

# ACT ON RIGHT OF INFORMATION ACQUIREMENT

**Act No** : 4982  
**Adopted on** : 9.10.2003

## SECTION ONE

### **Purpose, Scope and Definitions**

#### **Purpose**

**Article 1.-** The purpose of this Act is to lay down the guidelines and procedures for individuals to exercise their right of information acquirement in accordance with the principles of equality, neutrality and openness which are the fundamentals of democratic and transparent administration.

#### **Scope**

**Article 2.-** This Act is applicable to the activities of public institutions and organisations, and professional organisations which have the capacity of a public institution.

The provisions of the Act on Exercising of the Right of Petition No 3071 of 1.11.1984 are reserved.

#### **Definitions**

**Article 3.-** For the purposes of this Act;

a) 'Institution and organisation' shall mean all agencies and authorities mentioned in Article 2 of this Act and to which an application to acquire information covered by this Act can be made,

b) 'Applicant' shall mean real and legal persons who exercise their right of information acquirement under this Act by applying to institutions and organisations,

c) 'Information' shall mean all kinds of data covered by this Act which are in the records of the institutions and organisations,

d) 'Document' shall mean written, printed or reproduced dossiers, papers, books, journals, brochures, studies, letters, programmes, instructions, sketches, plans, films, photographs, tape and video cassettes, maps, all kinds of electronically recorded information, news and data carriers which are the property of the institutions and organisations and which are covered by this Act,

e) 'Access to information or document' shall mean, depending on the nature of the information or document requested, the delivering of a copy of the information or document in question to the applicant by the institutions and organisations; and in cases where provision of a copy is not possible, permitting the applicant to review the original information or document, take notes or see or hear the contents thereof,

f) 'Committee' shall mean the Evaluation Committee for Acquiring Information.

## SECTION TWO

### **Right of information acquirement and Obligation to Provide Information**

#### **Right to acquire information**

**Article 4.-** Everyone has the right to acquire information.

Foreigners residing in Turkey and foreign legal persons operating in Turkey shall benefit from the provisions of this Act on the condition that the information to be requested

relates to themselves or their line of business and within the framework of the principle of reciprocity.

Their rights and obligations arising out of the international conventions to which Turkey is a party are reserved.

#### **Obligation to provide information**

**Article 5.-** The institutions and organisations are obliged to take the necessary administrative and technical measures to make available to the applicants all kinds of information or documents, save for those exceptions included in this Act, and to complete applications to acquire information in an effective, swift and accurate manner.

As of the date of entry into force of this Act, the provisions of other acts contrary to the provisions of this Act are not applicable.

### **SECTION THREE**

#### **Application to Acquire Information**

##### **Application procedure**

**Article 6.-** The application to acquire information shall be made to the institution or organisation where the requested information or document is kept, with a petition comprising the name of the applicant, signature, domicile or business address; and if the applicant is a legal person, comprising the title of the legal person, address, and the signature of the authorised person and the certificate of authority. This application can be made in electronic format or by other means of communication on the condition that other information to identify the person's identity and signature or from whom the letter originates can be legally identified.

In the petition, the information or documents requested must be clearly indicated.

##### **The nature of information or document to be requested**

**Article 7.-** The application to acquire information must be relevant to information or documents which the institutions and organisations applied have or must have due to their line.

The institutions and organisations may decline applications for information or document which can be created by undertaking a special activity, research, review or analysis.

If the requested information or document is elsewhere than the institution and organisation applied for, the petition of application shall be sent to this institution and organisation and the applicant shall be notified of that in writing.

##### **Information or documents published or made public**

**Article 8.-** Information or documents published by the institutions and organisations or made public through publications, brochures, advertisements and similar methods may not be subject to applications to acquire information. However, the applicant shall be notified on how, when and where the information or documents published or made public are published or made public.

##### **Providing information or documents after extracting confidential information**

**Article 9.-** If, in the information and documents requested, there is classified information or information, disclosure of which is prohibited, together with information which can be disclosed, and if these can be extracted, the information or document in question

shall be provided to the applicant after extraction of classified or disclosure-prohibited information. The reason for extraction shall be notified to the applicant in writing.

### **Access to information or documents**

**Article 10.-** Institutions and organisations shall provide the applicant a certified copy of the document requested.

In cases where providing a copy of the information or document is not possible due to the nature of the information or document, or in cases where making a copy thereof will give harm to the original, the institutions and organisations make sure that the applicant;

- a) Reviews the original of the document in question and takes notes, in the event of written or printed documents,
- b) Listens the the information or documents in the form of audio recording,
- c) Watches the information or documents in the form of visual recording.

If it is possible to acquire the information or documents in ways other than the above, this opportunity is provided on the condition that the document is not damaged.

