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METHODS OF OBTAINING THE PUBLIC INFORMATION IN POLISH PUBLIC INSTITUTIONS

Summary

Information defined as the public information is subject to being made available or re-use on the basis of principles and under the provisions defined in the Act on access to public information. This article presents the rules concerning making public information available by Polish institutions.

Keywords: public information, access to public information, public information bulletin, bip, Poland, methods of access to public information

Introduction

The public information is any information on public matters and it is subject to being made available on the basis defined by the **right to the access to the public information** (Ustawa 2001). The right to the access to information includes five basic rules related to making public information available.

The first one states, that everyone has the right to the access to public information. Here, the nationality (Zaremba 2009, p. 63), employment or lack of connection with a certain institution by any relation bears no importance.

The second rule of this right states, that the person executing this right, that is submitting the petition concerning making public information available, cannot be requested to prove any legal or proper interest. This means, that person requesting to make the public information available, does not have to state the reason for submitting the petition concerning obtaining the public information.

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The subject of **the third** rule is the title to the possibility of obtaining the public information, including obtaining the processed information in such scope, in which it is particularly important for the public interest.

The fourth rule states that the access to the public information is free. There is only one exception to this rule, when the applicant, in his petition on making available the public information, specifies an extraordinary method of making available the public information or necessity of transforming the information to a specific format; then some fee can be charged. Such situation arises for example, when the applicant requests making available huge portion of information or official documents in the electronic form, when the institution is in possession of only paper version of the documents in question.

The fifth rule forming the right to the access to public information is the rule stating, that it covers not only the public information, but also source official documents.

1. Institutions executing the right regarding the access to public information

Execution of the right to the access to the public information is in competences of bodies of public authority, entities performing public functions or dispose of public property, as well as entities being in possession of public information, and entities representing other persons or organisational units performing public functions. Here we should list in particular bodies of public authority, representatives of trade unions and employees organisations. Entities representing the State Treasury in accordance with the separate provisions, entities representing state legal persons or legal persons of local authorities and entities representing other state organisational units or organisation units of local authority. Entities representing other persons or organisational units, which perform public functions or dispose of public property as well as legal persons, in which the State Treasury, units of local authority or economic or professional local authority hold dominant position in the understanding of the provisions of competition and consumer protection. The described group of entities includes also trade unions and employers' organisations as well as political parties.

2. Basic scope of information subject to being made available

Public information is subject to being made available. In particular, concerning internal and foreign policy, including:

- intentions of legislative and executive authorities,
- drafts on normative acts,
- programmes on execution of public tasks, method of their execution, performance and consequences of the execution of these tasks.

Also legal status or legal form of entities, organisation, subject of activity and competencies, bodies and persons performing functions therein and competencies, property structure of entities, property they dispose of, principles of functioning of entities, including:

- a) mode of conduct of public authorities and their organisational units;
- b) mode of conduct of state legal persons and legal persons of local authorities in the area of performing public tasks and their activity within the frames of budget and non-budget economy;
- c) methods of passing private-public acts;
- d) methods of accepting and settling matters;
- e) state of accepted cases, the order of settling or resolving them;
- f) kept registers, books and archives and methods and principles of making data there contained available;
- g) recruitment of candidates to be hired on vacant positions, in scope defined by separate provisions;
- h) contests for the superior positions in the civil service, in scope defined by separate provisions.

Public data, including:

- a) contents and form of official documents, in particular:
 - contents of administrative acts and other resolutions,
 - documentation on the control and its effects as well as presentations, opinions, conclusions and statements of the entities having conducted the control;
- b) opinion on public issues made by the bodies of public authority and by the public officers in the understanding of the provisions of the Penal Code;
- c) contents of other presentations and assessments made by the bodies of public authority;

d) information on the condition of the state, local authorities and their organisational units.

Public property, including:

- a) property of the State Treasury and state legal persons;
- b) other property rights to which the state and its debts are entitled to;
- c) property of the units of local authority and professional and economic local authorities as well as property of legal persons of local authorities and the ill persons' offices;
- d) property of the entities, defined in Article 4, it. 1, point 5, arising from disposing of the property, defined in c. a)–c) as well as the profits from this property and its encumbrances;
- e) incomes and losses of the commercial companies in which the entities, defined in c. a)–c) hold the dominant position in the understanding of the provisions of the Commercial Companies Code and disposal of this income and the method of covering losses;
- f) public debt;
- g) public assistance;
- h) public burden.

Making public information available takes place by means of announcing public information, including official documents, in the Public Information Bulletin (Rozporządzenie 2007).¹ For this purpose, the obliged entities keep their own Public Information Bulletin, in which they issue information defined by the act.

3. Five methods of getting the access to the public information in Poland

The above mentioned information can be obtained from the public entities with several specific methods. Some methods of obtaining information may result for the applicant, who acts unskilfully, in additional costs. The following section describes five main methods of obtaining public information from institutions in Poland.

