

Council of Europe Group on Access to Information (AIG)

**Report submitted by Montenegro
pursuant to Article 14, paragraph 1
of the Council of Europe Convention
on Access to Official Documents (CETS No.205)**

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Report on implementation of Council of Europe Convention on Access to Official Documents (CETS n°205) — *Tromso Convention*

Resolution CM/Res (2021)2 on rules on the election procedure of the members of the Group of Specialists on Access to Official Documents

The right of access and re-use of information is covered by a number of domestic and international regulations and it is therefore important for the authorities responsible for dealing with requests for access and re-use of information to have an overview of key documents governing this area.

Key international documents in the field of the right to access information include the UN Resolution of 1946 and the UN Universal Declaration of Human Rights of 1948, which in Article 19 emphasizes the freedom to seek, receive and impart information.

There are several documents in the field of access to information in Europe, of which the European Convention on Human Rights of 1950, which stipulates in Article 10 that everyone has the right to freedom of expression, should be highlighted. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. In addition to the European Convention on Human Rights, the Council of Europe adopted the Convention on Access to Official Documents, which Montenegro acceded to on 18 June 2009 and ratified in 2012.

When accessing information and public participation in environmental matters, it is necessary to mention the Convention on Access to Information, Public Participation in Decision-Making and the Right to Legal Protection in Environmental Matters of 1998 (Aarhus Convention), ratified by the Law on Ratification of the Convention on Access to Information. the public in decision-making and the right to legal protection in environmental matters ("Official Gazette of Montenegro" -MU 3/09). The Convention stipulates that in order to contribute to the protection of the right of every individual of present and future generations to live in an environment adequate to their health and well-being, each Party shall guarantee the right to information, public participation in decision-making and the right to environmental protection, in accordance with the provisions of this Convention.

The most important source of the right to access information in Montenegro is the Constitution of Montenegro ("Official Gazette of Montenegro", No. 1/07, 38/13), which in Article 51 guarantees the right to access information held by state bodies and organizations engaged in public. It stipulates that this right may be limited if it is in the interest of: protection of life, public

health, morals and privacy, criminal proceedings, security and defense of Montenegro, and foreign, monetary and economic policy.

The basic legal act regulating the right to access information is the Law on Free Access to Information (" Official Gazette of Montenegro " 44/12, 30/17, hereinafter: the Law). The law regulates the right to access information and reuse 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 and its duration, the procedure for exercising and protecting the right to access information and re-use of information, competencies of the Agency, powers of the Agency Council, judicial protection, inspection supervision over the application of the Law, misdemeanor provisions regarding authorities and the Agency, related to exercising the right to free access to information and other obligations of authorities. In addition to the Law on the Direct Work of the authorities responsible for acting in accordance with the said Law, by-laws in the field of access and re-use of information are particularly important. Thus, the Decree on Reimbursement of Costs in the Procedure for Access to Information (Official Gazette of Montenegro, No. 66/16 and 121/21) prescribes the amount of reimbursement of actual costs of public authorities in the procedure for access to information for copying, scanning and submitting requested information, borne by the applicant. for access to information, thus preventing the authorities from arbitrarily determining the costs of providing information to applicants. In addition to the aforementioned Decree, there is an Ordinance on the content and manner of managing the Information System for Access to Information (Official Gazette of Montenegro, No. 10/13), which prescribes the content and manner of managing the Information System kept by the Agency to monitor the situation in the field of access to information.

When applying the Law, the authorities responsible for handling requests for access and re-use of information also apply the provisions of other procedural regulations such as the Law on Administrative Procedure (" Official Gazette of Montenegro ", no. 56/14, 20/15, 40/16 , 37/17) and the Law on Administrative Dispute ("Official Gazette of Montenegro", No. 54/16).

Applying the Law, the authorities responsible for acting upon the applicant's request are obliged to apply special laws regulating personal data, classified information, business and tax secrets, regulations related to security, defense, foreign, monetary and economic policy, etc.

In addition, the authorities are obliged to apply the Law on Administrative Fees ("Official Gazette of Montenegro", No. 55/03, 46/04, 81/05, 2/06, 22/08, 77/08, 03/09 , 40/10, 20/11, 26/11, 56/13, 45/14, 53/16, 37/17) which prescribes the payment of administrative fees for files and actions before state administration bodies, diplomatic missions of Montenegro abroad, local government bodies and other legal entities that have public authority, in accordance with the Tariff for Administrative Fees.

