

PARLIAMENT OF ROMANIA

Chamber of Deputies

Senate

L A W

on Decisional Transparency in Public Administration

The Parliament of Romania adopts this Law.

Chapter I

General Provisions

Art. 1 – (1) The present law establishes the minimal procedural rules enforceable to ensure decisional transparency within central and local public administration authorities, elected or appointed, as well as on other public institutions that use public financial resources, within relations between them and the citizens as well as citizens' legally established associations.

(2) The purpose of the law is the following:

- a) increasing responsibility degree of public administration toward the citizen as a beneficiary of administrative decision.;
- b) stimulating active participation of the citizens in administrative decision-making process as well as in legal regulation elaboration process;
- c) increasing transparency degree at the level of the whole public administration.

Art. 2 – The basic principles of this law are the following:

- a) informing the persons beforehand, ex officio, on public interest issues that are to be debated by central and local public administration authorities, as well as on draft legal regulations;
- b) consulting the citizens and citizens' legally established associations, at public authorities' initiative, relative to draft legal regulation elaboration process;
- c) actively participating in administrative decision-making and in legal regulation elaboration process, with the observance of the following rules:

1. the meetings of the authorities and institutions that are subject to this law are public, in accordance with the law;
2. debates shall be spread on the records and brought to public's knowledge;
3. the minutes of these meetings shall be recorded, filed and brought to public's knowledge.

Art. 3 – For the purpose of the present law, the terms below have the following meaning:

a) *normative act* – the act issued or adopted by a public authority, with general or local applicability;

b) *decision-making* – deliberative process developed by public authorities;

c) *normative act elaboration* – procedure of redacting a draft of legal regulation, previously to submitting it in order to be adopted;

d) *recommendation* – any point of view, suggestion, proposal or opinion, expressed verbally or in writing, received by public authorities from any person interested in decision-making process and in legal regulation elaboration process;

e) *transparency obligation* – obligation of public authorities to inform and submit draft legal regulations to public debate, to allow access to administrative decision-making and to the minutes of public meetings;

f) *legally established association* – any civic, trade union, employer organization or any other associative civic representation group;

g) *minute* – written document in which the points of view expressed by the participants in a meeting, as well as the result of the debates;

h) *priority order* – order that determines priority of participation in public meetings depending on the interest expressed toward the topic of the meeting;

i) *public meeting* – meeting held by public administration authorities at which any interested person has access.

Art. 4 – Public authorities that are subject to this law are the following:

a) central public administration authorities: the ministries, other central organs of public administration that are below the Government or below the ministries, the Government's and the ministries' decentralized public services, as well as autonomous administrative authorities;

b) local public administration authorities: county boards, local boards, mayors, public institutions and services of local or county interest.

Art. 5 – The legal regulation elaboration processes and the meetings during which information on the following domains is presented and debated do not come within the provisions of the present law:

a) National defence, public order and safety, the country's strategic economic and political interests as well as the authorities' deliberations if they are part of classified information category, in accordance with the law;

b) Values, deadlines, technique and economic data of commercial or financial activities, if publication of those infringes loyal competition principle, in accordance with the law;

c) Personal data, in accordance with the law.

Chapter II
Procedures on
Participation of the Citizens and of Legally Established
Associations in Legal Regulation Elaboration Process and in Decision-
Making Process

SECTION 1

Provisions on Participation in Legal Regulation Elaboration Process

Art. 6 – (1) Within draft legal regulation elaboration procedures, the authority of public administration is bound to publish within its own Web page an announcement on this action, to display it on the premises of its own headquarters within a space accessible to the public and to disseminate it to central or local mass media, depending on the case. The authority of public administration shall transmit the drafts, by request, to all persons interested.

(2) The announcement on a draft legal regulation elaboration shall be brought to public's knowledge in accordance with the provisions stipulated in Paragraph (1), at least within 30 days before its submittal in order to be analysed, endorsed and adopted by public authorities. The announcement shall contain a substantiation notification, a grounds exposal or, depending on the case, an approval paper on the necessity of adopting the submitted legal regulation, the complete text of the draft of the respective act as well as the deadline, the place and the modality in which those who might be interested in it may send their written proposals, suggestions, opinions used as recommendations, regarding the draft legal regulation.

(3) The announcement on elaboration of a draft legal regulation relevant for business environment shall be transmitted by its initiator to business associations and to other legally established associations, on specific activity domains, within the time stipulated in Paragraph (2).

(4) When the announcement is published, the public administration authority shall establish a period of at least 10 days for receiving, in writing, the proposals, suggestions and opinions on the draft legal regulation submitted to public debates.

(5) The head of the public authority shall appoint a person within the respective institution, in charge with the relation with civil society, who will receive the interested persons' proposals, suggestions and opinions on the proposed legal regulation.

(6) The draft legal regulation shall be transmitted to the interested public authorities, in order to be analysed and approved, only after its finalization on the basis of the observations and proposals stipulated in accordance with Paragraph (4).

