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Council of Europe Access Info Group (AIG)

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

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INTRODUCTION

Each Party that after 17 November 2022 submits its report containing full information on legislative and all other measures giving effect to the provisions of the Council of Europe Access to Official Documents (CETS n°205) (hereafter “the Convention”), in accordance with its Article 14, paragraph one, is requested to use this questionnaire as a basis for preparing its report.

The report must be provided within a period of one year following the entry into force of the Convention in respect of the Party concerned.

For further guidance on the meaning of any of the questions or the requested elements, the drafters of the report are invited to consult the text of the [Convention](#) and its [Explanatory Report](#).

The Parties should submit their reports in one of the official languages of the Council of Europe, structuring them in two main parts, namely:

- (i) General information regarding the preparation of the report;
- (ii) Information on legislative and all other measures giving effect to the provisions of the Convention.

Relevant data, including statistics and results of surveys on access to official documents in practice, as well as any additional information that they may deem appropriate in this context, should be included in or appended to the report.

I - GENERAL INFORMATION

Please indicate:

- a. *The existence or not of a State body/agency responsible for the preparation of the report as well as the State bodies/agencies which contributed to the report by providing relevant information;*

The Information and Data Protection Commissioner’s Office (hereafter “Commissioner’s Office”) is the independent and competent institution in charge with monitoring and supervising the implementation of the right to information and represents the Republic of Albania to the Council of the Parties of the Convention, (pursuant to Law No. 45/2022 “On the ratification of the Convention of the Council of Europe “On the access to official documents” (hereafter Law No. 45/2022, Article 2). The Commissioner’s Office has directly contributed for the preparation of this report.

- b. *The involvement, participation or consultation with relevant non-state stakeholders including NGOs, civil society and any other relevant stakeholder in the ratification and subsequent implementation of the Convention.*

The Commissioner’s Office gives particular importance to the interaction with civil society organizations and the media, ultimately considering them as partners in the public interest with the aim of instilling the culture of awareness of the citizens with respect to the exercise of their right to information and participation in governance. In the context of awareness-raising activities held with interest groups, which focused on various topics and exchanges in the area of the right to information and access to official documents, the Commissioner’s Office has in addition

introduced Convention 205. Regarding the implementation of Law No. 45/2022, the Commissioner's Office has, in the meanwhile, taken concrete preparatory measures, which aim at acquiring assistance for strengthening the capacities of the Commissioner's Office's staff in relation to Convention 205. In particular, the Commissioner's Office has applied for and shall be the beneficiary of a project, part of the 2020 Contract of Budgetary Support for Good Governance, under the following component: *"Strengthening the capacities of the Information and Data Protection Commissioner's Office and the RTI Coordinators for effective enforcement and implementation of the Law implementing CoE Convention on Access to Official Documents CETS No.205, and the law on the open data and the reuse of public sector information"*. The project is expected to start implementing shortly.

Moreover, the Commissioner's Office has closely cooperated with the Office of the Council of Europe (CoE) in Tirana, which has expressed its readiness to provide its support for the organization of the 5th National Right to Information Conference to take place in 2023. This conference aims at promoting and discussing the latest developments in the area of the right to information, while this year we will also introduce a presentation regarding Convention 205. In addition, the CoE will ensure the presence of an expert of the Council of Europe to deliver a presentation regarding Convention 205 *"On access to official documents"*.

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

Please provide information on legislative and all other measures adopted to ensure the implementation of the Convention, highlighting wherever deemed appropriate good practices in promoting the overall aim of the Convention or its specific provisions and indicating the efforts made to promote awareness of the Convention among the public and relevant authorities.

Wherever pertinent, please share information on any issues faced in the implementation of the Convention, including those on which your authorities could consider seeking advice and support from the AIG. (Group on Access to information)

In the context of general development and further improvements of the legislation on the right to information in relation to access to official documents, the Commissioner's Office has prepared the draft law "On the accession of the Republic of Albania to Convention No. 205/2009, of the Council of Europe, "On access to official documents".

Upon its approval in principle with Decision No. 1123, dated 30.12.2020 of the Council of Ministers, the Convention was signed on 28.01.2022 and ultimately ratified through adoption of the Law No. 45/2022: "On the ratification of the Convention of the Council of Europe "On access to official documents".

The instrument of ratification was deposited in July 2022, whereas the Convention entered into force on 1 November 2022. Having regard to the particularity of this area, the Commissioner's Office was appointed as country's representative to the Consultation of the Parties to Convention 205, pursuant to Article 2 of Law 45/2022.

Regarding the anticipated legislative measures for the implementation of Law No. 45/2022, the Commissioner's Office has clearly highlighted the importance of this component, through integrating the latter in the 2022-2025 Institutional Strategy and the related Action Plan. The

main objectives and measures set out in the Institutional Strategy in this area include:

- Strengthening the capacities of the staff of the Commissioner's Office for effective enforcement of the modernized legal framework (including Convention 205);
- Providing practical support to Public Authorities regarding the implementation of the new regulatory framework in this area, through organising information sessions with the coordinators of the right to information of PAs at both central and local level; delivering training sessions for civil servants in cooperation with the Albanian School of Public Administration; conducting awareness-raising events at District Council level, with central and local self-governance public authorities' representatives, etc.;
- Conducting awareness-raising initiatives aimed at informing the general public, the civil society, the interest groups and the media about the new regulatory framework, conducting activities in the context of the "Transparency Days" initiative in every district of the Republic of Albania; publishing brochures, leaflets, awareness video materials, etc.;
- Providing contribution in the capacity of representative to the Consultation of the Parties to Convention of the Council of Europe "On access to official documents".

Furthermore, considering that the annual work objectives of the Commissioner's Office rely, inter alia, on the Institutional Strategy, these objectives are further elaborated in terms of specific activities in the 2023 Work Plan of the Commissioner's Office.

A number of measures taken to increase the awareness of interest groups regarding Convention 205 and its introductions, are referred to in point I, (b) "General Information".

Concerning the information regarding issues encountered in the course of enforcement of the Convention, including those for which the Commissioner's Office may seek advice and support from the AIG (Access to Information Group), any such issue shall be duly noted. As of the entrance into force of the Convention on 1 November 2022, we haven't identified related enforcement issues.

The presentation of the second part of the report should follow the order of the provisions of Section I of the Convention which appear below in italics.

Article 1 – General Provisions

- 1. The principles set out hereafter should be understood without prejudice to those domestic laws and regulations and to international treaties which recognise a wider right of access to official documents.*
- 2. For the purposes of this Convention:*
 - a. (i) "public authorities" means:*
 - 1. government and administration at national, regional and local level;*
 - 2. legislative bodies and judicial authorities insofar as they perform administrative functions according to national law;*
 - 3. natural or legal persons insofar as they exercise administrative authority.*
 - (ii) Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that the definition of "public authorities" also includes one or more of the following:*
 - 1. legislative bodies as regards their other activities;*
 - 2. judicial authorities as regards their other activities;*
 - 3. natural or legal persons insofar as they perform public functions or operate with public funds, according to national law.*
- b. "official documents" means all information recorded in any form, drawn up or received and held by public authorities.*

Please provide information on the following:

1.1 The **definition of “public authorities”** as adopted in national legal and/or policy frameworks relating to access to official documents, including specifications and/or examples of authorities covered by this definition.¹¹

In Article 2/1/(a) of Law No. 119/2014 “On the right to information”, the term “Public Authority” is defined as”

- a) any administrative body provided for in the current legislation with regard to the administrative procedures, legislative, judicial and prosecution bodies of every level, local governance unit bodies of every level, state authorities and public entities, established by Constitution or law;
- b) the commercial companies, where:
 - i) the state holds the majority of shares;
 - ii) public functions are assumed in accordance with the provision of letter "c" of this point;
- c) any natural or legal person, being awarded the right to assume public functions by law, by-law act or any other fashion, provided for by the current legislation.

