

On amending the law of Ukraine On Information

// 21 March 2012 Year

Law of Ukraine

On amending the law of Ukraine On Information

Verkhovna Rada of Ukraine has resolved:

I. To amend the law of Ukraine On Information (Vidomosti of VR Ukraine, 1992, #48, p. 650; 2000, #27, p. 213; 2002, #29, p. 194; 2003, #28, p. 214; 2004, #11, p. 141; #32, p. 394; 2005, #33, p. 429; 2010, #37, p. 496) in the below wording:

Law of Ukraine On Information

This law regulates the relations on creation, compilation, retrieval, storage, use, dissemination, protection, defense of information.

Section I. General provisions

Article 1. Definition of terms

1. In this law the below terms shall mean:

- Document—material media that contains information with the key functions to preserve and disseminate it in time and space;
- Protection of information—a set of legal, administrative, organizational, technical and other activities to ensure storage and integrity of information and a proper access to it;
- Information—any info and/or data that may be stored on material media or retrieved in electronic format;
- Authority—a state organ, self-governance organ or another party with authority that functions under the law, including to perform delegated authority.

Article 2. Main principles of information relations

1. Main principles of information relations are:

- Guaranteed right to information;
- Openness of and access to info, freedom to exchange info;
- Trustworthiness and completeness of info;
- Freedom to express views and convictions;
- Legality to receive, use, disseminate, protect and defend info;
- Protection of the person from intrusion in his personal and family life.

Article 3. State information policy

1. Main guidelines of the state info policy are to:

- Ensure everyone's access to info;
- Ensure equal opportunities to create, compile, receive, use, disseminate, protect and defend info;

- Create conditions to form information society in Ukraine;
- Ensure openness and transparency of activities of authorities;
- Establish info systems and networks, develop e-governance;
- Ever renew, enrich and protect the national info resources;
- Ensure info security of Ukraine;
- Foster international cooperation in the info sphere and ensure Ukraine access to global info network/resources.

Article 4. Parties to and object of info relations

1. Parties to info relations:

- Physical persons;
- Legal persons;
- Citizen associations;
- Authorities.

2. Information is object of info relations.

Article 5. Right to information

1. Everyone has a right to information, which stipulates a possibility to freely receive, use, disseminate, protect and defend the info necessary to enjoy one's rights, freedoms and legitimate interests.

The implementation of one's right to info should not violate civil, political, economic, social, spiritual, ecological and other rights, freedoms and legitimate interests of other citizens, rights and interests of legal persons.

Article 6. Guaranteed right to info

1. The right to info shall be ensured through:

- The establishment of a mechanism to implement the right to info;
- The creation of conditions conducive for free access to statistics data, archive, library and museum archives, other info pools, database, info resources;
- The obligation of authorities to inform the public and mass media about their activities and passed decisions;
- The obligation of authorities to set aside special units or persons to ensure applicants' access to info;
- Government and public control of compliance with the law on info;
- Liability for violation of the law on information.

2. The right to info may be limited by law to ensure the national security, territorial integrity and public order, to prevent revolts or crime, to protect popular health, to defend repute or rights of other people, to prevent confidential info disclosure, or to support authority and objectivity of justice.

Article 7. Protection of the right to information

1. The right to info is protected by law. The state guarantees all parties to info relations equal rights and opportunities for access to info.

2. Methods to ensure the right of citizens to choose forms and sources of info obtaining, except the ones stipulated by law...

2. nobody may limit the right of person to choose forms and sources of info obtaining, except the cases stipulated by law.

A party to info relations may demand to remedy whatever breach of his right to obtain info.

3. It is prohibited to seize and destroy publications, exhibits, info pools, archived docs, library and museum documents, except the cases stipulated by law or based on court decisions.
4. The rights to the info developed in the course of physical or legal person's activity, authorities' performance, or at the cost of physical/legal person, State Budget of Ukraine, local budgets, shall be protected under law.

Article 8. The language of info

1. The language of info shall be specified by the law of Ukraine On languages in Ukraine, other legislation that regulates this sphere, international treaties/agreements the VR Ukraine has consented to.

Article 9. Main types of info activities

1. Main types of info activities are to create, compile, retrieve, store, use, disseminate, protect, defend information.

Section II. Types of info

Article 10. Types of info as to the content

As to the content the info shall be split as info:

- On physical person;
- As reference and encyclopedia info;
- On environment (ecological info);
- On goods (works, services);
- Science and technology info;
- Tax info;
- Legal;
- Statistics;
- Sociological;
- Other types of info.