In the field of information re-use, reference should be made to Directive 2003/98 / EC on the re-use of public sector information and Directive 2013/37 / EU of the European Parliament and of

the Council of 26 June 2013 amending Directive 2003/98 / EC on the re-use of information public sector (the so-called PSI Directive), given that the Law regulates the re-use of information. In addition to the mentioned Directives for understanding certain areas of information reuse, it is important to mention the Guidelines on Priority Data Sets, Licenses and Costs of the European Commission, which were published to help Member States implement legislation by identifying best practices.

Law on Data Protection established the Agency of Personal Data Protection in 2008, as an independent authority for the protection of the personal data. The Agency became functional in 2009 upon the appointment of the Council of the Agency (collegiate body comprised of the president and two members) and the director.

The Agency acquired the prerogatives in the area of free access to information in 2012, was renamed as the Agency for Personal Data Protection and Free Access to Information, to reflect the new tasks, and functionally started to implement the Law in 2013. The 2012 new Law on the Free Access to Information introduced the independent oversight of the access to information by the Agency for Data Protection. The Agency has several enforcement powers under LDP including proceeding upon requests for data protection, giving opinions, monitoring compliance, investigating and sanctioning, etc. (article 50)

The organization and work of Agency is regulated by the Law on Data Protection (OG 079/08, 070/09, 044/12, 022/17), notably articles 49- 64. The Agency has a Statute of the Agency and a Rulebook of the Agency (OG 26/2013). The Agency has a legal personality, and is independent and autonomous in performing its functions. Main activities of the Agency in accordance with the LFAI include

- appeals procedure
- inspections control of the proactive publication of information, guide for information, and information system submissions (to be supplemented by full inspections control function in the amended LFAI)
- sanctioning procedure initiative in relation to issues under inspection (to be enhanced in the amended LFAI)
- information system maintenance
- monitoring and reporting to the Parliament
- reuse and open data appeals and database of exclusive rights.

II - LEGISLATIVE AND OTHER MEASURES GIVING EFFECT TO THE PROVISIONS OF THE CONVENTION

Article 1— General Provisions

The definition of "public authorities" Article 9

public authority shall mean a state authority (legislative, executive, judicial, administrative), local self-government authority, local administration authority, institution, company and any other legal person founded or co-founded by the state or in majority ownership of the state or local self-government, legal person mainly financed from public resources, as well as well as a natural person, entrepreneur or legal person having public responsibilities or managing public funds;

The definition of "official documents" Article 9

2) information held by public authorities shall mean factual possession of the requested information by the public authority (their own information, as well as information reported by other government agencies or third persons), regardless of the grounds and manner of acquisition;

Information and access to information Article 10 Information shall be a document in written, print, video, audio, electronic or any other form, including its copy or part thereof, regardless to content, source (of author), date and time of composing or classification system. The right on access to information shall encompass the right to ask for and receive information, regardless to purpose and data consisted of.

Article 2 — Right of access to official documents

Subject

Article 1

Right on access to information held by public authorities shall be exercised in manner and according to procedure prescribed by this Law.

Principles and standards Article 2

Access to information held by public authorities (hereinafter referred to as "access to information") shall be based on the principles of free access to information, transparency in work of public authorities, the right of the public to know and equality of requests, and it shall be carried out at the level of standards set out in ratified international agreements on human rights and freedoms and in generally recognized rules of international law.

Free access to information Article 3

Any national or foreign legal and natural entity shall be entitled to access the information, without being obliged to state the reasons or explain the interests for seeking the information.

Transparency of work Article 4

Access to information shall ensure the transparency of work, foster the efficiency, effectiveness, and accountability, and affirms their integrity and legitimacy of the public authority.

Right of the public to know Article 5

Access to information shall ensure for the public to be informed and to know information held by the public authority, which are of importance to forming of opinions on the state of society and functioning of authorities, as well as for exercise of democratic control over authorities, and exercise of human rights and freedoms.

Equality of requests Article 6

Public authorities shall provide any legal or physical entity with the access to information on an equal basis and under equal conditions, unless otherwise stipulated in this Law. Public interest Article 7 Access to information is of public interest. Access to information may be restricted only in purpose of protecting the interests specified in this Law. Gender sensitivity Article 8 The expressions used in this Law for natural persons in the masculine gender shall be considered as including the feminine gender.

