions of Law 554/2004 on administrative legal court. |

His guide is written regarding the provisions of Government Decision no. 878/2005 on public access to environmental information that transposes the Directive of the European Parliament and of the Council no. 2003/4/EC of 28 January 2003 on public access to environmental information.

National Environment Protection Agency

Direction of Permits and Horizontal Legislation

Office of Horizontal Legislation