Article 11. Science and technology info

1. Science and technology info—any info and/or data about domestic and foreign achievements in science, technology and manufacturing obtained in the course of science and research, development, design and technology, production and public activities that can be recorded on material media or retrieved electronically.
2. Legal regime of science and technology info shall be specified by the law On Science and technology info, other laws international treaties/agreements the VR Ukraine has consented to.
3. Science and technology info is open for access if it is not stipulated otherwise by Ukraine laws.

Article 12. Statistics info

1. Statistics info—documented info that provides quantitative characteristics of mass events/processes that occur in the economic, social, cultural and other spheres of life.
2. Official state statistics (OSS) info is subject to systemic promulgation.
3. The state guarantees that parties to info relations have an open access to OSS, save the info with limited access as stipulated by law.
4. The legal regime of the state statistics info shall be specified by the law On SS, other laws international treaties/agreements the VR Ukraine has consented to.

Article 13. Tax info

1. Tax info—data pool created and obtained by the parties to info relations in the line of duty and necessary for control organs to perform under the Tax Code of Ukraine.
2. The legal regime of the tax info shall be specified by the TCU and other laws.

Article 14. Legal info

1. Legal info—any info on law, legal system, sources, implementation, legal facts, legal relations, legal order, torts, counter measures and prevention thereof.
2. Sources of legal info are the Constitution of Ukraine, other laws and bylaws, international treaties/agreements, international law norms and principles, legal acts, media publications, public speeches, other sources of info on legal matters.
3. To ensure physical/legal persons' access to legislation and other normative acts the state shall ensure the publication thereof in mass print runs shortly after their enactment.

Article 15. Info on physical person

1. Info on physical person—ID data, other info or info pool about a physical person.
2. It is not allowed to compile, store, use and disseminate the confidential info about the person without his agreement, except the law specified cases, and only in the national interests, economic welfare and human rights defense. Confidential personal ID info is: nationality, education, marital status, faith, health, address, DOB, POB.

Everyone has a free access to personal info except the cases set by law.

Article 16. Info on environment (ecology info)

1. Info on environment (ecology info)—info/data on:
 - Environment status and its components, including genetically modified organisms and interaction between these components;
 - Factors that affect or may environment components (substances, energy, noise, radiation, as well as activities or events, including administrative, agreements on environment, policies, legislation, plans and programs);
 - Status of health and personal security, living conditions, status of objects of culture and constructions to a degree they may be affected by environment components.
2. Legal regime of the info on environment (ecological info) shall be specified by the law of Ukraine and international treaties/agreements the VR Ukraine has consented to.
3. The info on environment, except the info about the location of military facilities, may not be classified as info with limited access.

Article 17. Info on goods (works. services)

1. Info on goods (works, services)—info/data about quantitative, qualitative and other characteristics of goods (works, services).
2. The info about effect of a good (services, works) on life and health of people may not be classified as info with limited access.
3. Legal regime of the info on goods (works, services) shall be specified by the laws of Ukraine and international treaties/agreements the VR Ukraine has consented to.

Article 18. Reference and encyclopedia information

1. Reference and encyclopedia information—systematized, documented, promulgated or otherwise disseminated info about society, social being and environment.
2. Key sources of reference and encyclopedia information are: encyclopedias, dictionaries, guides, ad notes and advertisements, maps, e-databases and data pools, archives of info services, networks and systems, as well as certificates issued by authorized organs and self-governance, citizen associations, organizations, their staff and automated info and telecom systems.
3. Legal regime of reference and encyclopedia information shall be specified by the laws of Ukraine and international treaties/agreements the VR Ukraine has consented to.

Article 19. Sociological info

1. Sociological info—any documented info about the attitude towards some persons, developments, events, processes, facts, etc.
2. Legal regime of sociological information shall be specified by the laws of Ukraine and international treaties/agreements the VR Ukraine has consented.

Article 20. Access to info

1. Based on ways of the access to info it shall be split into open and limited access info.
2. Any info is open, except the info specified by law as limited access info.

Article 21. Limited access info

1. Limited access info is confidential, strictly confidential and inhouse info.
2. Personal info is confidential, as well as the info whose access is limited by a physical/legal person, except the authorities. CI may be disseminated at will (consent) by the interested person in the way set by the person, as well as in other cases set by the law.

The relations related to the legal regime of CI shall be refulated by law.

3. Strictly confidential and inhouse info classification, as well as access to it, shall be set by law.
4. The following info may not be classified as limited access info:
 1. On environment, foodstuffs and habitual use goods quality;
 2. On accidents, disasters, natural calamities and other extremities that occurred or may occur and thus threaten human security;
 3. On popular health, living standard, including nourishment, clothes, housing, healthcare, welfare, social/demographic indicators, law and order, education and culture;
 4. On instances of violated human and citizen rights;
 5. On arbitrary acts of authorities, self-governance, their incumbents and officers;
 6. Other info, whose access may not be limited under laws of Ukraine and international treaties/agreements the VR Ukraine has consented to.

