

Information Commissioner Act

Information Commissioner Act

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This translation was prepared by the office of the Commissioner for access to public information.

I. GENERAL PROVISIONS

Article 1

(1) With this Act an Information Commissioner (hereinafter: Information Commissioner) is established and his duties and powers defined.

(2) This Act implements into the Slovenian legal order the Directive 95/46/EC of the European Parliament and Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data from 24. October 1995.

Article 2

(1) The Information Commissioner is an autonomous and independent state body, competent for:

- deciding on the appeal against the decision with which a body refused or dismissed the applicant's request for access or violated the right to access or re-use of public information in some other way, and within the frame of appellate proceedings also for supervision over implementation of the Act regulating the access to public information and regulations adopted there under,

- inspection supervision over implementation of the Act and other regulations, governing protection or processing of personal data or the transfer of personal data from Slovenia, as well as carrying out other duties, defined by these regulations,

- deciding on the appeal of an individual when the data controller refuses his request for data, extract, list, examination, confirmation, information, explanation, transcript or copy in accordance with provisions of the Act governing personal data protection.

(2) The Information Commissioner is a violations body, competent for supervision over this Act and the Act governing personal data protection.

(3) The Information Commissioner has the following competencies:

- organizes and manages the work of all employees, including the national supervisors for personal data protection;

- carries out other competencies of the head of the state body;

- conducts supervision in accordance with the Act governing personal data protection.

Article 3

(Meaning and renaming of terms)

(1) Bodies in this Act are state bodies, local government bodies, public agencies, public funds and other entities of public law, public powers holders and public service contractors (hereinafter: "the bodies").

(2) The official of the body according to this Act is an official, competent for transmission of public information or the head of the body.

(3) When another Act or regulation uses terms "Chief National Supervisor", "National supervisory body for personal data protection" or "Commissioner for access to public information" these terms mean "Information Commissioner".

Article 4

(1) The seat of Information Commissioner is in Ljubljana.

(2) Information Commissioner establishes his organizational structure with standing orders and other general acts.

Article 5

(Budgetary funds)

Funds for Information Commissioner's operation are provided from the Budget of the Republic of Slovenia and shall be determined by the National Assembly of the Republic of Slovenia on proposal of the Information Commissioner.

2. Appointment and position of the Information Commissioner

Article 6

(Appointment of the Information Commissioner)

(1) Information Commissioner is appointed by the National Assembly of the Republic of Slovenia on proposal of the president of the Republic of Slovenia.

(2) For the appointment as Information Commissioner, a person must fulfil the following conditions:

- be a citizen of the Republic of Slovenia;
- hold a university degree;
- have at least five years of working experience;
- must not have been convicted by a final decision of a criminal offence punishable by an unconditional punishment of deprivation of liberty.

(3) Information Commissioner is appointed for a five year's term and can be reappointed once.

Article 7

(Status of the Information Commissioner and his dismissal)

(1) Information Commissioner has the status of officer of state.

(2) Information Commissioner may be subject to early dismissal by the National Assembly of the Republic of Slovenia only if:

- he himself so demands,
- if he no longer fulfils the conditions for execution of the function determined in the Article 6(2) of this Act.

- if he becomes permanently incapable of performing his function,
- if he neglects to execute his powers in accordance with the Law and Constitution.

(3) The procedure for the dismissal of the Information Commissioner shall be started on proposal of the president of the Republic of Slovenia.

(4) With regard to incompatibility of the Information Commissioner's function with other functions and activities the Human Rights Ombudsman Act applies by analogy.

3. National Supervisors for personal data protection and expert staff of the Information Commissioner

Article 8

(National Supervisor)

(1) Information Commissioner employs National Supervisors for personal data protection (hereinafter: Supervisors).

(2) A person to be appointed as Supervisor must hold a university degree; have at least five years of working experience and a certificate of professional examination for the position of inspector pursuant to the Act governing inspections.

Supervisors have the position, rights and obligations, as determined for inspectors by Act governing inspections and Act governing civil servants.

Supervisors are appointed by Information Commissioner in accordance with the Civil Servants Act.

(5) During the execution of duties of supervision and other duties within the frame of the Act on personal data protection supervisors are autonomous in accordance with their mandate and operate within the frame of constitution and legislation.

(6) While performing duties, which do not include supervision, they are bound by Information Commissioner's written instructions.

Article 9

(Expert staff of the Information Commissioner)

Information Commissioner has an expert and administrative-technical staff.