Article 3 — Possible limitations to access to official documents

Restriction of access to information

Article 14

The public authority may restrict access to information or a part thereof if it is in the interest of following: 1) protection of privacy from disclosure of personal data envisaged in the law regulating protection of data on individual, except for data relating to following: - persons exercising public function, data relating to the public function exercise, as well as to incomes, property and conflict of interest of those persons and their relatives covered by the law regulating preventing of conflict of interest; - resources allocated from the public funds, except those for social security benefits, health care, and protection against unemployment; 2) security, defense, foreign, monetary and economic policy of Montenegro, in accordance with the laws regulating the field of data secrecy, classified with certain level of confidentiality; 3) prevention of investigation and criminal prosecution, in order to protect from disclosure data referring to following: - to prevent committing the criminal act, - on reporting criminal act and perpetrator of it, - on content of actions undertaken in pre-trial and criminal procedure; - data collected through observation and investigation, - on secret surveillance measures; - on protected witness and collaborators of justice; - efficient conducting of procedure; 4) performing the official duty, in order to protect from disclosure data referring to following: - planning of inspection control and supervision by the public authority, - consultations within and between public authorities regarding defining the positions and development of official documents and proposals for

resolution of a case, - work and decision making by collegial bodies; - bringing and conduct of disciplinary proceedings; 5) protection of private and commercial interest from disclosure of data relating to protection of competition and business secret in relation to intellectual property right 6. if the information is a business or tax secret in accordance with the law

Duration of restriction

Article 15

Restriction of access to information for the purpose of protecting privacy and data on protected witness and collaborator of justice shall last 70 years from the day of production, and at least 20 years following the demise of a person to whom the information relates, except in case that concerned person, or his/her spouse, children, or parents consent to earlier publication of information. Restrictions of access to information for the purpose of protection of security, defense, foreign, monetary, and economic policies of Montenegro may last not later than until the expiry of the timeframes set by the law governing data secrecy. Restrictions of access to information for the prevention of investigation and criminal prosecution shall last until the procedure is completed the latest. Restrictions of access to information for the purpose of performing official duty shall last until the official document is prepared, or proposed solution for the case is defined, minutes of the meeting of collegial body is verified, and disciplinary procedure is completed. Restrictions of access to information for the purpose of protecting private and commercial interests shall last until the expiry of the timeframes set by the law governing intellectual property rights.

Harm test for disclosure of information

Article 16

Access to information shall be restricted if disclosure of information would significantly jeopardize interests referred to in Article 14 herein, or if there is a possibility that disclosure of information would cause harm to interest that is greater than the interest of the public to know that information, unless there is prevailing public interest prescribed by the Article 17 of this Law. The harm test referred to in paragraph 1 of this Article shall not be applied to the exemption defined by the Article 14, paragraph 1, point 1, items 1 and 2 of this Law. The public authority shall decide upon a request for access to information containing classified data after obtaining a previous consent of the authority that proclaimed information as classified. In the case referred to in paragraph 3 of this Article, the classifying authority shall, within eight working days as of receiving a request for consent, deliver a corresponding decision to the public authority deciding upon the request for information access. The harm test shall not be applied to data contained in information that is proclaimed as classified by the foreign state or an international organisation.

Prevailing public interest

Article 17

Prevailing public interest for disclosure of information, or a part thereof, exists when the requested information contains data that evidently refer to following: 1) corruption, nonobservance of regulations, unauthorised use of public funds, or abuse of authority in exercising public function; 2) the existence of grounds to believe that a criminal offence has been committed or existence of reasons to challenge a court decision; 3) illegal receiving or spending of funds originating from public revenues; 4) threats to public security; 5) threats to life; 6) threats to public health; 7) threats to the environment; The public authority shall grant the access to information or part of information referred to in Article 14 herein in cases when there is prevailing public interest for disclosure of information, unless it proves the existence of other prevailing public interest.

Legal restrictions on access to information

Access to information is in the public interest and the authorities are obliged to enable everyone to have access to information under equal conditions, but the right to access information is not an absolute and unlimited right. The legislator foresaw that it could be limited, but only for the protection of interests listed in Article 14 of the Law on Free Access to Information, and only if it is proven in each individual case that the damage due to disclosure of information in the protected interest would be greater than public interest.