Section III. Performance of journalists, mass media and their staff

Article 22. Mass media and its means

1. Media—info disseminated to outreach unlimited number of persons.
2. Media means—means to publicly disseminate printed and audiovisual info.

Article 23. Info products and services

1. Info products—material result of info activities to satisfy the needs of parties to info relations. Info service is an activity to provide info products to users to satisfy their needs.
2. Info products and services shall be regulated under civil law of Ukraine.

Article 24. Prohibition of censorship and intrusion into professional activities of journalists and media

1. Censorship shall be prohibited—any request of journalists or media outlet, its founder (cofounder), publisher, executive officer, distributor to clear info prior to its dissemination, or ban on and tamper with in any way to block the publication or dissemination is prohibited.

This prohibition does not cover the cases when the info clearing process is carried out based on law requirements or court adjudications to ban info dissemination.

2. Meddling with professional activities of journalists, control of info content is prohibited, specifically to disseminate or not to specific info, hushing of socially needed info, embargoing some themes, limelighting some persons or disseminating info about them; prohibition to criticize authorities, except the cases set by law, labor agreement between owner and collective, editorial charter.
3. Deliberate meddling with journalists' professional activities and/or prosecution of journalists for their professional activities, criticism, shall make one liable under law of Ukraine.

Article 25. Guarantees of activities of media and journalists

1. When performing his duties a journalist may take notes, record, video-record using technical means, except the cases set by law.
2. A journalist may uninhibitedly enter the premises occupied by authorities, open events they host, and be invited to confer by incumbents within reasonable term, except the cases set by law.
3. A journalist has a right not to disclose an info source or the info that might lead to source disclosure, except the cases when he is bound to by the court decision or under law.
4. After having produced a professional ID document, a media man may gather info at sites of calamity, disaster, accidents, public disorder, military engagements, except the cases set by law.
5. A journalist may disseminate his materials (audio-, video, notes, etc.) signed (authorship) or penname signed.
6. A journalist may refuse his authorship (signature) to the material if its redacted content counters his beliefs.
7. The rights and obligations of journalist, media man, set by this law, shall be valid for foreign journalists, foreign media staff who work in Ukraine.

Article 26. Accreditation of journalists and media men

1. To create favorable conditions for journalists and media men, the authorities may accredit them.

All actions on accreditation shall be based on the premise of transparency, equity, justice to ensure citizens' rights to obtain info through media. Lack of accreditation may not justify refusal to let journalists visit open events sponsored by the authorities.

2. Accreditation of journalists shall be free of charge based on his/his outlet application.

The application shall specify name, address, telephone, email (if available). The application shall be backed by professional ID copy.

A media outlet application shall specify its full name, date/number of registration, address, telephone, email (if available), journalist's name to represent the outlet. The application shall be backed by professional ID copy.

An application may not be rejected should all the necessary documents specified herein have been filed.

The authorities may simplify the accreditation process.

3. The accreditation process set by the authorities shall be made public.
4. The authorities that accredited journalists shall foster their professional activities, timely notify them of place/time of their sessions, sittings, meetings, briefings, etc.; provide them the info intended for media, and help set the conditions for recording and transmission of info, hold interviews, get comments of officials.
5. In case an event is held under international or other specialized protocols, specific conditions of journalists' access may prevail, which shall be posted on the authorities' official website prior to the event proper.
6. A journalist/media man shall comply with authorities' inhouse rules and not impede their staff work.
7. The authorities that have accredited journalists shall act on terminating such accreditation in case:
 - A journalist filed an application for that matter;
 - A journalist would violate his obligations under this article;
 - An outlet that applied for accreditation filed for recall.
8. An accreditation termination shall be backed by the name of official (authorities) that took such decision, the date and reason and ways to remedy the decision. A written notification on accreditation termination shall be handed in or dispatched to the media outlet or journalist within five workdays from the day a decision was passed.
9. A decision to terminate accreditation may be appealed against in court.

Section IV. Liability for violating the legislation on information

Article 27. Liability for violating the legislation on information

1. Violation of the legislation on information is subject to discipline, civil, administrative or criminal law liability under law of Ukraine.

Article 28. Intolerance of abuse of the right to info

1. Info may not be used for calls to tear down the constitutional polity, breach of territorial integrity of Ukraine, propaganda of war, violence, brutality, instigation of inter-ethnic, racial, religious hatred, perpetrate terror acts, infringe on human rights and liberties.