As a pre-condition for each method it has been assumed, that the petition concerning making public information available was submitted in the form

¹ „Subjective element of the Public Information Bulletin cannot contain commercials” – section 11 par. 2. Regulation of the Minister of Interior and Administration of 18 January 2007 concerning the Public Information Bulletin.

of an e-mail in Polish language, sent to the entity obliged to make the public information available. Although more and more institutions approve this form (e-mail) as equivalent to the paper form, it should be remembered, that the e-mail can be lost in a certain case. That is why a paper letter – delivered in person or by the registered mail or courier, would be a more dependable form.

The subject of the petition is making available information, on a Blue-Ray disc, concerning expenditures exceeding 1000 PLN in years 2005–2012, indicating the mode of performed selection of the entities, from which the object or service was purchased, and stating by each amount of expenditures – name of the entity, which was paid for the delivered item or provided service.

1. Making available public information within 14 days

Making the information available on the petition is made without undue delay, no later however than within 14 days of submitting the petition.

2. Information in the Public Information Bulletin

Information, which was requested to be made available was already published in the Public Information Bulletin of the institution in question. That is why the institution is entitled not to provide the information directly, but to notify the petitioner, that a non-petition mode of conduct has been applied. In such a case, the institution – responding within 14 days – should indicate the mark of its Public Information Bulletin, in which the requested public information was published. Also the specific mark or tab in the Public Information Bulletin containing the requested information should be provided (**legal basis**).

3. Making available public information within two months

If the public information concerned cannot be made available by the institution within 14 days, the entity obliged to making it available notifies, within this period, of the reasons for delay and of the date on which it completes this information, not longer however, than 2 months of submitting the petition.

4. Interaction: no technical measures or the form applied for is expensive.

Case A: The entity does not have any Blue-Ray disc.

If the entity obliged to make available the information is not in disposal of measures enabling to make the information available on a Blue-Ray disc, it notifies the petitioner in writing of the reasons for lack of possibility to make the information available in accordance with the petition and points in what way or in which method this information can be made available immediately. In such a case, if within 14 days of the notification the petitioner shall not submit the petition for making this information available in a method or in form pointed

in the notification, the proceedings for making the information available are discontinued.

Case B: The Blue-Ray disc is in disposal of the entity, but it is an expensive method.

If as a result of making public information on the petition the entity obliged to do this, is to incur the additional costs connected with the method defined in the petition as a method of making it available with a necessity to transform the information into the form pointed in the petition, this entity is entitled to the payment from the petitioner covering these costs.

In such case, the entity, within 14 days of submitting the petition, shall notify the petitioner of the amount of the payment. Making the information available in accordance with the petition takes place after the expiration of the period of 14 days of notifying the petitioner, unless the petitioner makes, within this period, the change in the petition in the scope of method and form of making this information available or withdraws the petition.

In this case, it should be noted, that even though the access to the public information is free, the lack of the reaction in case B results in charging the petitioner for making the public information available. It must be undelined however, that these charges are related only to the method or form, and not to quantity or complexity of data.

4. Administrative decision concerning the refusal to make the public information available

The refusal to make the public information available takes place by means of a decision. The justification of the decision on the refusal of making the information available includes the names, surnames, and positions of these persons, who took the decision under the procedure on making the information available as well as the designation of entities, being the reason of issued refusal to make information available, due to their good defined in paragraph 5 sec. 2.

The appellation from the decision concerning the refusal to make the public information available can be submitted by the petitioner and shall be investigated within 14 days.

Conclusions

The mechanism of making the public information available has been designed in a way enabling the common access. That is why everybody is entitled to the access to information. In this article, entities obliged to make the public information available and the scope of the information subject to being made available itself were described. Five main features of the right to the public information were presented. Moreover, the description of the character of the five methods related to the access to the public information was performed. Depending on the method used to make the public information available, in two cases an interaction is required. When the entity is not in disposal of the form of making the public information available defined in the petition, it notifies the petitioner and in case of lack of any reaction from the petitioner's side, the proceedings for making the information available are discontinued. In the second case (the entity is able to execute the requested form, but it is connected with additional costs), no reaction to the entity's notification leads to making the information available in the high-priced form. Then, the petitioner, often unaware, is obliged to cover costs related to such form.

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METODY UZYSKIWANIA INFORMACJI PUBLICZNEJ W POLSKICH INSTYTUCJACH PUBLICZNYCH

Streszczenie

W artykule przedstawiono zasady udostępniania i ponownego wykorzystania informacji stanowiącej informację publiczną na warunkach określonych w ustawie o dostępie do informacji publicznej. Zaprezentowano pięć głównych cech prawa dostępu do informacji publicznej oraz charakterystykę instytucji, które prawo to winny wykonywać. W dalszej części artykułu scharakteryzowano zakres tematyczny treści podlegającej udostępnieniu, aby czytelnik mógł zapoznać się z pięcioma metodami dostępu do informacji publicznej w Polsce.

Słowa kluczowe: informacja publiczna, dostęp do informacji publicznej, Biuletyn Informacji Publicznej, narzędzia dostępu do informacji publicznej, BIP, prowadzenie BIP, metody dostępu do informacji publicznej