In addition, the Commissioner’s Office has published Guidelines "On Public Authorities pursuant to the Law on the Right to Information", which further elaborate the definition of "public authority" as provided for in Law No. 119/2014 "On the Right of information", while taking into account its definition or its synonyms in other laws. The interpretation of this definition helps public authorities in implementing the requirements of the law.

The Commissioner's Office maintains and regularly updates a register containing 374 Public Authorities. This register includes central public authorities and their subordinate institutions; Local Self-Governance Units, independent institutions; courts; prosecution bodies; universities and companies with public capitals, notably: the Assembly of the Republic of Albania, the Prime Minister's Office and the ministries, municipalities, prefectures, the General Directorate of Taxes, the General Directorate of Customs, the National Environment Agency, the National Tourism Agency, the Constitutional Court, the courts of first instance first and appeal, Prosecutor's Offices, Electricity Distribution Operator, University of Tirana, etc.

The **definition of “official documents”** as adopted in relevant national legal and/or policy frameworks, including specific information as to whether this definition covers information stored electronically or in databases.

Article 2/2 of Law No. 119/2014 "On the right to information" established that: *“Public information” is any data recorded in any type of form or format, in the course of assuming the public function, regardless of whether it has been created by the public sector body itself or not*”. Accordingly, public information is considered any document regardless of which Public Authority

¹¹ Please provide specifications and/or examples of activities performed by legislative bodies, judicial authorities and natural or legal persons which may be included in the definition of public authorities on the basis of a declaration made by the Party pursuant to Article 1, paragraph (2)(a)(ii)(1), Article 1 paragraph (2)(a)(ii) (2) or Article 1, paragraph (2)(a)(ii)(3).

has compiled it, or in which format it is stored (electronic, paper, digital, etc.)

1.2 Do official documents transferred to archives remain within the scope of national legal and/or policy frameworks relating to access to official documents.

In the Republic of Albania, there is a specific legislation that regulates the transfer of official documents to archives, specifically the Law No. 9154, dated 6.11.2003 "On Archives". This law establishes the basic rules for the organization and functioning of the archiving service in Albania, the institutions that perform this service, as well as their legal obligations for the creation, preservation and use of archival assets, as part of the national heritage.

In this context, several provisions of the law on the right to information provide adjustments to the Law No. 9154, dated 6.11.2003 "On archives", such as:

- Article 15/5 of the Law on the right to information, establishes the deadlines for receiving information from Public Authorities (10 working days from the day of submission of the request for information by the applicant), further stipulating that: "The provisions of this law shall apply also to the access to the archived information of any type".
- Article 17/7 of the Law No. 119/2014 "On the right to information", establishes the cases of limitation to the right of information, and further stipulates that: "*The provisions of this Article shall be implemented even to the access to the archived information of any type, regardless of the provisions of the law on archives.*"

Article 2 – Right of access to official documents

1. Each Party shall guarantee the right of everyone, without discrimination on any ground, to have access, on request, to official documents held by public authorities.
2. Each Party shall take the necessary measures in its domestic law to give effect to the provisions for access to official documents set out in this Convention.
3. These measures shall be taken at the latest at the time of entry into force of this Convention in respect of that Party.

Please provide information on the following:

2.1 The legal and/or policy framework guaranteeing the right of access to official documents, including specific information on relevant domestic laws, regulations and policies recognising the right of access to official documents.

- a) The Constitution of the Republic of Albania, in Article 23, stipulates that: "*1. The right to information is guaranteed. 2. Everyone has the right, in compliance with law, to obtain information about the activity of state organs, and of persons who exercise state functions. 3. Everyone is given the possibility to attend meetings of elected collective organs*".
- b) Law No. 44/2015, Code of Administrative Procedures of the Republic of Albania, in article 6 provides for the "Principle of Information" as follows: "*1. Every person is entitled to ask for public information, which is related to the activity of the public body, without being obliged to explain the motives, in line with the legislation in force governing the right to information. 2. In cases where the requested information is refused, the public organ shall issue a reasoned written decision, which shall contain also instruction on the exercise of the right to appeal, and shall be immediately notified to the parties in the process*".

- c) Law No. 119/2014 "On the right to information", in article 1, provides: *"1. This law regulates the right of access to information being produced or held by public sector bodies. 2. The rules contained in this law are designated to ensure the public access to information, in the framework of assuming the rights and freedoms of the individual in practice, as well as establishing views on the state and society situation. 3. This law aims also at encouraging integrity, transparency and accountability of the public sector bodies."*
- d) Law No. 33/2022 "On open data and reuse of public sector information" which is which is partially aligned with: Directive (EU) 2019/1024 of the European Parliament and of the Council, dated June 20, 2019, "On open data and reuse of public sector information".
- e) Law No. 9887/2008 "On Protection of Personal Data", as amended – article 31/1 provides the Competencies of the Commissioner in the field of the right to information;
- f) Decision No. 145, dated 13.3.2018 "On the establishment of the state "Electronic Register of Inquiries and Responses of the Right to Information" database. According to its point 1, it is foreseen: *"Establishment, in the Information and Data Protection Commissioner's Office (hereinafter, IDP), of the state database "Electronic register of requests and responses for the right to information" (hereinafter, ERRRI), the content of which will be published on the portal "Pyetshtetin.al"*
- g) Joint instruction No. 12, dated 21.7.2020 *"On determining the number of pages for which information is obtained for free, the cases of exemption from the payment of the fee, as well as the rules for the payment method for the device with information that is produced or maintained by public authorities". According to point 1 of this Instruction "Persons registered in social assistance schemes, as well as beneficiary entities, according to law no. 111/2017, "On legal aid guaranteed by the state", they benefit from free information and/or documentation up to 20 sheets, for each request or the equivalent value when the information is provided in another format, after confirming the relevant status."*

Relevant domestic laws:

- a) Law No. 9154, dated 6.11.2003 "On archives" provides that: *"1. The archival service guarantees the right to get to know the documents that prove the activity of the state administration. 2. The person and the institutions are equal in the right to archival service. 3. Fund creators enjoy the right to use the documents at any time, regardless of the deadlines set in Article 61 of this law. 4. Non-state fund creators have the right to limit the service with their documents in terms other than those defined in Article 61 of this law."* Meanwhile, in article 54, it is provided that: *"1. The archival service is provided without authorization. 2. The use of state and private archives is offered to applicants, regardless of their nationality, citizenship, status or function. 3. The state archival authority, when necessary, offers self-service."*;
- b) Law no. 8457, dated 11.02.1999 "On information classified as "state secret", as amended. In its article 1, it is provided that: *"This law applies to all state, central or dependent institutions, to the bodies of justice, prosecution and/or legal/natural persons, persons with immunity, when for the exercise of their duties they must have access to information classified as "state secret"*.

In view of the above, it should be noted that the very procedure of approval of a law requires that the new legal framework should be entirely harmonised and cannot be contrary to the principles of "utmost openness of public authorities" and "transparency". Accordingly, any sectoral and specific legislation is also in accordance with the legislation on the right to information. The list of laws mentioned above is not exhaustive.

Strategies:

- a) The 2022- 2030 National Strategy for Development and Integration (NSDI), contains specific objectives related to the field of the right to information. This strategy is it closely follows-up on the 2015 – 2020 NSDI, and represents the framework document of all other cross-sectoral strategies, where the Commissioner's Office is part and guarantees this right on a strategic level;
- b) The 2022 - 2025 Institutional Strategy which anticipates the vision and mission of the Commissioner's Office, the objectives and concrete measures that will be implemented during the period including those in the area of the right to information.

2.2 Specifications as to whether the right of access to official documents is guaranteed to everyone, including non-nationals of the Party.

