

LAW 3448

(Official Gazette A' 57/15.3.2006)

On the further use of Public Sector information and the regulation of issues falling into the competence of the Ministry of Internal Affairs, Public Administration and Decentralization.

THE PRESIDENT OF THE HELLENIC REPUBLIC

We issue the following law that was voted by the Greek Parliament:

CHAPTER ONE

FURTHER USE OF PUBLIC SECTOR

INFORMATION

Article 1

Scope

The subject-matter regulated by the provisions of articles 1 to 13 of this law is the determination, according to Directive 2003/98/EC (L 345/90/31.12.2003), of the terms and conditions, as well as the ways to facilitate the further use of documents in the possession of Public Sector organizations, as these documents and organizations are specified in the individual provisions of articles 3 and 4 of this law. The standing provisions regarding access to the aforementioned documents shall continue to apply, without prejudice to the regulations of this law.

Article 2

Obligation to provide for further use

The public sector organizations provide for the reuse of the documents in their possession, for commercial or other purposes, in accordance with the terms of this law. Wherever possible, the documents shall also be available electronically.

Article 3

Scope

1. The provisions of articles 1 to 14 of this law do not apply to documents:

a) Whose grant does not fall into the public mission of the respective organizations of the public sector, as such mission is specified in the each time applicable provisions.

b) On which third parties or organizations of the public sector have a right of intellectual or industrial property.

c) To which the access is denied, according to the provisions of paragraphs 3 and 5 of article 5 of I.2690/1999 (Official Gazette. 45 A) and any other relevant provision, and especially for reasons concerning: aa) national security, defense or public order and bb) statistical, commercial or industrial secrecy.

d) That are in the possession of public broadcasting organizations and their subsidiaries or other organizations and their subsidiaries, in order to fulfill a public mission in the form of radio/TV broadcasting.

e) To documents that are in the possession of educational, research or/and cultural institutions, such as schools, Higher Education Institutes, Technological Education Institutes, archives, libraries, museums, orchestras, opera-houses, theaters and research facilities or other organizations responsible for keeping research findings.

The documents in paragraphs d' and e' may be granted for further use, if this is provided by general provisions or provisions governing the respective organization.

2. The further use of documents is always effected subject to the provisions on the protection of the individual from the processing of personal data (I. 2472/1997, Official Gazette. 50 A), as these apply each time, and, in all cases, upon special processing in order to erase the abovementioned data.

Article 4

Definitions

Without prejudice to paragraph 1 of the previous article, for the purposes of the first chapter of this law, the following definitions shall apply:

1. "Public Sector Organizations" are the state authorities, both central and regional, the Local Government Organizations of first and second degree, the other legal persons governed by public law, the organizations governed by public law according to paragraph 2 of this article and the unions formed by one or more of these authorities or by one or more of the organizations governed by public law.

2. "Organization governed by public law" is any organization that:

a) Has been formed for the specific purpose of covering needs of general interest that are not of industrial or commercial nature.

b) Is a legal entity.

c) Its activities are mainly financed by the State, the LGOs or other organizations governed by public law, either its management is supervised by the aforementioned or is managed, directed or supervised by a body, whose greatest number of members is appointed by the State, the LGOs or other organizations governed by public law.

3. "Document for further use" is any document issued or held by the organizations of the Public sector, especially studies, minutes, statistical data, circular directives, answers from the administrative authorities, opinions, decisions, reports, irrespective of the means used for their expression (e.g. printed on paper, saved in electronic form, or recorded on audio, visual or audiovisual media), as well as any part of such document.

For the implementation of the provisions of this law, the term "documents" also includes the private documents that are kept in archives (files) of public sector organizations and have been used or taken into account during the determination of their administrative action.

4. "Further use" is the use, by natural or legal persons, of documents held in the possession of public sector organizations, for commercial or non commercial purposes, beyond the initial purpose of fulfilling a public mission, for which these documents were issued.

The exchange of documents among public sector organizations while carrying out their public mission is not deemed as further use.

Article 5

Deadline for submitting applications for further use of documents

1. Requests regarding the grant of documents for further use are submitted in writing or in an electronic form to the service that has issued or holds the document. The public sector organizations of article 3 and 4 of this law process the relative requests on electronically, wherever possible and advisable, and grant the document for further use to the requester, according to those stipulated in the following paragraph.

2. The public sector organizations process the request and deliver the documents for further use to the requester, within the time period specified in the provisions in force. If there is no specific time for the timely grant of the documents, the aforementioned organizations will grant the document within twenty (20) working days from the receipt of the application. This time period may be extended for another twenty (20) working days in the case of complex or

large scale applications. In this case the requester is notified, within three (3) weeks from the first application, that more time is required for its processing.

3. In case that the application for granting a document for further use is rejected partly or as a whole, the public sector organizations must inform in writing the requester about the reasons for the rejection. If the rejecting decision is based on intellectual rights of third parties, the public sector organization must name the natural or legal person who is the beneficiary of this right or the person from whom the organization has received the subject material.

4. It is permitted to file an administrative appeal (automatic right of appeal) for the re-examination of the issue against the refusal decision of the respective organization.. Such appeal is filed within the exclusive deadline of ten (10) days from the notification of the refusal decision. The possibility to file an appeal and the relevant deadline are always mentioned in the rejecting decision.

5. An administrative appeal against the decision of the respective organization rejecting the administrative appeal of the previous paragraph can be filed before the Inspector General of Public Administration, who shall judge on appeal according to law and in essence. Such appeal is filed within the exclusive deadline of ten (10) days from the notification of the refusal decision on the first appeal.