The institution and organisation to which the application is made may collect a fee equal to the cost of access, from the applicant for the information or documents to which access is given, to be recorded as income in its budget.

### **Access times to information or documents**

**Article 11.-** The institutions and organisations, upon application, provide access to the requested information or document in fifteen working days. However, in the event that the requested information or document is provided from another unit within the institution or organisation to which the application is made; the opinion of another institution and organisation needs to be taken regarding the application; or the content of the application relates to more than one institution and organisation, then access to the information or document is provided within thirty working days. In this case, the extension of the time and the reason therefor are notified to the applicant in writing and before the expiration of the period of fifteen working days.

Upon notification of the cost of access to information or documents mentioned in Article 10 by the administration to the applicant, the period of fifteen working days is terminated. If the applicant does not pay the fee in fifteen working days, he is deemed to have waived his demand.

### **Answering of applications**

**Article 12.-** Institutions and organisations notify their answers regarding applications to acquire information to the applicant in writing or in electronic format. In case the application is rejected, the grounds for rejection and ways of objection are indicated.

### **Objection procedure**

**Article 13.-** The applicant, whose request for acquiring information is rejected for reasons provided for in Articles 16 and 17, before resorting to court, may make an objection to the Committee within fifteen days as of the notification of the decision. The Committee makes a decision on this subject matter within thirty working days. The institutions and organisations are obliged to provide all kinds of information and documents requested by the Committee within fifteen working days.

Objection to the Committee halts the applicant's resort period to the administrative court.

### **Evaluation Committee for Acquiring Information**

**Article 14.-** The Evaluation Committee for Acquiring Information has been set up to consider decisions given based on the reasons provided for in Articles 16 and 17 upon objections regarding an application to acquire information, and to make decisions regarding the exercise of the right of information acquirement for institutions and organisations.

The Committee comprises nine members; one from the Supreme Court of Appeal and the Council of State each from two candidates each, from their institutions, to be designated by the general assemblies thereof; one member from each of penal law, administrative law and constitutional law professors or associate professors; one from among two candidates to be designated by the Turkish Bars Association who are qualified enough to be elected as the chairman of the bar; two members who are serving at minimum general director level; and one from among judges working with the Ministry of Justice who have administrative duties within the Ministry, to be elected by the Council of Ministers, upon recommendation of the Minister of Justice.

The consent of the candidates recommended for Committee membership is sought.

The Chairman of the Committee is elected by the members of the committee, from among themselves.

The Committee convenes at least once a month, or upon the call of the Chairman as and when necessary.

The term of office of the committee members is four years. The members whose term of office expires can be re-elected. If a member leaves office before the expiry of his term of office, a member elected in place of the former member with the same procedure completes the term of office of the former. The former Committee stays until the newly elected Committee starts office.

The Committee members are paid per diem, the provisions of the Allowance Act No 6245 of 10.2.1954 being reserved, for each actual day of duty, to be calculated by multiplication with the civil servant monthly coefficient of indicator number 1000 for those who are public servants and of indicator number 2000 for non-public servants. No deduction is made in these payments, save for stamp duty.

The Committee may set up commissions and work groups on subject matters to be identified; in addition, if it deems necessary, it may invite representatives of the relevant ministry and other institutions and organisations and non-governmental organisations to the meetings to acquire information.

The secretariat services of the Committee are performed by the Prime Ministry.

The guidelines and procedures for the duties and the activities of the Committee are regulated with a regulation to be drawn up and put into force by the Ministry.

## **SECTION FOUR**

### **Limits of the Right of information acquirement**

#### **Transactions which are not subject to jurisdictional audit**

**Article 15.-** Of administrative transaction which are not subject to jurisdictional audit, those in a nature to affect the working life and professional dignity of the individual are

covered by this Act. Right of information acquirement thus provided does not give rise to the transaction being subject to jurisdictional audit.

**Information or documents on secrets of state**

**Article 16.-** Information and documents which, if disclosed, will clearly prejudice the security of the State, foreign relations, national defence and national security and which are classified and State secrets by nature are not covered by the right of information acquirement.

**Information or documents on the economic interests of the country**

**Article 17.-** Information or documents which, if disclosed or prematurely disclosed, will prejudice the economic interests of the country or which will lead to unfair competition and gain are not covered by this Act.

**Information or documents on intelligence**

**Article 18.-** Information or documents on the duties and activities of civil and military intelligence units are not covered by this Act.

However, if these information and documents are in a nature to affect professional lives and professional dignity of people, information and documents on intelligence are covered by the right of information acquirement.