Article 2/2 of the Council of Europe Convention “On access to Official Documents” provides that “2. Each Party shall take the necessary measures in its domestic law to give effect to the provisions for access to official documents set out in this Convention”

In this framework:

- Article 2/2 of the Law No. 119/2014 “On the right to information” provides that: “Person” is any natural or legal, local or foreign person, as well as the stateless persons”;
- Moreover, Article 3/3 of the law No. 119/2014 “On the right to information” provides that: “Any person shall be entitled to access the public information, either through the original document or receiving copies in the form or format enabling full access to the document contents”.

According to these provisions, access to public information is guaranteed to any person (the provision of full access is not subject to any particular feature).

*2.3 Whether the Party guarantees the right of access to official documents **irrespective of the use of the information received by those requesting access.***

Article 2/1 of the Council of Europe Convention “On access to Official Documents” provides that: “Each Party shall guarantee the right of everyone, without discrimination on any ground, to have access, on request, to official documents held by public authorities”.

Article 3/1 of the law No. 119/2014 “On the right to information” provides that: “Any person enjoys the right to access public information, not being subject to explain the motives”.

Accordingly, any person can have access to a public document/information, without being required to explain the reasons for requesting it, or what he/she will use this information for.

Article 3 – Possible limitations to access to official documents

1. Each Party may limit the right of access to official documents. Limitations shall be set down precisely in law, be necessary in a democratic society and be proportionate to the aim of protecting:

- a. national security, defense and international relations;
- b. public safety;
- c. the prevention, investigation and prosecution of criminal activities;
- d. disciplinary investigations;
- e. inspection, control and supervision by public authorities;
- f. privacy and other legitimate private interests;
- g. commercial and other economic interests;
- h. the economic, monetary and exchange rate policies of the State;
- i. the equality of parties in court proceedings and the effective administration of justice;
- j. environment; or
- k. the deliberations within or between public authorities concerning the examination of a matter.

Concerned States may, at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that communication with the reigning Family and its Household or the Head of State shall also be included among the possible limitations.

2. Access to information contained in an official document may be refused if its disclosure would or would be likely to harm any of the interests mentioned in paragraph 1, unless there is an overriding public interest in disclosure.

3. The Parties shall consider setting time limits beyond which the limitations mentioned in paragraph 1 would no longer apply.

Please provide information on the following:

3.1 Whether the Party has introduced **limitations** to the right of access to official documents, including specific information on such limitations, how they are precisely set down in law.

Article 17 “Restrictions” of the Law No. 119/2014 “On the right to information” provides that: “1. The right to information may be restricted as long as it is indispensable, proportional and where making the information available would harm the following interests:

- a) the right to privacy;
- b) the commercial secrets;
- c) the copyright;
- ç) patents.

The restriction of the right to information due to the interests provided for in letters “a”, “b”, “c” and “ç” of this point shall not be applied where the holder of these rights has granted his consent to making the respective information available or, at the moment of making the information available, he has been considered as a public sector body based on the provisions of this law. Regardless of what has been foreseen in this point, the required information shall not be rejected as long as a higher public interest exists in favour of making it available.

2. The right to information may be restricted as long as it is indispensable, proportional and where making the information available would cause an evident and grave harm to the following interests:

- a) national security, referring to the definition made by the legislation on classified information;
- b) prevention, investigation and prosecution of criminal offences;
- c) normal flow of the administrative review in the context of disciplinary proceedings; ç) normal flow of inspection and auditing procedures for the public sector bodies;
- d) working out the monetary and fiscal policies of the state; dh) parity of parties in judicial proceedings and normal flow of judicial proceedings;
- e) preliminary consultation or discussion internally or among the public sector bodies for developing public policies;

ë) *maintaining the international and inter-governmental relations.*

Notwithstanding the provisions of the first paragraph of point 2 of this Article, the sought information shall not be rejected as long as a higher public interest exists in making it available. The restriction to the right to information due to the interest provided for in point 2, letter "c" and "ç" of this Article, shall not be applied as long as the administrative review in the context of disciplinary proceedings and the inspection and auditing procedures of the public sector bodies have been completed. The restriction to the right to information due to the interest provided for in point 2, letters "d" and "dh" of this Article, shall not be applied as long as the respective data are facts, facts analysis, technical data or statistical data.

The restriction to the right to information due to the interest provided for in point 2, letter "e" of this Article shall not be applied as long as the policies have been made public.

3. The right to information shall be restricted as long as it is indispensable, proportional and as long as the dissemination of information would infringe the professional secret sanctioned by law.

4. The right to information shall be restricted even if, regardless of the assistance granted by the public sector body, the application remains unclear and it is not possible to identify the sought information.

5. The right to information shall not be rejected automatically as long as the sought information is found at documents classified "state secret". The public sector body having received the application for information shall, under these circumstances, immediately start the procedure revising the classification at the public sector body having ordered the classification under the law no 8457, dated 11/02/1999 "On the "state secret" classified information", as amended. The public sector body shall immediately inform the applicant about the institution of the procedure revising the classification in accordance with the law and determine the extension of the time period for making the information available within 30 working days. The decision on fulfilling the application for information or not shall always be taken and grounded based on the criteria contained in this Article.

6. Where the restriction affects the information only partially, the remaining part shall not be rejected to the applicant. The public sector body shall clearly indicate the parts of the respective documentation having been rejected, as well as based on which point of this Article the rejection was ruled.

7. The provisions of this Article shall be implemented even to the access to the archived information of any type, regardless of the provisions of the law on the legal-administrative archives concerning the administrative contraventions"

This article lays down the cases of limitation to the right of information. Public authorities are required to determine when a request for information should be refused, or where the public interest overrides the interest behind the request. However, in any case, the Public Authority is obliged to explain to the applicant the reasons for refusing to provide (full or partial) information, in accordance with the aforementioned article.

3.2. Whether the relevant legal and/or policy frameworks provide for limitations of the right of access to official documents which pursue aims not listed in Article 3(1), and if so, specifying which ones.

All the restrictions provided in Article 17 of Law No. 119/2014 "On the right to information" closely follow those listed in Article 3 (1) of the Convention. The Albanian legislation on the right to information does not provide any additional or other limitations (vis-à-vis its scope) than those

established by the Convention.

*3.2 Specification as to why the limitations to the right of access to official documents are **necessary** and as to their **proportionality** to the aims listed in Article 3, paragraph 1.*

Any restriction must be based in law. The need to restrain the publication or provision of public information, which should be assessed on case by case basis, requires the public authorities to weigh out or conduct a risk analysis for “disclosing” the information, so as to anticipate the consequences on certain private interests or public.

In each case, public authorities have the obligation to make a proportionality assessment regarding the possible consequences for these interests (set out as limitations under Article 17 of Law No. 119/2014 "On the right to information") against the rights of individual to access the requested information.

*3.3 Whether the Party's legal and/or policy framework contains provisions which only permit **refusal** of access to official documents in compliance with Article 3, paragraph 2.*

Article 3/(2) of the Council of Europe Convention “On access to Official Documents” establishes that: “Access to information contained in an official document may be refused if its disclosure would or would be likely to harm any of the interests mentioned in paragraph 1, unless there is an overriding public interest in disclosure”.

Article 17, of the Law No. 119/2014 “On the right to information” provides that: “...*Notwithstanding the provisions of the first paragraph of point 2 of this Article, the sought information shall not be rejected as long as a higher public interest exists in making it available*”.

*3.4 How the Party ensures that an **evaluation takes place of any overriding public interest** in the disclosure of information contained in an official document that would harm or would be likely to harm any of the interests listed in Article 3, paragraph 1.*

Anyone has the right to request public information, but the law provides for certain circumstances when access to information may be restricted as mentioned above. Public authorities may need to determine whether certain requests for information should be refused for any of these restricting reasons or whether the requested information should not be refused and should be provided if there is an overriding public interest in providing it.

