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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW

ON FREEDOM TO RECEIVE INFORMATION

OF THE REPUBLIC OF ARMENIA

DRAFT

ARTICLE 1 SUBJECT MATTER AND SCOPE OF THE LAW

1. This law shall govern the relationships related to freedom to receive information, define the responsibilities of holders of information in the field of providing information as well as the procedure and conditions for receiving information from holders of information.
2. The responsibility of providing information under this Law shall apply to state and local self-governance authorities, state institutions and their officials, as well as organisations providing public services.

ARTICLE 2 LEGISLATION ON FREEDOM TO RECEIVE INFORMATION

1. The legislation on freedom to receive information comprises the Constitution of the Republic of Armenia, this Law and other legislative acts.
2. Where the international treaties of the Republic of Armenia stipulate rules other than those provided for by this Law, the rules of the international treaty shall apply.

ARTICLE 3 MAIN DEFINITIONS USED IN THE LAW

The main definitions used in this Law are:

- 1) freedom to receive information: right to receive information freely in accordance with the law;
- 2) information: final data on any subject, fact, circumstance, event, occurrence or phenomenon stored on any kind of medium (paper-based, electronic, videotape, cine-films or photo-films, etc.) possessed by the holder of information - irrespective of the dates of their production and place of their storage;
- 3) organisation providing public services: an organisation, the peculiarities of the activity of which is regulated by the Public Services Regulatory Commission of the Republic of Armenia;
- 4) holder of information: state or local self-governance authority, state institution or the officials thereof (hereinafter referred to as "state and local self-governance authorities"), as well as organisation providing public services (hereinafter referred to as "organisation");
- 5) request: a written or verbal application filed with the holder of information in accordance with this Law for the purpose of receiving information;
- 6) publication: dissemination of information or making it accessible to the public through press or other mass media, the World Wide Web (hereinafter "the Internet"), as well as via other means provided for by legislation.

ARTICLE 4 MAIN PRINCIPLES OF ENSURING THE FREEDOM TO RECEIVE INFORMATION

The main principles of ensuring the freedom to receive information are:

- 1) guaranteeing the right to freedom to receive information by the state;
- 2) ensuring access to information;
- 3) publicity of information.

ARTICLE 5 PROTECTION OF THE RIGHT TO FREEDOM TO RECEIVE INFORMATION

1. Everyone shall have the right to familiarise himself/herself with the information sought and/or, with an aim of receiving it, file a request with the holder of information as prescribed by law and receive the information concerned.

2. The freedom to receive information may be restricted by law.

ARTICLE 6 INFORMATION SUBJECT TO PUBLICATION

1. An information holder shall immediately publish or communicate to the public - through other accessible means - the information that it holds, the publication of which may prevent a threat to national security and public safety, public order, public health and morals, rights and freedoms of others, environment, property of persons.

2. The following shall be subject to mandatory publication:

- 1) the Constitution and prudential legal acts of the Republic of Armenia, and the international treaties of the Republic of Armenia;
- 2) official clarifications of legal acts;
- 3) plans on modifying the places of life activities of natural persons and those of operating activities of legal persons, zoning of territory and other envisaged urban development changes;
- 4) budget of state and local self-governance authorities;
- 5) other information provided for by law.

The information referred to in this Part shall be published by state or local self-governance authorities directly responsible for the information concerned, unless other procedures or terms of publication are prescribed by law.

3. The State and local self-governance authorities are obliged to regularly post on their websites the final versions of:

- 1) the charter of the authority concerned and other legal acts governing its activities;
- 2) the organisational structure and staff list of the authority concerned;
- 3) the following information on the employees (officials, executives) of the authority concerned who hold political or discretionary positions, as well as on members of the Constitutional Court, judges, prosecutors, members of independent commissions, members of the Board of the Central Bank, the chief of staff of a given authority:
 - a. name, surname, patronymic name;
 - b. position held;
 - c. national origin;
 - d. nationality;
 - e. political party affiliation;
 - f. date and place of birth;
 - g. marital status;
 - h. work history;
 - i. education, profession;
 - j. military service;
 - k. office telephone number, work e-mail address;
 - l. areas of responsibility of the person concerned;
 - m. reception days and hours;
 - n. government awards or titles received;
 - o. previous conviction;
 - p. incentive measures applied and sanctions imposed on him/her during his term of office;
 - q. cases of administrative liability imposed on him/her during his/her term of office, as well as the grounds and type thereof;
 - r. other information provided for by law and other legal acts.