In addition to addressing requests for access to information in which it is easy to decide, the authority may face a challenge when there are legal restrictions on the information, either in relation to the whole information or only in part.

When considering such requests, persons from the competent organizational units from whose scope of work the information or the legal service may participate may also take part in deciding whether or not the applicant may be granted access to information. Also, in certain cases, the opinion of the competent authorities outside the authority responsible for handling the request may be requested, but the deadlines for resolving the request should be followed.

If the authority finds that any of the restrictions listed in Article 14 of the Law exist, the authority is obliged to state in the decision which category of exception is in question, is the reasons for which it decided to withhold information and justify its decision.

This does not mean that in case of restrictions, a decision is automatically made rejecting the request for access to information, but a test of the harmfulness of disclosing information from Article 16 of the Law should be conducted in relation to that information. The test of harmfulness of disclosure of information is not conducted only for information from Article 14, paragraph 1, items 1 and 2 of the Law, ie for information on data related to public officials, which are related to performing public office, data related to their income , property and conflicts of interest of those persons and their relatives covered by the law governing the prevention of conflicts of

interest and when requesting information on funds allocated from public revenues (except for social benefits, health care and unemployment protection).

The authority may restrict access to information or part of the information if it is in the interest of:

1. protection of privacy from disclosure of data provided by the law governing the protection of personal data. Excluded from this restriction are the aforementioned data relating to public officials and funds allocated from public revenues, except for social benefits, health care and unemployment protection;

a. if the information contains data on a protected witness and cooperating witness, the restriction lasts for 70 years from its occurrence and at least 20 years from the death of the person to whom it relates (unless the data subject or his spouse, children or parents after his death agree to the information being published earlier).

According to the Law on Personal Data Protection, personal data are all information relating to a natural person whose identity has been established or can be established.

Personal data refer only to natural persons, so it is not possible to use this restriction with regard to legal entities, and there is an exception to the application of this restriction with regard to data on public officials related to public office, income, property and conflict of interest. and their relatives covered by the law governing the prevention of conflicts of interest and in respect of funds allocated from public revenues, except for social benefits, health care and unemployment protection.

2. security, defense, foreign, monetary and economic policy of Montenegro, in accordance with the regulations governing the confidentiality of data, marked with the degree of secrecy;

a. the restriction may last until the expiration of the deadlines prescribed by the law governing the confidentiality of data. Pursuant to the Law on Data Secrecy, classified data are data the disclosure of which to an uninvited person could or could have harmful consequences for the security and defense, foreign, monetary and economic policy of Montenegro. Classified information can be classified into one of four levels of secrecy: top secret, secret, confidential and internal. When deciding on the request requesting information determined by the degree of secrecy, in the process of conducting the test of harmfulness of disclosure of information, the authority is obliged to obtain the consent of the authority that determined the secrecy of information. The authority that determined the secrecy of the data is obliged to, within 10 days from the day of receipt of the request for consent, submit the appropriate act to the body that decides on the request for access to information.

3. prevention of investigation and prosecution of perpetrators of criminal offenses, in order to protect against disclosure of data related to: prevention of criminal offenses, reporting of criminal offenses and their perpetrators, contents of actions taken in pre-trial and criminal

proceedings, evidence collected by reconnaissance and investigation, secret surveillance measures, protected witness and cooperating witness, efficiency of conducting the procedure;

a. the restriction may last until the end of the procedure;

4. performing official duties, in order to protect against disclosure of data related to: planning of inspection control and supervision by public authorities, consultations within and between public authorities regarding the establishment of positions, in order to prepare official documents and propose solutions to a case, work and decision-making of collegial bodies, initiation and conduct of disciplinary proceedings;

a. the restriction may last until the preparation of an official document or the determination of a proposal for the resolution of a case, the verification of the minutes from the session of the collegial body and the completion of disciplinary proceedings;

5. protection of trade and other economic interests from the publication of data related to the protection of competition as well as business secrets related to intellectual property rights;

a. the restriction lasts until the expiration of the term in accordance with the law governing intellectual property rights.

