



NATIONAL NETWORK
For The Right
Of Access To Information

ACCESS TO INFORMATION DRAFT LAW - OVERVIEW

The Access to Information draft law, referred to in this document as the “law”, was developed by the legal working group of the “National Network for the Right of Access to Information”. It was introduced to parliament on April 9, 2009 by the following parliamentarians, as members of LebPAC (Lebanese Parliamentarians Against Corruption): Ghassan Moukheiber, Yassine Jaber, Abdallah Hanna, Ismail Sukkarieh and Jawad Boulos.

Context

What is the purpose of the law?

The law endeavors to enhance transparency and fight corruption in the administration and strengthen trust between the citizen and the State by establishing an effective right to access information.

Why is a law required?

Although the right to access information is enshrined in the Lebanese Constitution¹ and in international treaties to which Lebanon is a party², there are currently no comprehensive and systematic mechanisms by which to implement or enforce this right. A law is therefore required to set out detailed rules and procedures in order to ensure that the right to access information becomes effective.

Components of the Law

I. Access to information upon request

Who is required to provide information?

The administration is required to provide information. The law has opted for a broad interpretation of the “administration” that includes public entities and also a limited number of private entities notably those that are controlled by a public entity or that participate in the provision of a public service or in the management of public property.

Who has a right to access information under the law?

Any person - whether a Lebanese or a foreigner, a natural person or a legal entity - has the right to access information. This person does not have to provide the administration with a justification for his/her request or explain the intended use of the requested information.

Are there any limitations on the right of access to information?

The law provides a limited list of exceptions to the right to access information. The list includes, for example, secrets of national defense or information that falls within the right to privacy of individuals.

In practice, how can one access information held by the administration?

One must address a written request to the relevant administration. A clerk is designated in every administration to provide support to the applicant if needed. The administration must respond within 15 days but may extend this time limit for another 15 days in the case of a complex request. The administration is required to provide reasons for the dismissal of a request for information. The rule is that access to information is free of charge and that the applicant will only bear costs related to the provision of copies of documents he/she has required.

II. Publication of information

Which documents must be published?

Documents that must be published are:

- Annual reports on activities of the administration.
- Documents of a regulatory nature or that interpret or enhance the understanding of laws or regulations in force (E.g. circulars, explanatory notes of laws and regulations).

Where should one look for documents the administration is required to publish?

The documents shall be published in the Official Gazette and posted on line.

¹ As a component of freedom of expression

III. Information pertaining to reasons that underpin an administrative act

In which cases must the administration spell out reasons for its decisions?

The administration is obliged to provide in writing legal and factual reasons for any individual decision that affects rights of a person or a legal entity.

What can one do in the event the administration fails to provide reasons for its decisions?

If the administration fails to provide reasons for its decision where required by the law, the affected person may challenge the said decision.

IV. The independent administrative commission (“The Commission”)

What is the status of the Commission?

This Commission is part of the executive branch. The law provides that the Commission is independent: this prevents the government or any part thereof from addressing directives or instructions to the Commission.

What is the role of the Commission?

The Commission has several parts to play. The Commission is notably expected to handle issues defined under the anti-corruption and whistleblower draft laws. Under the access to information law, the main role of the Commission is to receive complaints where the administration has failed to comply with the law. The decisions rendered by the Commission at the outcome of this process are binding upon the administration and can be appealed before the State Council.

The National Network for the Right of Access to Information (“Network”), a multi-sectoral group comprising parliamentarians, ministries, private sector associations, professional syndicates and non-governmental organizations, seeks to enhance transparency and accountability and to strengthen the rule of law and civic participation in Lebanon through access to information and protection for individuals who report corruption (“whistleblower protection”). The Network was formed on April 11, 2008 upon the initiative of the Lebanese Parliamentarians against Corruption (LebPAC), the Lebanese Transparency Association (LTA), and Association pour la Défense des Droits et des Libertés (ADDL), in collaboration with the American Bar Association (ABA) Rule of Law Initiative in Lebanon.

For more information, see www.a2ilebanon.net, www.khabrouna.net.