As clarifies above, we do not have a definition of public interest or a guidance document on what is considered public interest. The definition is considered on a case by case basis according to the law by the public authority itself and ultimately by the Commissioner's Office when making a decision. During this assessment, the case law of national and international courts whose jurisdiction extends to the Republic of Albania, as well as the legal doctrine, are taken into consideration.

Article 4 – Requests for access to official documents

1. An applicant for an official document shall not be obliged to give reasons for having access to the official document.
2. Parties may give applicants the right to remain anonymous except when disclosure of identity is essential in order to process the request.
3. Formalities for requests shall not exceed what is essential in order to process the request.

Please provide information on the following:

*4.1 Whether the Party's legal and/or policy framework on access to official documents guarantees that the applicant shall not be obliged to **give reasons** for having access to official documents.*

Article 3/(1) of the law No. 119/2014 "On the right to information" provides that: "Any person enjoys the right to access public information, not being subject to explain the motives". Therefore, any person can have access public documents/information, without being required to explain the reasons for which he/she is needs access or how he will use this information.

*4.2 Whether **anonymous** requests for access to official documents are authorised and if so, how the public authorities implement this in practice and how are the applicants informed about this possibility.*

Article 11/(4)/(a) "Application for information" of the Law No. 119/2014 "On the right to information" provides that the application for information must contain:

- a) name and surname of the applicant;
- b) postal or electronic address where the information shall be sent to;
- c) description of the information applied for;
- d) format that the information is preferred to be obtained;
- e) any data that the applicant deems could facilitate the identification of the information applied for.

Therefore, according to Law No. 119/2014 "On the right to information" the applicant is obliged in each case to fill in his/her data when submitting the request for information.

With regard to the provisions of the Convention on this matter, we observe differences between these two legal instruments (Law 119/2014 and the Convention 205), however, from the legal analysis of Article 4/(2) of the Convention, it results that the Convention does not require Parties to grant individuals the right to remain anonymous in the event of a request for information. Article 4/(2) of the Convention provides that "*Parties may give the person who applies the right to remain anonymous, except when the provision of identity is essential for the purpose of processing the request*". Also in the explanatory report of Convention 205/2009, paragraph 42 therein clarifies that the Convention does not require Parties to necessarily provide in their domestic legislation the right of the applicant to submit requests anonymously, but encourages Parties to include an optional obligation in this context.

4.3 Measures taken to assess the necessity of the formalities applicable to requests for access to official documents or to periodically review such formalities.

Article 11/(4) of the law No. 119/2014 "On the right to information" sets forth the content of a formal request for information in order to be reviewed by Public Authorities: "4. *The application for information shall contain:*

- a) *name and surname of the applicant;*
- b) *postal or electronic address where the information shall be sent to;*
- c) *description of the information applied for;*
- d) *format that the information is preferred to be obtained;*
- e) *any data that the applicant deems could facilitate the identification of the information applied for.*

Taking into account these elements, with the aim of facilitating the process of making a request for information by citizens, as an alternative way of communication between the requester and the Public Authority, the Commissioner's Office has prepared a Standard template of the "Request for information" which is also published on the institution's official website. This template has also been used by other public authorities. See the link: <https://www.idp.al/e-drejta-per-informim>.

Article 5 – Processing of requests for access to official documents

1. *The public authority shall help the applicant, as far as reasonably possible, to identify the requested official document.*
2. *A request for access to an official document shall be dealt with by any public authority holding the document. If the public authority does not hold the requested official document or if it is not authorised to process that request, it shall, wherever possible, refer the application or the applicant to the competent public authority.*
3. *Requests for access to official documents shall be dealt with on an equal basis.*
4. *A request for access to an official document shall be dealt with promptly. The decision shall be reached, communicated and executed as soon as possible or within a reasonable time limit which has been specified beforehand.*
5. *A request for access to an official document may be refused:*
 - (i) *if, despite the assistance from the public authority, the request remains too vague to allow the official document to be identified;*
 - Or
 - (ii) *if the request is manifestly unreasonable.*
6. *A public authority refusing access to an official document wholly or in part shall give the reasons for the refusal. The applicant has the right to receive on request a written justification from this public authority for the refusal.*

Please provide information on the following:

5.1 Which public authority is competent to decide on a request for access to an official document? which other authorities are consulted? How is a request for access to an official document processed when received by the public authority which does not hold the requested official document or is not authorised to process the request? Which public authority deals with such request?

The competent authority to process the request for public information is firstly the authority to which the requester has addressed the request for information. If this authority does not hold the requested information, instead another authority holds it, the former forwards the request to the latter within 10 calendar days. This is specifically outlined in Article 12/(2) and (3) of the

Law No. 119/2014 "On the right to information" according to which the clarification and processing of the request for information is foreseen as follows:

"1. Where the public authority being addressed by the application for information is not clear about the contents and the nature of the request, it shall immediately, and under no circumstances later than 48 hours since the date of submission of the application, contact the application to make the necessary clarifications. The public authority shall always assist the applicant for elucidating the request.

2. Where after examining the application the public sector body finds out that it does not possess the required information, it shall, no later than 10 calendar days since the date of submission of the application, send it to the competent authority, simultaneously informing also the applicant. The sole reason justifying the sending of the application to the other public sector body is the absence of the information applied for.

3. The public sector body being addressed by the application for information shall inform the applicant that his application has been forwarded to another public sector body, also informing him about the contacts of the public sector body that the application has been forwarded to".

In addition, in Article 15 of the Law on the right to information the deadline for providing the requested information is as follows: *"1. The public sector body shall process the application for information through making available the information applied for as soon as possible, however not later than 10 days since the day of its submission, unless a specific law provides for differently. 2. Where the public sector body receiving an application for information sends it to another body, the latter shall respond within 15 working days since the delivery of the application with the former body. 3. The deadline provided for in points 1 and 2 of this Article may be extended by not more than 5 working days due to one of the following reasons: a) need to apply for and consider complex and voluminous documents; b) need to extend the research to offices and premises being physically separated from the central office of the public sector body; c) **need to consult other public sector bodies prior to making a decision on fulfilling or refusing the application.** The decision to extend the time period shall be notified immediately to the applicant. 4. The failure to process the application for information within the deadlines referred to above shall always be considered a refusal. 5. The provisions of this law shall apply also to the access to the archived information of any type.*

5.2 Measures taken by public authorities to process requests for access to official documents and to provide assistance to a person requesting such access.

The measures taken by public authorities are:

1. Publication of the Transparency Programme; (Article 7 of Law No. 119/2014 "On the right to information");
2. Publication of the Register of requests and responses; (Article 8 of Law No. 119/2014 "On the right to information");
3. Appointment and publication of the contact details of the Coordinator for the Right to Information, who must be appointed by every public authority; (Article 10 of Law No. 119/2014 "On the right to information").

Duties and powers of the coordinator for the right to information are provided under Article 10 of the law No. 119/2014 "On the right to information": *"1. The public sector body shall, to the effect of implementing this law and for coordinating the efforts for ensuring the right to information, nominate one of the civil servants as coordinator for the right to information. 2. The coordinator*

for the right to information shall assume the following powers: a) providing access to every applicant to the public information in accordance with this law, by way of consulting the original document or obtaining a copy; b) establishing, maintaining, publishing and updating the register of applications and responds within the period provided for in point 1 of Article 8 of this law; c) coordinating the efforts for meeting the applications for information within the time period and way provided for in this law; ð) registering the applications for information and assigning a serial number for each of them; d) forwarding the application for information from a public sector body where the application has been lodged and it does not possess the information applied for; dh) verifying the cases of making the information available to citizens in accordance with point 5, Article 13, of this law; e) making the preliminary notifications under Articles 14 and 15, as well as communicating with the applicant, as appropriate for processing the application for public information”.

