

Government Decision No 123/2002
for the approval of the Methodological Norms for the enforcement the Law No 544/2001
on free access to public information

Based on Art.107 of the Constitution of Romania and of Art.23 (2) of Law No 544/2001 on free access to public information,

the Government of Romania enacts this Decision.

Sole Article. - The Methodological Norms for the enforcement of the Law No 544/2001 on free access to public information are approved, as stipulated in the Annex that is an integrant part of this Decision.

PRIME MINISTER
ADRIAN NASTASE

Countersigned by:

Minister of Public Information,
Vasile Dincu

Minister of Public Administration,
Octav Cozmanca

for the Minister of Communications and Information Technology,
Ion Smeeianu,
Secretary of State

Minister of Public Finance,
Mihai Nicolae Tanasescu

Bucharest, 7 February 2002.
No 123.

**METHODOLOGICAL NORMS
for the enforcement of the Law No 544/2001 on free access to public information**

**CHAPTER I
General Provisions**

Art. 1. - (1) These methodological norms establish the principles, procedures and rules for the enforcement of the Law No 544/2001 on free access to public information.

(2) The provisions of these methodological norms shall apply to all public authorities and institutions, as defined in Law No 544/2001.

Art. 2. - The Law No 544/2001 shall be enforced by observing the following principles:

a) transparency principle - public authorities and institutions shall openly carry out their activity towards the public, so that the free and unrestrained access to public information to be the rule, and the limitation of access to public information to be the exception, according to the law;

b) unitary application principle - public authorities and institutions shall ensure the unitary observance of the law in accordance with its provisions and with these methodological norms.

c) autonomy principle - each public authority or institution shall prepare its own organization and functioning regulations for the information and public relations departments, in accordance with the provisions of the law and of these methodological norms.

**CHAPTER II
Organization and Provision of Free Access to Public Information**

Art. 3. - (1) In order that each individual should have free and unrestricted access to public information, the public authorities and institutions shall establish specialized departments for public relations and information or shall designate a person with tasks in this field.

(2) The specialized departments for information and public relations can be organized, within the central or local public authority or institution, as offices, services, divisions or general divisions subordinated to the head of the relevant public authority or institution, that, according to the situation, can order their coordination by another member of the management of the relevant public authority or institution.

(3) The attributions, organization and functioning of the information and public relations departments shall be settled, in accordance with the law and the provisions of these methodological norms, by the organizational and functioning regulations of the relevant public authority or institution.

Art. 4. - (1) For a good activity of information and public relations within the public authorities and institutions, this activity may be organized to have the following components:

- a) press information;
- b) direct public information of the persons;
- c) internal information of the personnel;
- d) interinstitutional information.

(2) Direct information of the persons and press information are compulsory components, according to the law, and they do not exclude the other information and public relations components.

Art. 5. - Within the information and public relations departments of the public authorities and institutions, the activity of direct public information of the persons and of press information may be separately organized.

Art. 6. - (1) At the level of Presidential Administration, of the working apparatus of the Chamber of Deputies and of the Senate, of the working apparatus of the Government, of the ministries, of other specialized bodies of central public administration, of the headquarters of the public organisation and of other central public institutions, as well as at the level of the autonomous administrative authorities, prefectures, county councils and local councils of cities, towns and Bucharest districts, the existing organizational structures for communication shall be reorganized into information and public relations departments and shall include at least one public information office (structure) and one press relations office (structure).

(2) At the level of the decentralized structures of central public authorities and institutions shall be organized information and public relation offices, and the attributions regarding the relation with the press and direct information of the persons shall be separately performed by persons specially appointed for this purpose.

(3) At the level of communes, the attributions regarding the relation with the press and direct information of the persons can be performed by a person specially appointed for this purpose by the local council.

Art. 7. - Each public authority or institution shall establish, according to its own specific activities, the number of persons necessary for the proper fulfilment of the attributions of the relevant authority or institution in the information and public relations field.

Art. 8. - (1) In order to ensure the public's access to public information released ex officio, information-documentation offices shall be organized within the information and public relations departments at the headquarters of each public authority and institution.

(2) The presentation in an electronic format of the information released ex officio by the public authorities and institutions stipulated in Art.6(2) and (3) shall be carried out gradually, taking into account the public authorities' and institutions' existing computing equipment.

CHAPTER III
Procedures on Free Access to Public Information

Art. 9. - The public authorities and institutions ensure the access to public information, ex officio or at request, under the terms of the law.