4. Procedure before the Information Commissioner

Article 10

(Acquiring requested information and documents in cases of access to public information)

(1) If necessary to deal with a complaint, the official of the body must immediately send to the Information Commissioner on his demand the documents, dossiers, registers, records or other documentary material, requested by the applicant. Within the frame of his competency, the Information Commissioner can also view a tax secret.

(2) If, when dealing with a complaint in a case of access to public information the Information Commissioner suspects that the first level body holds the requested information, but does not entirely or partially reveal it to the Information Commissioner, the Commissioner can use powers in accordance with the Act governing inspections.

(3) If the body does not initiate an administrative dispute against the Information Commissioner's decision, it must in accordance with the decision transmit the requested document, file, dossier, register, record or documentary material to the applicant.

(4) Procedures in an administrative dispute against the decision or procedural conclusion issued by the Information Commissioner are urgent and privileged.

Article 11

(Procedural acts in cases of access to public information)

Information Commissioner can conclude a procedural act in case of access to public information without the presence of the party, requesting access to public information, or the person with rights and obligations of a party, if such conduct is necessary for prevention of access to requested information prior to the Information Commissioner's final decision.

Article 12

(File examination in cases of access and re-use of public information)

(1) The parties' right to examine documents in cases of access to information according to the Act governing the general administrative procedure excludes the examination of the requested document and other documents of the case, which could reveal or point to the contents of the requested information.

(2) After the final decision of the Information Commissioner the parties' right referred to in the previous paragraph of this Article includes the examination of the requested document within the frame allowed for, by the final decision of the Information Commissioner.

Article 13

(Competencies with regard to regulations)

Information Commissioner can file to the Constitutional Court of the Republic of Slovenia a request for constitutional review of a statute, of other regulations and general acts, adopted to perform public powers, in case of questions of constitutionality and legality in connection with a procedure being dealt with.

Article 14

(Reports of the Information Commissioner)

(1) Information Commissioner sends an annual report on his work to the National Assembly at the latest until 31. May for the previous year and publishes the report on his web site.

(2) The annual report consists of data on previous year's activities as well as estimates and recommendations in the area of personal data protection and access to public information.

5. Penal provisions

Article 15

(Liability for violations)

(1) A fine in range of SIT 100.000 to SIT 250.000 will be imposed upon an official responsible for a violation, with which according to the provision of Article 10(1) of this Act, while delivering the applicant's appeal, in spite so requested, the official fails to transfer to the Information Commissioner the demanded document, case, dossier, register, record or documentary material, although they are in the bodies' possession.

(2) A fine in range of SIT 100.000 to SIT 250.000 will be imposed upon an official responsible for a violation, when according to the provision of Article 10(3) of this Act, in spite of the Information Commissioner's decision, the official fails to transfer the required document, case, dossier, register, record or documentary material to the applicant.

(3) A fine in range of SIT 100.000 to SIT 250.000 will be imposed upon a responsible official of the data controller, who in spite of the Information Commissioner's decision on a case of applicant's appeal from point 3 of Article 2(1) of this Act, fails to assure the applicant the right defined in point 3 of Article 2(1).

6. Transitional and final provisions

Article 16

(Expiry of validity)

On a day of entry into force of this Act the provisions of Articles 38 to 46, 57 and 104, 108 to 110 of the Personal Data Protection Act (Official Gazette, No. 86/04 – ZVOP-1) and provisions of Articles 28. to 30. of the Act on access to public information (Official gazette, no. 24/03 and 61/05 – ZDIJZ) cease to be valid.

Article 17

(Continuation of work)

With the entry into force of this Act the Commissioner for access to public information continues to perform his duties as Information Commissioner until the expiry of his term of appointment as the Commissioner for access to public information.

Article 18

(Assumption of employees and archives)

(1) Information Commissioner assumes inspectors and other employees who, on the day of start of functioning of the Information Commissioner, perform their duties within the Inspectorate for Personal Data Protection of the Republic of Slovenia, together with the appurtenant equipment and resources.

(2) Information Commissioner assumes all pending cases, archives, and records, kept by Inspectorate for Personal Data Protection of the Republic of Slovenia.

Article 19

(Information Commissioner's salary)

Until the entry into validity of the ordinance governing the salaries of holders of public functions, the Information Commissioner's salary is determined according to the salary of the National Review Commission president.

Article 20

(Entry into validity)

This Act shall enter into validity on the 15th day following its publication in the Official gazette of the Republic of Slovenia.

No. 010-01/05-14/1

Ljubljana, 30. November 2005