- 4) procedure, day, hour and the venue of reception of citizens in the authority concerned;
- 5) activity reports of the authority concerned;
- 6) activity plans of the authority concerned and the issues concerning that authority set out in Activity plans envisaged by legislation;
- 7) types, manner of provision of government services by the authority concerned and the amount and payment procedure of state fee or service fee to be paid for those services;
- 8) draft laws or draft normative legal acts communicated to the Government of the Republic of Armenia by the authority concerned;
- 9) vacancies available in the authority concerned and the procedure, conditions and terms of applying for them;
- 10) name, surname, telephone number of the person responsible for maintenance of the website of the authority concerned.

The information provided for in this Part containing a state or official secret shall not be posted on the website.

4. Organisations are obliged to regularly post on their websites the final versions of:

- 1) the statute of the organisation;
- 2) types of public services provided by the organisation, the procedure and rates for the provision thereof, indicators (norms, standards or technical requirements) envisaged by the legislation with respect to the quality and quantity of services provided;
- 3) registered office and telephone numbers of the organisation;
- 4) names, surnames, telephone numbers, workplace of persons responsible for public services provided by the organisation and the quality and quantity thereof;
- 5) the procedure for lodging an appeal against the activity of the organisation;
- 6) the procedure for redress of damage caused to consumers when the organisation fails to provide public services or provides them in an improper manner;
- 7) standard form contracts (if available) for services provided by the organisation;
- 8) the procedure, hours of reception of consumers and the procedure for examining consumers' requests and complaints;
- 9) name, surname, telephone number of the person responsible for maintenance of the website of the authority concerned;
- 10) name, surname, telephone number of the person responsible for obtaining verbal information.

ARTICLE 7 INFORMATION TO BE PROVIDED

1. State and local self-governance authorities are obliged to, in accordance with the procedure and terms prescribed by this Law, provide any legal and natural person with:

- 1) any final information under their disposition except for cases provided for by law;
- 2) the following information on state or community servicemen working in the aforementioned authorities:
 - a. name, surname, patronymic name;
 - b. position held;
 - c. date of birth;
 - d. education, profession;

- e. nationality;
- f. military service;
- g. office telephone number, work e-mail address;
- h. areas of responsibility of the person concerned;
- i. reception days and hours;
- j. government awards and titles received;
- k. incentive measures applied and sanctions imposed on him/her during his/her term of office.

2. An information holder is obliged to, in accordance with the procedure and terms prescribed by this Law:

1) provide natural persons with information on the personal data - compiled or existing in the authority or organisation concerned – relating to the person concerned or on any other person under his/her custody or trusteeship, unless the provision of the given information is prohibited by law;

2) provide natural person's heir with information on the personal data - compiled or existing in the authority or organisation concerned – relating to a decedent, unless the provision of the given information is prohibited by law.

3. Organisations are obliged to, in accordance with the procedure prescribed by this Law, provide any legal or natural person with information referred to in Article 6(4) of this Law.

ARTICLE 8 RESTRICTIONS ON FREEDOM TO RECEIVE INFORMATION

1. Information may not be requested or provided if:

1) it contains a state, official, bank, commercial, tax, medical secret, or is protected by a notary-client or attorney-client privilege, or other secrets provided for by law;

2) it is not available on any media or its final version is not available (incomplete information) or the process related thereto has not been finalised;

3) it is an infringement of privacy of personal or family life of a person or confidentiality of correspondence, telephone conversations, postal, telegram and other communications;

4) it contains information on other natural or legal persons, or it becomes obvious from the essence of information that it relates to a particular natural or legal person, unless otherwise stipulated by law;