Art. 10. - (1) The public information communicated ex officio, according to the law, shall be displayed in a concise and accessible form that shall facilitate the contact of the concerned individual with the public authority or institution.

(2) The public authorities and institutions shall annually publish and update an information bulletin containing the information provided in Art.5(1) of Law No 544/2001.

(3) The public authorities shall release ex officio, at least annually, a periodical activity report, which shall be published in the Official Journal of Romania, Part III. The activity report shall be prepared according to the provisions of Annex 6 to these Methodological Norms.

Art. 11. - (1) Access to the public information released ex officio shall be ensured by:

a) display at the public authority's or institution's headquarters or by publishing in the Official Journal of Romania or in the mass-media, in own publications or on own website;

b) consultation at the headquarters of the public authority or institution, at the information-documentation offices, in specially designated places for this purpose.

(2) In the case of all public authorities and institutions, the information display at their headquarters shall be the minimal compulsory method of dissemination ex officio of the public information.

Art. 12. - In the administrative-territorial units where a national minority represents at least 20% of the population, the public information disclosed ex officio shall also be displayed in the language of the relevant national minority.

Art. 13. - The request for public information other than that disclosed ex officio shall be addressed to the public authority or institution, under the terms of Art.6 of Law No 544/2001.

Art. 14. - (1) To facilitate the draw up of the information petition and administrative complaint, the public authorities and institutions shall put at the disposal of the individual concerned the standard forms, for free.

(2) The standard forms for the information petition and administrative complaint are described in Annexes 1, 2a) and 2b).

(3) The form for the answer letter to the information petition and to the administrative complaint, together with the form for the register where the documents stipulated in paragraph (2) are to be recorded, are described in Annexes 3, 4 and 5.

Art. 15. - (1) The public information can be requested and released in electronic format.

(2) The public information petition or the administrative complaint may be sent by e-mail, being used the standard forms stipulated in Annexes 1, 2a) and 2b).

(3) The public information requested in electronic format, in writing, may be sent by e-mail or floppy disk.

Art. 16. - The terms for sending in writing an answer to the petitioners for public information shall be those stipulated in Law No 544/2001, which are the following:

a) 10 working days to send the public information requested, if it was identified within this term;

b) 10 working days to notify the petitioner that the initial term stipulated in letter (a) was not enough to identify the requested information;

c) 30 working days to send the public information identified over the term stipulated in letter (a);

d) 5 working days to send the refusal to disclosure the requested information, as well as the reason for the refusal.

Art. 17. - The daily working program of the information and public relations departments shall be that of the relevant public authorities or institutions, as established by their own organization and functioning regulations, including one day per week hours after the working program.

Art. 18. - (1) The access to public information shall be free of charges.

(2) The cost related to reproduction services shall be born by the petitioner, under the law.

(3) The reproduction services cost shall be paid at the cashier's office of each public authority or institution.

CHAPTER IV

Functioning of the Structures in Charge with Direct Public Information

Art. 19. - The structures or persons in charge with direct public information shall resolve the petitions for public information and shall ensure the organization and functioning of the information-documentation office.

Art. 20. - (1) The structures or persons in charge with direct public information shall receive the petitions for public information.

(2) The petition for public information is the verbal or written action (by paper or electronic format) by which a person (natural or legal person, Romanian or foreign person) may request information considered as public information.

(3) If the information is verbally requested, it is provided on the spot, if possible, or the petitioner shall be guided to address a written petition.

(4) The written petitions, by paper or electronic format (e-mail), including those stipulated in paragraph (3), shall be registered by the structures or persons in charge with direct public information, which shall deliver to the petitioner a written receipt containing the registration date and number.

Art. 21. - (1) After receiving and registering the petition, the structures or persons in charge with direct public information shall perform a first evaluation of the petition to establish the status of the information: information disclosed ex officio, provided upon request or exempted from free access.

(2) If the requested information is already disclosed ex officio in one of the forms stipulated in Art.5 of Law No 544/2001, the petitioner shall be immediately notified, but not later than 5 days, about this situation and about the source where the requested information may be found.

Art. 22. - (1) If the requested information is not an information disclosed ex officio, the petition shall be sent to the relevant structures of the public authorities or institutions, in order to verify the observance of the provisions of Art.12 of Law No 544/2001.

(2) If the requested information is identified as exempted from free access, the petitioner shall be notified about this fact within 5 days from the date of the petition registration.

(3) The structures stipulated in paragraph (1) shall identify and update the public information exempted from free access, according to the law.