Article 29. Dissemination of the info necessary for society

1. Limited access info may be disseminated if it is socially requisite, i.e. is of interest to society and the right of the public to know this info prevails the would be harm should it be disseminated.

2. The socially requisite info is that on the threat to the national sovereignty, territorial integrity of Ukraine; that ensures the implementation of constitutional rights, liberties and obligations; proves to possible violation of human rights, leads to public misrepresentation, witnesses to eco harm or other negative repercussions in the wake of physical/legal persons' activities or inertia.

Article 30. Liability waver

1. Nobody may be brought to liability for expressing his speculations.
2. Speculations, except defamation, are opinions that do not contain facts, criticism, assessment of actions, as well as opinions that may not be construed as those that contain facts, specifically given the nature of using of linguistic means (hyperbole, allegory, satire). Speculations are not subject to denial or proof of trustworthiness.

If any person believes that speculations or opinions degrade him, his honor or good name, and other personal immaterial rights, then the person may respond under law, as well as construe the case through the same media to justify baselessness of the disseminated speculations, and underpinning them with a different assessment. If a subjective opinion is expressed in a brutal, degrading or improper form that degrades one's dignity, honor or good name then the person who expressed his speculations in that form may be obligated to remedy caused moral harm.

3. Parties to info relations shall be immune from liability for disclosure of limited access info if adjudicated by court that the info is socially needed.
4. Extra ground for a media outlet/journalist liability waver shall be set by the laws of Ukraine on: the Printed Media (the Press) in Ukraine; TV and Radiocasting; Info Agencies and others.

Article 31. Indemnification of material loss and moral damage

1. In case one's violated right to the freedom of info caused him material loss or moral damage then he has a right for indemnification through the court.
2. The authorities that act as plaintiffs in cases of dignity may only demand through the court that the defendant revoke the speculations about them, and may not require for indemnification of moral (non-pecuniary) damage. This provision shall not deprive public servants of the right to defend their honor or good name in the court.

Section V. Final provisions

1. This law shall be in effect three months after it has been promulgated.
2. Until the Ukraine legislation has been brought in compliance with this law its acts shall be enforced in the part that do not contravene it.
3. Amend the following laws of Ukraine:
 1. In the Code of Ukraine On administrative torts (Vidomosti of VR Ukrainian SSR, 1984, addendum to #51, p. 1122; 2006, #15, p. 128)
 - In article 212-3 the words "fifteen to twenty five" and "twenty five to fifty" shall be appropriately replaced with the words "twenty five to fifty" and "fifty to eighty";
 - In article 212-26:
 - The words "twenty five" shall be replaced with "thirty";

Para one, part 2 shall read as follows:

"Unlawful refusal by a person to provide info, untimely or incomplete provision thereof, dissemination of wrong info, should such info be requested by law enforcement organs or the Accounting Chamber."
 2. Part one article 200, Civil Code of Ukraine (Vidomosti of VR Ukraine, 2003, ##40-44, p. 356) shall be expressed as follows:
 - "1. Info is any info and/or data that may be stored on material media or retrieved in electronic format";
 3. Para twelve article 1 of the law of Ukraine On state statistics (Vidomosti of VR Ukraine, 1992, #43, p. 608) shall be expressed as follows:

"statistics info—documented info that quantifies mass events/processes that occur in eco, social, cultural and other spheres of societal life."

4. In the law of Ukraine On the Printed Media (the Press) in Ukraine (Vidomosti of VR Ukraine, 1993, #1, p. 1):
 - Delete article 27;
 - In article 40:

The article title shall read:

"Article 40. Establishment of foreign press representations";
 - Delete part three;
5. In the law of Ukraine On scientific and technical info (Vidomosti of VR Ukraine, 1993, #33, p. 345):
 - Para two article 1 shall read:

"scientific and technical info—any info/data on national and foreign achievements of science, technologies and manufacturing obtained in the course of science and research, development, design and technology, production and public activities that can be recorded on material media or retrieved electronically";
 - In para one article 2 the words "documented on any medium or promulgated" shall be deleted;
6. Part two article 37 of the law of Ukraine On info agencies (Vidomosti of VR Ukraine, 1995, #13, p. 83) shall be deleted;
7. Article 3 law of Ukraine On limelighting the activities of the authorities and local self-governance of Ukraine in the media (Vidomosti of VR Ukraine, 1997, #49, p. 299) shall be deleted;
8. Articles 45, 69 of the law of Ukraine On TV and radiocasting (Vidomosti of VR Ukraine, 2006, #18, p. 155; 2008, #18, p. 197) shall be deleted.
4. CabMin Ukraine within six months after the law has been in effect shall:
 - Bring its acts in compliance with this law;
 - Ensure that ministries and other central executives review and cancel their acts if they contravene this law.

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