(7) The respective public authority is bound to decide organization of a meeting within which the draft legal regulation shall be debated, if the respective procedure was requested in writing by a legally established association and by another public authority.

(8) In all cases when public debates are organized, the respective debates shall take place within maximum 10 days since publication of the date and the place when and where they will be carried out. The respective public authority shall analyse all recommendations on the respective draft legal regulation.

(9) In case of regulating a situation which, due to its exceptional circumstances, imposes adoption of immediate solutions, with a view to avoiding a severe infringement of public interest, the draft legal regulations shall be submitted to adoption under the emergency procedure stipulated within regulations now in force.

SECTION 2

Provisions on Participation in Decision-Making Process

Art. 7 – (1) Participation of the interested persons in public meeting debates shall take place under the following circumstances:

a) announcement on the public meeting shall be displayed at the public authority's headquarters, inserted in the public authority's Web page and issued to mass media at least 3 days before the meeting;

b) the respective announcement shall be brought to the knowledge of the citizens and of the legally established associations that have sent, in writing, their proposals and suggestions used as recommendations, on one of the domains of public interest that will be approached during the public meeting;

c) the announcement shall contain the date, the hour and the place when and where the public meeting will take place, as well as the meeting's agenda.

(2) Dissemination of the announcement and special invitation to participation in public meeting, addressed to certain persons, is the responsibility of the person in charge with the relation with civil society.

(3) Participation of the interested persons in the public meetings shall be allowed within the limit of the available seats in the meeting hall, in accordance with the priority order established by the interest of the legally established associations relative to the subject approached during the public meeting.

(4) The priority order do not limit mass media access to public meetings.

Art. 8 - The person chairing the meeting will invite the guests and the persons assisting on their own initiative to take into discussion the issues contained in the agenda.

Art. 9 – (1) Adoption of administrative decisions comes within the exclusive competence of public authorities.

(2) The points of view expressed during the meeting by the persons, in accordance with provisions of Art. 8, shall be used as recommendations.

Art. 10 – The minute of the public meeting, inclusively the result of the expressed votes of each member, shall be displayed at the headquarters of each public authority or it shall be published within the respective public authority's own Web page, excepting the cases in which a secret vote was decided.

Art. 11 – (1) Public authorities stipulated in Art. 4 are bound to elaborate and to file minutes of the public meetings. When considered necessary, the public meetings may be also recorded.

(2) The records of the public meetings, except for those stipulated in Art. 6 will be brought to public knowledge, by request, observing the

provisions of the Law no. 544/2001 regarding the free access to the information of public interest.

Art. 12 – (1) Public authorities stipulated in Art. 4 are bound to elaborate and to publish an annual report on decisional transparency, which shall obligatorily comprise the following elements:

- a) total number of the received recommendations;
- b) total number of recommendations included in the draft legal regulations and in the content of the already made decisions;
- c) total number of the participants in the public meetings;
- d) the number of the public debates organized on the draft legal regulations;
- e) situation of the cases in which public authorities were publicly charged for not observing provisions of the present law;
- f) own evaluation of the partnership with the citizens and their legally established associations;
- g) the number of the closed-door meetings and motivation for restricting access.

(2) The annual report on decisional transparency shall be brought to public knowledge within the respective public authority's own Web page, by displaying it at the public authority's headquarters on premises accessible to the public or by presenting it within a public meeting.

Chapter III **Penalties**

Art. 13 – (1) Any person that considers himself/herself infringed in his/her rights stipulated in the present law may lodge a complaint to the administrative contentious section of the Court.

(2) The complaint and the appeal are both cases judged by Court by emergency procedure and are exempted of stamp fee.

Art. 14 – The deed of the public servant that, for reasons contrary to the law, denies persons' access to the public meetings or incapacitates the interested persons from involving in legal regulation of public interest elaboration process, under the present law, constitutes a disciplinary deviation and it shall be punished in accordance with provisions of Law No.

188/1999 on the Statute of Public Servants or, depending on the case, with labour legislation.

Art. 15 – Persons assisting in the public meetings, invited or on their own initiative must observe the public authority’s own regulations on public meetings. In case that the president of the meeting will notice that a person has encroached the mentioned regulations, the president may order evacuation of the respective person.

Chapter IV **Final Provisions**

Art. 16 – (1) The present law shall come into force in 60 days’ time since its publication in the Official Gazette, Part I.

(2) On the date of coming into force of the present law any contrary provisions shall be abrogated.

Art. 17 – In 30 days’ time since the coming into force of the present law, public authorities and the other legal persons that are subject to the present law (art. 4) are bound to modify their organization and functioning regulations in accordance with the provisions of the present law.

This Law was adopted by Senate within the meeting on December 19, 2002 and by the Chamber of Deputies within the meeting on December 19, 2002.

PRESIDENT OF SENATE
NICOLAE VACAROIU

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for PRESIDENT OF CHAMBER OF DEPUTIES
VIOREL HREBENCIUC

Bucharest, January 21, 2003

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