Art. 23. - (1) The structures or persons in charge with direct public information shall receive from the structures stipulated in Art.22(1), the answer to the received petition and they shall prepare the answer to the petitioner together with the public information or with the reason for the delay or for the rejection of the petition, under the terms of the law.

(2) The answer shall be registered and sent to the person concerned, by the requested format, within the legal term.

Art. 24. - If the requested does not fall under the competence of the public authority or institution, the structures or persons in charge with direct public information shall send it, within 5 days from the date of petition receipt, to the relevant authorities or institutions and shall notify the petitioner about that.

Art. 25. - The structures or persons in charge with direct public information shall keep records of the answers and receipts delivered by the petitioners for the payment of the costs related to the reproduction of the requested documents.

Art. 26. - The structures or persons in charge with direct public information shall ensure the organization and functioning of the information-documentation office as follows:

a) shall ensure the publication of the information bulletin of the public authority or institution, which shall contain the public information disclosed ex officio, as stipulated in Art.5 of Law No 544/2001;

b) shall ensure the publication of the activity report of the public authority or institution in the Official Journal of Romania, Part II;

c) shall ensure the display of the public information disclosed ex officio in a written format (at the notice board, as booklets, or in electronic format, on floppy disks, CDs, web pages), as stipulated in Art.5 of Law No 544/2001;

d) shall organise, within the information-documentation office of the institution, the public's access to the information disclosed ex officio.

Art. 27. - (1) The information and public relations structure of each public authority or institution shall annually draw out a report on access to public information, which shall contain:

a) the total number of petitions for public information;

b) the total number of petitioners, classified by scope;

c) the number of petitions favourably solved;

d) the number of petitions rejected, broken down by rejection reasons (information exempted from free access, number non-existing information, etc.);

e) the number of written petitions: 1. on paper; 2. in electronic format;

f) the number of petitions addressed by natural persons;

g) the number of petitions addressed by legal persons;

h) the number of administrative complaints: 1. favourably solved; 2. rejected;

i) the number of complaints brought to court: 1. favourably solved; 2. rejected; 3. being solved;

j) the total costs of the information and public relations department;

k) the total amounts collected for the documents reproduction services related to the public information requested;

l) the estimative number of visitors of the information-documentation office.

(2) This report shall be submitted to the head of the relevant public authority or institution and shall be brought to public opinion's notice.

(3) The central public authorities and institutions shall ensure the collection of the reports from the territory, the centralized situations following to be submitted to the Ministry of Public Information.

CHAPTER V

Functioning of the Structures in Charge with Press Relation

Art. 28. - The special provisions on the access of mass-media to public information, as stipulated in Law No 544/2001, explicitly refer to the duties of the public authorities and institutions and do not regulate in any way the mass-media activity.

Art. 29. - The structures or persons in charge with the relation with the press of the relevant public authority or institution shall have the following functions:

a) to provide promptly and completely the journalists with any public information related to the activity of the public authority or institution represented by them;

b) to accredit the journalists and the mass-media representatives without discrimination, within maximum two days from the registration;

c) to inform in due time and to ensure the access of the journalists to the public activities and actions organized by the public authority or institution;

d) to ensure, periodically or whenever the activity of the relevant public authority or institution is of immediate public interest, the dissemination of press release, press information, to ensure the organisation of the press conferences, interviews or briefings;

e) to give to the journalists records on events or activities of the relevant public authority or institution;

f) not to refuse or not to withdraw the accreditation of a journalist unless for deeds that prevent the normal development of the activity of the relevant public authority or institution, or that do not concern the opinions expressed in press by the journalist in question;

g) if the accreditation of a journalist is withdrawn, to provide accreditation to another journalist of the press organization in question.

Art. 30. - (1) The accreditation shall be granted, upon request, to the applicant journalists and press institution. The accreditation cards are not transmissible and they refer to the physical presence of the journalist at the headquarters or the activities of the public authority or institution to which the access of the press is allowed.

(2) The accreditation of journalists shall not bring about the control of public authorities or institutions, which granted the relevant accreditation, over the materials published by the accredited journalist.

(3) The participation of the journalists in the activities of public authorities or institutions shall not be limited or restricted by internal regulations exceeding the wording of Law No 544/2001.

CHAPTER VI Sanctions

Art. 31. - The disciplinary responsibility of the civil servant appointed to enforce the provisions of Law No 544/2001 shall be established according to the Statute of Civil Servants, special statutes or Labour Code, as the case may be.