**Information or documents on administrative investigation**

**Article 19.-** Information or documents which are related to the administrative investigations carried out by the authorised units of institutions and organisations, and which, if disclosed or prematurely disclosed, will;

- a) give rise to explicitly unjust intervention to the private lives of people,
- b) jeopardise the life or safety of people or those carrying out the investigation,
- c) jeopardise the safety of the investigation,
- d) cause disclosure of a source of information which must remain confidential and make difficult the supply of similar information and sources of information related with the investigation

are not covered by this Act.

**Information or documents on judicial inquiry and prosecution**

**Article 20.-** Information or documents which, if disclosed or prematurely disclosed, will;

- a) lead to committing of a crime,
  - b) jeopardise prevention and investigation of crimes or capturing and prosecution of offenders by lawful means,
  - c) prevent proper performance of the duty of judgement,
  - d) breach the right of fair judgement of a person who is the defendant of a lawsuit,
- are not covered by this Act.

The provisions of the Code of Criminal Procedure No 1412 of 4.4.1929, the Code of Civil Procedure No 1086 of 18.6.1927, the Code of Administrative Proceedings No 2577 of 6.1.1982 and other special codes are reserved.

**Privacy of private life**

**Article 21.-** Information or documents, save for cases where permitted by the person, within the scope of the privacy of private life, which, if disclosed, will constitute unjust intervention to health details and private and family life, honour and dignity, professional and economic values of the person are not covered by the right of information acquirement.

In cases required for the public interest, personal information or documents may be disclosed by the institutions and organisations by acquiring written consent of the person with a seven-day prior notice.

#### **Privacy of communication**

**Article 22.-** Information and documents which breach the principle of privacy of communication are not covered by this Act.

#### **Trade secrets**

**Article 23.-** Information and documents which are defined as trade secrets in laws, and trade and financial information provided by institutions and organisations on the condition that the information is held from real or legal persons, are not covered by this Act.

#### **Intellectual and artistic works**

**Article 24.-** The relevant provisions of law are applied in applications to acquire information to be made regarding intellectual and artistic works.

#### **Intra-institutional arrangements**

**Article 25.-** Information and documents on arrangements of institutions and organisations regarding intra-institutional practices which do not interest the public and which are solely relevant to their staff are not covered by the right of information acquirement. However, the right of information acquirement of the employees of the institution who are affected by the arrangement in question is reserved.

#### **Intra-institutional opinions, memoranda and recommendations**

**Article 26.-** Information or documents of institutions and organisations acquired for the carrying out of their activities, which are in nature of opinions, memoranda, proposals or recommendations, unless otherwise decided by the institution and organisation, are covered by the right of information acquirement.

The opinions of persons, units or institutions which are obliged to provide opinion in scientific, cultural, statistical, technical, medical, financial, legal and similar fields of expertise by law are open to information requests on the condition that they constitute the basis for decisions to be taken by institutions and organisations.

#### **Recommendation and opinion requests**

**Article 27.-** Recommendation and opinion requests are not covered by this Act.

#### **Information or documents, confidentiality of which is lifted**

**Article 28.-** Information or documents, confidentiality of which is lifted become available for applications to acquire information, unless they are covered by other exceptions specified in this Act.

### **SECTION FIVE**

#### **Miscellaneous and Final Provisions**

##### **Penal provisions**

**Article 29.-** For the civil servants and other public officials who are found to be negligent, at fault and malicious in the implementation of this Act, the fact that the acts they committed require penal prosecution under the general provisions being reserved, the disciplinary actions stipulated in the legislation they are subject to are applied.

Information and documents accessed through this Act cannot be reproduced or used for commercial purposes.

##### **Issuing of reports**

**Article 30.-** The institutions and organisations shall issue a report of the preceding year, showing;

- a) the number of applications to acquire information made to them,
- b) the number of applications, affirmatively responded and provided access to information or documents,
- c) the number of rejected applications and statistical information showing the breakdown of these,
- d) the number of applications which confidential or secret information were extracted or such information was detached and then access to information or documents was provided,
- e) the number of applicants who made an objection after rejection of the application and the results thereof,

and send these reports until the end of February every year to the Evaluation Committee for Acquiring Information. Affiliated, relevant and associated public institutions and organisations submit their reports through the relevant Ministry they are affiliated and associated to. The Committee send the overall report to be drawn up to the Turkish Grand National Assembly until the end of April every year together with the reports of the institutions and organisations in question. These reports are made public in the following two months by the Presidency of the Turkish Grand National Assembly.

#### **Regulation**

**Article 31.-** The regulation regarding the identification of the guidelines and procedures for the implementation of this Act shall be drawn up within six months following the publication of the Act by the Prime Ministry and put into force by the Council of Ministers.

#### **Entry into Force**

**Article 32.-** This Act shall enter into force six months after the date of its publication.

#### **Enforcement**

**Article 33.-** The Council of Ministers shall enforce the provisions of this Act.