Intellectual property rights are copyright and related rights, trademark, geographical indications of origin, design, patent and topography of integrated circuits. Intellectual property rights are the subject of several substantive laws, the application of which is prescribed by the Law on the Application of Regulations Regulating Intellectual Property Rights ("Official Gazette of Montenegro", No. 45/05), namely: Law on Copyright and Related Rights "Official Gazette of Montenegro", No. 37/11), Law on Trademark ("Official Gazette of Montenegro", No. 72/10), Law on Legal Protection of Industrial Design, "Official Gazette of Montenegro", No. 80/10), Law on Protection of Topographies of Semiconductors ("Official Gazette of Montenegro", No. 75/10), Law on Geographical Indications ("Official Gazette of Montenegro", No. 48/08), Law on Patents Gore ", No. 40/10), Law on Cinematography (" Official Gazette of Montenegro ", No. 14/08), Law on Optical Discs (" Official Gazette of Montenegro ", No. 2/07, 53/11)

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6. if the information is a business or tax secret in accordance with the law.

There is no universal definition of business secret in the legislation of Montenegro, but it is defined differently in individual regulations, in laws and bylaws. Tax secrecy is prescribed by Article 16 of the Law on Tax Administration, which states that tax secrecy is any information or data on the taxpayer available to the tax authority, except for information and data for which the taxpayer declares in writing that they are not considered tax secrets. they cannot be connected with a specific taxpayer, nor can they be identified in any other way, data related to the existence of tax debt, if the mortgage or fiduciary as a security is registered in public books, data on

Article 20

The public authority shall assist the applicant, as far as reasonably possible, to access the requested information. If the request for the information is incomplete or illegible and therefore it cannot be acted upon, the authority shall invite the applicant to correct the deficiencies in the request within 8 days from the date of submission, and give him/her instructions on how to remedy the deficiencies. In the case of paragraph 2 of this Article, deadline for processing upon request shall begin on the day of submission the corrected request. If the public authority is not in possession of the requested information, and if knows which authority is competent for processing upon request for access to information, it shall, with no delay, deliver the request to the competent public authority and inform the applicant on undertook actions.

The authority may prescribe the forms of requests for access to information, but these forms are not binding on the submitters, is the authority is obliged to act upon the request that was not submitted on the prescribed form.

If the request is incomplete and incomprehensible, and therefore cannot be acted upon, the authority shall, within three days from the day of receipt of the request, invite the applicant to correct it and set a deadline within which it is obliged to do so. If the applicant corrects the request within the deadline set, the request shall be deemed to have been valid since its submission, and if the authority fails to do so, it shall reject the request within seven days, pursuant to Article 60 paragraph 3 of the Administrative Procedure Act.

It should be borne in mind that the applicant does not have to know the exact name of the information, date, number of certain information, etc., e.g. the applicant requests information called a lease agreement, and the contract is called a lease agreement and it can be unequivocally determined that this is the requested information.

Such action of the authorities derives from its obligation to assist the applicant in gaining access to the requested information and the principles of active assistance to the party prescribed by the Law on Administrative Procedure. The ignorance or ignorance of the applicant cannot be to the detriment of the protection of his rights and legal interests!

It is important to note that it is against the Law to ask the applicants for the purpose of submitting the request, is to ask him to state the reasons for requesting access to information. Article 3 of the Law stipulates that every domestic and foreign natural and legal person has the right to access information, without the obligation to state the reasons and explain the interest in requesting information. The authority must not, therefore, ask the applicant to rectify its request.

Article 5 — Processing of requests for access to official documents

taxpayer registration, PIB, name and main place of business; data on the value of immovable property and data published quarterly by the tax authority on the list of tax debtors.

The law also provided for the possibility of providing the applicant with partial access to the requested information, is that if the information is subject to restrictions only in some part, those parts will be limited, and the remaining information will be provided to the applicant by deleting parts of information with limited access. Deleted parts are marked "deleted" and notified of the extent of deletion (lines, paragraphs and pages), and deletion must be performed in a way that can not destroy or damage the text or content of information.

Article 4 .Requests for access to official documents

III PROCEDURE FOR ACCESS TO INFORMATION

Initiation of procedure Article 18

Procedure for access to information shall be initiated upon a written or verbal request of an individual seeking access to information. One request for information may refer to several pieces of information. The written request for access to information shall be submitted directly to the responsible authority by hand, mail, or e-mail (via fax, e-mail, etc). The verbal request shall be submitted to the responsible authority directly to the minutes/record. If the applicant requests the public authority shall issue, or deliver, adequate proof confirming reception of the request for access to information.