Meanwhile Article 11 of the law No. 119/2014 "On the right to information" provides that:

“1. The application for information shall be made in writing and shall be submitted in person, per post or e-mail, providing accurately the identity and signature of the applicant. The application shall always be registered with the Register of Applications and Responds, provided for in Article 8 of this law.

2. The application shall always be registered and a serial number shall be assigned to it. The serial number shall, along with the contact data of the coordinator for the right to information, be notified to the applicant having filed the application for information.

3. The applications for information shall be registered in accordance with the lodging sequence and processed without any distinction among them.

4. The application for information shall contain:

a) name and surname of the applicant;

b) postal or electronic address where the information shall be sent to;

c) description of the information applied for;

ç) format that the information is preferred to be obtained;

d) any data that the applicant deems could facilitate the identification of the information applied for.

5. As long as the application does not determine the format where the information has been applied for, it shall be provided in the most effective and lost cost fashion for the public sector body”.

Partaking in those measure are also the following:

Article 12, of the law No. 119/2014 “On the right to information” provides that:

“1. Where the public authority being addressed by the application for information is not clear about the contents and the nature of the request, it shall immediately, and under no circumstances later than 48 hours since the date of submission of the application, contact the application to make the necessary clarifications. The public authority shall always assist the applicant for elucidating the request.

2. Where after examining the application the public sector body finds out that it does not possess the required information, it shall, no later than 10 calendar days since the date of submission of the application, send it to the competent authority, simultaneously informing also the applicant. The sole reason justifying the sending of the application to the other public sector body is the absence of the information applied for.

3. The public sector body being addressed by the application for information shall inform the applicant that his application has been forwarded to another public sector body, also informing

him about the contacts of the public sector body that the application has been forwarded to.”

*5.3 Measures taken by public authorities to ensure that requests for access to official documents are dealt with on an equal basis and that **no distinction** is made on the basis of the nature of the request or the status of the requestor.*

Article 2/(3) of the law No. 119/2014 “On the right to information” provides that: “Person” is any natural or legal, local or foreign person, as well as the stateless persons”. Meanwhile in point 1 and 3, of Article 3, of the law No. 119/2014 “On the right to information” it is stated that: “1. Any person enjoys the right to access public information, not being subject to explain the motives. 3. Any person shall be entitled to access the public information, either through the original document or receiving copies in the form or format enabling full access to the document contents.”

Additionally, Article 11/(3) of the Law No. 119/2014 “On the right to information” provides that: “The applications for information shall be registered in accordance with the lodging sequence and processed without any distinction among them”.

*5.4 Whether a maximum **time limit** is set by law, any other applicable policy framework or through practice for public authorities to reach a decision on a request for access to official documents, notify the applicant about the decision, make the document available if the decision is favourable, and inform the applicant about any possible delays.*

In Article 15 of the law No. 119/2014 “On the right to information” the deadline for obtaining information is provided as follows:

“1. The public sector body shall process the application for information through making available the information applied for as soon as possible, however not later than 10 days since the day of its submission, unless a specific law provides for differently. 2. Where the public sector body receiving an application for information sends it to another body, the latter shall respond within 15 working days since the delivery of the application with the former body. 3. The deadline provided for in points 1 and 2 of this Article may be extended by not more than 5 working days due to one of the following reasons: a) need to apply for and consider complex and voluminous documents; b) need to extend the research to offices and premises being physically separated from the central office of the public sector body; c) need to consult other public sector bodies prior to making a decision on fulfilling or refusing the application. The decision to extend the time period shall be notified immediately to the applicant. 4. The failure to process the application for information within the deadlines referred to above shall always be considered a refusal. 5. The provisions of this law shall apply also to the access to the archived information of any type”.

5.5 Whether the competent public authority gives reasons in cases of refusal of access to official documents, wholly or in part, on its own initiative and whether it provides justification in writing to the applicant upon his/her request for explanations about the refusal.

Article 14 of the law No. 119/2014 “On the right to information” provides that:

“1. The entire applications for information shall, normally, be dealt with through the consultation of the information at the premises of the public sector body free of charge, through the unique

governmental portal ealbania.al or, as appropriate, through the official internet site.

2. The applications pertaining to written documents shall be processed by making available to the applicant:

a) a full copy in the same format as the one used by the public sector body, except in specific cases;

b) a full copy of the information via e-mail, as long as the information exists or is convertible to such a format.

3. With regard to the applications referring to other formats, the information shall be provided in the most efficient way and at the lowest cost for the public sector body.

4. The negative decision concerning the requested format shall always be provided in writing and provided with grounds.

In addition, Article 17/(6) of the law No. 119/2014 “On the right to information” provides that: *“Where the restriction affects the information only partially, the remaining part shall not be rejected to the applicant. The public sector body shall clearly indicate the parts of the respective documentation having been rejected, as well as based on which point of this Article the rejection was ruled”.*

Article 6 – Forms of access to official documents

- 1. When access to an official document is granted, the applicant has the right to choose whether to inspect the original or a copy, or to receive a copy of it in any available form or format of his or her choice unless the preference expressed is unreasonable.*
- 2. If a limitation applies to some of the information in an official document, the public authority should nevertheless grant access to the remainder of the information it contains. Any omissions should be clearly indicated. However, if the partial version of the document is misleading or meaningless, or if it poses a manifestly unreasonable burden for the authority to release the remainder of the document, such access may be refused.*
- 3. The public authority may give access to an official document by referring the applicant to easily accessible alternative sources.*

Please provide information on the following:

- 6.1 The form or format in which official documents are made available to the applicant once access to these documents is granted, and on whether the applicant has the possibility to choose the form of the document he/she wishes to consult;*

Article 3/(3) of the law No. 119/2014 “On the right to information” provides that: *“3. Any person shall be entitled to access the public information, either through the original document or receiving copies in the form or format enabling full access to the document contents”.*

Ways of making the information available are determined in Article 14 of the law No. 119/2014, as follows: *“1. The entire applications for information shall, normally, be dealt with through the consultation of the information at the premises of the public sector body free of charge, through the unique governmental portal ealbania.al or, as appropriate, through the official internet site. 2. The applications pertaining to written documents shall be processed by making available to the applicant: a) a full copy in the same format as the one used by the public sector body, except in specific cases; b) a full copy of the information via e-mail, as long as the information exists or is convertible to such a format. 3. With regard to the applications referring to other formats, the information shall be provided in the most efficient way and at the lowest cost for the public sector*

body. 4. *The negative decision concerning the requested format shall always be provided in writing and provided with grounds*”.

Article 11/(4)/(ç) of the law No. 119/2014 “On the right to information” provides that: “4. *The application for information shall contain: ç) format that the information is preferred to be obtained*”; and point 5, of Article 11, provides that: “As long as the application does not determine the format where the information has been applied for, it shall be provided in the most effective and lost cost fashion for the public body”.

Furthermore, Article 16 of the Law determines that: “2. *If the information is sought in electronic format and it is available in internet, the public sector body shall immediately indicate to the applicant the accurate address of the internet site where the information can be found. If the information is not sought in an electronic format, the public sector body cannot respond to the application by indicating to the applicant the accurate address of the internet site where the information is available electronically*”.

6.2 *How the public authority deals with requests to access official documents for which some of the information cannot be disclosed due to applicable limitations; whether the rest of the document is released; and whether the relevant decision of the public authority gives clear indications as to where and how much information is **deleted** and indicates the limitation justifying each deletion.*

Article 17/(5) and (6) of the law No. 119/2014 “On the right to information” lays out that: “5. *The right to information shall not be rejected automatically as long as the sought information is found at documents classified “state secret”. The public sector body having received the application for information shall, under these circumstances, immediately start the procedure revising the classification at the public sector body having ordered the classification under the law no 8457, dated 11/02/1999 “On the “state secret” classified information”, as amended. The public sector body shall immediately inform the applicant about the institution of the procedure revising the classification in accordance with the law and determine the extension of the time period for making the information available within 30 working days. The decision on fulfilling the application for information or not shall always be taken and grounded based on the criteria contained in this Article.*

6. *Where the restriction affects the information only partially, the remaining part shall not be rejected to the applicant. The public sector body shall clearly indicate the parts of the respective documentation having been rejected, as well as based on which point of this Article the rejection was ruled*”.

