



NATIONAL NETWORK
For The Right
Of Access To Information

Bill on the Right of Access to Information

Preamble and explanatory note

Whereas Article 13 of the Lebanese Constitution acknowledges oral and written freedom of expression,

Whereas the Preamble of the Lebanese Constitution clearly indicates that “Lebanon is a founding and active member of the United Nations and is committed to its conventions and the Universal Declaration of Human Rights”, which means that the rules and principles they cite have constitutional value in Lebanon,

Whereas Article 19 of the aforementioned Declaration stipulates that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”,

Whereas Article 19 of the International Covenant on Civil and Political Rights, which was ratified by virtue of Decree #3855 of 1/9/1972, stipulates that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”,

Whereas Article 10 of the UN Convention Against Corruption, which was ratified by virtue of law #33 of 16/10/2008, calls for the adoption of such measures as may be necessary to enhance transparency in public administration, through the disclosure of information held by public bodies for the public interest, in particular “information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data”,

Whereas the Lebanese State is hence obligated to practically integrate these rules and principles in the Lebanese legislation and to ratify laws that reflect its international commitments and obligations, particularly regarding the acknowledgement of every person’s right to access and view administrative information and documents, thus enabling him to practice his role in calling his representatives to account through his access to reliable official information,

Whereas item D of the Lebanese Constitution Preamble stipulates that “the people are the source of authority and sovereignty; they shall exercise these powers through the constitutional institutions.” To be able to do so, they shall enjoy the right of access to information and documents, provided that access to information be the rule and withholding it be the exception. Moreover, the exception (of withholding information) shall be justified as per the principles of public order, the higher interest of the State, and national security, and within a very narrow interpretation.

Therefore, the right to access administrative information is a constitutional right that is acknowledged in the Constitution's Preamble. This right shall be acknowledged in an enforceable law that sets a mechanism for its effective implementation in compliance with the Constitution and international conventions.

For this purpose, a bill was prepared with the aim of enhancing transparency in the administration, assisting in the fight against corruption, enhancing accountability, raising the participation level of citizens in decision-making, and enhancing democracy through the following:

- 1. Enabling every person to exercise his/her right to access information and documents held by the administration.** The practice of such right does not have to be justified by a direct interest in accessing information. The term 'administrative information and documents' shall mean all documents held by the administration, regardless of their physical form or source. The term 'administration' shall mean the State, its public administrations, the independent administrative authorities, judicial and arbitration authorities and councils, including judicial, administrative and religious courts, municipalities and federations of municipalities, private institutions and companies in charge of running a public utility or property, government linked corporations, legal entities formed under public law and associations of public interest.
- 2. Binding the administration to publish annually certain administrative reports and documents.** The administration's annual reports shall include information on its work methodology, the difficulties it faces in the course of its work, the projects that were and were not implemented, the reasons for their non-implementation, as well as any other information the administration deems necessary.
- 3. Binding the administration to provide reasons for its administrative decisions** in order to allow citizens to access the reasons for taking such decisions. This obligation aims to ensure transparency, avoid the use of discretionary or arbitrary powers, and limit the recourse to judicial appeals. The administration is only exempted from providing reasons in the case of a state of emergency, in exceptional circumstances, or when it uses its discretionary power provided this is clearly stated in the decision for which no reason is provided.
- 4. Setting mechanisms and procedures for requesting information.** The administration shall facilitate access to information through keeping information in an orderly and systematic manner to help its easy extraction;

keep a record of the requests; and appoint a clerk to examine requests for access to information.

5. **Entrusting the independent administrative commission designated in the law establishing a national anti-corruption commission with the task of supervising compliance with this law** based on Article 10, paragraph 12 of this law, which stipulates that the aforementioned commission shall be in charge of “any other tasks and duties it is entrusted with according to the laws in effect” in view of the relation of the fight against corruption with the right to access information that is, ensuring transparency and accountability. The tasks entrusted to the commission per this law include: receiving complaints related to the implementation of the provisions of this law, investigating them, and issuing decisions in this regard. This commission shall issue decisions of procedural value which can be appealed before the State Council asking for their suspension. Decisions issued by the commission shall be binding to the administration. In case the administration delays their implementation with no reason, the Commission may, upon the request of the person affected (the applicant) impose a compulsory fine at its own determination. Giving the commission the power to issue decisions aims to enhance its role and make it executive, not merely consultative.

For the reasons stated above,

We submit this bill to the Parliament, with the hope of seeing it ratified.