Content of the request

Article 19

The request for access to information shall contain: 1) the name of the information or data that allow its identification; 2) the form in which the applicant wishes to access information; 3) Information on the applicant (name, family name and address of a natural person, or name and address of a legal person), and/or his or her attorney, representative or proxy); The applicant may list in the request other data that are, in his/her opinion, of importance for exercise of the right of access to the requested information. The public authority may issue or define form/pattern of the request for access to information, but it is obliged to proceed upon the request even if it is not submitted on the prescribed form.

Assisting the applicant

Dismissal of request

Article 28

The public authority shall dismiss by way of conclusion a request for access to information in following cases: 1) it does not hold the requested information, and does not know which public authority holds it; 2) the applicant fails to act in accordance with Article 20, paragraph 2 of this Law.

Denying of request

Article 29

The public authority shall deny the request for access to information if: 1) it requires that new information be generated; 2) the applicant was granted access to the identical information within period of the previous six months; 3) There is a reason referred to in Article 14 of this Law to restrict access to the requested information.

Deciding upon request

Article 30

The public authority shall decide on the request for access to information by way of a decision, except in cases defined in Article 22 of this Law, granting access to information or a part thereof, or denying access. The decision granting access to information or a part thereof shall specify: 1) the form in which the information may be accessed; 2) the time limit to access the information; 3) costs of procedure. The decision denying the access to information shall contain detailed explanation of reasons for which access to the requested information has been denied. Deadline for deciding upon request Article 31 The public authority shall make a decision on the request for access to information and deliver it to the applicant within 15 working days following the adequate request has been submitted If access to information is requested for the purpose of protecting the life or freedom of an individual, the public authority shall make a decision and deliver it to the applicant within 48 hours as of the hour of submission of the request. The time limit referred to in paragraph 1 of this Article may be extended for 8 days, provided that: 1) the request refers to exceptionally voluminous information; 2) the request for access to information refers to classified information; 3) tracking the requested information entails search through a large volume of information and therefore disturbs performance of regular activities of the public authority. In the case referred to in paragraph 3 of this Article, the public authority shall, within three working days after the request has been submitted, inform the applicant in writing of an extension of the time limit in which a decision on the request will be made. Time limit for execution of decision Article 32 The public authority shall execute the decision within three working days after the decision has been delivered to the applicant or within three working days after the day when the applicant has submitted a proof of payment of costs of procedure, if such costs have been specified in the decision.

The authority may also receive a request electronically through the e-Government portal of Montenegro, which centrally contains the services provided by the authorities electronically. Namely, state bodies, state administration bodies, local self-government bodies, public services and legal entities exercising public authority are obliged to, in accordance with the Law on Electronic Administration ("Official Gazette of Montenegro", No. 32/14), in order to create opportunities to submit submissions through the e-government portal, prepare an application decision for the receipt of all types of submissions that can be submitted to that body in electronic form in accordance with the law governing the procedure before that body. The e-government portal is available at <https://www.euprava.me/>

Article 6 — Forms of access to official documents

Forms of access to information

Article 21

An applicant shall have the right to choose form of access to requested information by way of following: 1) Direct inspection of original or copy of information in premises of the public authority; 2) the applicant transcribing or scanning the information in the premises of a public authority; 3) delivery of a copy of the information to the applicant by hand, mail or e-mail Public authority shall grant the access to information in such a form referred to in paragraph 1 herein as might be preferred by the applicant, unless the preference expressed is technically unfeasible. In purpose of allowing access to information in the form preferred by the applicant, the public authority shall convert, where possible and appropriate, the existing format of information into electronic or analogue form (scanning, copying, etc).

Forms of access to public registries and public records

Article 22

Access to the public registry and public record shall be granted directly and upon the request, with no adopting decision, and by way of inspection of the registries or records in the premises of the public authority. The public authority shall grant an applicant insight into the public registry or public record within three working days from the day when request is submitted, and it shall prepare official note about it.

Access to information to persons with disabilities

Article 23

Disabled person shall be granted access to information in such a form and format as are fitting to his/her abilities and needs.

Form of access to a part of information

Article 24

If a restriction applies to a part of information, pursuant to the provisions of the Article 14 of this Law, the public authority shall grant access to information by delivering a copy thereof to the applicant, after deleting the part of the information to which the restriction applies. In the case referred in paragraph 1 of this Article, the part of the information to which the restriction applies shall be marked with a note "information deleted" and a notification of the extent to which the information was deleted (lines, paragraphs, and pages). Information shall be deleted in a manner that shall not destroy or damage the text, or the content of the information.

