



REPUBLIC OF SERBIA

**Legitimate application of the restrictions in
access to environmental information in the
Republic of Serbia**

Geneva, December 2015



International agreements

- Serbia became Party to the Aarhus Convention by adopting the Law on Ratification of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) (“OG of RS”, No. 38/09);
- Serbia became Party to the Protocol on Pollutant Release and Transfer Register to the Aarhus Convention by adopting the Law on ratification (“OG of RS”, No. 8/11);
- Serbia adopted the Strategy for the implementation of the Aarhus Convention and related Action Plan (“OG of RS”, No. 103/11).



Access to environmental information

- The access to environmental information in the Republic of Serbia is divided into the following laws:
 - **Law on Environmental Protection (LEP)** (“OG of RS”, No. 135/04, 36/09, 72/09 and 43/11)
 - **Law on free access to information of public importance (LFAIPI)** (“OG of RS”, No. 120/04, 54/07, 104/09 and 36/10)
- Other relevant legislative act is:
 - Regulation on content and method of environmental protection information system management, methodology, structure, common bases, categories and levels of data collection and on the content of information the public is constantly and mandatory informed about (“OG of RS”, No. 112/09)



Access to environmental information

- Article 15, Paragraph 4 of the LFAIPI expressly states that an applicant shall not be required to specify the reasons for a request. In addition to that, Article 2 of this law prescribes that justified public interest to know shall be deemed to exist whenever information held by a public authority concerns a threat to, or protection of, public health and the environment. The law thus favours this kind of information, namely, it does not allow the authorities to deny access to such information.
- Article 5 of the LFAIPI stipulates that everyone has the right to access information of public importance by being allowed to examine a document containing information of public importance, by being entitled to make a copy of that document, and by being entitled to receive a copy of such document on request, by mail, fax, electronic mail or otherwise.



Access to environmental information

- The LFAIPI (Article 16, Paragraph 1) stipulates that public authority shall process the request, without delay, and within 15 days of receipt of the request at the latest. The deadline can be extended when there are special circumstances where an extension may be justified. The new deadline shall not be longer than 40 days from the day of receipt of the request. In the case of deadline extension, there is an additional obligation to inform the applicant about it immediately, not later than within 7 days of receipt of the request.
- Article 16, Paragraph 2 stipulates that if the requested information concerns the protection or threats to the environment, the information must be given within 48 hours of receipt of the request. The law thus favours this kind of information in terms of public access.



Restrictions in access to environmental information

A public authority shall not allow an applicant to exercise the right to access information of public importance if it would thereby:

- 1) Expose to risk the life, health, safety or another vital interest of a person;
- 2) Imperil, obstruct or impede the prevention of criminal offense, indictment for criminal offense, pretrial proceedings, the court proceedings, the execution of a sentence or enforcement of punishment or any other legal proceedings, or unbiased treatment and a fair trial;
- 3) Seriously threaten national defense, national and public safety or international relations;
- 4) Substantially undermine the government's ability to manage the national economic processes or significantly impede the achievement of justified economic interests;



Restrictions in access to environmental information

5) Make available information or a document qualified by regulations or an official document based on the law as state, official, commercial or other secret, i.e. if such a document is accessible only to a specific group of persons and its disclosure could seriously legally or otherwise prejudice the interests that are protected by the law and override the access to information interest.

- The rights provided for in the LFAIPI may, in exceptional circumstances, be subject to limitations set out in this Law, to the extent necessary in a democratic society to prevent a serious violation of an overriding interest based on the Constitution or law.



Restrictions in access to environmental information

- A public authority shall not grant an applicant his/her right to access information of public importance if it would thereby violate the right to privacy, the right to protection of reputation or any other right of a person who is the subject of information, except where:
 - 1) The person concerned has given his/her consent;
 - 2) Such information relates to a person, event or occurrence of public interest, especially in case of holder of public office or political figures, insofar as the information bears relevance on the duties performed by that person;
 - 3) A person's behaviour, in particular concerning his/her private life, has provided sufficient justification for a request for such information.



Restrictions in access to environmental information

- Article 12 of the LFAIPI stipulates that if requested information of public importance can be extracted from other information contained in a document which a public authority has the duty of disclosing to an applicant, the public authority concerned shall allow the applicant access only to a part of the document which contains the extracted information and advise him/her that the remainder of the document is not available.
- A public authority shall not allow an applicant to exercise the right to access information of public importance if the applicant is abusing the rights to access information of public importance, in particular where a request is unreasonable, frequent, where an applicant repeatedly requires the same information or information already obtained, or when too much information is requested.



- Article 16 of the LFAIPI specifies that if a public authority refuses to inform an applicant, either entirely or partially, whether it holds the requested information, to grant an applicant access to a document containing the requested information or to issue or send to an applicant a copy of the document, it shall have the duty to pass, without delay, and within 15 days of receipt of the request at the latest, a decision rejecting the request and provide rationale for such decision in writing, and shall furthermore be required to notify the applicant of the available relief against such decision.
- An applicant may file a complaint to the Commissioner for Information of Public Importance and Protection of personal data, as an autonomous state body, independent in fulfilling its authority, within 15 days upon receipt of the public authority decision.



Statistics

- In the period from 2010 to 2012, the Office of the Commissioner received the following number of complaints related to the environmental information:
- In 2010, out of 2062 received complaints, only 10 complaints were related to the environmental information
- In 2011, out of 2616 received complaints, the number of complaints related to the environmental information was 10 complaints.
- In 2012, out of 2350 received complaints, 46 complaints were related to the environmental information
- In 2013 out of 2797 received complaints, 202 complaints were related to the environmental information
- In 2014 were received 165 complaints
- in 2015. were received 209 complaints



Thank you for your attention!

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