5) it contains pre-trial data not subject to disclosure;

6) it is an infringement of copyright and/or related rights;

7) it endangers the foreign policy of the Republic of Armenia;

8) it endangers the state budget or the stability of the currency of the Republic of Armenia;

9) it is a case pending before a court;

10) it is a civil law, employment or other contract;

11) it does not comply with the requirements of Article 9(14) of this Law;

12) it is another person's property though it is under the disposal of the information holder;

13) copying and provision thereof may damage the medium containing the information;

14) it has been drawn up or signed or prepared together with an other person (a natural or legal person, a representative of another state, an international organisation, etc.) who has not given his/her consent to the provision or publication of the information;

15) the provision or publication thereof is prohibited by law.

2. In cases where a part of the information contains data, the provision of which is subject to refusal, information may be provided on the remaining part if those parts are severable.

ARTICLE 9 PROCEDURE AND TERMS FOR SUBMITTING AND EXAMINING A REQUEST

1. In order to obtain information a natural or legal person shall submit a request for information to an information holder. The information shall be provided in accordance with the procedure and within the terms provided for in this Article, unless other procedure or terms for obtaining information are prescribed by law or other legal acts.

2. In case of a verbal request, an applicant shall notify his/her name and surname in advance.

3. A verbal request shall be responded where it is possible to provide a verbal response and where:

- 1) an applicant wishes to know the address, telephone numbers, e-mail address of the information holder, the particulars of the person responsible for the field concerned;
- 2) the required information refers to the procedure and conditions for reception of citizens in the authority concerned;
- 3) the required information refers to the procedure and conditions for obtaining the information concerned.

4. The response to a verbal request shall be provided verbally immediately after hearing the request.

5. A written request shall contain:

- 1) applicant's name, surname, in case of a legal person - the full name;
- 2) applicant's address (the registered office of the legal person);
- 3) name of the state or local self-governance authority or of the organisation to which the request is submitted;
- 4) essence of the required information;
- 5) date of submission of the request;
- 6) requester's signature, in case of a legal person - the signature of the competent official.

6. The response to a written request shall be provided by means of the material medium specified in the request. Where the material medium is not specified and it is impossible to determine it in order to respond to the request within the term defined by this Law or where it is impossible to provide information by means of the medium specified in the request, the response to a written request shall be provided by means of a medium which is more acceptable to the state or local self-governance authorities or to the organisation.

7. An applicant may, upon his/her intention, familiarise himself/herself with the information on the spot; in that case the information shall not be provided to him/her by means of a medium.

8. A request via Internet shall contain:

- 1) applicant's name, surname, in case of a legal person - the full name;
- 2) applicant's address (the registered office of the legal person);
- 3) applicant's e-mail address;
- 4) essence of the required information;
- 5) date of submission of the request;
- 6) requester's electronic signature, in case of a legal person - the electronic signature of the competent official.

In case of a request via Internet, the information shall be provided if its final electronic version is available. In case of a request via Internet, responses shall also be provided via Internet.

9. In order to obtain the information provided for in Article 7(2) of this Law, the person shall appear in person with a passport or other identification card, or his/her signature on the request must be certified as prescribed by law. Information with regard to a person under custody or trusteeship or with regard to a decedent shall only be provided in case of submitting documents proving the fact of custody, trusteeship or being an heir. Where the request is submitted through a representative, a proxy issued as prescribed by law shall also be submitted.

10. Where payments are required to be made in order to obtain information, the requester shall have the right to submit payment receipts.