Access to published information

Article 26

The public authority shall not be obliged to grant access to information that hold via e-mail if that information is published in Montenegro and available on the Internet. In case referred to in paragraph 1 herein, the public authority shall inform the applicant in writing where and when the requested information was published within three working days as of the day when the request is submitted.

If the applicant has opted for direct access to information, it should be taken into account that if there is a need to protect certain parts, those parts should be covered when they are made available. The applicant should be provided with a time and place where he can inspect the information, and when he inspects the information, he may request copying of certain parts.

When determining the place and time of execution, the authority must take care to leave a reasonable time between the day of service of the decision and the day on which access is provided, because the course of service depends on the postal service provider or other operator executing service. That is, it is not advisable to set a day of inspection when making a decision, which is, for example, three days after the decision is made, since sometimes a decision cannot be served within that period. It is recommended that a minimum of ten days elapse between the day of the decision and the day of direct inspection.

Also, in that case, it is important to compile a report on the performed direct inspection, in accordance with Article 65 of the Law on Administrative Procedure. The name of the public body, the administrative matter in connection with which the administrative procedure is conducted, the name and surname of the authorized official and the applicant and the content of the conducted actions shall be entered in the minutes. Upon completion of the inspection, the minutes must be read and signed.

Article 7 – Charges for access to official document

Costs of procedure

Article 33

The fee shall not be paid for the submitting the request for access to information. The applicant shall pay costs of procedure for access to information that relate to actual costs incurred by the public authority in relation to copying of documents and delivery of information to the applicant, in accordance with the regulation adopted by the Government of Montenegro. The regulation referred to paragraph 2 herein shall specify special costs for access to information in archives, libraries, and museums that represent archive, library, or museum material. In case when a disabled person is actual applicant, any public authority shall bear the related procedure costs. Costs of procedure referred to in paragraph 2 herein shall be paid before the applicant is provided with access to information. If the applicant fails to submit proof of payment of costs of procedure in the specified amount, the public authority shall not provide him/her with access to the requested information.

The Act stipulates that no fee is paid for a request for access to information. However, this provision is an exception to the general rule of payment of fees prescribed by the Law on Administrative Fees and which regulates the payment of administrative fees for files and actions before state administration bodies, diplomatic missions of Montenegro abroad, local government bodies and other legal entities authorizations, in accordance with the Tariff for Administrative Fees, which is an integral part of the said Law.

Although the applicant does not pay a fee for the applicant for access to information, costs related to the actual costs of the authorities may be incurred in copying, scanning and submitting the requested information. These costs are calculated in the manner prescribed by the Decree of the Government of Montenegro on reimbursement of costs in the procedure for access to information.

Article 2 of the Decree of the Government of Montenegro prescribes the amount of compensation for the costs of photocopying and scanning and delivery of information by mail

(registered or express delivery) which is calculated according to the valid price list of regular postal services.

The authority is obliged to calculate the costs incurred and state in the decision allowing access to the requested information, and the applicant is obliged to pay the costs in favor of the Budget of Montenegro and submit proof of payment to the authority that conducted the procedure for access to information. The decision will become enforceable within 5 days from the day of submission of proof of payment of costs to the authority.

The costs are paid before the access to the information is provided, and if the applicant does not provide proof that he has paid the costs of the procedure in the determined amount, the authority will not provide him with access to the requested information.

In order to protect the rights of the parties and the public interest, and for reasons of economy and proportionality, the authority may decide not to charge the applicant costs of the proceedings if they do not exceed the amount of 3.00 C.

Article 2 of the Decree of the Government of Montenegro prescribes that the first 20 pages do not charge.

If no material costs have been incurred in the procedure or if the authority has decided to release the applicant from the incurred costs, it is necessary to state in the dispositive of the decision that no costs have been determined.

For example, the applicant requested that a copy of the environmental impact study for the construction of a sports and recreation center with a 50-page golf course be delivered to his home address. The authority accepted his request and provided him with access to that information, but photocopying and sending a document with that number of pages incurs real and material costs for the authority, so in the dispositive of the decision providing access to information the authority The budget of Montenegro shall pay the amount of 1.5 euros for photocopying and for registered mail the amount determined according to the valid price list of regular postal services. The applicant paid the amount determined to him and submitted proof of this to the authority, and the authority provided him with the requested information within 5 days.