Article 7 – Charges for access to official documents

1. *Inspection of official documents on the premises of a public authority shall be free of charge. This does not prevent Parties from laying down charges for services in this respect provided by archives and museums.*
 2. *A fee may be charged to the applicant for a copy of the official document, which should be reasonable and not exceed the actual costs of reproduction and delivery of the document. Tariffs of charges shall be published.*

Please provide information on the following:

7.1. *Whether inspection of official documents on the premises of the public authority is*

ensured free of charge.

Article 13/(1) of the law No. 119/2014 "On the right to information" provides that: "1. *The services of the public administration are free of charge. Making information available may occur against a charge, set out and made public in advance by the public sector body in its internet site and in the premises of the public reception. The charge shall be the cost for the reproduction of the information applied for and, as appropriate, for sending it. The information applied for electronically shall be provided free of charge.*"

Moreover, Article 14/(1) of the Law No. 119/2014 "On the right to information" provides that: "The entire applications for information shall, normally, be dealt with through the consultation of the information at the premises of the public sector body free of charge, through the unique governmental portal ealbania.al or, as appropriate, through the official internet site".

7.2 *Whether the applicant can obtain a copy of the requested official documents free of charge. In the case that fees are charged, information on how they are calculated, whether tariffs are published and if so, how and where.*

Article 13 of the Law No. 119/2014 "On the right to information" provides that: "1. *The services of the public administration are free of charge. Making information available may occur against a charge, set out and made public in advance by the public sector body in its internet site and in the premises of the public reception. The charge shall be the cost for the reproduction of the information applied for and, as appropriate, for sending it. The information applied for electronically shall be provided free of charge.* 2. *The reproduction costs shall not be higher than the real cost of materials, whereon the information is re-produced. The posting costs cannot be higher than the average cost for the same cost in the market.* 3. *The Commissioner for the Right to Information and Protection of Personal Data shall, periodically and in cooperation with the Ministry of Finance, consider the charges made public by the public sector bodies and, as appropriate, order their change.* 4. *The citizens registered appropriately in the social aid schemes as well as the beneficiary entities shall, in accordance with the Law no 10 039, dated 22/12/2008 "On legal aid", as amended, obtain the information free of charge up to a certain number of pages for every application and in the equivalent value as long as the information is provided in another format.* 5. *The Minister of Justice and the Minister of Finance shall, upon joint instruction, determine the number of pages within which the information is obtained free of charge under point 4 of this Article, as well as the cases of exclusion from the payment of the charge.*"

Pursuant to point 5 of the above-mentioned Article 13 was adopted the joint instruction of the Minister of Justice and the Minister of Finance and Economy No. 12, dated 21.7.2020, "On determining the number of pages for which information is available for free, the cases of exemption from the payment of the fee, as well as the rules for the payment method for the device with information that is produced or maintained by public authorities".

<https://www.idp.al/wp-content/uploads/2016/11/Udhezimi-i-p%C3%ABrbashket-i-Ministris%C3%AB-s%C3%AB-Dreit%C3%ABsis%C3%AB-dhe-Ministris%C3%AB-s%C3%AB-Financave-dhe-Ekonomis%C3%AB.pdf>

According to point 1 of this Instruction "Persons registered in social assistance schemes, as well as beneficiary entities, according to Law No. 111/2017 "On legal aid guaranteed by the state",

they benefit from information and/or documentation free of charge up to 20 sheets, for each request or in the equivalent value when the information is provided in another format, after confirming the relevant status."

7.3 *Whether fees are charged for access to official documents in **archives***

Article 7/(1) the Council of Europe Convention "On access to Official Documents" provides that: "*Inspection of official documents on the premises of a public authority shall be free of charge. This does not prevent Parties from laying down charges for services in this respect provided by archives and museums*".

Article 77 of the law No. 9154 dated 6.11.2003 "On archives" provides that: "*1. The requests of state and non-state institutions, as well as private legal and natural persons, for non-scientific studies, archival data, copies or extracts of documents, which are stored in the state archives, are met against payment, according to the fees approved by the General Directorate of Archives. 2. The service with photocopies, for documents in the function of academic university scientific studies, is done with a preferential differential fee.*"

Article 8 – Review procedure

1. *An applicant whose request for an official document has been denied, expressly or impliedly, whether in part or in full, shall have access to a review procedure before a court or another independent and impartial body established by law.*
2. *An applicant shall always have access to an expeditious and inexpensive review procedure, involving either reconsideration by a public authority or review in accordance with paragraph 1.*

Please provide information on the following:

*8.1 Whether the relevant legal and/or the policy framework provides for a **review procedure**, before a court or another independent and impartial body established by law, which is accessible by the person whose request for having access to official documents has been denied.*

Point 1 and 2, of Article 24, of the law No. 119/2014 "On the right to information" provides that: "*1. Every person shall, where deemed that the rights provided for in this law have been violated, be entitled to file a complaint administratively with the Commissioner for the Right to Information and Protection of Personal Data, in compliance with this law and the Code of Administrative Procedures. 2. The administrative complaint with the Commissioner for the Right to Information and Protection of Personal Data shall be filed within 30 working days since the day when: a) the complainant received the notification about the refusal of access to information; b) the deadline provided for in this law for making this information available has expired*".

In addition, should be clarified that the powers of the Commissioner in the area of the right to information are determined in Article 31/(1) of Law No. 9887/2008 "On the protection of personal data", as amended. In this context, this provision stipulates that: "*In addition to the powers provided for in Article 31, the Commissioner for the Right to Information and Personal Data Protection shall assume the following powers in the field of the right to information:*

a) *examining the complaints of persons alleging the infringement of their rights provided for in*

the law “On the right to information”;

b) examining the complaints of persons pertaining to the functioning of the transparency programs with the public authorities;

c) assuming the necessary administrative enquiry in the course of exercising his powers; ç) being informed and having access to the information and documents subject to complaint in accordance with the law on the right to information or bearing a connection to the case under consideration, including the information classified “state secret”. He shall, in these cases, be obliged to abide by the requirements for maintaining the “state secret”, under the effective legislation;

d) imposing administrative sanctions under the provisions of the law on the right to information;

dh) encouraging the principle of transparency in the activity of the public authorities, specifically by way of awareness and informing on issues pertaining to the right of information;

e) monitoring the implementation of the law on the right to information;

ë) conducting surveys with regard to various issues pertaining to the right to information;

f) making recommendations for the public sector bodies, connected to the concept and implementation of institutional programs of transparency;

g) upon being required by the court adjudicating the case, submitting an opinion in writing on any type of issue connected to the right to information.”

8.2 The **type of decisions** made by the court or the independent body, notably whether the latter is able to overturn decisions taken by public authorities which it considers to not comply with the applicable law/s, or to request the public authority in question to reconsider its position.

Article 24/ (3), (4), (5) and (6) of the law No. 119/2014 “On the right to information” provides that: “3. Upon receiving the complaint, the Commissioner for the Right to Information and Protection of Personal Data forward it to the structure dealing with the right to information, the latter checking out the facts and the legal basis of the complaint. He may, to this effect, require the complainant and the public sector body, against which the complaint has been filed, to make written submissions and to be informed by any other person or source. Where deemed necessary, the Commissioner holds a public hearing with the involvement of the parties.