Art. 32. - If an individual who considers that his/her right on public information access was infringed, he/she may lodge an administrative complaint to the head of the public authority or institution to which the relevant public information has been requested.

Art. 33. - The person who considers himself/herself deprived of his/her rights may lodge an administrative complaint stipulated in Art. 32 within 30 days since he/she has acknowledge the explicit or silent refusal of the employees within the relevant public authority or institution to enforce the provisions of Law No 544/2001 and of these Methodological Norms.

Art. 34. - If the complaint proves well grounded, the answer shall be communicated to the petitioner who considers himself/herself injured, within 15 days since he/she has lodged the administrative complaint. The answer shall contain the information initially requested and shall specify the disciplinary sanctions taken against the guilty civil servant, under the terms of the law.

Art. 35. - (1) An analysis committee on the infringement of the right of access to public information shall be established at the level of each public authority or institution in order to analyze the administrative complaints lodged concerning the infringement of the provisions of Law No 544/2001 and of these Methodological Norms.

(2) The analysis committee on the infringement of the right of access to public information shall have the following functions:

- a) to receive and to analyze the complaints of the persons;
- b) to carry out the administrative investigation;
- c) to establish if the complaint of a person on the infringement of his/her right of access to public information is well grounded or not;
- d) if the complaint proves well grounded, to propose a disciplinary sanction against the liable personnel and to communicate the requested public information to the person in question. In the case of guilty civil servants, the analysis committee shall inform the disciplinary committee of the public authority or institution about the result of the administrative investigation. The disciplinary committee shall propose a proper sanction, according to the law;
- e) to draft and send the answer to the petitioner.

Art. 36. - (1) The petitioner that, after receiving the answer to his/her administrative complaint, continues to consider that his/her right stipulated by law has been infringed, may lodge a complaint to the section for administrative matters of the court, within 30 days from the expiry of the terms stipulated in Art.7 of Law No 544/2001.

(2) Exemption from the stamp duty for the complaint submitted to the Court and for the appeal submitted to the Appeal Court shall not include exemption from the payment of the costs for the copying of the public information requested.

CHAPTER VII Final Provisions

Art. 37. - Within 30 days from the date of coming into force of these methodological norms, the central and local public authorities and institutions shall provide the necessary spaces, and shall modify their organisation chart in order to enforce the provisions of Law No 544/2001.

Art. 38. - Within 60 days from the date of coming into force of these methodological norms, information and public relations departments shall be organised and internal organization and functioning regulations for the relevant departments shall be prepared.

Art. 39. - The public authorities and institutions, based on the proposals approved by the Government, under the terms of Art.24 of Law No 544/2001, shall computerize the information and public relations departments. 544/2001.

Art. 40. - Annexes 1 to 6 are an integrant part of these Methodological Norms.

ANNEX 1
to the Methodological Norms

STANDARD PETITION
- model -

Denumirea autorității sau instituției publice
Sediul/Adresa
Data

Stimate domnule/Stimată doamnă

Prin prezenta formulez o cerere conform Legii nr. 544/2001 privind liberul acces la informațiile de interes public. Doresc să primesc o copie de pe următoarele documente (*petentul este rugat să enumere cât mai concret documentele sau informațiile solicitate*):

.....
.....
.....

Doresc ca informațiile solicitate să îmi fie furnizate, în format electronic, la următoarea adresă de e-mail (*optional*):

Sunt dispus să plătesc taxele aferente serviciilor de copiere a documentelor solicitate (*dacă se solicită copii în format scris*).

Vă mulțumesc pentru sollicitudine,

.....
(semnătura petentului)

Numele și prenumele petentului
Adresa
Profesia (*optional*)
Telefon (*optional*)
Fax (*optional*)

ANNEX 2a)
to the Methodological Norms

ADMINISTRATIVE COMPLAINT (1)
- model -

Denumirea autorității sau instituției publice

Sediul/Adresa

Data

Stimate domnule/Stimată doamnă,

Prin prezenta formulez o reclamație administrativă, conform Legii nr. 544/2001 privind liberul acces la informațiile de interes public, întrucât la cererea nr. din data de am primit un răspuns negativ, la data de, într-o scrisoare semnată de

(completați numele respectivului funcționar)

Documentele de interes public solicitate erau următoarele:

.....
.....
.....
.....
.....
.....
.....