1 page = 0,03 euro

Article 8 — Review procedure

Right to a complaint

Article 34

The applicant, or another individual having an interest, may make a complaint against the decision of the public authority on the request for access to information to an independent supervisory authority responsible for protection of personal data and access to information (hereinafter referred to as "the Agency"), and through the authority that has decided upon request in first instance. Notwithstanding paragraph 1 of this Article, complaint may not be filed against decision denying access to information containing data marked as classified, but it is possible to initiate administrative dispute against adopted decision.

Reasons for complaint

Article 35

A complaint may be lodged against the decision on request for access to information for the violation of rules of procedure, incompletely and incorrectly defined factual state, and misapplication of material law.

Effect of complaint

Article 36

The complaint against a decision granting access to information shall not postpone the execution of the decision.

Submitting claims to the Agency Council within 15 days from the receipt of the decision. (Law on Administrative Procedure)

Submitting claims to the Administrative Court within 20 days from the receipt of the decision. (Law on administrative dispute)

Submitting request for extraordinary review by the Supreme Court within 60 days from the receipt of the decision made by Administrative Court. (Law on administrative dispute).

Article 9 – Complementary measures

9.1 Measures taken by public authorities to inform the public about its right of access to official documents and how this right can be exercised;

In order to inform the public about the right to access public information and the mechanisms for its implementation, Agency for Protection Personal Data and Free Access to Information and other public authorities (HRM-a) with the participation of the expert community systematically conduct educational events: seminars, training sessions, expert discussions, and the publication of information materials.

Every year on September 28, Montenegro celebrates the Day of the Right to Know and the International Day of Access to Information.

9.2 Training and any other measures taken to ensure that public authorities are aware of and knowledgeable about their duties and obligations concerning the implementation of the right of access to official documents;

1. In accordance with Article 11 of the Law on Free Access to Information of Montenegro the public authority shall appoint and authorize a person responsible for access to information.

Article 10 — Documents made public at the initiative of the public authorities

The Law of Montenegro on Free Access to Information stipulates a wide range of responsibilities for administrators to inform the public about access to official documents. Article 12 of the Law of Montenegro defines a wide range of information that administrators must proactively disclose. The public authority shall publish on its website following information: 1) the access to information guide; 2) public registries and public records 3) programmes and work plans; 4) reports and other documents on work and state of play in areas within their competence; 5) drafts, proposals, and final texts of strategic documents, plans and programmes for their implementation; 6) draft and proposal of laws and other regulations, as well as opinions of experts delivered in relation to drafts and proposals for legislation; 7) single acts and contracts on use of financial resources originating from public revenues and of state-owned property; 8) list of civil servants and state employees with their titles; 9) list of public officials and pay lists for them, as well as list of other incomes related to exercise of public function; 10) Decisions and other single acts that are of importance to rights, duties, and interests of third parties; 11) Information to which the access was granted upon request;

Ministry of Public Administration, Digital Society and Media established on the state web portal of Open Data;

The right to access information and re-use information held by public administration bodies is exercised in accordance with the Law on Free Access to Information. We recommend that you submit a request for free access to information electronically via the e-Government portal in a few clicks. All processes that take place within the public administration should be transparent, close and visible to citizens. By exercising the right to free access to information, you have the opportunity to request information of public importance from the public administration, without the obligation to state the reasons and explain the reasons for requesting information. This right

opens the way for you to participate in public affairs and in the decision-making process without intermediaries, real and responsible. In this chain of communication and interaction, free access to information should not be an institute of abuse, but a tool that we will all use in an appropriate and responsible way. The right to free access to information is the core of any democracy, because in order for citizens to participate in decision-making and policy-making, it is necessary for them to have information of public importance. In addition to being a fundamental human right and a means of exercising other human rights, the right to access information should serve citizens, institutions, the civil sector and act as a preventive tool to fight corruption. Whether you are a natural or legal person, you have the right, in accordance with the law, to ask and ask for information on how public policies are implemented and how taxpayers' money is spent, because the administration exists because of you. In this way, the basic control function of the work of public administration is realized, but also the necessary interaction between citizens and administration.