‘4. The Commissioner for the Right to Information and Protection of Personal Data shall, with regard to the complaint, make a decision within 15 working days since the day when the complaint has been lodged.

‘5. The Commissioner for the Right to Information and Protection of Personal Data shall decide:

a) rejection of the complaint if:

i) the deadline provided for in point 2 of this Article has expired;

ii) the complaint is not lodged in writing;

b) accepting the complaint and ordering the public authority to provide the requested information, fully or partially;

c) rejection of the request, partially or fully;

ç) the deadline, within which the public sector body shall implement the order.

6. If the Commissioner for the Right to Information and Protection of Personal Data does not make the decision prior to the expiry of the deadline provided for in point 4 of this Article, the complainant shall be entitled to approach the court”.

8.3 The **duration** in practice of the review procedure involving either reconsideration by a

public authority or by the court or the independent body or whether fees are charged for it.

Article 24/ (2) of the Law No. 119/2014 “On the right to information” provides that: “*The administrative complaint with Information and Data Protection Commissioner shall be filed within 30 working days since the day when:*

- a) the complainant received the notification about the refusal of access to information;*
- b) the deadline provided for in this law for making this information available has expired”.*

Furthermore, point 4 of Article 24, of the law No. 119/2014 “On the right to information” provides that: “*The Information and Data Protection Commissioner shall, with regard to the complaint, make a decision within 15 working days since the day when the complaint has been lodged”.*

Also, the parties are entitled to file a complaint against the Commissioner with the competent administrative court, pursuant to Article 25 of the Law No. 119/2014 “On the right to information”, which states that: “*The complainant and the public sector body shall be entitled to file a complaint against the Commissioner with the competent administrative court”*

Article 9 – Complementary measures

The Parties shall inform the public about its right of access to official documents and how that right may be exercised. They shall also take appropriate measures to:

- a. educate public authorities in their duties and obligations with respect to the implementation of this right;*
- b. provide information on the matters or activities for which they are responsible;*
- c. manage their documents efficiently so that they are easily accessible; and*
- d. apply clear and established rules for the preservation and destruction of their documents.*

Please provide information on the following:

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

In practice, the right to information is exercised in two ways, notably by:

- consulting the Transparency Program of Public Authorities;
- and/or by addressing a written request to the Public Authority.

Some of the legal instruments that every Public Authority is required to undertake with the aim of, *inter alia*, informing the public about the exercise of this right are:

a) Appointment of the Coordinator for the Right to Information.

Pursuant to Article 10 of the law No. 119/2014 “On the right to information”, each public authority shall appoint one civil servant in the function of coordinator for the right to information. Under Article 10/ (2) the coordinator for the right to information assumes the following powers:

- a) providing access to every applicant to the public information in accordance with this law, by way of consulting the original document or obtaining a copy;*
- b) establishing, maintaining, publishing and updating the register of applications and responds within the period provided for in point 1 of Article 8 of this law;*
- c) coordinating the efforts for meeting the applications for information within the time period and way provided for in this law;*
- d) registering the applications for information and assigning a serial number for each of them;*

- e) *forwarding the application for information from a public sector body where the application has been lodged and it does not possess the information applied for;*
- f) *verifying the cases of making the information available to citizens in accordance with point 5, Article 13, of this law;*
- g) *making the preliminary notifications under Articles 14 and 15, as well as communicating with the applicant, as appropriate for processing the application for public information.*
- b) *Implementation/Publication of the Transparency Program;*

On the other hand, the Transparency Programme is a binding legal instrument (pursuant to Article 7 of the law No. 19/2014 “On the right to information” according to which the public authority makes available information/documents on the functional activity according to a template approved by the Commissioner and this approach constitutes proactive institutional transparency. This instrument must be accurate, up-to-date and easily accessible by the public, in order to obtain information without having to make a request. In view of the technological developments, the Office of the Commissioner has called on public authorities to publish their Transparency Programmes on their official websites.

9.2 Training *(pre-service and during service) 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.*

Article 31/(1)/(dh) of Law No. 9887, dated 10.03.2008 “On the protection of personal data” as amended, lays down that: *“In addition to the powers provided for in Article 31, the Information and Data Protection Commissioner shall assume the following powers in the field of the right to information: dh) encouraging the principle of transparency in the activity of the public authorities, specifically by way of awareness and informing on issues pertaining to the right of information.”* In this context, the Commissioner’s Office carries out extensive activities to inform and raise the awareness of individuals about practical exercise of their rights and the conformance with the legal obligations.

The legislation in the area of the right to information is included in the curriculum of the Albanian School of Public Administration (ASPA) for all public officials. The International Right to Information Day (September 28) is regularly celebrated with awareness events.

The activity of the Commissioner's Office in this context includes also the provision of training sessions about the appropriate implementation of the regulatory framework on the right to information, intended for public authorities, civil society organisations, and interest groups. Emphasis has been put on the continuous cooperation with the media, as well as the publication of awareness-raising materials (videos, brochures, leaflets, etc.).

More information regarding training and awareness-raising activities with focus on promoting the integrity and accountability of Public Authorities in guaranteeing this right, is available in the Annual Reports of the institution, which are published on the official website: <https://www.idp.al/annual-reports/?lang=en>;

9.3 Measures taken by public authorities to set up effective systems for the *management and storage* of official documents that they hold, including information on how such measures facilitate access to official documents.

Public authorities in our country implement the Law No. 9154, dated 6.11.2003 “On archives”, particularly the provisions regarding “Technical - professional and methodological norms of

archival service in the Republic of Albania", in terms of document management, storage and service.

Additionally, Article 7/(h) of the Law No. 119/2014 "On the right to information" establishes the information categories that shall contain a Transparency Programme: *"h) a simple description of the system used by the public sector body for keeping the documentation, types and formats of the documents, as well as categories of information being made public ex officio"*.

Furthermore, paragraph (2) of the same article stipulates that: *"2. The public sector body shall also create and archive a digital copy of its official internet site, filled out with information being required in the approved transparency program, as well as on the methods, mechanisms and periodicity of the public information publication, being made available to the public ex officio."*

On the other hand, with regard to damaging or destroying the official documents with the purpose of avoiding the right to information, the law also provides for an administrative sanction for any employee of the public authority pursuant to Article 18/(1) of the Law No. 119/2014 "On the right to information": *"l) harming or destruction of official documents to the effect of avoiding the right to information shall be subject to a penalty of 150 000 up to 300 000 ALL"*.

9.4 Rules applied for the preservation and destruction of documents by public authorities.

Article 9/(d) of the Council of Europe Convention "On access to official documents" anticipates: *"d) apply clear and established rules for the preservation and destruction of their documents"*

- The storage of archival documents in dedicated public authority premises meets these technical specifications:
 - - The secretariat and archive or secretary-archive of the state or non-state entity are placed in suitable premises that meet the requirements of document storage technology. They are equipped with protective means against fire, sunlight, dust and other physical and biological pests. Their doors and windows are secured with metal mesh and automatic locks. In the secretary and archive or secretary-archive, documents are placed in folders and cardboard boxes and the latter in metal shelves painted with anti-rust paint. The shelves are placed vertically with the windows. The shelves are placed 40-60 cm away from the wall and 80 cm away from each other. Main traffic lanes should be 100-120 cm. Each element of the shelf should have 7-8 levels, each with a height of 30 cm, a depth of 80 cm (to be used from both sides) and a length of 100 cm. The first and last level of shelves should be 20 cm above the floor and below the ceiling. Lighting lamps are placed between the shelves;
 - The temperature of 14°C to 18°C and relative humidity of 55-65 percent should be ensured in the storage area. Fluctuations in 24 hours should be no more than 2°C for temperature and no more than 5 percent for humidity. For their provision, as far as possible, air conditioners or other traditional methods are used, such as natural ventilation, the use of heaters, artificial humidification and various post rates according to the instructions of the General Directorate of Archives.
- The process of disposal of documents that lose their preservation value is dynamic, for which clear rules have been defined and several actors are involved, such as:
 - Next to every state or non-state entity, by order of the office holder, the commission of

expertise is created. It includes the most experienced specialists of the main sectors, as well as the employee of the archive or secretary-archive. The expert committee consists of no less than five specialists. It is chaired by the holder himself or his deputy. In its work, the commission is guided by the basic criteria of the preservation value expertise defined in the relevant methodological instructions of the General Directorate of Archives;