Documentele solicitate se încadrează în categoria informațiilor de interes public, din următoarele considerente:

Prin prezenta solicit revenirea asupra deciziei de a nu primi informațiile de interes public solicitate în scris/în format electronic, considerând că dreptul meu la informație, conform legii, a fost lezat.

Vă mulțumesc pentru sollicitudine,

.....
(semnătura petentului)

Numele și adresa petentului

Adresa

Telefon

Fax

ANNEX 2b)
to the Methodological Norms

ADMINISTRATIVE COMPLAINT (2)
- model -

Denumirea autorității sau instituției publice

Sediul/Adresa

Data

Stimate domnule/Stimată doamnă

Prin prezenta formulez o reclamație administrativă, conform Legii nr. 544/2001 privind liberul acces la informațiile de interes public, întrucât la cererea nr. din data de nu am primit informațiile solicitate în termenul legal, stabilit de lege. Documentele de interes public solicitate erau următoarele:

Documentele solicitate se încadrează în categoria informațiilor de interes public, din următoarele considerente:

Prin prezenta solicit revenirea asupra deciziei de a nu primi informațiile de interes public solicitate în scris/în format electronic, considerând că dreptul meu la informație, conform legii, a fost lezat.

Vă mulțumesc pentru sollicitudine,

.....
(semnătura petentului)

Numele și adresa petentului

Adresa

Telefon

Fax

ANNEX 3
to the Methodological Norms

ANSWER TO PETITION
- model -

De la:

Denumirea autorității sau instituției publice

Sediul/Adresa

Persoana de contact

Data

Către:

Numele și prenumele petentului

Adresa

Stimate domnule/Stimată doamnă

În urma cererii dumneavoastră nr. din data de, prin care, conform Legii nr. 544/2001 privind liberul acces la informațiile de interes public, solicitați o copie de pe următoarele documente:

.....
(1) vă trimitem, în anexa la prezenta scrisoare, informațiile solicitate;
(2) vă informăm că informațiile solicitate nu au putut fi identificate și expediate în termenul inițial de 10 zile, urmând să vă parvină în termen de 30 de zile de la data înregistrării cererii dumneavoastră;

(3) vă informăm că pentru rezolvarea cererii dumneavoastră trebuie să vă adresați la, întrucât instituția noastră nu deține informațiile solicitate;

(4) vă informăm că informațiile solicitate nu se încadrează în categoria informațiilor de interes public, fiind exceptate de la accesul liber al cetățenilor;

(5) vă informăm că informațiile solicitate nu există în baza de date a instituției noastre. Informațiile solicitate v-au fost furnizate în format electronic, la următoarea adresă de e-mail (opțional):

..... Taxele aferente serviciilor de copiere a documentelor solicitate sunt următoarele (când este cazul):

Al dumneavoastră,

.....
(semnătura funcționarului)

ANNEX 4
to the Methodological Norms

ANSWER TO COMPLAINT
- model -

De la:

Denumirea autorității sau instituției publice

Sediul/Adresa

Persoana de contact

Data

Către:

Numele și prenumele petentului

Adresa

Stimate domnule/Stimată doamnă

În urma reclamației dumneavoastră nr. din data de, conform Legii nr. 544/2001 privind liberul acces la informațiile de interes public, după răspunsul negativ primit/întârzierea răspunsului la cererea nr. din data de, prin care, conform legii sus-menționate, solicitați documentele de mai jos:

.....

.....

.....

vă informăm că decizia de a nu primi (la termen) documentele solicitate:

(1) se încadrează în prevederile legii, fiind vorba despre informații exceptate de la accesul liber al cetățenilor;

(2) nu se încadrează în prevederile legii, fiind o eroare a unui funcționar. Vă asigurăm, cu scuzele noastre, că informațiile de interes public solicitate vă vor fi transmise în termenul legal de 15 zile. Funcționarul vinovat pentru decizia eronată în ceea ce vă privește a fost sancționat cu

Al dumneavoastră,

.....
(semnătura conducătorului
autorității sau instituției publice)

GUIDING FRAMEWORK
for drawing out the annual activity report of the public authority or institution

An activity report shall contain the following standard elements:

1. mission of the public authority or institution, as well as the goals that must be reached during the reporting period;
2. key performance indicators, being reported also the stage of their accomplishment;
3. brief presentation of the programmes developed and of their way of complying with the goals of the public authority or institution;
4. report on the expenditures, broken down on programmes;
5. unfulfilments, with the specification of their causes (when necessary);
6. proposals on remedying deficiencies.