11. An applicant shall not be obliged to justify his/her request.

12. Unless other term is prescribed by law or other legal act for a response to a written request or a request via Internet, the response to a request shall be provided within the following terms:

- 1) where the information referred to in the written request or in the request via Internet is not published, the copy thereof shall be provided to the applicant within a five-day period after receiving the request;
- 2) where the information referred to in the written request or in the request via Internet is published, the information on the medium, the place and term of the publication shall be provided to the applicant within a five-day period after receiving the request;
- 3) where additional work is necessary to provide the information referred to in the written request or in the request via Internet, the information shall be provided to the applicant within a thirty-day period after receiving the request, which - within a five-day period after receiving a request - shall be notified to the applicant in writing specifying the reasons of delay and the deadline for the provision of information;
- 4) where, in case of a request via Internet, it becomes clear that such information is not available by digital means, the applicant shall be notified thereof within a five-day period;
- 5) where other procedure for or other conditions for providing information is prescribed by law or other legal acts for obtaining the information concerned, the requester is notified thereof within a five-day period after receiving the request;
- 6) where it becomes clear that the information holder does not have the requested information or the provision thereof is beyond his/her powers, the latter must inform the applicant thereon within a five-day period after receiving a written request or a request via Internet, and, where possible, must provide the latter with the name or the registered office of the authority or the organisation holding the relevant information.

13. If the information holder does not possess all the data concerning the information, he/she shall provide the applicant with the part of information that it possesses and, where possible, it shall mention in the response to the request the name or registered office of the authority or organisation holding the relevant information.

14. Written or Internet requests shall not be responded if:

- 1) they do not contain all the data provided for in this Article;
- 2) it becomes clear that data on the applicant's identity are false;
- 3) it is the second request by the same person with regard to the same information in the course of the preceding six months except for cases provided for in Article 10(4) of this Law.

ARTICLE 10 CONDITIONS FOR PROVIDING INFORMATION

1. Provision of information or its copy (photocopy) by the information holder shall be carried out pursuant to this Article, unless otherwise provided for by law or other legal acts.
2. No charges shall be levied by state or local self-governance authorities for the provision of information provided for by this Law in the following cases:
 - 1) responses to verbal requests;
 - 2) provision of information - printed or photocopied - of up to ten pages;
 - 3) provision of information via Internet;
 - 4) where the requested information relates to the rights, freedoms, obligations, restrictions of rights or liabilities of the applicant concerned, as well as personal and family life of the natural person applicant and his/her dependants and the persons under his/her trusteeship;
 - 5) where the requested information relates to emergency cases posing an imminent threat to the safety and health of citizens;
 - 6) where the requested information relates to emergency situations, nature protection, hydro meteorological, demographic, sanitary-epidemic, quarantine situations or infectious diseases;
 - 7) where the requested information relates to the names, surnames, education, profession, telephone numbers, e-mail addresses and other contact details of the officials of the respective authority;
 - 8) when refusing to provide information or failure to provide information.
 - 9) The organisations shall independently determine the amount of charges for the provision of information, which cannot exceed the costs for providing the given information.
3. The authority or organisation that has provided information containing inaccurate or incomplete data shall, on the basis of a written request by the receiver of the information, provide the information with corrected data free of charge as prescribed by this Law.

ARTICLE 11 GROUNDS AND PROCEDURE FOR REFUSAL TO PROVIDE INFORMATION

1. The provision of information shall be refused in cases stipulated by this Law or in case of a failure to pay the charges required for the provision of information.
2. In case of refusal to provide information requested by a written or Internet request, the information holder shall notify the applicant in writing, within a five-day period, indicating the legal grounds for refusals well as the appeal procedure thereof.
3. The refusal to provide information may be appealed in court.

ARTICLE 12 RESPONSIBILITIES OF INFORMATION HOLDERS

In accordance with the procedure stipulated by law an information holder is obliged to:

- 1) ensure the accessibility and publicity of receiving the information provided for by this Law;
- 2) provide the person seeking information with accurate and complete information under its disposal.

ARTICLE 13 LIABILITY FOR BREACH OF FREEDOM OF INFORMATION

Refusal to provide information or provision of inaccurate information as well as other breaches of the procedure prescribed by this Law shall give rise to liability prescribed by law, except for the cases provided for by this Law.

ARTICLE 14 ENTRY INTO FORCE

1. This law shall enter into force on the tenth day following its official publication.
2. The Law of the Republic of Armenia No. LA-11N of 23 September 2003 “On freedom of information” shall be repealed.