- Expertise commissions of state or non-state entities based on the "Standard list of documents with retention periods" and the "List of documents of national historical importance", announced by the General Directorate of Archives, draw up a concrete list of their documents with national historical importance and documents with a temporary storage period, as well as determine the storage periods for the latter;
- These lists are reviewed and approved by expert commissions and the head of the relevant state or non-state entity;
- The archive or secretary-archive of the state or non-state entity, the employee in charge of working with the documents, organize the work for the expertise of the value of preserving the documents. Every year, the files that have met the storage period are checked and, after receiving the opinion of the relevant sectors, the list of documents separated for disposal is prepared;
- The files included in the exclusion list are destroyed after the approval of the decision of the expert committee by the head of the state or non-state entity and by the expert committees of the state, central, local or system archives where they make the registration and submit the documents;
- The expert committee, during the review of the files set aside for disposal, may extend their storage period when it finds that they have not yet lost their value for operational use. For the files that are decided for disposal, the archive or the secretary-archive makes the relevant notes in the "notes" column of the inventory;
- The destruction of the files included in the exclusion list is done by the archive or the secretary-archive of the state or non-state entity by sending them to paper factories or by burning them. For their destruction, the relevant record is kept;
- The minutes are signed by the members of the disposal committee, consisting of no less than three people. Acts of disposal (list of separation, decisions of expert commissions according to Article 34 and records of disposal) are permanently stored in the fund's file.

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

At its own initiative and where appropriate, a public authority shall take the necessary measures to make public official documents which it holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest.

Please provide information on the following:

- 10.1 *Measures taken to encourage transparency by public authorities through the publication of official documents that they hold, notably information on the criteria used by public authorities to determine which documents they should publish **proactively**.*

The Transparency Programme is a legally binding instrument, through which the public authority makes available information/documents about its functional activities according to a template approved by the Commissioner. This approach adds up to proactive institutional transparency. This instrument must be accurate, up-to-date and easily accessible to the public, in order to obtain information without having to make a request. Article 7/(1) of the Law No. 119/2014 "On the right to information" stipulates that:

"1. The public sector bodies shall, in compliance with the transparency programs approved for them, prepare in advance and in easily comprehensible and accessible formats on their internet website and make available to the public the following information categories:

- a) *a description of the organizational structure, functions and tasks of the public sector body;*
- b) *complete texts of:*
 - i) *conventions being ratified by the republic of Albania;*
 - ii) *laws;*
 - iii) *by-law acts;*
 - iv) *codes of conduct;*
 - v) *every policy document;*
 - vi) *manual or any other document bearing a connection with the assumption of the functions of the public sector body and affecting the broad public;*
- c) *information on the procedures to be followed to file an application for information, postal and electronic address for lodging applications for information, as well as the appeal procedures against the respective decision;*
- d) *data on the location of offices of the public sector body, working hours, name and contacts of the coordinator for the right to information;*
- e) *data on the education, qualifications and salaries of functionaries, being subject to the obligation of declaring their assets according to the law, structures of salaries for the other civil servants, as well as a description of the selection procedures, powers and tasks of the senior functionaries of the public sector body and the procedure they follow to make the decisions;*
- f) *monitoring and controlling mechanisms operating above the public authority, including the strategic work plans, auditing reports of the High State Audit or other entities, as well as the entities containing indicators of the performance of the public sector body;*
- g) *data on the budget and plan of expenditure for the ongoing financial year and the previous years, as well as any annual report on the implementation of the budget. Where the public sector body is self-financed out of the license charges or any other form of direct financing from the entities regulated by it, even the documents indicating the situation of the performance of obligations by the licensed entities shall be made public;*
- h) *information on the procurement procedures or competition procedures of the concession/public-private partnership, respectively in accordance with the provisions of the law no 9643, dated 20.12.2006 "On public procurement" and the law no 125/2013, "On concessions and public-private partnership", being conducted on behalf of the public authority, including: i) list of concluded contracts; ii) contracted amount; iii) contracting parties and the description of contracted services or goods; other public authority, within the time limits foreseen by law, where it turn out that iv) information on implementing and monitoring the contracts, as well as various guides and policies;*
- i) *information on the services that the public authority makes available to the public, including the standards on the service quality;*
- j) *any mechanism or procedure for filing the applications and complains, in connection with the actions or omissions of the public sector body;*

- k) *any mechanism or procedure, by which the interested persons may submit their opinions or have an impact in any other way on the drafting of laws, public policies or assumption of the functions of the public sector body;*
- l) *a simple description of the system used by the public sector body for keeping the documentation, types and formats of the documents, as well as categories of information being made public ex officio;*
- m) *record of applications and responds, in accordance with Article 8 of this law;*
- n) *a description of the social aid categories and forms, subsidies granted by the public sector body and procedures to benefit them;*
- o) *information and documents being often requested;*
 - l) *any other information deemed useful by the public sector body.*

10.2 *How these official documents are **made public**, in which format and whether any measures are taken to facilitate the public's understanding of these documents.*

Article 9 of the Law No. 119/2014 "On the right to information" "Preparation and approval of transparency programs" establishes as follows:

"1. The public sector body shall, no later than 6 months since the entry of this law into effect or since its establishment, start implementing an institutional transparency program, the latter setting out the categories of information being made public ex officio and the way of making this information public.

2. While preparing the transparency draft-program, the public sector body shall take account of the highest interest of the public, specifically: a) ensuring maximal access to the public information; b) making ex officio available as much information as possible, in order to narrow the gap of the need for individual requests for information; c) the models approved by the Commissioner pertaining to the category of the public sector body referring to the Right to Information and Personal Data Protection, in compliance with Article 6 of this law.

Additionally, Article 6 "Model transparency programs" of the Law No. 119/2014 "On the right to information" stipulates that: *"The Commissioner for the Right to Information and Protection of Personal Data shall approve and disseminate transparency program models for various public authority categories, in compliance with the current legislation on the protection of personal data, within 3 months since the entry into effect of this law".*

In this context the Commissioner has drafted:

- The Standard Transparency Programme for Public Authorities; (Approved by Commissioner's Order No. 187, dated 18.12.2020 "On the Approval of the Revised Transparency Programme", as amended;
- Standard Transparency Programme for Local Self-Government Units; (Approved by Commissioner's Order No. 211, dated 10.09.2018 "On the approval of the Model Transparency Program for Local Self-Government Units").

These documents specify each kind of information and documentation that must be published under each category, whereas several user-friendly templates have also been created, so as to ensure easy access over the Internet.

Furthermore, Article 8 of the Law No. 119/2014 "On the right to information" stipulates that: *"1. . . The public authority shall create, keep and make public a specific record, reflecting the entire applications for information and the information made available in response. This register shall*

be updated every 3 months and it shall be made public on the internet site of the public sector body, as well as in the premises of the public sector body for the reception of the public. The identity of the applicants shall not be reflected in the register.

2. The Commissioner for the Right to Information and the Protection of the Personal Data shall set out standards for the format and contents of the register.

By Order No. 188, dated 18.12.2020, the Commissioner has approved the revised model of the Register of requests and responses: the innovation brought about by this format consists in the obligation of public authorities to fill in detailed information on the manner of handling requests for information.