6. Upon decision of the Minister of the Interior, Public Administration and Decentralization and the competent Minister, the deadlines of this article can be shortened, wherever this is deemed necessary.

Article 6

Forms of document disposal

1. The public sector organizations dispose their documents in the existing form or language. The documents can also be disposed electronically, wherever this is possible and advisable. The public sector organizations are not obliged to modify or adapt the documents in order to respond to the respective request, nor are they obligated to provide abstracts of the documents, when this requires excessive effort and processing that exceeds a simple operation.

2. The provisions under the articles of this chapter do not give to any third party the right to demand from the public sector organization to produce a certain type of documents for the purpose of further use.

3. The further use of documents is subjected to the limitation that their content shall not be altered nor distorted in any way, and that the source of the documents and the date of their last update shall be mentioned. The applicant will be informed in writing about these limitations when the document is granted.

4. The public sector organizations are not responsible for the improper further use of the documents. In case that the provisions of paragraph 3 of this article are violated, the violators shall be punished in accordance with article 458 of the Penal Code on the violation of administrative provisions, unless a heavier penalty is provided under other provisions.

Article 7

Permissions and other terms regarding the further use of documents

1. The public sector organizations may allow the unconditional further use of documents or impose terms through permission granting or other ways, including the payment of fees. The terms of the previous section are determined upon decision of the competent Minister. For supervised organizations, this decision is issued upon recommendation of the respective organization. The imposed terms cannot result in restriction or distortion of competition. A joint decision of the competent Minister and the Minister of Economy and Finance determines the amount of fees, in the cases they are imposed.

2. In the cases where permissions should be granted regarding the further use of documents, the public sector organizations must ensure, whenever possible, the grant of standard permissions in digital form and with the possibility of electronic processing. These permissions may be adjusted, in order to serve special cases of permission requests.

Article 8

Principles governing the imposition of charges for the further use of documents

1. If charges are imposed, either under the provisions of this law or under any provisions already in force, the total revenues from the permission for the further use of documents shall not exceed the cost of the collection, production, reproduction and distribution of such documents, including a reasonable yield of the investment that the respective public sector has made, after having taken into account the potential cost of further processing, in accordance with article 3 of par. 2 of this law. The estimation of charges must be based on

the cost that results during the respective accounting period and according to the accounting principles that are applied to the respective public sector organizations.

2. When the public sector organization issues or possesses documents containing information and uses such information in the framework of its financial activities, the imposed charges cannot be higher than the charges of the previous paragraph.

Article 9

Transparency regarding the terms of document granting

1. The terms, as well as the fixed charges for the further use of documents are determined in advance and are published, especially electronically, wherever this is possible and advisable. Following an application submitted by the interested person, the public sector organization states the basis for the estimation of the published charge, as well as the factors taken into account for the estimation of charges in special cases.

2. In case that the competent authority decides to stop disposing certain documents for further use or to stop updating the relevant files, irrespective of the form in which they are kept, this decision must be published without any culpable delay and preferably electronically.

Article 10

Measures to facilitate the search of documents

The public sector organizations procure for the taking of the necessary measures in order to facilitate the search of documents for further use, such as the draw up and distribution of lists of the main documents with the possibility of electronic access, as well as the creation of web pages linked to decentralized lists. The public sector organizations will make special provisions in order to facilitate people with disabilities in their search for documents for further use.

Article 11

Avoidance of discriminations

1. The terms imposed on the further use of documents must not result in discriminations among similar categories of further use.

2. If the documents are further used by a public sector organization as a raw material for financial activities that do not fall into the scope of its public mission, these documents are supplied with the same charges and the same terms that apply to all other users.

Article 12

Prohibition of exclusive regulations

1. Without prejudice to the provisions of paragraph 2 of this article, any contracts or other regulations between third parties and organizations of the public sector that possess the documents, do not establish exclusive rights and do not prevent the further use of these documents.

2. In the cases where it is possible to grant exclusive rights for the provision of a service of public interest, the grounds for this grant are submitted to ordinary re-examination and, in any case, at least every three years. Any contractual or other regulations providing exclusive rights after this law enters into force, will be disclosed to the public.

3. Any existing contracts or other regulations providing exclusive rights and not falling into paragraph 2 of this article, shall be valid until the termination of the contract or the elapse of any time limit of the regulation and in any case, until December 31, 2008 at the latest.

Article 13

Authorizing provisions

A decision issued by the Minister of the Interior, Public Administration and Decentralization and by the competent Minister regulates special issues, as well as issues of technical or detailed nature with respect to the further use of documents.

Article 14

Code on access to public documents

1. A presidential decree issued within one year from the promulgation of this law, upon proposal of the Minister of the Interior, Public Administration and Decentralization and the Minister of Justice, codifies in a single document, entitled "Code on access to public documents", the provisions in force regarding the right to, the terms on and the procedure for the access to the public documents, the provisions of this law on the further use of public sector information, as well as any other relevant provision, which indirectly amends or completes the aforementioned provisions.

2. During this codification, the following are allowed, without altering the meaning of the provisions in force: the new structure of the legislative material, such as the splitting or mergence of articles or the addition of new ones, and generally the new layout of the material, the elimination of transitional provisions and provisions that have been abolished expressly or silently, the correction of phrases containing abolished or amended regulations, the making of corrections and adjustments to verbal expressions, and the making of the necessary adjustments in view of the generally applicable legislation.